

This meeting has been noticed according to the Brown Act rules. The Board of Directors meets regularly on the third Monday of each month, except in January, February. The meetings begin at 6:00 PM.



**AGENDA**  
**Regular Meeting**  
**Board of Directors**  
**Monterey Peninsula Water Management District**  
\*\*\*\*\*

**Monday, November 16, 2020, 6:00 PM, Virtual Meeting**

Pursuant to Governor Newsom's Executive Orders N-29-20 and N-33-20, and to do all we can to help slow the spread of COVID-19 (coronavirus), meetings of the Monterey Peninsula Water Management District Board of Directors and committees will be conducted with virtual (electronic) participation only using WebEx.

Join the meeting at this link:

<https://mpwmd.webex.com/mpwmd/onstage/g.php?MTID=ee16b6ccce5eb53080ccd0da0ca2ba26a>

Or join at [mpwmd.webex.com](https://mpwmd.webex.com).

Event number: 126 995 9976

Meeting password: streambank

Participate by phone: 1-877-668-4493

**For detailed instructions on how to connect to the meeting, please see page 4 of this agenda.**

You may also view the live webcast on AMP <https://accessmediaproductions.org/>  
scroll down to the bottom of the page and select the Peninsula Channel

Staff notes will be available on the District web site at  
<http://www.mpwmd.net/who-we-are/board-of-directors/bod-meeting-agendas-calendar/>  
by 5 PM on Thursday, November 12, 2020

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**CALL TO ORDER/ROLL CALL**

**PLEDGE OF ALLEGIANCE**

**ADDITIONS AND CORRECTIONS TO AGENDA** - The Clerk of the Board will announce agenda corrections and proposed additions, which may be acted on by the Board as provided in Sections 54954.2 of the California Government Code.

**Board of Directors**

Alvin Edwards, Chair – Division 1

Jeanne Byrne, Vice Chair - Division 4

George Riley – Division 2

Molly Evans – Division 3

Gary D. Hoffmann, P.E. – Division 5

Mary Adams, Monterey County Board of

Supervisors Representative

David Potter – Mayoral Representative

**General Manager**

David J. Stoldt

This agenda was posted at the District office at 5 Harris Court, Bldg. G Monterey on Thursday, November 12. Staff reports regarding these agenda items will be available for public review on November 12 at the District office and at the Carmel, Carmel Valley, Monterey, Pacific Grove and Seaside libraries. After staff reports have been distributed, if additional documents are produced by the District and provided to a majority of the Board regarding any item on the agenda, they will be available at the District office during normal business hours, and posted on the District website at [www.mpwmd.net/who-we-are/board-of-directors/bod-meeting-agendas-calendar/](http://www.mpwmd.net/who-we-are/board-of-directors/bod-meeting-agendas-calendar/). Documents distributed at the meeting will be made available in the same manner. The next meeting of the Board is set for December 14, 2020 at 6 pm.

**ORAL COMMUNICATIONS** - Anyone wishing to address the Board on Consent Calendar, Information Items, Closed Session items, or matters not listed on the agenda may do so only during Oral Communications. Please limit your comment to three (3) minutes. The public may comment on all other items at the time they are presented to the Board.

**CONSENT CALENDAR** - The Consent Calendar consists of routine items for which staff has prepared a recommendation. Approval of the Consent Calendar ratifies the staff recommendation. Consent Calendar items may be pulled for separate consideration at the request of a member of the public, or a member of the Board. Following adoption of the remaining Consent Calendar items, staff will give a brief presentation on the pulled item. Members of the public are requested to limit individual comment on pulled Consent Items to three (3) minutes. Unless noted with double asterisks "\*\*", Consent Calendar items do not constitute a project as defined by CEQA Guidelines section 15378.

1. Consider Adoption of Minutes of the October 19, 2020 Regular Meeting and October 29, 2020 Special Meeting of the Board of Directors

**PRESENTATIONS TO OUTGOING DIRECTORS: JEANNE BYRNE, DIVISION 4 AND GARY HOFFMANN, DIVISION 5**

**GENERAL MANAGER'S REPORT**

2. Status Report on California American Water Compliance with State Water Resources Control Board Order 2016-0016 and Seaside Groundwater Basin Adjudication Decision
3. Update on Development of Water Supply Projects

**DIRECTORS' REPORTS (INCLUDING AB 1234 REPORTS ON TRIPS, CONFERENCE ATTENDANCE AND MEETINGS)**

4. Oral Reports on Activities of County, Cities, Other Agencies/Committees/Associations

**PUBLIC HEARINGS** – No Public Hearing items were submitted for Board consideration.

**ACTION ITEMS** – No Action items were submitted for Board consideration.

**INFORMATIONAL ITEMS/STAFF REPORTS** - The public may address the Board on Information Items and Staff Reports during the Oral Communications portion of the meeting. Please limit your comments to three minutes.

5. Monthly Progress Report – Santa Margarita Water Treatment Facility
6. Letters Received Supplemental Letter Packet
7. Committee Reports
8. Monthly Allocation Report
9. Water Conservation Program Report
10. Carmel River Fishery Report
11. Monthly Water Supply and California American Water Production Report

**ADJOURN**

Board Meeting Schedule			
Monday, December 14, 2020	Regular Board Meeting	6:00 pm	Virtual - WebEx
Thursday, January 21, 2021	Regular Board Meeting	6:00 pm	Virtual - WebEx
Thursday, February 18, 2021	Regular Board Meeting	6:00 pm	Virtual - WebEx

Board Meeting Television and On-Line Broadcast Schedule View Live Webcast at <a href="https://accessmediaproductions.org/">https://accessmediaproductions.org/</a> scroll to the bottom of the page and select the Peninsula Channel	
Television Broadcast	Viewing Area
Comcast Ch. 25 (Monterey Channel), Mondays view live broadcast on meeting dates, and replays on Mondays, 7 pm through midnight	City of Monterey
Comcast Ch. 28, Mondays, replays 7 pm and Saturdays 9 am	Throughout the Monterey County Government Television viewing area.
For Xfinity subscribers, go to <a href="https://www.xfinity.com/support/local-channel-lineup/">https://www.xfinity.com/support/local-channel-lineup/</a> or <a href="https://www.xfinity.com/stream/listings">https://www.xfinity.com/stream/listings</a> - enter your address for the listings and channels specific to your city.	Pacific Grove, Pebble Beach, Sand City, Seaside, Monterey
Internet Broadcast	
Replays – Mondays, 4 pm to midnight at <a href="https://accessmediaproductions.org/">https://accessmediaproductions.org/</a> scroll to Peninsula Channel	
Replays – Mondays, 7 pm and Saturdays, 9 am <a href="http://www.mgtvonline.com">www.mgtvonline.com</a>	
YouTube – available five days following meeting date - <a href="https://www.youtube.com/channel/UCg-2VgzLBmgV8AaSK67BBRg">https://www.youtube.com/channel/UCg-2VgzLBmgV8AaSK67BBRg</a>	

**See next page of agenda for instructions on connecting to WebEx meeting**

### Instructions for Connecting to the WebEx Meeting

Note: If you have not used WebEx previously, when you begin connecting to the meeting you may be asked to download the app. If you do not have a computer, you can participate by phone.

**Begin:** Within 10 minutes of the meeting start time from your computer click on this link <https://mpwmd.webex.com/mpwmd/onstage/g.php?MTID=ee16b6ccce5eb53080ccd0da0ca2ba26a> or past the link into your browser or go to: [mpwmd.webex.com](https://mpwmd.webex.com).

Under “Join a Meeting” enter the event number 126 995 9976, hit the enter key and when prompted enter the meeting password **streambank**, click “Next” and see the dropdown menu at the bottom of the screen “Use computer for audio” and select the method you will use to hear the meeting – see below.

#### **1) Audio and video connection from computer with WebEx app – view participants/materials on your screen**

Click on the “Use computer for audio” drop down list

Click “Join Meeting”

Once in the meeting, mute your microphone.

Turn your microphone on when it is your turn to speak.

#### **2) View material on your computer screen and listen to audio on your phone**

From the “Use computer for Audio” drop down list select “Call In”

Click on “Join Meeting” / You will see a toll-free telephone number, access code, and attendee ID # -- enter these numbers on your phone.

Mute the microphone on your computer.

Disable computer speakers using the Settings menu.

#### **3) Join by phone only (no computer) dial 1-877-668-4493 and use the meeting number above.**

### Presenting Public Comment

Receipt of Public Comment – the Chair will ask for comments from the public on all items. Limit your comment to 3 minutes but the Chair could decide to set the time for 2 minutes.

(a) Computer Audio Connection: Select the “raised hand” icon. When you are called on to speak, please identify yourself.

(b) Phone audio connection **with** computer to view meeting: Select the “raised hand” icon. When you are called on to speak, please identify yourself.

(c) Phone audio connection only: Press \*3. Wait for the clerk to unmute your phone and then identify yourself and provide your comment. Press \*3 to end the call.

### Submit Written Comments

If you are unable to participate via telephone or computer to present oral comments, you may also submit your comments by e-mailing them to [comments@mpwmd.net](mailto:comments@mpwmd.net) with one of the following subject lines "PUBLIC COMMENT ITEM #" (insert the item number relevant to your comment) or “PUBLIC COMMENT – ORAL COMMUNICATIONS”. Comments must be received by 12:00 p.m. on Monday, November 16, 2020. Comments submitted by noon will be provided to the Board of Directors and compiled as part of the record of the meeting.

**ITEM:     CONSENT CALENDAR**

**1.     CONSIDER ADOPTION OF MINUTES OF THE OCTOBER 19, 2020  
REGULAR MEETING AND OCTOBER 29, 2020 SPECIAL MEETING OF THE  
BOARD OF DIRECTORS**

**Meeting Date:**   November 16, 2020

**Budgeted:**        N/A

**From:**            David J. Stoldt,  
                        General Manager

**Program/**         N/A  
**Line Item No.:**

**Prepared By:**    Arlene Tavani

**Cost Estimate:**   N/A

**General Counsel Review:** N/A

**Committee Recommendation:** N/A

**CEQA Compliance:** This action does not constitute a project as defined by the California  
Environmental Quality Act Guidelines Section 15378.

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**SUMMARY:** Attached as **Exhibits 1-A and 1-B**, respectively, are draft minutes of the October 19, 2020 Regular meeting and October 29, 2020 Special meeting of the Board of Directors.

**RECOMMENDATION:** District staff recommends approval of the minutes with adoption of the Consent Calendar.

**EXHIBITS**

**1-A**     Draft Minutes of the October 19, 2020 Regular Meeting of the Board of Directors

**1-B**     Draft Minutes of the October 29, 2020 Special Meeting of the Board of Directors





### EXHIBIT 1-A

DRAFT MINUTES

**Regular Meeting**

**Board of Directors**

**Monterey Peninsula Water Management District**

*October 19, 2020*

The meeting was called to order at 5:04 pm. Pursuant to Governor Newsom's Executive Orders N-29-20 and N-33-20, the meeting was conducted with virtual participation via WebEx.

#### **CALL TO ORDER/ROLL CALL**

#### *Directors Present via WebEx:*

Alvin Edwards, – Chair, Division 1

Jeanne Byrne – Vice Chair, Division 4

George Riley, Division 2

Molly Evans, Division 3

Gary D. Hoffmann, P.E. – Division 5

Mary Adams – Monterey County Board of Supervisors Rep.

David Potter – Mayoral Representative

*Directors Absent: None*

*General Manager present:* David J. Stoldt

*District Counsel present:* David Laredo

The assembly recited the Pledge of Allegiance.

#### **PLEDGE OF ALLEGIANCE**

Agenda items 9 and 10 were deferred for consideration at a meeting to be scheduled within two weeks. Refer to the meeting minutes under agenda items 9 and 10 to review the motions to defer and public comment received.

#### **ADDITIONS AND CORRECTIONS TO AGENDA**

**(a) Tom Rowley** expressed concern about funds approved at the September 21, 2020 Board meeting for construction of a fourth deep injection well for the Pure Water Monterey (PWM) project. He stated that the project had been described as the least expensive water supply alternative, yet costs were increasing. He requested that the District and Monterey One Water (M1Water) agree that the project has resulted in cost overruns and the true cost to customers has been underestimated. **(b) Susan Schiavone** expressed support for funds spent on well maintenance and construction of new deep injection wells for the PWM project. **(c) Paul Bruno** reminded those assembled of the successful public/private partnership that accomplished the removal of San Clemente Dam. He noted that 10 years ago, as a member of the Carmel River Watershed Conservancy he met with government agency representatives at the dam site to gain their support for dam removal. **(d) Marli Melton** stated that she reviewed all materials presented for

#### **ORAL COMMUNICATIONS**

review under agenda items 9 and 10 and that she was impressed with the thorough and thoughtful work presented by District staff. She expressed support for approval of all items. **(d) Margaret-Anne Coppernoll** read a letter dated October 19, 2020 submitted to the Board in advance of the meeting that urged the Board to do all possible to secure certification of the PWM Expansion EIR. **(e) Anna Thompson** expressed support for the PWM project as a cost effective and environmentally friendly alternative to desalination. **(f) Michael Baer** expressed support for the PWM project as a regional solution to the area's water supply problems. **(g) Amy Anderson** expressed support for funding improvements to the PWM project. **(h) Melodie Chrislock** cited the Orange County Water District groundwater replenishment project and the Carlsbad Desalination project as examples of projects that operated with a production deficit in the first year but later recovered to full production. She expressed confidence in M1 Water to develop solutions to operating deficiencies that occurred during the first year of PWM operations. **(i) Eric Tynan**, General Manager of Castroville Community Services District, cautioned the Board that experience with production at Orange County and Carlsbad was that full production had not been met, and would not guarantee that PWM would meet full production after the first year. **(j) John Tilley** stated that the PWM project was unprovable in terms of expected production and cost, as the full cost of the project was not known. **(k) Rudy Fisher** expressed support for the District taking over as lead agency for the PWM Expansion project. He asked if the PWM Expansion project would yield enough water to allow for lifting of the CDO.

On a motion by Byrne and seconded by Riley, the Consent Calendar was approved except for agenda items 2 and 4 that were pulled for separate consideration. The motion was approved on a vote of 7 – 0 by Byrne, Riley, Adams, Edwards, Evans, Hoffmann and Potter.

Approved.

Edwards offered a motion that was seconded by Potter to adopt Resolution No. 2020-14. The motion was approved on a unanimous vote of 7 – 0 by Edwards, Potter, Adams, Byrne, Hoffmann and Riley.

Approved.

No action taken. Stoldt read into the record Resolution No. 2020-16 that will be presented for adoption at the November 16, 2020 Board meeting.

## CONSENT CALENDAR

1. **Consider Adoption of Minutes of the September 21, 2020 Regular Board Meeting**
2. **Consider Adoption of Resolution 2020-14 – Amending Fees and Charges Table – Rule 60**
3. **Consider Adoption of Resolution 2020-15 – Amendment to Conflict of Interest Code**
4. **REMOVED FROM CONSENT CALENDAR – BOARD CHAIR WILL MAKE A PUBLIC ANNOUNCEMENT**  
~~Consider Adoption of Resolution 2020-16 – Recognition of Robert Brower for~~

~~his Contribution to the MPWMD and the Community~~

Approved.

Chair Edwards announced the resignation of Molly Evans, Director Division 3. She will attend the November 16, 2020 Board meeting before her term closes at the end of November.

Chair Edwards announced that Robert S. Brower, Sr., former Director Division 5, passed away on September 30, 2020. General Manager Stoldt read a resolution of appreciation for Director Brower that will be presented for adoption at the November 16, 2020 Board meeting. The directors honored the memory of Mr. Brower with their comments describing him as man with great expertise in water policy; a friend; kind; could forward water issues as a conversation; inspired the District to be more involved with ACWA and to attend the Washington DC conferences; was a proponent of the PWM project and attended the project opening despite his illness.

A summary of General Manager Stoldt's report is on file at the District office and can be viewed on the agency's website. Stoldt stated that the report for October 1, 2019 – September 30, 2020 covered a full water year. Actual water production within the Monterey Peninsula Water Resources System was 1,370 acre-feet which was 164 acre-feet below the target established in the CDO. The report included production from the PWM project, and ASR. He noted that water demand for the water year was 142 acre-feet below the previous year. Water demand had been decreasing over the past six years. Additional study of the monthly water use numbers may provide information on how the COVID 19 Pandemic has affected water use. Stoldt also reported that California American Water (Cal-Am) has begun to purchase water from the PWM project, and those costs were billed to the ratepayers. The PWM water was injected into the ground and would remain there for more than six months before it would be distributed through the CAW system.

Stoldt reviewed the list of CDO Milestones 3 – 7 and stated that the fifth milestone had been missed. Therefore, in the new water year Cal-Am could withdraw 7,310 acre-feet per year from the Carmel River, a 1,000 acre-feet reduction from the previously allowed 8,310 acre-feet per year. The State Water Resources Control Board had the authority to suspend the 1,000 acre-feet reduction if it determined that the missed milestone was not the fault of Cal-Am or the other parties to the agreement. No decision had been made to suspend the 1,000 acre-feet reduction. He provided a chart which showed that if the diversion limit were reduced

## **5. Consider Adoption of Treasurer's Report for August 2020**

## **ANNOUNCEMENTS REGARDING CURRENT AND PAST BOARD MEMBERS**

## **GENERAL MANAGER'S REPORT**

### **6. Status Report on California-American Water Compliance with State Water Resources Control Board Order 2016-0016 and Seaside Groundwater Basin Adjudication Decision**

### **7. Update on Compliance with Cease and Desist Order Milestones**

to 3,376 acre-feet, production from other sources including 3,500 acre-feet from the PWM project were available to serve the community. Until a long-term solution is developed, water is available to meet community needs unless problems arise in the distribution system, or customer demand increases beyond current levels achieved through permanent conservation measures. The chart is on file at the District office and can be viewed on the agency's website.

Counsel Laredo reported that under agenda item 1 the Board discussed findings of its regular evaluation of the General Manager. Under item 2 the Board discussed the compensation package for the General Manager. The product of that discussion was listed on the October 19, 2020 agenda as item 13. No other action was taken by the Board.

Chair Edwards announced that due to the work of Suresh Prasad, Administrative Services Manager/Chief Financial Officer, the District received the Government Finance Officers Association Certificate of Achievement for Excellence in Financial Reporting. Chair Edwards thanked Mr. Prasad and his team for their achievement.

Evans offered a motion that was seconded by Potter to defer this item for consideration at a special meeting to be scheduled within two weeks from October 19, 2020. The motion was approved on a vote of 6 – 1 by Evans, Potter, Adams, Byrne, Hoffmann and Riley. Edwards was opposed.

Public comment: **(a) Paul Bruno** expressed support for the motion. **(b) Anna Thompson** stated that the items should be considered as soon as possible. **(c) Susan Schiavone** spoke in support of the motion. **(d) Margaret-Anne Coppernoll** agreed the item could be deferred but that it should be considered as soon as possible.

## REPORT FROM DISTRICT COUNSEL ON OCTOBER 8, 2020 CLOSED SESSION

- A. Public Employee Performance Evaluation (CA Gov Code Sec. 54957) General Manager
- B. Conference with Labor Negotiators (Gov. C. § 54957.6)  
Agency designated representatives: Chair Edwards and other Board representatives  
Unrepresented employee: General Manager

## DIRECTORS REPORTS (INCLUDING AB 1234 REPORTS ON TRIPS, CONFERENCE ATTENDANCE AND MEETINGS)

- 8. **Oral Reports on Activities of County, Cities, Other Agencies/Committees/Associations**

## PUBLIC HEARINGS

- 9. **Consider Certification of Final EIR for the Potential Acquisition of Monterey Water System and District Boundary Adjustment** *(In accordance with Section 15121 of CEQA, the purpose of this EIR is to serve as an informational document that: "...will inform public agency decision makers and the public generally of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project.")*

Hoffmann offered a motion that was seconded by Potter to defer this item for action at the special meeting that would be scheduled for consideration of item 9. The motion was approved on a vote of 4 – 3 by Hoffmann, Potter, Byrne and Potter. Opposed were Adams, Edwards and Riley.

Public comment: **(a) Michael Baer** expressed support for the motion. **(b) Rick Heuer**, President of the Monterey County Taxpayers Association, spoke in support of the motion. **(c) Karen Paull** stated that the draft EIR had been available to the Board and public previously for review so the delay in consideration of the final should not be prolonged. **(d) Paul Bruno** expressed support for the motion.

Riley offered a motion that was seconded by Edwards to notify M1Water of its intent to assert lead agency status by sending to M1Water the letter provided in the staff report as Exhibit 11-A. The motion failed on a vote of 2 – 5. Riley and Edwards voted in favor of the motion. Byrne, Evans, Hoffmann, Adams and Potter were opposed.

Public comment: **(a) Paul Bruno** described this as a “bullying” tactic. He asked the Board to consider how aggressively they would pursue the PWM project should M1Water refuse to give up lead agency status. **(b) Michael Baer** expressed support for submitting the letter prior to the November 3, 2020 general election so that the current M1Water Board could consider the issue. **(c) Rick Heuer**, resident of Monterey, expressed opposition to submitting the letter to M1Water. He described it as an aggressive move to a sister agency. **(d) Susan Schiavone** spoke in support of submitting the letter to M1Water proposing that the District take on lead agency status. **(e) Marli Melton** recommended that the Board send the letter to M1Water or that it first request that they certify the PWM SEIR. **(f) Tom Rowley** stated that the SEIR was insufficient and deemed inadequate by the M1Water Board, as it did not meet the requirements of federal law. **(g) Anna Thompson** asked the Board to proceed to enable certification of the PWM SEIR. **(h) Eric Tynan** recommended that the Board work with M1Water to develop a rational decision based on mutual interests. The Board should consider what the consequences would be should it pursue lead agency status. **(i) Melodie Chrislock** encouraged the Board to send the letter to M1Water and pursue lead agency status as there were no deficiencies in the PWM SEIR. **(j) John Tilley** stated that the District should focus on meeting its mandate to provide a water supply project and spend less time on lawsuits.

Motion 1 - Riley offered a motion to adopt a policy that if User Fee collections in a fiscal year exceed the budget, then the excess will be applied in the following fiscal year budget in the following priority: First, to repay reserves use for

10. **Consider Adoption of Proposed Operations Plans for Rule 19.8 Acquisition of Monterey Water System** *(Exempt from environmental review according to Section 15262 of CEQA Guidelines, Feasibility and Planning Studies.)*

#### ACTION ITEMS

11. **Provide Direction Regarding Pure Water Monterey Expansion Final SEIR**

12. **Discuss Baseline for the Water Supply Charge and Consider Policy for Sunset Based on User Fee Performance**

water supply project costs; Second, to deposit into a sinking fund to pay off the Mechanic's Bank loan; and Third, to build a fund that can be used to offset and sunset the Water Supply Charge. There was no second.

Motion 2 - Byrne offered a motion to adopt a policy that if User Fee collections in a fiscal year exceed the budget, then the excess will be applied in the following fiscal year budget in the following priority: First, prepayment of the Mechanics Bank Loan; Second, to repay reserves used for water supply project costs; and Third, to build a fund that can be used to offset and sunset the Water Supply Charge. The motion was seconded by Evans.

Motion -3 Hoffmann offered a substitute motion that the policy be limited to paying off the mechanics loan and not address the other two priorities. There was no second to the motion.

Motion 2 was approved on a vote of 7 – 0 by Byrne, Evans, Riley, Hoffmann, Adams, Potter and Edwards. General Manager Stoldt noted that staff would finalize the policy with a more accurate description of the word “fund” specified in the Third priority.

Public Comment: **(a) Tom Rowley** stated that the ratepayers and taxpayers were faced with a “bait and switch” as they must pay both the Water Supply Charge and User Fee. **(b) Paul Bruno**, the Monterey Peninsula Taxpayer Association representative to the Ordinance No. 152 Oversight Panel, recommended that excess funds be used for debt reduction such as payment of the Mechanics Bank loan. **(c) Susan Schiavone** the Division 1 representative to the Ordinance No. 152 Oversight Panel, agreed that payment of the Mechanics Bank Loan should be a priority. However, she recognized that water supply project expenditures were high, and the Board should be prudent about sunsetting a fee that would be needed to pay those costs. **(d) John Tilley** urged the Board to use the \$3 million fund to pay the Mechanics Bank Loan, which would signal an intent to sunset the Water Supply Charge. In addition, he requested that his letters of June 5, 2020 and October 13, 2020 regarding the Water Supply Charge be posted to the District's website. *(Note: the letters were published in the October 19 and June 15, Board packets.)*

Jeanne Byrne left the meeting at 3:10 pm prior to public comment and a vote on agenda item 13.

Adams made a motion to approve the Amendment to the Agreement for Employment with an increase in the total PERSable salary to \$246,026; and an increase in Management Leave from 48 hours to 56 hours per year. The motion was seconded by Riley and approved on a vote of 5 – 1 with Adams, Riley, Edwards, Evans and Hoffmann in favor of the motion. Potter abstained. Byrne was absent.

### 13. Consider Approval of Amendment to Agreement for Employment of General Manager

Public Comment: **(a) John Tilley** stated that he respected Mr. Stoldt for his intelligence and hard work. **(b) Paul Bruno** described Mr. Stoldt as extremely competent, knowledgeable and professional and the best manager for the District. **(c) Tom Rowley** stated that based on Mr. Stoldt's hard work, he deserved the pay raise.

There was no discussion of these items.

#### INFORMATIONAL ITEMS/STAFF REPORTS

14. Monthly Progress Report – Santa Margarita Water Treatment Facility
15. Report on Activity/Progress on Contracts Over \$25,000
16. Status Report on Measure J/Rule 19.8 Phase II Spending
17. Legislative Advocacy Committee's State and Federal Bill Tracking
18. Letters Received
19. Committee Reports
20. Monthly Allocation Report
21. Water Conservation Program Report
22. Quarterly Water Use Credit Transfer Status Report
23. Carmel River Fishery Report for September 2020
24. Quarterly Carmel River Riparian Corridor Management Program Report
25. Monthly Water Supply and California American Water Production Report

The meeting was adjourned at 8:20 pm in memory of Robert S. Brower, Sr.

#### ADJOURNMENT





## **EXHIBIT 1-B**

### **DRAFT MINUTES**

### **Special Meeting – Board of Directors Monterey Peninsula Water Management District October 29, 2020**

The meeting was called to order at 5:36 pm by Chair Edwards. Pursuant to Governor Newsom's Executive Orders N-29-20 and N-33-20, the meeting was conducted with virtual participation via WebEx.

### **CALL TO ORDER/ROLL CALL**

#### *Directors Present via WebEx:*

Alvin Edwards, – Chair, Division 1  
 Jeanne Byrne – Vice Chair, Division 4  
 George Riley, Division 2  
 Molly Evans, Division 3  
 Gary D. Hoffmann, P.E. – Division 5  
 Mary Adams – Monterey County Board of Supervisors Rep.  
 David Potter – Mayoral Representative (*Joined the meeting at 5:38 pm*)

*Directors Absent: None*

*General Manager present: David J. Stoldt*

*District Counsel present: David Laredo*

The assembly recited the Pledge of Allegiance.

### **PLEDGE OF ALLEGIANCE**

General Manager Stoldt stated that when the Board was ready to consider agenda item 3, he would announce a change to that item.

### **ADDITIONS AND CORRECTIONS TO THE AGENDA**

Anna Thompson addressed the Board during Oral Communications. She thanked all persons involved in development of the successful Pure Water Monterey (PWM) project. She expressed opposition to the desalination project proposed by California American Water (Cal-Am) and stated that the profit-driven company should not influence local water policy.

### **ORAL COMMUNICATIONS**

Potter offered a motion that was seconded by Evans to adopt Resolution No. 2020-16. The motion was approved on a unanimous vote of 7 – 0 by Potter, Evans, Adams, Byrne, Hoffmann, Potter and Riley.

The Directors commented on the motion and described Mr. Brower as a mentor, friend, innovative, articulate, professional, gracious and a man who will be greatly missed.

### **ACTION ITEM**

- 1. Consider Adoption of Resolution 2020-16 - Expressing Appreciation to Robert S. Brower, Sr. for Eleven Years of Exceptional Service on the Board of Directors**

Public Comment: Gary Cursio, stated that Bob Brower was a fine hospitality professional and a great asset to the MPWMD Board of Directors. He expressed support for adoption of the resolution.

Riley offered a motion that was seconded by Potter, to adopt the staff recommendation: (i) Approve Resolution 2020-17 Certifying the Monterey Peninsula Water Management District Potential Acquisition of Monterey Water System and District Boundary Adjustment Environmental Impact Report, including the Findings, (ii) Approve the Mitigation Monitoring and Reporting Program provided contained as an Exhibit to the Findings, and (iii) direct staff to file a Notice of Determination of compliance with the California Environmental Quality Act at the State Office of Planning and Research. The motion was approved on a vote of 6 – 1 by Riley, Potter, Adams, Edwards, Evans and Riley. Hoffmann was opposed.

Public Comment: The following persons addressed the Board during the Public Hearing on this item. **(a) Rick Heuer**, President of the Monterey Peninsula Taxpayers Association, stated that the FEIR was flawed because it did not evaluate the impact to the community of increased water demand that would result from lower water rates. **(b) Kevin Dayton**, Government Affairs Liaison for the Monterey Peninsula Chamber of Commerce, expressed opposition to the concept of a public takeover of the water company and described it as an attempt to control development. He cited flaws in the FEIR such as an incomplete list of projects planned for development in the District. **(c) George Soneff**, Counsel for Cal-Am, referred to letters he had submitted to the MPWMD Board dated July 31, 2020 and October 28, 2020. He stated that the proposed Operations Plan for Rule 19.8 Acquisition of the Monterey Water System should have been analyzed in the FEIR because it proposed numerous operational changes that would impact the environment. He stated that the FEIR was insufficient because it did not evaluate the impacts of the project on the cost of water and how that would impact demand. He requested that the June 15, 2020 letter from the MPWMD to the California Coastal Commission be included as part of the administrative record of the meeting. **(d) Tom Rowley** described the FEIR as not effective, efficient or comprehensive and the operations plans should have been incorporated into the FEIR. **(e) Michael Baer** stated that if water rates were lowered, demand could increase and eventually become limited which would force the price up again. He stated that the Operations Plan was not appropriate for environmental review and therefore should be considered separately from the FEIR. **(f) Fred Meurer**, Chairman of the Monterey Bay Defense Alliance, stated that the FEIR was inadequate and that it should evaluate current operations. He urged the Board to pursue a water supply that would be resilient to drought and meet

## PUBLIC HEARINGS

2. **Consider Certification of Final EIR for the Potential Acquisition of Monterey Water System and District Boundary Adjustment** *(In accordance with Section 15121 of CEQA, the purpose of this EIR is to serve as an informational document that: "...will inform public agency decision makers and the public generally of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project.")*

the needs of workforce housing and businesses. **(g) John Tilley**, Co-Chair of the Coalition of Peninsula Businesses and a member of the Ordinance No. 152 Oversight Panel, asked the Board to place Measure J on the same level of priority as development of a sufficient water supply. **(h) Melodie Chrislock**, representing Public Water Now, stated that Measure J was not promoted as a means to limit growth or development. The effort was intended to achieve local control over the water supply and lower water rates. **(i) Amy Anderson** stated that the FEIR was not an analysis of the water supply under public ownership. The FEIR analyzed a boundary adjustment required under public ownership and was another step towards completion of Measure J requirements. **(j) Marli Melton** expressed support for approval of the detailed and complete FEIR. **(k) Eric Tynan**, General Manager of the Castroville Community Services District, stated that Castroville had developed several affordable housing projects and many of the city's residents commuted to jobs on the Monterey Peninsula. He noted that there was opposition to the desalination project and also much work to be done before PWM Expansion could be approved. He stated that this effort was intended to limit the water supply on the Peninsula so that low-income workers must live elsewhere. **(l) Susan Schiavone** expressed support for the strategic goals outlined in the Operations Plan and urged the Board to certify the FEIR. **(m) Anna Thompson** expressed support for certification of the FEIR. **(n) Rudy Fischer** stated that the expenditure of funds to meet the mandate of Measure J did nothing to meet the District's priority goal to increase the water supply so the community could be free of the CDO.

Stoldt announced that the staff recommendation had changed from adoption of the Operations Plan to "receive" the plan, and that although marked final, the plan would be considered a draft. The District would endeavor to address specific comments made about inconsistencies between the plan as presented and current operations. He reiterated that the District's intent was to operate the water system for a transitional period of time as close to exactly as Cal-Am operated the system. The plan could be brought back to the Board for adoption at a later date, possibly during LAFCO review or if the project moved forward to bench trial.

Riley offered a motion that was seconded by Edwards to receive the draft Operations Plan. The motion was adopted on a vote of 7 – 0 by Riley, Edwards, Adams, Byrne, Evans, Hoffmann and Potter.

Public Comment: **(a) George Soneff**, Counsel for Cal-Am, stated that many facets of the Operations Plan were infeasible in the Monterey System and would be costly. He stated the District had not properly noticed receipt the plan, as the item was scheduled for adoption. **(b) Tom Rowley** described the operations plans as inadequate and faulty, and

### 3. Consider Adoption of Proposed Operations Plans for Rule 19.8 Acquisition of Monterey Water System (Exempt from environmental review according to Section 15262 of CEQA Guidelines, Feasibility and Planning Studies.)

stated the reports should be edited and refined before they were presented for receipt by the Board. **(c) Michael Baer** suggested that Cal-Am provide the District with the information it claims is missing from the Operations Plan. He stated that Cal-Am may be reluctant to divulge in a court proceeding the condition of its water system and could decide to sell the water system instead of going to court.

The meeting was adjourned at 7:55 pm.

## **ADJOURNMENT**

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Arlene M. Tavani, Deputy District Secretary

**ITEM: INFORMATIONAL ITEM/STAFF REPORT****5. MONTHLY PROGRESS REPORT – SANTA MARGARITA WATER TREATMENT FACILITY****Meeting Date: November 10, 2020 Budgeted: N/A****From: David J. Stoldt General Manager Program/ Line Item: N/A****Prepared By: Maureen Hamilton Cost Estimate: N/A****General Counsel Review: N/A****Committee Recommendation: N/A****CEQA Compliance: This action does not constitute a project as defined by the California Environmental Quality Act Guidelines Section 15378.**

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**SUMMARY:** This progress report is provided for information only; no action is required.

Work conducted after the previous progress report:

- Interior works plumbed to exterior header
- Electrical system commissioned
- Control system commissioned
- Operator training
- Chemicals delivered
- Started the facility calibrating both ASR1 and ASR3 wells on sodium hypochlorite (disinfectant) and zinc orthophosphate (corrosion inhibitor).

No change orders were authorized during this time period. Additional change orders are being negotiated.

**EXPENDITURES:**

Base Contract:	\$4,649,400.00
Change Orders:	\$ 140,225.78 (3.0%) <sup>1</sup>
Total:	\$4,789,625.72

Paid:	\$4,031,129.16 (84%) <sup>2</sup>
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<sup>1</sup> Percent of base contract<sup>2</sup> Percent of base contract plus change orders



**ITEM: INFORMATIONAL ITEM/STAFF REPORT****6. LETTERS RECEIVED****Meeting Date:** November 16, 2020**Budgeted:** N/A**From:** David J. Stoldt,  
General Manager**Program/** N/A  
**Line Item No.:****Prepared By:** Arlene Tavani**Cost Estimate:** N/A**General Counsel Review:** N/A**Committee Recommendation:** N/A**CEQA Compliance:** This action does not constitute a project as defined by the California Environmental Quality Act Guidelines Section 15378.

A list of letters submitted to the Board of Directors or General Manager and received between October 14, 2020 and November 6, 2020 is shown below. The purpose of including a list of these letters in the Board packet is to inform the Board and interested citizens. Copies of the letters are available for public review at the District office. If a member of the public would like to receive a copy of any letter listed, please contact the District office. Reproduction costs will be charged. The letters can also be downloaded from the District's web site at [www.mpwmd.net](http://www.mpwmd.net).

<b>Author</b>	<b>Addressee</b>	<b>Date</b>	<b>Topic</b>
Molly Evans	MPWMD Board	11/9/20	Resignation Update
Keith Van Der Maaten	Water Supply Planning Committee	11/2/20	MPWMD Water Supply Planning Committee, November 2, 2020, Meeting, Agenda Item 2 – ASR Bypass Pipeline EIR Addendum
Roger Masuda	David Laredo	11/2/20	Overview of Carmel River Issues Related to CalAm's Proposal for ASR Bypass Pipeline Project
Marli Melton	MPWMD Board	10/30/29	Comment on Water Demand and Price
George Soneff	MPWMD Board	10/28/20	Public Comment Item #2: Certification of Final EIR for the Potential Acquisition of Monterey Water System and District Boundary Adjustment
Linda Lopez	George Riley	10/27/20	Question re Other Charges on Cal-Am Monthly Bill
Margaret-Anne Coppernoll	MPWMD Board	10/19/20	Agenda Item #9 and # 10 – October 19, 2020 Board Meeting
Winston Stromberg	MPWMD Board	10/19/20	MPWMD Board of Directors October 19, 2020 Meeting, Agenda Item 11 – Pure Water Monterey Expansion Lead Agency Status
George Soneff	MPWMD Board	10/19/20	Agenda Item #9 – October 19, 2020 Board Meeting
Michelle Mark Levine	Alvin Edwards	10/15/20	GFOA Certificate of Achievement for Excellence in Financial Reporting



**ITEM: INFORMATIONAL ITEM/STAFF REPORT****7. COMMITTEE REPORTS**

**Meeting Date:** November 16, 2020      **Budgeted:** N/A

**From:** David J. Stoldt,  
General Manager      **Program/  
Line Item No.:** N/A

**Prepared By:** Arlene Tavani      **Cost Estimate:** N/A

**General Counsel Review:** N/A

**Committee Recommendation:** N/A

**CEQA Compliance:** This action does not constitute a project as defined by the California Environmental Quality Act Guidelines Section 15378.

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Attached for your review as **Exhibits 7-A through 7-E** are final minutes of the committee meetings listed below.

**EXHIBITS**

- 7-A** September 2, 2020 Water Supply Planning Committee
- 7-B** August 24, 2020 Public Outreach Committee
- 7-C** August 6, 2020 Water Demand Committee
- 7-D** July 28, 2020 Ordinance No. 152 Oversight Panel
- 7-E** December 17, 2020 Water Demand Committee





## **EXHIBIT 7-A**

### **FINAL MINUTES** **Water Supply Planning Committee of the** **Monterey Peninsula Water Management District** *September 2, 2020*

**Call to Order:** The WebEx virtual meeting was called to order at 4:00 pm.

**Committee members present:** George Riley, Chair  
 Mary Adams  
 Molly Evans

**Committee members absent:** None

**Staff members present:** David J. Stoldt, General Manager  
 Jonathan Lear, Water Resources Division Manager  
 Thomas Christensen, Environmental Resources Div. Mgr.  
 Arlene Tavani, Executive Assistant

**District Counsel present:** David Laredo, De Lay & Laredo  
 Heidi Quinn, De Lay & Laredo

#### **Comments from the Public:**

#### **Action Items**

1. **Consider Adoption of August 3, 2020 Committee Meeting Minutes**  
On a motion by Evans and seconded by Adams, minutes of the August 3, 2020 meeting were approved on a unanimous vote of 3 – 0 by Evans, Adams and Riley.

3. **Update on Pure Water Monterey Project**  
 At the request of General Manager Stoldt, Committee Chair Riley agreed to move this item off of Discussion Items and bring it forward to the committee for action.

Riley made a motion to recommend that the Board of Directors approve pursuit of a fourth well as part of the overall strategy for the Pure Water Monterey project. The motion was seconded by Adams and approved on a vote of 3 – 0 by Riley, Adams and Evans.

Stoldt explained that the Pure Water Monterey (PWM) project was originally designed with four pairs of wells: 4 shallow wells and 4 deep wells. It was eventually determined by Monterey One Water's (M1Water) consultant that only two well pairs would be needed. Due to problems with two of the wells, the consultants, District staff and California-American Water (Cal-Am) have recommended the need for a third or possibly fourth new deep injection well to achieve maximum productivity for the PWM project. It would provide redundancy and flexibility of operations. Stoldt presented a chart that showed the cost for construction of the third and fourth wells. Updated estimates should be provided to the District by September 11, 2020. Funding would not follow the past agreement in which the District paid 75% of

costs. Instead, the M1Water Board has agreed to pay for construction of the third deep injection well, if the District would fund construction of the fourth well. The District had previously budgeted \$3 million for the third well. The early estimate of the cost for the fourth well is \$3,700,000 but M1Water representatives have said they will take measures to keep the cost close to \$3 million, such as covering some of the project management costs. The District could carry the costs over two budget years.

The timing for further consideration of this item was critical as the bid package for the third well was scheduled for distribution on September 8; the District's Administrative Committee would meet on September 15; the Board of Directors could consider this item on September 21; and the amended bid packet that would include the fourth well was to be distributed on September 24, 2020. Also, the California Coastal Commission was scheduled to make a decision on Cal-Am's permit for a desalination project on September 17, 2020.

The committee expressed concern that Kennedy Jenks was the firm that originally recommended that only two well pairs were needed and now Kennedy Jenks and Todd Groundwater have completed design work and presented costs for construction of an additional two wells. Committee members also noted they felt pressure to approve the expenditure, since the wells were needed to obtain full productivity for PWM.

No public comment was directed to the committee on this item.

#### **Discussion Items**

#### **2. Potential for Cal-Am Table 13 Water Right (Permit 21330) to Resolve Need for ASR Parallel Pipeline**

General Manager Stoldt summarized the information presented in the staff note and responded to questions from the Board. Chris Cook, Director of Operations for California American Water, also responded to questions. Staff agreed to meet with representatives from Marina Coast Water District and Cal-Am to discuss the agency's concerns.

Public Comment: Roger Masuda, Counsel for Marina Coast Water District (MCWD), addressed the committee. He stated that he disagreed with many of the points made by District staff and in the written staff report submitted on this item. He requested that staff from the District, Cal-Am and MCWD meet to discuss the points of disagreement in detail.

#### **3. ~~Update on Pure Water Monterey Project (PWM)~~ *Moved up on the agenda to be considered as an Action Item following Item 1***

#### **4. Update on ASR Project**

Jon Lear narrated a PowerPoint presentation that described progress on construction of the water treatment facility at the Santa Margarita site that included: installation of a roof, windows, bay doors and the motor control center. The presentation can be viewed on the District's website.

#### **Suggest Items to be Placed on Future Agendas**

No discussion.

**Adjournment:** The meeting was adjourned at 5:09 pm.



### **EXHIBIT 7-B**

#### **FINAL MINUTES**

#### **Monterey Peninsula Water Management District**

#### **Public Outreach Committee**

August 24, 2020

#### **Call to Order**

The virtual meeting was called to order at 4:00 pm via WebEx.

Committee members present: Mary Adams - Chair  
Alvin Edwards  
George Riley

Committee members absent: None

District staff members present: David Stoldt, General Manager  
Stephanie Locke, Water Demand Manager  
Arlene Tavani, Executive Assistant

District Counsel present: David Laredo

**Comments from the Public:** No comments were directed to the committee.

#### **Action Items**

1. **Consider Adoption of July 27, 2020 Committee Meeting Minutes**  
On a motion by Edwards and second of Riley, the minutes were adopted on a unanimous vote of 3 – 0 by Edwards, Riley, and Adams.
2. **Discuss Alternatives Regarding Selection of a Public Outreach Consultant**  
Adams offered a motion to recommend that the Board of Directors approve a contract with TMD Creative. The motion was seconded by Edwards and approved on a vote of 2 - 0 by Adams and Edwards. Riley abstained. At the request of Chair Adams, staff agreed to prepare a comparison of public outreach costs by a firm that utilizes outside consultants, with the fees proposed by TMD that relies on in-house experts.

Public Comment: Nicholas Pasculli, TMD Creative, advised the committee that his company had been in business for 20 years with extensive experience working for governmental agencies. He stated that TMD Creative would be a good partner for the District.

#### **Discussion**

3. **Suggest Items to be Placed on Future Agendas**  
(a) Plan for distribution of information regarding progress on Measure J. (b) Will a representative of the District make a presentation at the September 17, 2020 meeting of the California Coastal Commission? It was suggested that the Board Chair and Vice Chair should make that decision.

**Adjournment** - The meeting was adjourned at 4:37 pm.

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## EXHIBIT 7-C

### FINAL MINUTES Water Demand Committee of the Monterey Peninsula Water Management District August 6, 2020

#### **Call to Order**

The virtual meeting was called to order at 3:00 pm via WebEx.

#### **Committee members present:**

Alvin Edwards, Chair  
Gary Hoffmann  
George Riley

#### **Committee members absent:**

None

#### **Staff members present:**

David Stoldt, General Manager  
Stephanie Locke, Water Demand Division Manager  
Arlene Tavani, Executive Assistant

#### **District Counsel present:**

David Laredo

#### **Comments from the Public:**

No comments.

#### **Action Items**

##### **1. Consider Adoption of July 2, 2020 Committee Meeting Minutes**

On a motion by Riley and second of Hoffmann, minutes of the July 2, 2020 committee meeting were adopted on a unanimous vote of 3 – 0 by Riley, Hoffmann and Edwards.

#### **Discussion Items**

##### **2. Update on Water for Near-Term Housing Needs Initiative**

Stoldt presented the PowerPoint viewed by the Policy Advisory Committee on August 4, 2020. He responded to questions from the committee. Directors comments were as follows. (a) The allocation numbers presented were sufficient, the District should move ahead without modifications. (b) Concern expressed that the Carmel River was overdrafted. The SWRCB allowed California-American Water to exceed the legal water right, and this proposal would be yet another request to exceed allowable diversions and continue ongoing damage to the Carmel River resources. (c) If this effort was not successful, suggest that pressure be placed on the SWRCB to answer questions regarding Condition 2 of the Cease and Desist Order (CDO).

Stoldt made the following statements in response to questions from the committee. A permanent water supply could be developed within 30 months, and the proposed 75 acre-feet allocation was more than could be used by the jurisdictions in that time based on the pre-2009 growth rates of approximately 16 acre-feet per year. Water production was 3,600 acre-feet below that recorded in 2009. The District would not be requesting that the effective diversion limit be raised. The request to the SWRCB would be to recognize that water production was above the effective diversion limit, but nevertheless, due to health and safety concerns the District would propose to

utilize 2% of the conservation savings achieved for housing until a water project is complete. Counsel Laredo stated that the District must exhaust all administrative remedies before it could take legal steps to obtain action from the SWRCB on Condition 2 of the CDO. If the SWRCB did approve the request, it would likely impose a myriad of conditions specifying the types of projects the water could be allocated to.

Public Comment: **(1) Ande Flower**, Principal Planner for the City of Monterey, thanked the Water Demand Committee and staff for expressing solidarity with the City to be a frontrunner in development of affordable housing for the region. She stated that based on her discussions with developers and architects, the City of Monterey could use most or all of the anticipated allocation. She urged the District to request that the SWRCB allow the donation of water credits from property owners to the City for meaningful allocation. **(2) John Tilley** requested that a hydrologic analysis be conducted to show that this proposal would not decrease Carmel River streamflow. He stated the District's reliance on the SWRCB to grant the community an increase in water production signaled that the agency was not doing its job of providing a long-term sustainable water supply and protecting water resources. He urged the District to support development of the Cal-Am desalination project. **(3) Kim Cole**, Community Development Director for the City of Monterey, reported that the City Council had identified sites for 100% affordable housing projects. She expressed support for the District's effort to exhaust discussions with the SWRCB regarding Condition No. 2. **(4) Luke Coletti** asked a series of questions: if the proposal is approved, who would be the gatekeeper of the new allocation; who would determine the meaning of "affordable" housing project; and how would Condition 2 apply to projects that would be identified as not affordable.

### 3. Suggest Items to be Placed on Future Agendas

Provide an update on installation of a new CIMIS station in Carmel Valley.

**Adjournment:** The meeting was adjourned at 4:10 pm.

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### **EXHIBIT 7-D**

#### **FINAL MINUTES**

#### **Ordinance No. 152 Oversight Panel of the Monterey Peninsula Water Management District July 28, 2020**

**Call to Order**            The virtual meeting was called to order at 1:35 pm via WebEx.

**Committee members present:**

John Bottomley (joined at 1:40 pm)  
Paul Bruno  
Jason Campbell (joined at 1:50 pm)  
Scott Dick  
Birt Johnson, Jr.  
Patie McCracken  
Karen Paull  
Susan Schiavone  
John Tilley

**MPWMD Staff members present:**

David J. Stoldt, General Manager  
Suresh Prasad, Administrative Services Manager/CFO  
Arlene Tavani, Executive Assistant

**District Counsel Present:**

David Laredo

**Committee members absent:** None

**Comments from the Public:**

No comments were directed to the committee.

**Action Items**

**1. Consider Adoption of January 21, 2020 Committee Meeting Minutes**

On a motion by Bruno and seconded by Dick, the meeting minutes were approved on a vote of 7 – 0 by Bruno, Dick, Johnson, McCracken, Paull, Schiavone and Tilley. Bottomley and Campbell were absent for the vote. No public comment was directed to the committee during the public comment period on this item.

**Discussion Items**

**2. Review of Revenue and Expenditures of Water Supply Charge Related to Water Supply Activities**

Prasad reviewed Exhibit 2-A, Water Supply Charge Receipts; Exhibit 2-B, Water Supply Charge Availability Analysis; and Exhibit 2-C, Water Supply Fund Budget and responded to questions. He explained that incoming Water Supply Charge funds are coded to one GL, and expenditures are split between the three cost centers: Conservation, Water Supply and Mitigation. He stated that 1.2 percent of the 8.325% User Fee is applied to the Water Supply fund. The costs related to Measure J are split across the three cost centers, so 33% of the Measure J costs are shown in the Water Supply fund. In response to a question about the meaning of Section 10 of Ordinance No. 152, Stoldt explained that Section 10 states that if no water project is identified by 2017 the charge shall not be collected, it does not say that the Water Supply Charge can only be spent on projects that were identified prior to 2017. A concern was expressed that the District depends on funding from the User Fee and Water Supply Charge and there is no plan to sunset the Water Supply Charge. Stoldt explained that

the Water Supply Charge funds water supply projects, and those project costs exceed Water Supply Charge receipts. The expectation is that once the water projects are in place, the Water Supply Charge could be reduced or sunset, considering any surplus User Fees collected. There was a request that projects funded from the Water Supply Charge be identified, including those begun before 2017, and that those project expenditures should be shown.

**3. Discuss Performance of Reinstated District User Fee, To Date**

Prasad reviewed Exhibit 3-A, MPWMD User Fee Revenue Collections FY 2019-2020 and responded to questions. Stoldt stated that User Fee receipts fluctuate each year. Once the District can determine a consistent level of User Fee receipts, then a decision can be made as to how much the Water Supply Charge could be reduced or sunset.

**4. Discuss Baseline for Water Supply Charge/User Fee Sunset Provisions**

Stoldt explained that the User Fee is assessed on water use only, not other surcharges listed on the Cal-Am bill. When User Fee receipts reach \$3.4 million in excess of conservation and mitigation program expenditures, then that excess could be used to offset expenditures from the Water Supply Charge and the Board could consider a reduction. The Board adopted a policy in 2016, that could not be implemented until 2017, to collect both funding sources for three years, and then begin to sunset either or both funding sources. Stoldt suggested that as an example, if the user fee was budgeted at \$4.25 million, and \$5 million was received, of the \$750,000 excess, two-thirds could be used to fund a down payment on sunsetting the Water Supply Charge in the subsequent year. Prasad noted that only 1.2% of that \$750,000 will be allocated to Water Supply. Stoldt also advised that the Water Supply Charge is a reliable source of funding and if the District needed to fund a project through bonds, they could be guaranteed through the Water Supply Charge.

Patie McCracken left the meeting at 3:05 pm and Birt Johnson departed at 3:08 pm.

It was suggested that the District could identify short term project expenditures and set a goal that the Water Supply Charge be reduced/sunset when those projects are complete. Stoldt responded that the District would likely cut subsidies from other revenue sources first, and then reduce the Water Supply Charge.

**Other Items**

**5. Water Supply Project Update**

Stoldt reported that if the September 2020 CDO milestone was missed, the District would petition the SWRCB to waive the penalty fee. As to the Pure Water Monterey Project, costs were being developed on installation of two additional wells. Deliveries for customer service should begin the first week of September. The ASR chemical building should be completed by the end of 2020.

**Adjourn:** The meeting was adjourned at approximately 3:15 pm.



### **EXHIBIT 7-E**

#### **FINAL MINUTES Water Demand Committee of the Monterey Peninsula Water Management District December 17, 2019**

#### **Call to Order**

The meeting was called to order at 4:00 pm in the MPWMD conference room.

#### **Committee members present:**

Alvin Edwards, Chair  
Jeanne Byrne  
Molly Evans

#### **Committee members absent:**

None

#### **Staff members present:**

David Stoldt, General Manager  
Stephanie Locke, Water Demand Division Manager  
Arlene Tavani, Executive Assistant

#### **District Council present:**

David Laredo

#### **Comments from the Public:**

No comments.

#### **Action Items**

1. **Consider Adoption of October 31, 2019 Committee Meeting Minutes**  
On a motion by Evans and second of Byrne, the minutes were adopted on a unanimous vote of 3 – 0 by Evans, Byrne and Edwards.
2. **Consider Adoption of Updated Water Demand Forecasts Related to Association of Monterey Bay Area Government 2018 Regional Growth Forecast and Regional Housing Needs Allocation Plan: 2014-2023, and Inclusion of 2019 Water Year**  
Byrne offered a motion to receive the report as information. There was no second.

Evans made a motion that was seconded by Edwards to distribute the revised report to the jurisdictions, amend the report based on their comments, and then submit the report to the Board for adoption. The motion was approved on a vote of 2 – 1 by Evans and Edwards. Byrne was opposed.

Comments from the public. (a) **Bill Kampe**, resident of Pacific Grove, distributed a document titled Thoughts on Water Demand for the Monterey Peninsula that is on file at the District office and can be viewed on the agency website. He stated that lack of leadership on the Peninsula is responsible for the inability to create new housing. We should not underestimate future housing needs, and make sure we understand why growth has been at 0 percent and determine what our fair share of growth should be. (b) **Jeff Davi**, Monterey Coalition of Businesses, stated that the report should be adjusted to account for the past 45 years when there has not been a normalized water market in Monterey. He noted that the AMBAG numbers require further review and

requested that the revised study be sent to the jurisdictions for their review and input. **(c) Sam Teal**, resident of Pacific Grove, advised the committee that buildable lots do exist in Pacific Grove, as well as a need for auxiliary dwelling units. If water becomes available, water permit activity will increase as will water consumption. He also noted that the Pebble Beach Company entitlement will be used over time. **(d) Rene Boskoff**, Monterey County Hospitality Association, expressed support for construction of the California American Water desalination plant. He expressed concern that the agricultural water sources for the Pure Water Monterey Expansion project are not assured for the future. Mr. Boskoff stated that the hospitality industry will require 500 acre-feet of “bounce back” supply. He gave examples of how some restrictions on water use could be lifted in the hospitality industry when water is available. He stated that if desal and recycled water sources provide more water than is needed, the cost will go down and the water could be sold to other water-short areas. **(e) Mark Kelley**, recommended that the report be submitted to the jurisdictions for review. Of special interest would be the City of Seaside considering it has plans for development of mixed use residential/commercial projects. He urged the District to proceed with caution because the first version of the report was distributed widely. **(f) Gary Cursio** expressed agreement with comments made by Bill Kampe. He stated that the lack of water for new businesses or expansion of businesses has crippled the economy of the six jurisdictions within the District.

**Director Byrne exited the meeting at 5:10 pm following discussion and action on item 2.**

#### **Discussion Items**

**3. Discuss Concepts for Ordinance re Water for Affordable/Workforce Housing**

Stoldt distributed an agenda report for the 12/17/2019 meeting of the Monterey City Council that proposed adoption of a resolution requesting that the District allocate water to the City of Monterey for development of affordable housing. Stoldt explained that District staff planned to convene a meeting of the Technical Advisory Committee and ask the representatives to provide letters documenting the amount of water needed for housing for a 2 to 3-year period until a new water supply is on-line. Staff could then propose options on how to make water available; possibly through use of water credits or water transfers.

**4. Discuss Use of Remaining Proceeds from IRWM Disadvantaged Communities Fund**

There is a balance of \$66,000 remaining in unspent grant funds. The District plans to hold the funds until it can be determined what local disadvantaged community would qualify for assistance under the grant guidelines.

**Adjournment:** The meeting was adjourned at 5:15 pm.

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**ITEM: INFORMATIONAL ITEM/STAFF REPORT****8. MONTHLY ALLOCATION REPORT**

<b>Meeting Date:</b>	<b>November 16, 2020</b>	<b>Budgeted:</b>	<b>N/A</b>
<b>From:</b>	<b>David J. Stoldt, General Manager</b>	<b>Program:</b>	<b>N/A</b>
		<b>Line Item No.:</b>	
<b>Prepared By:</b>	<b>Gabriela Bravo</b>	<b>Cost Estimate:</b>	<b>N/A</b>

**General Counsel Review: N/A****Committee Recommendation: N/A**

**CEQA Compliance: This action does not constitute a project as defined by the California Environmental Quality Act Guidelines Section 15378.**

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**SUMMARY:** As of October 31, 2020, a total of **26.557** acre-feet (**7.7%**) of the Paralta Well Allocation remained available for use by the Jurisdictions. Pre-Paralta water in the amount of **35.036** acre-feet is available to the Jurisdictions, and **28.839** acre-feet is available as public water credits.

**Exhibit 8-A** shows the amount of water allocated to each Jurisdiction from the Paralta Well Allocation, the quantities permitted in October 2020 (“changes”), and the quantities remaining. The Paralta Allocation no debits in October 2020.

**Exhibit 8-A** also shows additional water available to each of the Jurisdictions. Additional water from expired or canceled permits that were issued before January 1991 are shown under “PRE-Paralta.” Water credits used from a Jurisdiction’s “public credit” account are also listed. Transfers of Non-Residential Water Use Credits into a Jurisdiction’s Allocation are included as “public credits.” **Exhibit 8-B** shows water available to Pebble Beach Company and Del Monte Forest Benefited Properties, including Macomber Estates, Griffin Trust. Another table in this exhibit shows the status of Sand City Water Entitlement and the Malpaso Water Entitlement.

**BACKGROUND:** The District’s Water Allocation Program, associated resource system supply limits, and Jurisdictional Allocations have been modified by a number of key ordinances. These key ordinances are listed in **Exhibit 8-C**.

**EXHIBITS****8-A** Monthly Allocation Report**8-B** Monthly Entitlement Report**8-C** District’s Water Allocation Program Ordinances



**EXHIBIT 8-A**  
**MONTHLY ALLOCATION REPORT**  
**Reported in Acre-Feet**  
**For the month of October 2020**

Jurisdiction	Paralta Allocation*	Changes	Remaining	PRE-Paralta Credits	Changes	Remaining	Public Credits	Changes	Remaining	Total Available
<b>Airport District</b>	8.100	0.000	5.197	0.000	0.000	0.000	0.000	0.000	0.000	5.197
<b>Carmel-by-the-Sea</b>	19.410	0.000	1.398	1.081	0.000	1.081	0.910	0.000	0.182	2.661
<b>Del Rey Oaks</b>	8.100	0.000	0.000	0.440	0.000	0.000	0.000	0.000	0.000	0.000
<b>Monterey</b>	76.320	0.000	0.245	50.659	0.000	0.030	38.121	0.000	2.300	2.575
<b>Monterey County</b>	87.710	0.000	10.717	13.080	0.000	0.352	7.827	0.000	1.775	12.844
<b>Pacific Grove</b>	25.770	0.000	0.000	1.410	0.000	0.014	15.874	0.000	0.065	0.079
<b>Sand City</b>	51.860	0.000	0.000	0.838	0.000	0.000	24.717	0.000	23.373	23.373
<b>Seaside</b>	65.450	0.000	0.000	34.438	0.000	33.549	2.693	0.000	1.144	34.693
<b>District Reserve</b>	9.000	0.000	9.000	N/A			N/A			9.000
<b>TOTALS</b>	<b>342.720</b>	<b>0.000</b>	<b>26.557</b>	<b>101.946</b>	<b>0.000</b>	<b>35.026</b>	<b>90.142</b>	<b>0.000</b>	<b>28.839</b>	<b>90.422</b>

Allocation Holder	Water Available	Changes this Month	Total Demand from Water Permits Issued	Remaining Water Available
<b>Quail Meadows</b>	33.000	0.000	32.320	0.680
<b>Water West</b>	12.760	0.000	9.564	3.196

\* Does not include 15.280 Acre-Feet from the District Reserve prior to adoption of Ordinance No. 73.



**EXHIBIT 8-B**  
**MONTHLY ALLOCATION REPORT**  
**ENTITLEMENTS**  
**Reported in Acre-Feet**  
**For the month of October 2020**

**Recycled Water Project Entitlements**

Entitlement Holder	Entitlement	Changes this Month	Total Demand from Water Permits Issued	Remaining Entitlement/and Water Use Permits Available
<b>Pebble Beach Co. <sup>1</sup></b>	219.860	0.400	31.302	188.558
<b>Del Monte Forest Benefited Properties <sup>2</sup></b> <b>(Pursuant to Ord No. 109)</b>	145.140	0.578	57.602	87.538
<b>Macomber Estates</b>	10.000	0.000	10.000	0.000
<b>Griffin Trust</b>	5.000	0.000	4.829	0.171
<b>CAWD/PBCSD Project Totals</b>	<b>380.000</b>	<b>0.978</b>	<b>103.733</b>	<b>276.267</b>

Entitlement Holder	Entitlement	Changes this Month	Total Demand from Water Permits Issued	Remaining Entitlement/and Water Use Permits Available
<b>City of Sand City</b>	206.000	0.000	7.115	198.885
<b>Malpaso Water Company</b>	80.000	0.637	17.995	62.005
<b>D.B.O. Development No. 30</b>	13.950	0.011	3.784	10.166
<b>City of Pacific Grove</b>	38.390	0.043	1.282	37.108
<b>Cypress Pacific</b>	3.170	0.000	3.170	0.000

Increases in the Del Monte Forest Benefited Properties Entitlement will result in reductions in the Pebble Beach Co. Entitlement.



## **EXHIBIT 8-C**

### **District's Water Allocation Program Ordinances**

**Ordinance No. 1** was adopted in September 1980 to establish interim municipal water allocations based on existing water use by the jurisdictions. Resolution 81-7 was adopted in April 1981 to modify the interim allocations and incorporate projected water demands through the year 2000. Under the 1981 allocation, Cal-Am's annual production limit was set at 20,000 acre-feet.

**Ordinance No. 52** was adopted in December 1990 to implement the District's water allocation program, modify the resource system supply limit, and to temporarily limit new uses of water. As a result of Ordinance No. 52, a moratorium on the issuance of most water permits within the District was established. Adoption of Ordinance No. 52 reduced Cal-Am's annual production limit to 16,744 acre-feet.

**Ordinance No. 70** was adopted in June 1993 to modify the resource system supply limit, establish a water allocation for each of the jurisdictions within the District, and end the moratorium on the issuance of water permits. Adoption of Ordinance No. 70 was based on development of the Paralta Well in the Seaside Groundwater Basin and increased Cal-Am's annual production limit to **17,619** acre-feet. More specifically, Ordinance No. 70 allocated 308 acre-feet of water to the jurisdictions and 50 acre-feet to a District Reserve for regional projects with public benefit.

**Ordinance No. 73** was adopted in February 1995 to eliminate the District Reserve and allocate the remaining water equally among the eight jurisdictions. Of the original 50 acre-feet that was allocated to the District Reserve, 34.72 acre-feet remained and was distributed equally (4.34 acre-feet) among the jurisdictions.

**Ordinance No. 74** was adopted in March 1995 to allow the reinvestment of toilet retrofit water savings on single-family residential properties. The reinvested retrofit credits must be repaid by the jurisdiction from the next available water allocation and are limited to a maximum of 10 acre-feet. This ordinance sunset in July 1998.

**Ordinance No. 75** was adopted in March 1995 to allow the reinvestment of water saved through toilet retrofits and other permanent water savings methods at publicly owned and operated facilities. Fifteen percent of the savings are set aside to meet the District's long-term water conservation goal and the remainder of the savings are credited to the jurisdictions allocation. This ordinance sunset in July 1998.

**Ordinance No. 83** was adopted in April 1996 and set Cal-Am's annual production limit at **17,621** acre-feet and the non-Cal-Am annual production limit at **3,046** acre-feet. The modifications to the production limit were made based on the agreement by non-Cal-Am water users to permanently reduce annual water production from the Carmel Valley Alluvial Aquifer in exchange for water service from Cal-Am. As part of the agreement, fifteen percent of the historical non-Cal-Am production was set aside to meet the District's long-term water conservation goal.

**Ordinance No. 87** was adopted in February 1997 as an urgency ordinance establishing a community benefit allocation for the planned expansion of the Community Hospital of the Monterey Peninsula (CHOMP). Specifically, a special reserve allocation of 19.60 acre-feet of production was created exclusively for the benefit of CHOMP. With this new allocation, Cal-Am's annual production limit was increased to **17,641** acre-feet and the non-Cal-Am annual production limit remained at **3,046** acre-feet.

**Ordinance No. 90** was adopted in June 1998 to continue the program allowing the reinvestment of toilet retrofit water savings on single-family residential properties for 90-days following the expiration of Ordinance No. 74. This ordinance sunset in September 1998.

**Ordinance No. 91** was adopted in June 1998 to continue the program allowing the reinvestment of water saved through toilet retrofits and other permanent water savings methods at publicly owned and operated facilities.

**Ordinance No. 90 and No. 91** were challenged for compliance with CEQA and nullified by the Monterey Superior Court in December 1998.

**Ordinance No. 109** was adopted on May 27, 2004, revised Rule 23.5 and adopted additional provisions to facilitate the financing and expansion of the CAWD/PBCSD Recycled Water Project.

**Ordinance No. 132** was adopted on January 24, 2008, established a Water Entitlement for Sand City and amended the rules to reflect the process for issuing Water Use Permits.

**Ordinance No. 165** was adopted on August 17, 2015, established a Water Entitlement for Malpas Water Company and amended the rules to reflect the process for issuing Water Use Permits.

**Ordinance No. 166** was adopted on December 15, 2015, established a Water Entitlement for D.B.O. Development No. 30.

**Ordinance No. 168** was adopted on January 27, 2016, established a Water Entitlement for the City of Pacific Grove.

## ITEM: INFORMATIONAL ITEM/STAFF REPORTS

### 9. WATER CONSERVATION PROGRAM REPORT

Meeting Date: November 16, 2020 Budgeted: N/A

From: David J. Stoldt, General Manager Program/Line Item No. N/A

Prepared By: Kyle Smith Cost Estimate: N/A

Committee Recommendation: N/A

CEQA Compliance: This action does not constitute a project as defined by the California Environmental Quality Act Guidelines Section 15378.

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#### I. MANDATORY WATER CONSERVATION RETROFIT PROGRAM

District Regulation XIV requires the retrofit of water fixtures upon Change of Ownership or Use with High Efficiency Toilets (HET) (1.28 gallons-per-flush), 2.0 gallons-per-minute (gpm) Showerheads, 1.2 gpm Washbasin faucets, 1.8 gpm Kitchen, Utility, and Bar Sink faucets, and Rain Sensors on all automatic Irrigation Systems. Property owners must certify the Site meets the District's water efficiency standards by submitting a Water Conservation Certification Form (WCC), and a Site inspection is often conducted to verify compliance.

##### A. Changes of Ownership

Information is obtained monthly from *Realquest.com* on properties transferring ownership within the District. The information is compared against the properties that have submitted WCCs. Details on **172** property transfers that occurred between October 1, 2020, and October 31, 2020, were added to the database.

##### B. Certification

The District received **54** WCCs between October 1, 2020, and October 31, 2020. Data on ownership, transfer date, and status of water efficiency standard compliance were entered into the database.

##### C. Verification

From October 1, 2020, to October 31, 2020, **59** properties were verified compliant with Rule 144 (Retrofit Upon Change of Ownership or Use). Of the **59** verifications, **39** properties verified compliance by submitting certification forms and/or receipts. District staff completed **20** Site inspections. Of the **20** properties verified, **seven (35%)** passed.

Note that most Site inspections were suspended March 13, 2020, due to concerns about the novel coronavirus. Staff has continued to certify properties electronically through owner certification or other methods. Site inspections may be done in limited cases when the property is vacant, and staff has access without others present. Safety protocols (e.g. masks, gloves, hand sanitizer, etc.) are in place for those instances.

#### D. CII Compliance with Water Efficiency Standards

Effective January 1, 2014, all Non-Residential properties were required to meet Rule 143, Water Efficiency Standards for Existing Non-Residential Uses. To verify compliance with these requirements, property owners and businesses are being sent notification of the requirements and a date that inspectors will be on Site to check the property. In October, District inspectors performed **one** verification.

MPWMD is forwarding its CII inspection findings to California American Water (Cal-Am) for their verification with the Rate Best Management Practices (Rate BMPs) that are used to determine the appropriate Non-Residential rate division. Compliance with MPWMD's Rule 143 achieves Rate BMPs for indoor water uses, however, properties with landscaping must also comply with Cal-Am's outdoor Rate BMPs to avoid Division 4 (Non-Rate BMP Compliant) rates. In addition to sharing information about indoor Rate BMP compliance, MPWMD notifies Cal-Am of properties with landscaping. Cal-Am then conducts an outdoor audit to verify compliance with the Rate BMPs. During October 2020, MPWMD referred **no** properties to Cal-Am for verification of outdoor Rate BMPs.

#### E. Water Waste Enforcement

The District has a Water Waste Hotline 831-658-5653 or an online form to report Water Waster occurrences at [www.mpwmd.net](http://www.mpwmd.net) or [www.montereywaterinfo.org](http://www.montereywaterinfo.org). There were **two** Water Waste responses during the past month. There were **no** repeated incidents that resulted in a fine.

## II. WATER DEMAND MANAGEMENT

#### A. Permit Processing

As of March 18, 2020, the District has been processing only electronic applications for Water Permits. Information can be found at <https://www.mpwmd.net/regulations/water-permits>.

District Rule 23 requires a Water Permit application for all properties that propose to expand or modify water use on a Site, including New Construction and Remodels. District staff processed and issued **52** Water Permits from October 1, 2020 to October 31, 2020. **Twelve** Water Permits were issued using Water Entitlements (Pebble Beach Company, Malpas Water, etc.). No Water Permits involved a debit to a Public Water Credit Account. In addition to those Water Permits issued in October, **five** Meter Permits and **ten** Hydrant Meter Permits were issued. All Water Permits have a disclaimer informing applicants of the Cease and Desist Order against California American Water and that MPWMD reports Water Permit details to California American Water.

District Rule 24-3-A allows the addition of a second Bathroom in an existing Dwelling Unit. Of the **52** Water Permits issued from October 1, 2020, to October 31, 2020, **one** was issued under this provision.

## B. Permit Compliance

District staff completed **two** conditional Water Permit finals during October 2020. Staff completed **52** site inspections of vacant properties. **Twenty-two** properties passed and **30** failed due to unpermitted fixtures.

## C. Deed Restrictions

District staff prepares deed restrictions that are recorded on the property title to provide notice of District Rules and Regulations, enforce Water Permit conditions, and provide notice of public access to water records. In April 2001, the District Board of Directors adopted a policy regarding the processing of deed restrictions. As of March 18, 2020, MPWMD offices are closed to the public. While still processing and issuing Water Permits, staff is no longer available for notary services. Applicants can obtain notary services at local UPS stores and other locations. Staff receives notarized deed restrictions via email and records the documents electronically with the County.

## D. Rebates

Rebates continue to be processed during the Shelter-in-Place.

REBATE PROGRAM SUMMARY		October-2020				2020 YTD			
I.	<u>Application Summary</u>								
A.	Applications Received	66				719			
B.	Applications Approved	53				569			
C.	Single Family Applications	47				506			
D.	Multi-Family Applications	4				60			
E.	Non-Residential Applications	2				3			
II.	<u>Type of Devices Rebated</u>	Number of devices	Rebate Paid	Estimated AF	Gallons Saved	Year to Date Number	Year to Date Paid		
A.	High Efficiency Toilet (HET)	12	\$900.00	0.060000	19,551	185	\$13,725.00		
B.	Ultra HET	4	\$500.00	0.040000	13,034	16	\$2,000.00		
C.	Toilet Flapper			0.000000	0	0	\$0.00		
D.	High Efficiency Dishwasher	9	\$1,125.00	0.027000	8,798	100	\$12,625.00		
E.	High Efficiency Clothes Washer - Res	31	\$15,500.00	0.499100	162,632	288	\$143,955.99		
F.	High Efficiency Clothes Washer - Com			0.000000	0	0	\$0.00		
G.	Instant-Access Hot Water System			0.000000	0	12	\$2,196.95		
H.	Zero Use Urinals			0.000000	0	0	\$0.00		
I.	Pint Urinals			0.000000	0	0	\$0.00		
J.	Cisterns	1	\$2,175.00	0.000000	0	8	\$5,525.00		
K.	Smart Controllers	1	\$100.00	0.000000	0	13	\$1,187.49		
L.	Rotating Sprinkler Nozzles			0.000000	0	0	\$0.00		
M.	Moisture Sensors			0.000000	0	0	\$0.00		
N.	Lawn Removal & Replacement	2	\$4,844.00	0.000000	0	3	\$8,456.00		
O.	Graywater			0.000000	0	0	\$0.00		
R.	Other			0.000000	0	0	\$0.00		
III.	<u>TOTALS</u>	60	\$25,144.00	0.626100	204,015	625	\$189,671.43		
IV.	<u>TOTALS Since 1997</u>				Paid Since 1997:	\$ 6,548,426	592.1	Acre-Feet Saved Since 1997 (from quantifiable retrofits)	



**ITEM: INFORMATIONAL ITEM/STAFF REPORT****10. CARMEL RIVER FISHERY REPORT FOR OCTOBER 2020****Meeting Date:** November 16, 2020 **Budgeted:** N/A**From:** David J. Stoldt,  
General Manager **Program/** N/A  
**Line Item No.:****Prepared By:** Beverly Chaney **Cost Estimate:** N/A**General Counsel Review:** N/A**Committee Recommendation:** N/A**CEQA Compliance:** This action does not constitute a project as defined by the California Environmental Quality Act Guidelines Section 15378.

**AQUATIC HABITAT AND FLOW CONDITIONS:** Carmel River flows held relatively steady in October, providing fair rearing conditions for steelhead young-of-the-year (YOY) in the mid to upper watershed and poor conditions in the lower valley.

October's mean daily streamflow at the Sleepy Hollow Weir ranged from 5.3 to 11 cubic-feet-per-second (cfs) (monthly mean 7.2 cfs) resulting in 445 acre-feet (AF) of runoff. The Highway 1 gage is now dry.

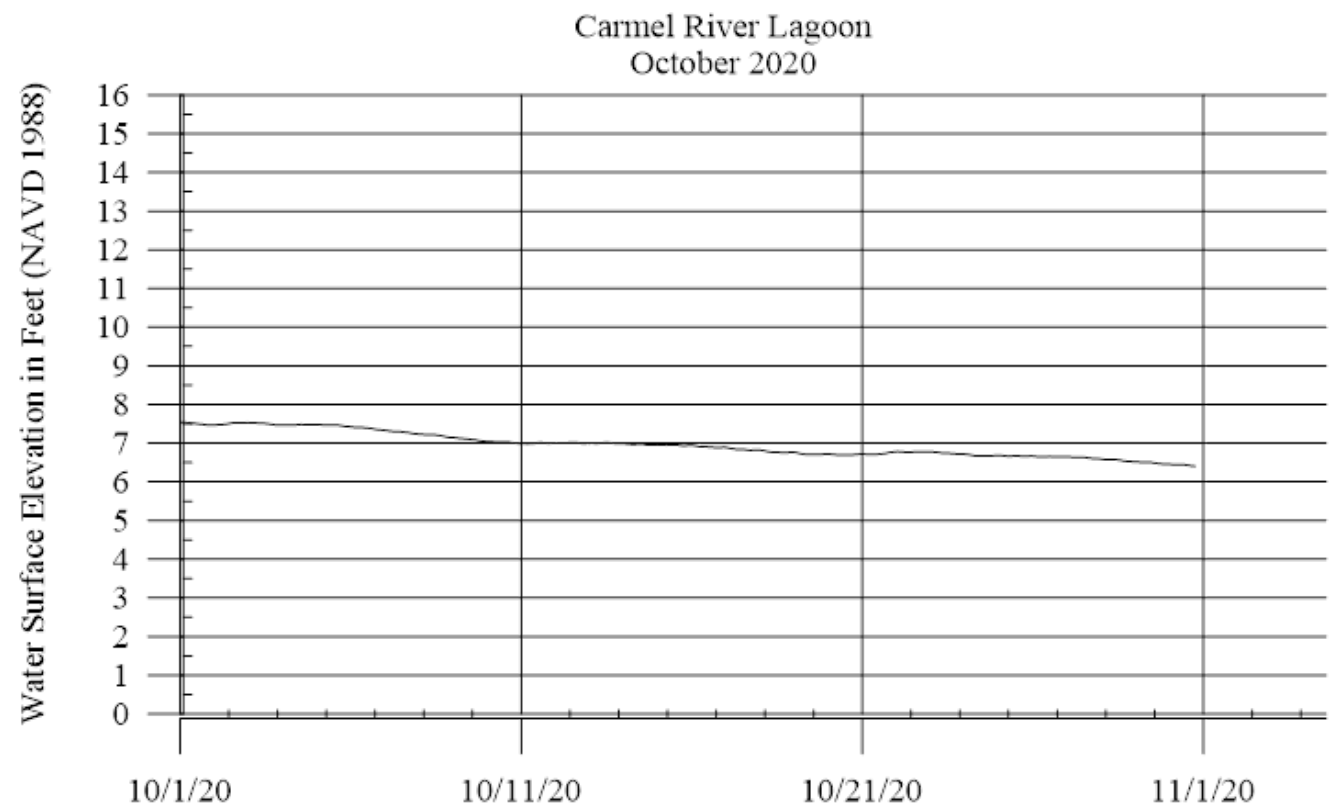
There were 0.00 inches of rainfall in October as recorded at the San Clemente gauge. The rainfall total for WY 2021 (which started on October 1, 2020) is 0.0 inches, or 0% of the long-term year-to-date average of 0.77 inches.

**CARMEL RIVER LAGOON:** The lagoon mouth closed for the summer on June 16, 2020. During October, the lagoon water surface elevation (WSE) slowly dropped from approximately 7.5 to 6.5 feet (North American Vertical Datum of 1988; NAVD 88) (See graph below).

Water quality depth-profiles were conducted at five sites on October 27, 2020 while the lagoon mouth was closed, water surface elevation was 6.75 feet, and river inflow was 0 cfs. Steelhead rearing conditions were generally "good" above 1.5 meters depth and "fair to poor" in the deeper water and upper south arm. Salinity ranged from 2 - 14 ppt, dissolved oxygen (DO) levels were variable ranging from 0.1 – 9.5 mg/l, and water temperatures were cooler, ranging from 52 - 68 degrees F.

**SLEEPY HOLLOW STEELHEAD REARING FACILITY:** Facility upgrades were completed in mid-July and the first rescued fish were brought to the facility on July 27, 2020. By the end of October, 5,098 fish had been placed in the rearing channel including: 123 large fish (age 1+ years [1+]), 669 medium sized 1+ fish, and 4,306 young-of-the-year (YOY) fish. Overall facility survival is currently 66%. Very hot weather and warm river water contributed to the mortalities.

## Carmel River Lagoon Plot:



**ITEM: INFORMATIONAL ITEM/STAFF REPORT****11. MONTHLY WATER SUPPLY AND CALIFORNIA AMERICAN WATER PRODUCTION REPORT**

<b>Meeting Date:</b>	<b>November 16, 2020</b>	<b>Budgeted:</b>	<b>N/A</b>
<b>From:</b>	<b>David J. Stoldt, General Manager</b>	<b>Program/ Line Item No.:</b>	<b>N/A</b>
<b>Prepared By:</b>	<b>Jonathan Lear</b>	<b>Cost Estimate:</b>	<b>N/A</b>

**General Counsel Review:** N/A**Committee Recommendation:** N/A

**CEQA Compliance:** Exempt from environmental review per SWRCB Order Nos. 95-10 and 2016-0016, and the Seaside Basin Groundwater Basin adjudication decision, as amended and Section 15268 of the California Environmental Quality Act (CEQA) Guidelines, as a ministerial project; Exempt from Section 15307, Actions by Regulatory Agencies for Protection of Natural Resources.

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**Exhibit 11-A** shows the water supply status for the Monterey Peninsula Water Resources System (MPWRS) as of **November 1, 2020**. This system includes the surface water resources in the Carmel River Basin, the groundwater resources in the Carmel Valley Alluvial Aquifer and the Seaside Groundwater Basin. **Exhibit 11-A** is for Water Year (WY) 2021 and focuses on four factors: rainfall, runoff, and storage. The rainfall and Streamflow values are based on measurements in the upper Carmel River Basin at Sleepy Hollow Weir.

**Water Supply Status:** Rainfall through **October** 2020 totaled **0.00 inches** and brings the cumulative rainfall total for WY 2021 to **0.00 inches**, which is **0%** of the long-term average through **October**. Estimated unimpaired runoff through **October** totaled **248 acre-feet (AF)** and brings the cumulative runoff total for WY 2021 to **248 AF**, which is **62%** of the long-term average through **October**. Usable storage for the MRWPRS was **29,680 acre-feet**, which is **108%** of average through **October**, and equates to **90%** percent of system capacity.

**Production Compliance:** Under State Water Resources Control Board (SWRCB) Cease and Desist Order No. 2016-0016 (CDO), California American Water (Cal-Am) is allowed to produce no more than 8,310 AF of water from the Carmel River in WY 2021. Through **October**, using the CDO accounting method, Cal-Am has produced **293 AF** from the Carmel River (including ASR capped at 600 AF, Table 13, and Mal Paso.) In addition, under the Seaside Basin Decision, Cal-Am is allowed to produce 1,474 AF of water from the Coastal Subareas and 0 AF from the Laguna Seca Subarea of the Seaside Basin in WY 2020. Through **October**, Cal-Am has produced **266 AF** from the Seaside Groundwater Basin. Through **October**, **0 AF** of Carmel River Basin groundwater have been diverted for Seaside Basin injection; **0 AF** have been recovered for customer use, **0 AF** have been diverted under Table 13 water rights, and **300 AF** of Pure Water Monterey recovered. Cal-Am has produced **869 AF** for customer use from all sources through **October**. **Exhibit 11-B** shows production by source. Some of the values in this report may be revised in the future as Cal-Am finalizes their production values and monitoring data. The 12-month moving average of production for customer service is **9,592 AF**, which is below the rationing trigger of **10,130 AF** for WY 2020.

**EXHIBITS****11-A** Water Supply Status: **October 1, 2020****11-B** Monthly Cal-Am production by source: WY 2021



**EXHIBIT 11-A**

**Monterey Peninsula Water Management District  
Water Supply Status  
November 1, 2020**

<b>Factor</b>	<b>Oct 2020</b>	<b>Average To Date</b>	<b>Percent of Average</b>	<b>Oct 2019</b>
<b>Rainfall</b> (Inches)	0	0.75	0%	0
<b>Runoff</b> (Acre-Feet)	248	399	62%	525
<b>Storage</b> <sup>5</sup> (Acre-Feet)	29,680	27,430	108%	28,630

**Notes:**

1. Rainfall and runoff estimates are based on measurements at San Clemente Dam. Annual rainfall and runoff at Sleepy Hollow Weir average 21.22 inches and 67,246 acre-feet, respectively. Annual values are based on the water year that runs from October 1 to September 30 of the following calendar year. The rainfall and runoff averages at the Sleepy Hollow Weir site are based on records for the 1922-2019 and 1902-2019 periods respectively.
2. The rainfall and runoff totals are based on measurements through the dates referenced in the table.
3. Storage estimates refer to usable storage in the Monterey Peninsula Water Resources System (MPWRS) that includes surface water in Los Padres and San Clemente Reservoirs and ground water in the Carmel Valley Alluvial Aquifer and in the Coastal Subareas of the Seaside Groundwater Basin. The storage averages are end-of-month values and are based on records for the 1989-2019 period. The storage estimates are end-of-month values for the dates referenced in the table.
4. The maximum storage capacity for the MPWRS is currently 33,130 acre-feet.



## Production vs. CDO and Adjudication to Date: WY 2021

(All values in Acre-Feet)

Year-to-Date Values	MPWRS					Water Projects and Rights				
	Carmel River Basin <sup>2, 6</sup>	Seaside Groundwater Basin		Ajudication Compliance	MPWRS Total					Water Projects and Rights Total
		Coastal	Laguna Seca			ASR Recovery	Table 13 <sup>7</sup>	Pure Water Monterey	Sand City <sup>3</sup>	
Target	202	366	0	366	<b>568</b>	0	0	300	25	<b>325</b>
Actual <sup>4</sup>	293	231	35	266	<b>559</b>	0	0	300	10	<b>310</b>
Difference	-91	135	-35	100	<b>9</b>	0	0	0	15	<b>15</b>
WY 2020 Actual	509	378	35	369	<b>860</b>	0	0	0	0	<b>0</b>

1. This table is current through the date of this report.
2. For CDO compliance, ASR, Mal Paso, and Table 13 diversions are included in River production per State Board.
3. Sand City Desal, Table 13, and ASR recovery are also tracked as water resources projects.
4. To date, 0 AF and 0 AF have been produced from the River for ASR and Table 13 respectively.
5. All values are rounded to the nearest Acre-Foot.
6. For CDO Tracking Purposes, ASR production for injection is capped at 600 AFY.
7. Table 13 diversions are reported under water rights but counted as production from the River for CDO tracking.

## Monthly Production from all Sources for Customer Service: WY 2021

(All values in Acre-Feet)

	Carmel River Basin	Seaside Basin	ASR Recovery	Table 13	Sand City	Mal Paso	Pure Water Monterey	Total
Oct-20	293	266	0	0	10	0	300	869
Nov-20								
Dec-20								
Jan-21								
Feb-21								
Mar-21								
Apr-21								
May-21								
Jun-21								
Jul-21								
Aug-21								
Sep-21								
<b>Total</b>	<b>293</b>	<b>266</b>	<b>0</b>	<b>0</b>	<b>10</b>	<b>0</b>	<b>300</b>	<b>869</b>
<b>WY 2019</b>	<b>505</b>	<b>369</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>921</b>

1. This table is produced as a proxy for customer demand.
2. Numbers are provisional and are subject to correction.

## Rationing Trigger: WY 2021

12 Month Moving Average <sup>1</sup>	9,627	10,130	Rule 160 Production Limit
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1. Average includes production from Carmel River, Seaside Basin, Sand City Desal, and ASR recovery produced for Customer Service.



# Supplement to 11/16/2020 MPWMD Board Packet

Attached are copies of letters received between and October 14, 2020 and November 6, 2020. These letters are listed in the November 16, 2020 Board packet under Letters Received.

Author	Addressee	Date	Topic
Molly Evans	MPWMD Board	11/9/20	Resignation Update
Keith Van Der Maaten	Water Supply Planning Committee	11/2/20	MPWMD Water Supply Planning Committee, November 2, 2020, Meeting, Agenda Item 2 – ASR Bypass Pipeline EIR Addendum
Roger Masuda	David Laredo	11/2/20	Overview of Carmel River Issues Related to CalAm's Proposal for ASR Bypass Pipeline Project
Marli Melton	MPWMD Board	10/30/29	Comment on Water Demand and Price
George Soneff	MPWMD Board	10/28/20	Public Comment Item #2: Certification of Final EIR for the Potential Acquisition of Monterey Water System and District Boundary Adjustment
Linda Lopez	George Riley	10/27/20	Question re Other Charges on Cal-Am Monthly Bill
Margaret-Anne Coppennoll	MPWMD Board	10/19/20	Agenda Item #9 and # 10 – October 19, 2020 Board Meeting
Winston Stromberg	MPWMD Board	10/19/20	MPWMD Board of Directors October 19, 2020 Meeting, Agenda Item 11 – Pure Water Monterey Expansion Lead Agency Status
George Soneff	MPWMD Board	10/19/20	Agenda Item #9 – October 19, 2020 Board Meeting
Michelle Mark Levine	Alvin Edwards	10/15/20	GFOA Certificate of Achievement for Excellence in Financial Reporting

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Molly Evans  
PO Box 1264  
Monterey CA 93942

November 9, 2020

Board of Directors  
Monterey Peninsula Water Management District  
5 Harris Court, Bldg G  
Monterey CA 93940

RE: Resignation Update

Dear Chair Edwards:

After discussion with the Monterey County Elections Office and the District's legal counsel, I am revising my resignation. I will accept my second term, to which I will be appointed in lieu of election. Following the taking of the oath of office alongside the new Directors, I will tender my resignation to be effective immediately.

As I have stated previously, it has truly been my honor to serve the people of Division 3 for the past five years, and I regret that I will not be able to continue to represent them for the next four years. I will be forever grateful to have had the opportunity to serve this community alongside you and the other Directors (past and present) and all of the District's top-notch staff professionals.

Sincerely,

A handwritten signature in blue ink, appearing to read "Molly Evans", with a horizontal line extending to the right.

Molly Evans  
Director, Division 3



## MARINA COAST WATER DISTRICT

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### DIRECTORS

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November 2, 2020

### VIA EMAIL

Water Supply Planning Committee Members  
Monterey Peninsula Water Management District  
5 Harris Court, Building G  
Monterey, California 93940

Re: MPWMD Water Supply Planning Committee, November 2, 2020, Meeting, Agenda Item 2 – ASR  
Bypass Pipeline EIR Addendum

Dear Chair Riley and Members of the Committee:

MCWD has reviewed the Agenda Item No. 2 for the MPWMD Water Supply Planning Committee meeting, November 2, 2020 and would like to provide the following comments. In short, there appears to be two options to move forward in resolving Cal Am's system "bottlenecks", 1) Install a new, parallel, pipe in General Jim Moore, or 2) Optimize the use of the existing pipeline in General Jim Moore and optimize water operations through permit changes as previously described and provided by MCWD in separate correspondence and included below. The staff reports favors the option of constructing a new parallel pipeline; however, it provides very little analysis to support that option. Since MCWD is the owner of the existing pipeline in General Jim Moore, we have great interest in working together with our neighboring agency to identify the best use of that pipeline and to identify the option with the highest beneficial use for both MCWD and the MPWMD.

First and foremost, what is missing in the staff report is the cost-benefit justification for the proposed parallel pipeline which would include how much water will actually be "lost to the ocean" without the parallel pipe, what would be the cost of the pipeline, and what would be the estimate value of the lost water? Exhibits 3A and 3B, included within the attachments to the staff report, are the only "analysis" provided, and both exhibits fail to show how much water the parallel pipeline will be saving by removing the supposed bottleneck. The question regarding how much ASR water would be saved is especially relevant because Carmel River flows may only be diverted for ASR injection during December through May, and only if river flows are in excess of the steelhead bypass flow requirements. So during that 6 month period, when and how often is it necessary to bypass the existing pipeline in General Jim Moore to permit injection of ASR water into the basin at the same time as water is being extracted from the basin to meet customer demand in the southern portion of the District?

Further, the staff report describes the problem as a bottleneck in simultaneous operation of ASR injection and **Pure Water Monterey (PWM) recovery**, but the staff report lacks any analysis on the utilization and optimization of the existing pipeline that, currently, has available capacity for Pure Water Monterey, and how the option to construct a new pipeline in place of optimizing the use of the existing pipeline is beneficial to overall water supply. MCWD's existing potable water pipeline in General Jim Moore can carry all recovered PWM water. To date, there have been no discussions or negotiations with MCWD on the use MCWD's pipeline for this purpose. The MCWD Board has authorized its General Manager to negotiate the use of MCWD's pipeline for PWM. It would seem this step should be taken prior to making decisions to move

forward on the construction of an additional pipeline that simply parallels and is intended to provide similar function as this existing pipeline.

MCWD would like to point out that the statement on the second page of Agenda Item No. 2 does not accurately capture MCWD's position as stated at the 9/24 MCWD/MPWMD meeting. Item 2 reads "MCWD suggested that if a change petition was filed and granted to change the place of use for ASR and Table 13 water rights, these permits could be used in the winter and PWM water could be banked in the Seaside Groundwater Basin and recovered in the summer and used for drought". To clarify, MCWD's suggestions are that if change petitions were filed and granted, these permits could then be used to meet Carmel Valley, Carmel, and Forest Lake Tanks demands during December through May. If all of those demands are met, then any excess 3,376 AFY water, ASR water, and Permit 21330 water could be used to meet other Cal Am demands or banked in the Seaside Groundwater Basin. During December through May, injected PWM water would be banked to be recovered in the summer to meet Cal Am demands all the way to the Carmel Valley if necessary. Any PWM water not needed to meet immediate demands would continue to be banked for building up a drought reserve.

In moving ahead, MCWD would like to have further discussions on how to best optimize its pipeline for MPWMD's uses, but this requires a better understanding of details not provided in this staff report, specifically, the amounts of Carmel River Water ("ASR") that would be saved per month (e.g. not "lost to the ocean") if the new parallel pipeline were constructed, and the value of the water. From there, a complete analysis and comparison of the options can be made, including the following elements in the second option:

- (1) The existing requirements on the recovery from storage of ASR water both in the CDO and in the two ASR water rights permits being eliminated and ASR water being authorized to be used as a direct use; and,
- (2) Permit 21330's authorized place of use being expanded to be the same as the ASR permits, i.e., the entire MPWMD jurisdictional boundaries; and,
- (3) During December through May, Cal Am would be diverting as much river water as possible when conditions meet or exceed steelhead bypass flow requirements and Cal Am would decide how to account for that water among (a) 3,376 water, (b) ASR water, and (c) Permit 21330/Table 13 water. With the recommended water right changes, the analysis should use all three types of water first for direct use to supply the Carmel Valley, the City of Carmel, the Forest Lake Tanks, and points north in the Cal Am system. Any excess river water not needed for direct use would be classified as ASR water and injected in the Seaside Basin. Under that operating scenario, during December through May, PWM water would not need to be pumped to the Forest Lake Tanks except in drought years when there is no ASR water anyway. The PWM water would remain in storage for recovery and use during the summer.
- (4) The Forest Lake pump would need to be implemented, permitting delivery of PWM/ASR to the City of Carmel and the Carmel Valley in the summer months.
- (5) The existing MCWD-owned pipeline in General Jim Moore would be optimized in its use to meet MCWD's South Ord demands when developed, for ASR injection and recovered water, and for PWM recovered water.

Best Regards,



Keith Van Der Maaten  
Marina Coast Water District  
General Manager

Cc: Dave Stoldt, Monterey Peninsula Water Management District

**GRIFFITH, MASUDA & HOBBS**

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Founded 1920

*Celebrating our  
100<sup>th</sup> Anniversary*

November 2, 2020

VIA EMAIL

To: David Laredo, General Counsel, Monterey Peninsula Water Management District

From:



Roger K. Masuda, Legal Counsel, Marina Coast Water District

Subject: Overview of Carmel River Issues Related to CalAm's Proposal for ASR  
Bypass Pipeline Project

Some water agencies tend to look at a proposed new water infrastructure "through a telescope" to only solve the immediate perceived problem, whereas water issues are all interrelated. Here the MPWMD needs to make a benefit-cost analysis of the proposed new Bypass pipeline within the bigger water picture with the overall objective of optimizing CalAm's surface water, groundwater, and recycled water rights and the use of its pipeline and pumping infrastructure, and weighing the real benefits of the pipeline with its costs. This is especially critical when CalAm is undergoing a substantial change in its water supply sources. This problem is sometimes referred to as "not seeing the forest for the trees."

As shown below and in Keith Van Der Maaten's comments, the proposed ASR Bypass Pipeline Project has a very low benefit-cost ratio as compared with the alternative actions proposed in this memorandum and in Mr. Van Der Maaten's comments, which alternative actions will result in operational improvements in meeting Carmel Valley to Forest Lake Tank water demands during December through May.

**Background:**

A. The upcoming substantial shift in CalAm's water supply sources from South to North: From 2016 through 2019, approximately 75% of CalAm's water supply came from the South (i.e., Carmel River) and the remainder came from the North (i.e., native Seaside Basin groundwater and stored ASR water). When CalAm eliminates all illegal Carmel River diversions, and with full operation of PWM, approximately 65% of CalAm's water supply will be coming from the North and the remainder will be coming from the South. Based upon the MPWMD staff's description, CalAm's service area may be divided into Southern and Northern Zones. The Southern Zone being the Carmel

Valley, the City of Carmel, and the areas served from the Forest Lake Tanks (e.g., Carmel, Pebble Beach, and West (New) Monterey). The Northern Zone is generally East (Old) Monterey, Del Rey Oaks, Sand City and Seaside.

B. The seasonality of demand and where water supply must be conveyed during the different seasons: Right now, during many summer months but especially during a multi-year drought, CalAm needs to meet Southern Zone demands with water coming from the Northern Zone. When CalAm eliminates all illegal Carmel River diversions, that situation will occur every year during all of June through October and many Novembers. Except during drought years, with the water right permit changes being proposed in this memorandum, December through May demands in the Southern Zone will normally be met with CalAm's legal Carmel River water rights, i.e., the 3,376 AFY water, amended ASR permit water, and amended Permit 21330 water. During drought years, a reduction in available supplies from the Southern Zone would be offset by drawing on banked ASR water and PWM water stored in the Seaside Basin along with native Seaside Basin groundwater.

C. Water is not distinguishable once it is diverted or extracted; it is just labeled and accounted for after the fact: While everyone talks about the different types of water, e.g., 3,376 AFY water, diverted ASR water, Permit 21330 water, native Seaside groundwater, stored ASR water, stored PWM water, the different types of water are determined after the fact through water accounting rules, which can change from time to time. For example, once ASR water and PWM water are injected into the Seaside Basin, all ASR water, PWM water, and native groundwater are comingled, and after any Seaside Basin water is extracted/recovered, the operator labels the water extracted to a water account that the operator chooses. For example, the operator can account that stored PWM water is being extracted first, native groundwater second, and stored ASR water third.

#### **Carmel River issues:**

1. SWRCB. SWRCB's Overall Objective, starting with Order WR 95-10, was and is for CalAm to eliminate all illegal diversions from the Carmel River by employing a carrot-and-stick approach.

1.1. The carrot-and-stick approach since Order WR 95-10 was used to encourage CalAm to develop new Carmel River and other water supplies, but it does not allow CalAm to increase its overall Carmel River diversions, especially during the summer months to protect steelhead, wildlife, and river habitats.

1.2. CalAm's Other Existing Legal Carmel River Diversions – ASR Water Right Permits 20808A and 20808C and Permit 21330. All three permits were issued after

Order WR 95-10.

1.2.1. ASR Permits 20808A and 20808C. The two permits are jointly owned by MPWMD and CalAm. ASR water is diverted from the same CalAm Carmel River wells that are used to divert the 3,376 AFY. The two ASR water right permits authorize diversion of 5,326 AFY of high flows during December through May subject to very specific steelhead bypass flow requirements, i.e., water cannot be diverted under the permits unless river flows exceed the applicable bypass flow requirement. The permits do not allow CalAm to use any diverted ASR water for direct use. All diverted ASR water must first be injected into the Seaside Basin. Section 22, Recovery of Stored Water, in Permit 20808C basically requires, subject to some expressed exceptions, that all water diverted during December through May shall be recovered and used during the immediately following June through November period to offset Carmel River diversions that CalAm would otherwise make in order to reduce adverse impacts to steelhead, wildlife, and river habitat. When injected ASR is recovered, then the water may be used for direct use "Within the boundaries of Monterey Peninsula Water Management District."

1.2.2. Permit 21330. This permit is only owned by CalAm and authorizes CalAm to divert 1,488 AFY from the same CalAm wells during the same diversion period and under the same steelhead bypass flow requirements as are in the ASR permits. Unlike the ASR permits, this permit is for direct use and the authorized place of use of Permit 21330 water is only within the Carmel River watershed. The place of use map dated February 7, 2012, shows the place of use to be limited to the Carmel Valley and approximately the eastern half of the City of Carmel. No water under this permit may be delivered to the Forest Lake Tanks or the Seaside Basin for storage.

2. New Operations. What happens when CalAm eliminates all illegal Carmel River diversions?

2.1. When CalAm eliminates all illegal diversions, most of the SWRCB's carrot and stick requirements go away because SWRCB has achieved its number one goal within the SWRCB's jurisdictional authority.

2.2. Of its 3,376 AFY water, CalAm will continue to need to limit its summer diversions to minimize harm to steelhead and river habitat. Summer flows will still be subject to consultation with NOAA Fisheries and CDFW.

2.3. CalAm should be required to continue funding habitat improvement and fishery recovery projects, monitoring, and studies.

2.4. As further discussed below, the WR Order 2016-0016 and ASR permit requirements that water diverted for injection in the Seaside Basin during December

through May must be recovered and used in the following June through November must be eliminated in order to achieve more prudent conjunctive use of CalAm's various water supply sources.

3. Optimization of CalAm's Carmel River water supply once it eliminates all illegal diversions.

3.1. Once CalAm eliminates all illegal diversions, it should be allowed to optimize its Carmel River water supplies subject to the limitations listed in Section 2 above.

3.2. As discussed above in Background A, from 2016 through 2019, approximately 75% of CalAm's water supply came from the South (i.e., Carmel River direct use) and the remainder came from the North (i.e., native Seaside Basin groundwater and stored ASR water). When CalAm eliminates all illegal Carmel River diversions and with full operation of PWM, approximately 65% of its water supply will be coming from the North and the remainder will be coming from the South. Based upon the MPWMD staff's description, CalAm's service area may be divided into Southern and Northern zones. The Southern Zone being the Carmel Valley, the City of Carmel, and the areas served from the Forest Lake Tanks (e.g., Carmel, Pebble Beach, and West (New) Monterey). The Northern Zone is generally East (Old) Monterey, Del Rey Oaks, Sand City, and Seaside.

3.3. The two ASR water right permits and Permit 21330 are existing legal diversions, which already contain the same steelhead protection requirements, e.g., water under the permits may only be diverted during December through May and only if Carmel River flows exceed prescribed steelhead bypass flows. In other words, river flows must exceed prescribed flows to protect steelhead for CalAm to divert any water. However, all three permits contain additional unnecessary limitations that restrict their use and that are no longer necessary once CalAm eliminates all illegal diversions.

3.4. The two ASR permits are currently required to inject all diverted Carmel River water into the Seaside Basin during December through May and then to recover the injected water during the following June through November period. The requirement to recover and use the injected water during the following June through November was designed to require CalAm to reduce its illegal diversions during June through November when it was still diverting far in excess of its legally-allowed 3,376 AFY. Because CalAm will no longer be illegally diverting Carmel River water, the need for that requirement to promptly use any injected ASR water goes away. Going forward because of the PWM Project, injected ASR water can be banked as carryover storage and used as needed during individual or multiple dry years. Because the reason for the requirement to use injected ASR water in the immediately-following June through November season will no longer exist, and because the requirement could work as an

obstacle to optimizing the build-up of stored supplies against drought, the requirement should be eliminated.

In addition, ASR water may not currently be used for direct use, and it may only be supplied to customers after the ASR water is first injected into the Seaside Basin. That requirement should no longer be necessary, especially when the PWM Project becomes fully operational. If all divertible ASR water could be used for direct use, in wetter years the PWM supplies could be allowed to build up in the Seaside Basin for a longer period of time.

As discussed further in Section 5, CalAm's Plumbing Problems, and in the MPWMD staff discussion, if ASR water must first be injected in the Seaside Basin via the New Monterey Pipeline and may not be used directly in the Southern Zone, then any Southern Zone demands that cannot be met with the 3,376 AFY water and Permit 21330 water must be met with water coming from the Seaside Basin. However, CalAm cannot move ASR water north in the New Monterey Pipeline at the same time that Seaside Basin native and stored groundwater must move south in the same pipeline to the Forest Lake Tanks to meet Southern Zone demands.

The obvious solution is to allow ASR water to be used for direct use within the Southern Zone and for Permit 21330 water be used within the entire Southern Zone. During the December through May period, any ASR water not needed for direct use could be conveyed to serve areas of the Northern Zone or for injection into the Seaside Basin. Of course, during the summer, supplies from the Seaside Basin would be used to serve both the Northern and Southern Zones.

3.5. Permit 21330 has the same December through May diversion period and the same steelhead bypass flow requirements as the two ASR permits. The major differences are that currently Permit 21330 water may be used only for direct use and that water may only be used within the Carmel River watershed, which is just the Carmel River Valley and the eastern portion of the City of Carmel – this is known as the permit's authorized place of use. In other words, Permit 21330 water may not be delivered to the Forest Lake Tanks or beyond. The permit's authorized place of use should be made the same as the authorized place of use under the ASR permits, i.e., within the entire boundaries of the MPWMD. Permit 21330 water to the extent it is not required for direct use could also be permitted to be injected into the Seaside Basin like ASR water.

3.6. Water Operations would be optimized and streamlined with the above permit changes. During December through May, the 3,376 AFY water, ASR water, and Permit 21330 water would be used to provide direct use water to meet all Southern Zone water demands. For water accounting purposes, the water used for direct use within the Southern Zone during December through May would be: First, 3,376 AFY

water, second, Permit 21330 water, and third, ASR water. Excess water, if any, could be used to meet Northern Zone water demands and/or to inject into the Seaside Basin as ASR stored water assuming that existing CalAm plumbing would permit that. During June through November, both the Southern and Northern Zones would be supplied largely with water from the Seaside Basin.

Greater optimization would be achieved if all three permits were consolidated into one with the same permitted uses, places of use, and limitations; however, that is unlikely because CalAm is the sole owner of Permit 21330. The consolidation could be achieved if MPWMD takes over CalAm's Monterey District.

3.7. The above permit changes will not "concentrate the recovery of the CalAm's legal right of 3,376 into the summer months" as argued in the MPWMD staff report. That is because of the substantial change in Carmel River operations when CalAm reduces its current diversions of around 7,000 AFY to only 3,376 AFY, or a more than 50% reduction. If CalAm only diverts 2 cfs or less per day from June through November (183 days), CalAm would only divert 726 AF during the summer and autumn (dry) months. December through May = 182 days;  $3,376 - 726 = 2,650$  AF;  $2,650 \text{ AF} \div 182 \text{ days} = 14.6 \text{ AF/day}$  or 7.3 cfs. That 14.6 AF/day would be utilized to meet demand within the Southern Zone during December through May. Additional Carmel River water diverted under the three permits would first be used to meet Southern Zone demands and any excess water sent to the Northern Zone for direct use or for Seaside Basin storage.

3.8. Protests to Change Petitions. MPWMD staff has suggested that the change petitions may prompt the filing of protests in opposition to the proposed permit changes, but the suggestion is based upon conjecture. The context within which the change petitions would be filed are as follows: (a) CalAm has eliminated all illegal Carmel River diversions; (b) the steelhead bypass flow requirements applicable to all diversions under the three permits would remain unchanged; (c) CalAm has already publicly represented that summer diversions will be at the very minimum, e.g., less than 2 cfs; (d) it is presumed that CalAm would continue to be required to fund habitat improvement and fishery recovery projects, monitoring, and studies; and (e) NOAA Fisheries would still maintain oversight over CalAm's compliance with Carmel River diversions and improvement projects, monitoring, and studies. The permits would no longer need to control time of use for banked ASR water because both PWM water and ASR water would be banked and withdrawn as needed to most efficiently meet system demands. With the above conditions, there would not appear to be any meritorious grounds for a substantive protest to the change petitions.

#### 4. Moratorium on New Service Connections.

4.1. Ordering Paragraph 15 (p. 27) of SWRCB Order WR 2016-0016 states: "The Conditions of this Order, WR 2009-0060 and State Water Board Order 95-10 shall remain in effect until (a) Cal-Am certifies, with supporting documentation, that it has obtained a permanent supply of water that has been substituted for the water illegally diverted from the Carmel River and (b) the Deputy Director for Water Rights concurs, in writing, with the certification."

4.2. The actual moratorium was imposed by the CPUC in Decision ("D.") 11-03-048 in March 2011 at the request of CalAm and not the SWRCB. CalAm had to request the moratorium so that it would be able to petition the SWRCB for relief from Order WR 2009-0060 in the future. (See Ordering Para. 3.b of 2009-0060; see also Ordering Para. 3.c. of 2016-0016.) Ordering Paragraph 5 of the CPUC D.11-03-048 states: "Upon the receipt by California-American Water Company of the written concurrence of the Deputy Director of Water Rights of the State Water Resources Control Board with California-American Water Company's finding that a permanent supply of water is ready to serve as a replacement for the unlawful diversions of Carmel River water, California-American Water Company shall file a Tier 1 advice letter transmitting the written concurrence and removing from its tariffs the special condition contained in Ordering Paragraph 1 of this decision." Ordering Paragraph 1 imposed the moratorium on new service connections.

4.3. The test for lifting the moratorium is CalAm's finding "that a permanent supply of water is ready to serve as a replacement for the unlawful diversions of Carmel River water." David Stoldt in his memorandum dated June 1, 2020, to the MPWMD Water Supply Planning Committee on "Requirements for Lifting of the Cease and Desist Order and Moratorium on New Service Connections," recognized a second test, i.e., in addition to having a replacement water source to replace all illegal diversions, the second test would require that CalAm's total water supply would meet customer demand. He determined that only 781 AFY of additional supply would be needed. In his September 17, 2020 PowerPoint entitled "Key Issues Related to Monterey Peninsula Water Supply Solutions – [Coastal Commission] Items Th3a & Th4a, Mr. Stoldt clarified that the 781 AFY consists of 81 AFY to lift the moratorium and the remaining 700 AFY as pay back water CalAm has agreed to deliver to the Seaside Basin Watermaster for CalAm's overdrafting of over 17,500 AF of Seaside Basin groundwater.

Under Mr. Stoldt's analysis, implementation of PWM Expansion, either for the full 2,250 AFY or for an initial lesser amount, would provide a sufficient permanent replacement supply that also meets customer demand. Thereby lifting the moratorium. He noted that the 781 AFY did not include Permit 21330 (averaging about 300 AFY when available), additional Sand City desalination plant production over 94 AFY, Seaside Basin carryover credits the total of which has averaged over 900 AF each of

the past 4 years, plus as of October 1, 2020, there will about 1,200 AF of stored ASR water.

4.4. CalAm has stated that it will not present any such certification to the SWRCB unless and until its desalination project gets all required regulatory approvals. Because of that unreasonable position, SWRCB should amend Ordering Paragraph 15 to allow MPWMD to make the certification request to the SWRCB Division of Water Rights Chief as well as CalAm.

#### 5. Adverse Impacts of CalAm's Proposed Desal Project on ASR.

5.1. MPWMD, not CalAm, has been the leader in developing the ASR Project. However, CalAm will use ASR when it benefits CalAm. For example, CalAm's main justification for including the cost of the New Monterey Pipeline and Hilby Pump Station in rates was to provide maximum conveyance of ASR to the Seaside Basin for injection; when actually the New Monterey Pipeline is needed to convey desalinated water to the Southern Zone. CalAm is now using ASR as the justification for the proposed Bypass Pipeline Project.

5.2. In Sawyer and Hazen's August 8, 2020 filing on behalf of CalAm with the Coastal Commission, CalAm allowed its consultants to substantially discount ASR as a reliable water source. CalAm allowed Sawyer and Hazen to trash the ASR Project because if CalAm builds its proposed desalination project, ASR water would not be needed.

5.3. Why is that? The testimony of CalAm expert witness David Mitchell in CalAm's 2019 General Rate Case (CPUC A.19-07-004, July 1, 2019) was that CalAm's demands for 2021 would be 9,338 AF, for 2022, 9,478 AF, and for 2023, 9,610 AF. CalAm states that its desalination plant will produce 6,252 AFY. PWM will produce 3,500 AFY. Carmel River will produce 3,376 AFY. Seaside Groundwater Basin will produce at least 774 AFY. Just those resources alone will provide 13,902 AFY, or 145% of its 2023 demand. CalAm understands that if it gets to build its desalination project, ASR will not be needed. The Sawyer and Hazen filing is the first public evidence that CalAm is moving away from its commitment to maximize ASR supplies. With such a large supply of excess desal water for decades to come, there would be no need for ASR water at all.

In addition, the desalination plant is basically a 24/7/365 operation. When water demand decreases during off-peak times (e.g., during the night and during the winter), excess desal water is produced. CalAm will need to move that excess desal water to the Southern Zone during December through May and/or inject the excess desal water into the Seaside Basin every month via its proposed "ASR" Wells #5 and #6, which are really injection/extraction wells for excess desal water. CalAm cannot move excess

desal water to the Southern Zone during December through May if ASR water needs to move north in the New Monterey Pipeline. Remember CalAm's main justification for including the cost of the 5,900 GPM New Monterey Pipeline and Hilby Pump Station in rates was to provide maximum conveyance of ASR to the Seaside Basin for injection.

5.4. CalAm's Proposed Bypass Pipeline. Please also see Keith Van Der Maaten's comments submitted today to the Water Supply Planning Committee and the discussion below in Section 6.1. As discussed in Section 5.3 above, by doing simple math, if CalAm gets to build its 6,252 AFY desalination plant, no ASR water will be needed to meet Peninsula water demands for decades to come. While the Bypass Pipeline is not needed to maximize ASR supplies, the Bypass Pipeline is essential for CalAm's desalination project due to lack of sufficient firm capacity for desal water in MCWD's potable water pipeline. So why would MPWMD want Peninsula ratepayers to pay for a pipeline that is not needed for ASR but is essential for CalAm's desalination project? As Keith Van Der Maaten states in his comments, MPWMD and MCWD need to work cooperatively together to optimize the water supply and infrastructure serving both Peninsula customers and MCWD customers.

## 6. CalAm's Plumbing Problems.

6.1. ASR water cannot move north in the New Monterey Pipeline at the same time that Seaside Basin stored or native water is trying to move south in the same pipeline.

6.1.1. If ASR water must first be injected in the Seaside Basin via the New Monterey Pipeline and not be used directly in the Southern Zone, then any Southern Zone demands that cannot be met with the 3,376 AFY water and Permit 21330 water must be met with water coming from the Seaside Basin. However, CalAm cannot move ASR water north in the New Monterey Pipeline at the same time that Seaside Basin native and stored groundwater must move south in the same pipeline to the Forest Lake Tanks to meet Southern Zone demands.

6.1.2. MPWMD staff's concern is that ASR water is available for diversion in a dry December or a dry May and would need to be conveyed via the New Monterey Pipeline at the same time that water in the Seaside Basin must be delivered to the Forest Lake Tanks to meet Southern Zone demand. To solve this plumbing problem, CalAm is proposing to build an expensive bypass pipeline that would be used very infrequently and would only "save" a minimal amount of ASR water. Remember that in June through November, no ASR water may be diverted so no ASR water would be in the New Monterey Pipeline moving north during those months.

6.1.3. As discussed above, Carmel River flows may only be diverted for ASR injection during December through May and only if river flows are in excess of the

steelhead bypass flow requirements. There is no guarantee that any water will be available for ASR injection, especially in the shoulder months of December and May during Below Normal or dryer water years. For example, from CY 2010 through 2019 (10 years), ASR flows were only diverted 5 times during December and only 4 times during May. The proposed Bypass Pipeline Project would only use the Segunda/Crest Pipeline to move ASR water north. That pipeline only has a conveyance capacity of 700 GPM (1.56 cfs or 3.09 AF per day) or less than 12% of the capacity of the 5,900 GPM New Monterey Pipeline. For the months of December and May that means a maximum of 96 AF per month that ASR water could be delivered for injection under the Project, assuming that water can be diverted all 31 days of a December or May, which is an even less frequent an occurrence. This approach of utilizing only Segunda Crest to move ASR supplies north for storage begs the question of why CalAm claimed that the Monterey Pipeline and Hilby Pump Station were required and that the cost should be borne by ratepayers to "maximize" ASR recovery when no ASR supplies would be moving through that new pipeline for injection during the times that the Bypass Pipeline is operating.

6.1.4. The obvious and more cost-effective solution, discussed above in Section 3, is that during December to May, ASR water should be permitted for direct use and Permit 21330 water should be allowed to be delivered to the Forest Lake Tanks. Any excess ASR water and Permit 21330 water could be delivered to the Northern Zone for direct use or Seaside Basin storage. Then, during December through May, especially when 3,376 AFY water, ASR water, and Permit 21330 water are available to meet all Southern Zone demands, Seaside Basin water would be used to serve the Northern Zone and any excess PWM water would remain banked in the Seaside Basin. Of course, during the summer, Seaside Basin water – both stored and native - would be used to serve both the Northern and Southern Zones.

6.2. The essential need for a New Forest Lake Pump Station. CalAm's system cannot operate without the new Forest Lake Pump Station, proposed in its current General Rate Case before the CPUC. During droughts and at other times, CalAm already has the problem of meeting Southern Zone demands and fire flows south of the Forest Lake Tanks when there is insufficient Carmel River water because CalAm cannot pump the water uphill to Carmel and the Carmel Valley from the Forest Lake Tanks. CalAm finally publicly acknowledged that this problem exists in its current General Rate Case filing requesting the CPUC to approve funding of a new Forest Lake Pump Station. When CalAm eliminates all illegal Carmel River diversions, there will not likely be sufficient Carmel River flows during at least June through October to meet Carmel Valley and City of Carmel demands. CalAm will need to pump water from the North through the New Monterey Pipeline to the new Forest Lake Pump Station to deliver water to the City of Carmel and the Carmel Valley.

7. Conclusion. From a big picture water system perspective and including the above water right permit changes, CalAm's proposed Bypass Pipeline Project is not needed to "save" ASR water from going out to the ocean.

David, I would be happy to discuss this memorandum with you and to answer any questions you might have and to provide you with any additional information.

[End of Memorandum]

cc: Keith Van Der Maaten  
Ruth Muzzin, Esq.  
Chip Wilkins, Esq.

**Arlene Tavani**

---

**From:** Marli Melton <marlimelton@gmail.com>  
**Sent:** Friday, October 30, 2020 9:10 AM  
**To:** Arlene Tavani  
**Subject:** Comment on Water Demand and Price

Dear Arlene,

I noticed that there has been and continues to be a lot of debate about the ways the demand for water might change if water becomes less expensive, and thought the following might be helpful.

Here is one important reason why lower water rates are very unlikely to mean a huge increase in demand for water: **there are lots of competing products and uses for those dollars!**

Many people have pointed out that water rates here are now so high that they cannot afford their medications, car repairs, or even adequate food, let alone any luxuries. They will be extremely likely to spend more on these and other basic necessities, not water.

For those ratepayers who are more fortunate, lower water rates could allow them to buy that new iPhone or iPad, eat more meals out, put more into their 401k, and/or donate more money to good local causes.

We've all gotten used to conserving water, and it's very likely statewide policies will continue to urge and even require us to continue to conserve. So it's much more likely that we'll spend what we save on water to buy or give to something else.

The problem with Econ I (or 101) is that one gets used to looking at supply and demand curves for just one thing at a time, so it's almost a

reflex to say, "oh, price down, demand up," even though the world is far more complicated than that.

With many thanks for all the good work on the part of MPWMD's board and staff, and apologies to everyone who already knew this,

Marli Melton

Carmel Valley

October 28, 2020

**VIA U.S. MAIL & E-MAIL: [COMMENTS@MPWMD.NET](mailto:COMMENTS@MPWMD.NET)**

Board of Directors  
Monterey Peninsula Water Management District  
5 Harris Court, Building G  
Monterey, CA 92940

Mr. David Stoldt, General Manager  
Monterey Peninsula Water Management District  
5 Harris Court, Building G  
Monterey, CA 92940

Re: **PUBLIC COMMENT ITEM #2: CERTIFICATION OF FINAL EIR  
FOR THE POTENTIAL ACQUISITION OF MONTEREY WATER  
SYSTEM AND DISTRICT BOUNDARY ADJUSTMENT**

Board of Directors and Mr. Stoldt:

This letter is submitted on behalf of California-American Water Company (“Cal-Am”), the owner and operator of the Monterey Water System (“MWS”), in relation to the above-referenced matter that is scheduled for consideration by the District at a Special Meeting to occur on October 29, 2020.

On behalf of Cal-Am, we previously submitted a July 31, 2020 letter commenting on the draft EIR, and an October 19, 2020 email concerning the administrative record. Our October 19, 2020 email forwarded three documents for inclusion into the record. Those were:

- (1) Agenda Report entitled: “Consider Adoption of Proposed Operations Plans for Rule 19.8 Acquisition of Monterey Water System,” dated October 19, 2020;
- (2) Monterey Peninsula Water System Operations Plan, dated October 9, 2020 (“Operations Plan”); and

October 28, 2020

Page 2

(3) Monterey Water System Contract Management Plan, dated September 2020 (“Contract Management Plan”).

Each of these documents is relevant to the District’s proposed certification of the Final EIR for acquisition of the Monterey Water System and District Boundary Adjustment (“Project”). Specifically, the Operations Plan and Contract Management Plan indicate a future change in operations of the MWS if the District assumes ownership and control—directly contrary to the Final EIR’s repeated contention that there will be no changes to the manner of operation of the MWS as a result of the Project. These two operational documents were publicly released for the first time on October 15, 2020, barely 72 hours before the previously-scheduled October 19 meeting on certification of the EIR.

Some of the MWS operations changes the District is now scheduled to adopt, but which are nowhere reflected or analyzed in the EIR, include:

- The Operations Plan specifies a new level of hydraulic performance for the system: *“storage tanks must have the ability to refill the entire pressure zone capacity within 8 hours to have the tanks full at the start of the next day.”* (Operations Plan at p. 47). Achieving that level of water supply and pumping capacity would require infrastructure improvements throughout the system.
- The Operations Plan states: *“All [fire] hydrants shall be Dry Barrel and have an isolation valve on the bury.”* (Operations Plan at p. 57). Converting all of the system’s fire hydrants to Dry Barrel would require replacing thousands of fire hydrants. Dry Barrel hydrants are used in areas where freezing occurs regularly, and are unnecessary in Monterey.
- The Operations Plan specifies that all storage tanks in excess of one million gallons capacity must undergo dry inspections – i.e., with the tank completely drained – every three years. (Operations Plan, Table 12-6) The MWS includes numerous tanks with a capacity in excess of one million gallons. Just in Pebble Beach, there are three tanks with a capacity of five million gallons each, meaning that every year in Pebble Beach alone a large tank would be drained, unnecessarily wasting a substantial volume of water.

October 28, 2020

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These are just some examples of changes in operations that would have potentially significant environmental impacts that were not analyzed or even acknowledged in the EIR. Because the District released the operational documents at the eleventh hour, there are likely to be even more examples of the EIR's failure to review the significant changes in planned operation of the MWS, and Cal-Am reserves the right to raise any and all evidence of future operational changes found within the Operations Plan and Contract Management Plan should litigation be necessary.

By bisecting consideration of the Project and its Final EIR from consideration of the Operations Plan and Contract Management Plan, the District has committed impermissible segmenting and piecemealing of a single, whole, project. Under CEQA Guidelines, § 15378, "'project' means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." (Emphasis added.)

CEQA requires that the entire action considered by a lead agency be described in the EIR. In *Laurel Heights Improvement Association v. Regents of University of California* (1988) 47 Cal.3d 376, 396, the Supreme Court explained: "We hold that an EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects"; see also *Orinda Association v. Board of Supervisors* (1986) 182 Cal.App.3d 1145, 1171 [a lead agency may not split a single project into smaller, separate pieces so as to avoid identifying all of the environmental impacts].)

Here, instead of analyzing the environmental impacts of the acquisition and the changes in operation *together*, as required by CEQA, the District's EIR looks solely at an acquisition where no operational change is acknowledged, and, on that basis, conveniently claims no significant impacts will occur. Separately, the District proposes to approve an Operations Plan and Contracts Management Plan that do, in fact, alter future operations, and notably, the District does not consider CEQA at all in that proposed approval. The District's Agenda Report for the Operations Plan and Contract Management Plan does not even mention CEQA, let alone explain how the actions proposed therein will affect the environment. This is classic impermissible piecemealing, the result of which is a failure to proceed in the manner required by law and a failure to

manatt

October 28, 2020

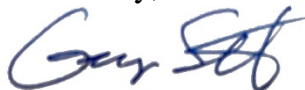
Page 4

evaluate the full range of the Project's potential environmental impacts. (See *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730.)

Finally, by basing an entire EIR on a Project Description that ignores operational changes, the EIR's environmental analysis is based on a fallacy, and rendered essentially meaningless.

Should the District certify the EIR under these circumstances it would be doing so in violation of the California Environmental Quality Act.

Sincerely,

A handwritten signature in blue ink, appearing to read "George M. Soneff", written in a cursive style.

George M. Soneff

RECEIVED

23

NOV 02 2020

MPWMD

Monterey Peninsula Water Management District  
George Riley, Div. 2 Director  
5 Harris Court, Ste G  
Monterey CA 93940

October 27, 2020

Dear Mr. Riley;

I am a resident and business owner here in Monterey.

As with everything, the rates are rising quickly.

With that said, I have been taking a better look at my utility bills, specifically my water bill.

On my CAL AM billing there is a section marked "Other Charges" and another section marked "Pass Through Charges".

Upon calling CAL AM, I was informed that those charges were in fact local charges not their charges.

I called the City of Monterey who directed me to MPWMD.

What I need is the breakdown of the acronyms and explanation of just what the charges cover.

Some of the charges seem to be double. Just worded different.

One charge in particular is the Surfrider Foundation Int. Comp. Seriously?

Please help me understand these charges and why they seem to total over 1/3 of my bill for water usage. Please respond in writing to the address below.

Thank you for your help in this matter.



Linda L. Lopez  
222 Lerwick Drive  
Monterey, CA 93940

1 attachment

LLL/lcl

Cc:2



## Reading and Usage Summary

Meter No.	Measure	Size	From Date	To Date	Previous Read	Current Read	Meter Units	Billing Units	Total Gallons
78728935	10 CF	5/8"	09/19/2020	10/19/2020	11,121 (A)	11,174 (A)	53	39.64	3,964

A = Actual E = Estimate

1 CF = 7.48 gallons

1 Billing Unit = 100 gallons

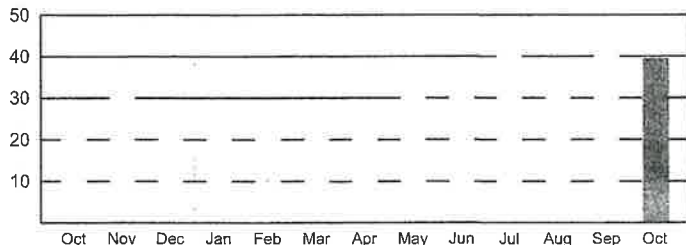
Total Gallons: 3,964

### Billed Usage History (graph shown in 100 gallons)

Next Scheduled Read Date: on or about November 17, 2020  
Account Type: Residential

- 3,964 gallons = usage for this period
- 2,767 gallons = usage for same period last year

2019 2020



Average  
daily use for  
this period is:  
(31 days)

128

Year to Date Billed Usage: 33,731 gallons

### Account Detail

Account No. 1015-210020418600

Service To: 222 LERWICK DR MONTEREY, CA 93940-5412

For more information about your charges and rates, please visit:  
<https://www.amwater.com/caaw/Customer-Service-Billing/Water-Rates/>

Prior Billing 115.07

Payments -115.07

Total payments as of Oct 14. Thank you! -115.07

Balance Forward 0.00

### Service Related Charges - 09/19/20 to 10/19/20

#### Water Service

Water Service Charge 21.22  
Water Usage Charge (29.9 x \$1.0078) 30.13  
(9.74 x \$1.5117) 14.72

#### Other Charges

Conservation Surcharge (39.64 x \$0.0751) 2.98  
TCJA ADIT Surcredit -1.47  
Payment Assistance Surcharge Water 1.81  
Pre-2015 WRAM Surcharge (1 x \$10.08) 10.08  
Post-2015 WRAM/MCBA Surcharge 8.80  
(39.64 x \$0.2219)  
Consolidated Expense Balancing Account 2.72  
(39.64 x \$0.0686)  
TCJA ADIT - Plant Surcredit -0.30

#### Total Service Related Charges

90.69

#### Pass Through Charges

16.89

MPWMD User Fee (\$66.07 x 8.33%) 5.50  
Surfrider Found Int Comp (1 x \$1.21) 1.21  
SVWC Intervenor Compensation 1.64  
(1 x \$1.64)  
MPWMD Purchased Water Surcharge 8.54  
(39.64 x \$0.2155)

#### Taxes

City Franchise Fees 1.05  
Utility User Tax 2.09

(Continued on next page)

only  
Contact or  
Call Monterey  
local charges

\* Hilanna  
10/25/20 \*

pass through charges

only City of Monterey  
surcharge voted on

12  
Charges



Public Comment, MPWMD Board Meeting, October 19, 2020 – Agenda Items # 9 and #10

I would like to thank the MPWMD Board for the outstanding job they have been doing, and are doing, to support our communities' efforts to work together towards solving our water supply issues. Your dedicated work and tireless efforts to develop the best workable plans as well as focusing on moving forward to implement those plans is indeed admirable and much appreciated by our communities. I congratulate you and admire you for the progress made to date and urge you not to stop short of complete success. Please consider the serious implications of M1W's continued actions to withhold SEIR certification. This failure to certify the SEIR will hamper progress on fulfilling the community desire to have a reliable, environmentally safe, and affordable water supply for now and future decades. You have an opportunity to lighten the stress load and financial burden that this water issue represents, especially during this challenging time of COVID-19 health threat. Please consider the value of supporting our citizenry and looking out for the public good. This is a fiduciary responsibility to the taxpayers who funded the million-dollar Supplemental EIR. This is the best option to stop the illegal Carmel River water pumping and to ensure a potable water supply now without the complications of sticky litigation and unrealistic efforts to derail Pure Water Monterey Expansion. Please listen to the voice of the people and move forward with your capacity and authority to support SEIR certification as well as appealing to LAFCO to proceed with the operational plan approval needed to press on.

You are the heroes with the courage and strength of character and integrity to implement the best, and right now, the only, solution that can ensure a secure water supply for our future.

Thank you for all the outstanding work you are doing for all our communities. God bless you all. I salute you and staff. Special thanks and bravissimo to Chair Alvin Edwards for his outstanding leadership, and to General Manager David Stoldt for his integrity and genuine, faithful adherence to truthful reporting.

Margaret-Anne Coppernoll, Ph.D.  
Marina

**LATHAM & WATKINS** LLP

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London	Singapore
Los Angeles	Tokyo
Madrid	Washington, D.C.
Milan	

October 19, 2020

**VIA EMAIL**

Board of Directors  
Monterey Peninsula Water Management District  
5 Harris Court, Building G  
Monterey, California 93940

Re: MPWMD Board of Directors October 19, 2020, Meeting, Agenda Item 11 –  
Pure Water Monterey Expansion Lead Agency Status

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Dear Chair Edwards and Members of the Board:

On behalf of California-American Water Company (“Cal-Am”), this letter expands on our August 17, 2020, letter to the Board and provides additional support demonstrating why MPWMD staff’s proposal to steal the CEQA lead agency role from Monterey One Water (“M1W”) for the Pure Water Monterey Expansion project (“PWM Expansion”) is unlawful and inappropriate. As the proposed purchaser of potable water produced by the PWM Expansion, Cal-Am has a direct interest in ensuring that the PWM Expansion undergoes sufficient and appropriate environmental review, and that the public agencies involved in that review comply with proper legal procedures. MPWMD staff’s proposal flies in the face of environmental review standards and procedural norms, and undercuts the basic lead agency and public review principles upon which CEQA is based.

As background, MPWMD staff’s proposal for MPWMD to assume lead agency status for the PWM Expansion was first suggested in an item on the Board’s August 17, 2020, meeting agenda. Prior to that meeting, Cal-Am submitted a letter advising the Board of the legal errors and oversights that would occur under staff’s proposal, and the item was pulled from the agenda. The August 17 letter is attached hereto as Attachment A and is hereby incorporated by reference.

Now that the proposal is once again before the Board, Cal-Am reiterates that staff’s proposal’s has no basis in law. Simply put, MPWMD has no legal ability to “step into [M1W]’s shoes as lead agency” and take the actions contemplated in the staff report and the proposed letter to the M1W Board of Directors attached thereto as Exhibit 11-A. Staff’s proposed letter suggests a course of action that materially misrepresents the legal basis for a responsible agency to assume lead agency status under CEQA and would lead this Board into committing egregious legal error. As our prior letter explained, staff’s proposal:

1. Violates the binding terms of the 2012 MOU, which gave M1W the lead agency role for a Groundwater Replenishment Project, with express discretion to decide whether it would implement such a project;
2. Contradicts other documents explaining M1W's role as lead agency, such as the 2013 MRWPCA-MPWMD Groundwater Replenishment Project Cost Sharing Agreement ("2013 Agreement") and the Final SEIR for the PWM Expansion (e.g., Final SEIR at p. 4-101 ["M1W is the appropriate lead agency . . . as is the principal proponent of the Proposed Modifications to its PWM/GWR Project"]);
3. Ignores that on April 27, 2020, M1W appropriately exercised its sole discretion as lead agency to reject certification of the Final SEIR for the PWM Expansion as a result of substantial deficiencies in its environmental analysis; and
4. Fails to identify any appropriate legal path for MPWMD to assume lead agency status under CEQA or OPR's dispute resolution procedures.

In addition to these deficiencies, staff's proposal also violates the plain language of CEQA and the CEQA Guidelines. Public Resources Code section 21067 defines "lead agency" as "the public agency which has the *principal responsibility for carrying out* or approving a project which may have a significant effect upon the environment." (Emphasis added.) Further, the CEQA Guidelines provide criteria for identifying the appropriate lead agency, stating:

Where *two or more public agencies will be involved with a project*, the determination of which agency will be the lead agency shall be governed by the following criteria:

- (a) If the project will be *carried out by a public agency, that agency shall be the lead agency* even if the project would be located within the jurisdiction of another public agency.

(CEQA Guidelines, § 15051, subd. (a) [emphasis added].) Here, M1W is a public agency that would carry out the PWM Expansion, as it did the original PWM project. In fact, M1W owns and operates the PWM project and facilities that the PWM Expansion proposes to expand, and there is no ability for MPWMD to "carry out" the PWM Expansion – that can only be done by M1W. MPWMD therefore expressly agreed that M1W would need to carry out the PWM Expansion when it entered into the 2013 Agreement with M1W, which states that "[M1W] shall" (i) "be the lead Party for performance and completion of work under this Agreement"; (ii) "serve as the contracting authority for the Parties for the GWR Project and, with MPWMD's concurrence, contract directly with all professionals, firms, and outside contractors"; and (iii) "hold title to all GWR Project facilities to be constructed under this Agreement" (2013 Agreement, §§ 7, 9, 6 [emphasis added].) Clearly, under the express terms of the 2013 Agreement, M1W is the sole public agency *carrying out* the project.

Accordingly, MPWMD's role in the PWM Expansion is more limited. Because it is not *carrying out* the project, as a matter of law it cannot serve as lead agency for PWM Expansion. (See, e.g., *Planning & Conservation League v. Department of Water Resources* (2000) 83

Cal.App.4th 892, 904-907; *Planning & Conservation League v. Castaic Lake Water Agency* (2009) 180 Cal.App.4th 210, 239 [citing cases and noting that “courts have concluded that the public agency that shoulders primary responsibility for creating and implementing a project is the lead agency, even though other public agencies have a role in approving or realizing it”].) In addition, although the CEQA Guidelines recognize instances where two public agencies may enter into an agreement designating the lead agency where such agencies have a “substantial claim” to be the lead agency,” (CEQA Guidelines, § 15051, subd. (d)), here M1W and MPWMD already did that, ***expressly agreeing that M1W shall serve as lead agency and MPWMD shall serve as a responsible agency.*** (2012 MOU, §§ II.1.C, II.2.D.) Should MPWMD attempt to usurp the lead agency role from M1W, it would be violating CEQA and applicable case law.<sup>1</sup>

Moreover, staff’s proposal is made even more tenuous by MPWMD’s limited role with respect to the PWM Expansion. CEQA only applies when a public agency proposes to “approve” a project. (Pub. Resources Code, § 21080, subd. (a); CEQA Guidelines, § 15004.) The term “approval” refers to a public agency decision that “commits the agency to a definite course of action in regard to a project.” (CEQA Guidelines § 15352, subd. (a).) Notably, “approval” does not include an agency’s “mere interest” in a project, “or inclination to support” a project. (CEQA Guidelines, § 15004, subd. (b)(4)). In other words, to trigger CEQA, there needs to be an identifiable discretionary action to be taken by the public agency in order to approve a project.

Here, MPWMD did issue some ancillary approvals in support of the original PWM Project. However, in listing permits and approvals required for the PWM Expansion, the Final SEIR does not list **any** new or amended approvals that are required from MPWMD. (See Final SEIR, p. 2-33, Table 2.8 [New or Amended Permits or Approvals for Proposed Modifications].) If MPWMD need not undertake any discretionary action in approving the PWM Expansion, it serves no role in its CEQA review, making staff’s lead agency claim legally irrelevant. Even if MPWMD must make some limited discretionary approval, it was not substantial enough for M1W or the SEIR preparers to identify it in the SEIR – nor substantial enough for MPWMD to raise it as an error during MPWMD’s participation in the SEIR process. Therefore, to the extent MPWMD claims its approval authority is sufficient to be designated a lead agency, such arguments are specious and belied by the record.

Overall, staff’s attempt to insert MPWMD as lead agency for PWM Expansion despite its very limited role betrays the proposal’s true purpose of simply reversing another agency’s decision that staff does not like. Nothing in CEQA allows a responsible agency to assume lead agency status after the preparation of an EIR simply because the responsible agency has expended resources in support of a certain project and it does not agree with the lead agency’s decision to reject the EIR and project.

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<sup>1</sup> Moreover, as explained above, M1W owns and operates the PWM project and facilities that the PWM Expansion proposes to expand and is the only entity that can “carry out” the PWM Expansion. Therefore, there is no credible basis for MPWMD to assert that it has a “substantial claim” to lead agency status.

**LATHAM & WATKINS** LLP

We once again urge this Board to reject staff's proposal for MPWMD to "assume the role of lead agency" for the PWM Expansion. Should the Board attempt to take over as lead agency or pursue other actions with respect to the PWM Expansion Final SEIR, MPWMD and the Board will be committing CEQA error that would undoubtedly be overturned by a court.

Very truly yours,



Winston Stromberg  
of LATHAM & WATKINS LLP

cc: Rich Svindland, California-American Water Company  
Ian Crooks, California-American Water Company  
Kathryn Horning, Esq., California-American Water Company  
Duncan Joseph Moore, Esq., Latham & Watkins LLP  
Tony Lombardo, Esq., Lombardo & Associates

# **ATTACHMENT A**

**LATHAM & WATKINS** LLP

August 17, 2020

**VIA EMAIL**

Board of Directors  
Monterey Peninsula Water Management District  
5 Harris Court, Building G  
Monterey, California 93940

FIRM / AFFILIATE OFFICES

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London	Singapore
Los Angeles	Tokyo
Madrid	Washington, D.C.
Milan	

Re: MPWMD Board of Directors August 17, 2020, Meeting, Agenda Item 11 – Pure Water Monterey Expansion Lead Agency Status

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Dear Chair Edwards and Members of the Board:

On behalf of California-American Water Company (“Cal-Am”), this letter addresses Monterey Peninsula Water Management District (“MPWMD”) staff’s proposal that MPWMD steal the CEQA lead agency role away from Monterey One Water (“M1W”) on the Pure Water Monterey Expansion project (“PWM Expansion”). MPWMD has no legal ability to “step into [M1W]’s shoes as lead agency” and take the actions contemplated in the proposed letter to the M1W Board of Directors attached to the agenda packet as Exhibit 11-A. Cal-Am, as the proposed purchaser of potable water produced by the PWM Expansion, has a direct interest in ensuring that the project undergoes sufficient environmental review, and that agencies, including MPWMD, comply with the proper legal procedures. MPWMD staff’s proposed letter materially misrepresents the legal basis for a responsible agency to assume lead agency status under CEQA. We urge this Board to reject staff’s proposal for MPWMD to “assume the role of lead agency” for the PWM Expansion. Should the Board attempt to take over as lead agency, MPWMD and the Board will be committing an egregious CEQA error.

Staff’s proposal flies in the face of commitments made nearly a decade ago that confirm M1W’s lead agency status for the original Pure Water Monterey Groundwater Replenishment Project (“Phase 1 PWM”) and PWM Expansion. On April 20, 2012, MPWMD, M1W,<sup>1</sup> and Cal-Am entered into the Groundwater Replenishment Project Planning Term Sheet and Memorandum of Understanding to Negotiate in Good Faith (“2012 MOU”) to enable planning and environmental evaluation of a groundwater replenishment project. Under the binding terms of the 2012 MOU:

***MRWPCA will act as lead agency pursuant to CEQA, and will prepare or have prepared an environmental document pursuant to***

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<sup>1</sup> Prior to November 2017, M1W was referred to by its former name, Monterey Regional Water Pollution Control Agency (“MRWPCA”).

CEQA to evaluate the environmental impacts of such a GWR Project. *If MRWPCA chooses to implement a GWR Project, MRWPCA will adopt or certify an environmental document . . . that in its judgment complies with CEQA.* MRWPCA will use funding provided by MPWMD, in addition to its own funds, for this effort.

(2012 MOU, § II.1.C [emphasis added], attached hereto as **Exhibit A.**) “MRWPCA *expressly retains its discretion with respect to whether it will implement a GWR Project.*” (*Id.*, § II.1.E [emphasis added].) For its part, MPWMD retained “discretion to consider the CEQA Documents in a manner fully consistent with its role as a *responsible agency* under CEQA.” (*Id.*, § II.2.D [emphasis added].)

The contractual agreements referenced in staff’s proposed letter expressly confirm this understanding, stating that “MRWPCA shall be the lead Party for performance and completion of work” on the Phase 1 PWM. (See 2013 MRWPCA-MPWMD Groundwater Replenishment Project Cost Sharing Agreement, § II.C.7, attached hereto as **Exhibit B.**) Additionally, the Final Supplemental Environmental Impact Report (“Final SEIR”) for the PWM Expansion specifically concluded that M1W is the appropriate lead agency for evaluation of the action, given that it is the principal proponent of the PWM Expansion. (E.g., PWM Expansion Final SEIR, p. 4-101.)

As the MPWMD Board is aware, on April 27, 2020, the M1W Board of Directors denied certification of the Final SEIR for the PWM Expansion as a result of substantial deficiencies in the environmental analysis related to: source water for the PWM Expansion; water supply and demand; impacts to agricultural water supplies; and failure to evaluate the PWM Expansion either as an alternative to or a cumulative project with Cal-Am’s Monterey Peninsula Water Supply Project (“MPWSP”).<sup>2</sup> The M1W Board decided to not certify the Final SEIR after nearly two years of environmental review, including an extended public comment period in which many members of the public raised substantial comments and concerns regarding PWM Expansion and the Final SEIR. At no time during the preparation and M1W’s consideration of the Final SEIR did MPWMD raise any concerns about M1W’s ability to serve as CEQA lead agency or the sufficiency of its environmental review.

Now, in staff’s proposed letter to the M1W Board, staff asserts that MPWMD must step into the lead agency role “for the purposes of certifying the Final SEIR” because M1W “has not timely acted to certify the SEIR” and “MPWMD has made considerable investments of time and public resources.” However, M1W *had no obligation whatsoever* to certify an SEIR that it found to be legally deficient. In fact, it would have been contrary to the terms of the 2012 MOU and been a prejudicial abuse of discretion for M1W to certify the legally inadequate SEIR. (Pub. Resources Code, § 21168.5.) Moreover, contrary to MPWMD staff’s letter, M1W did not “refuse[] to take definitive action to exercise discretion or finish its lead review of the SEIR.”

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<sup>2</sup> In the CPUC’s proceedings for the MPWSP, the CPUC similarly determined that PWM Expansion would be infeasible for “myriad independent reasons.” (See CPUC D.18-09-017, Appx. C, p. C-17.)

The M1W Board took definitive action when it rejected certification of the Final SEIR at its April 27 meeting.

MPWMD staff fails to cite any provision in CEQA—because there is none—that allows a CEQA responsible agency to assume the lead agency role after the preparation of an EIR simply because the responsible agency has expended resources in support of a certain project and does not agree with the lead agency’s decision to reject the EIR and project.

Indeed, staff’s attempt to usurp lead agency status from M1W has no basis in law. Nothing in CEQA allows the changing of lead agency status at the end of the environmental review process, after a duly-prepared EIR has been publicly circulated and considered by the lead agency’s decisionmaking body, except when very specific and limited conditions not present here are met. CEQA Guidelines section 15052 provides that a shift in lead agency designation may occur *only* when:

- (1) The lead agency did not prepare *any* environmental documents for the project, and the statute of limitations has expired for a challenge to the action of the appropriate lead agency.
- (2) The lead agency prepared environmental documents for the project, but the following conditions occur: (A) a subsequent EIR is required pursuant to Section 15162; (B) the lead agency has granted a final approval for the project; and (C) the statute of limitations for challenging the lead agency’s action under CEQA has expired.
- (3) The lead agency prepared inadequate environmental documents *without* consulting with the responsible agency and the statute of limitations has expired for a challenge to the action of the appropriate lead agency.

(Emphasis added.) In its proposed letter, *staff concedes that none of these conditions are met*, yet claims that Section 15052 nonetheless does not foreclose its ability to assume the role of lead agency. MPWMD staff is wrong.

To support its novel interpretation, staff quotes a legal treatise, intentionally omitting a crucial portion of that treatise that emphasizes the limited circumstances in which lead agency roles may change during the environmental review process. The treatise explains: “For example, this can occur if a project application is submitted to a county and the area containing the project is later annexed to a city or included in a newly incorporated city.” (Kostka & Zischke, Practice Under the Cal. Environmental Quality Act § 3.8(e).) This example is based on *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, also cited in MPWMD staff’s letter, where the lead agency designation changed mid-environmental review from a county to a city. There, the applicant “asked the County to send the administrative record on the Project to the City, which was about to be incorporated and which would have jurisdiction over the Project. Accordingly, on June 18, 1991, the County deferred further consideration of the Project to the City.” (*Gentry*,

*supra*, 36 Cal.App.4th at p. 1369.) In discussing the propriety of such a change in lead agency, the court noted that CEQA Guidelines section 15051 allows agencies to enter into agreements designating the lead agency as had happened between the county and the city. (*Id.* at pp. 1397–1398.) Even so, after the change in lead agency designation, the project applicant reapplied to the city for project approvals, and the city issued a new notice of its CEQA process. (*Id.* at p. 1369.)

The authority cited by MPWMD staff in its proposed letter has absolutely no bearing on the facts here. When read in context, the authority cited by staff suggests that when an agency’s jurisdiction over a project is transferred by annexation or incorporation **and** the agencies agree, lead agency status may be transferred without restarting the CEQA review process. With respect to the PWM Expansion and SEIR, however, no transfer in jurisdiction has occurred and M1W has not agreed to cede any CEQA authority to MPWMD.

Staff also suggests that M1W may use the Office of Planning and Research’s (“OPR”) dispute resolution process to resolve MPWMD’s claim that it can serve as lead agency. (Pub. Resources Code, § 21165, subd. (a); CEQA Guidelines, § 15053; Cal. Code Regs., tit. 14, §§ 16000 *et seq.*) This is also incorrect. Staff ignores that such a dispute exists only when there is a “contested, active difference of opinion between two or more public agencies as to which of those agencies **shall prepare any necessary environmental document**” and “each of those agencies claims that it either has or does not have the obligation **to prepare that environmental document.**” (Pub. Resources Code, § 21165, subd. (b) [emphasis added].) In other words, the dispute resolution process occurs **before** an environmental document is prepared, not after the fact.

OPR can resolve disputes regarding lead agency status **at the outset of the environmental review process** “based on consideration of the criteria in [CEQA Guidelines] Section 15051 as well as the capacity of the agency to adequately fulfill the requirements of CEQA.” (CEQA Guidelines, § 15053, subd. (e).) CEQA Guidelines section 15051, subdivision (a), states that “[i]f the project will be carried out by a public agency, that agency shall be the lead agency even if the project would be located within the jurisdiction of another public agency.” It has always been understood that M1W—not MPWMD—is responsible for implementing (i.e., carrying out) any eventual groundwater replenishment project. As the 2012 MOU expressly states, MPWMD agreed that M1W “expressly retains its discretion with respect to whether it will **implement** a GWR Project[.]” (2012 MOU, § II.1.E [emphasis added].)

Accordingly, in 2015, M1W approved the Phase 1 PWM, certified its associated Final EIR, and committed to carrying out construction, operation, and maintenance of Phase 1. Had M1W certified the PWM Expansion SEIR, it would have been responsible for carrying out those same tasks with respect to the PWM Expansion. In contrast, MPWMD’s role has been limited to that of a responsible agency, providing financial funding and issuing ancillary approvals. MPWMD has not and could not have carried out the Phase 1 PWM or PWM Expansion in the same manner or to the same degree as M1W. Therefore, under CEQA Guidelines section 15051, M1W has the only claim to lead agency status.

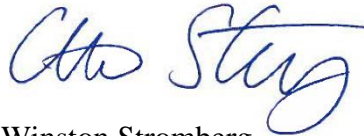
**LATHAM & WATKINS** LLP

Assuming that MPWMD did have a claim, CEQA Guidelines section 15051 provides that where there are two or more public agencies with a substantial claim to be lead agency, the lead agency will generally be designated either by the first to act on the project or by agreement. Here, M1W undisputedly acted first (in 2012) *and with MPWMD's express contractual agreement*. MPWMD cannot, at this late stage, credibly argue that it has the better claim to lead agency status in a brazen attempt to reverse M1W's decision.

Even if the M1W Board were to agree that MPWMD could assume the role of lead agency for the PWM Expansion, MPWMD would need to restart the CEQA process and resolve the significant deficiencies in the SEIR identified by the M1W Board when it denied certification. MPWMD cannot simply assume lead agency status, certify an SEIR already determined to be deficient by the proper lead agency and for which it did not control either the preparation or the responses to public comments, and then approve the PWM Expansion. There is no procedure under CEQA for such conduct because it is not recognized under CEQA as an acceptable process for an environmental document.

In sum, the only legal action the Board can take here is to reject staff's proposal to assume the role of lead agency for the PWM Expansion.

Very truly yours,



Winston Stromberg  
of LATHAM & WATKINS LLP

cc: Rich Svindland, California-American Water Company  
Ian Crooks, California-American Water Company  
Kathryn Horning, Esq., California-American Water Company  
Duncan Joseph Moore, Esq., Latham & Watkins LLP  
Tony Lombardo, Esq., Lombardo & Associates

# EXHIBIT A

**MRWPCA-MPWMD-CAL AM  
GROUNDWATER REPLENISHMENT PROJECT  
PLANNING TERM SHEET AND  
MEMORANDUM OF UNDERSTANDING TO NEGOTIATE IN GOOD FAITH**

This Groundwater Replenishment Project Planning Term Sheet And Memorandum of Understanding To Negotiate In Good Faith ("GWR MOU") is entered into as of April 20, 2012, by and between the Monterey Regional Water Pollution Control Agency, a joint powers authority ("MRWPCA"), the Monterey Peninsula Water Management District, a California special act district ("MPWMD"), and the California-American Water Company ("Cal Am"), an investor-owned water utility; collectively the "Parties", based upon the following facts, intentions and understandings of the Parties.

**I.**

**BACKGROUND**

A. MRWPCA owns and operates a wastewater collection and treatment system in northern Monterey County, including the Regional Treatment Plant ("RTP") and the associated ocean outfall ("Outfall"). From the RTP, MRWPCA produces treated wastewater that has the potential for reuse;

B. MPWMD was created by the California Legislature in 1977 for the purposes of "conserving and augmenting the supplies by integrated management of ground and surface water supplies, for control and conservation of storm and wastewater, and for the promotion of the reuse and reclamation of water." The MPWMD's specific functions are "management and regulation of the use, reuse, reclamation, conservation of water and bond financing of public works projects." It is authorized to issue bonds, assess charges for groundwater enhancement facilities, levy assessments on real property and improvements, and "fix, revise, and collect rates and charges for the services, facilities, or water furnished by it";

C. Cal Am is an investor-owned water utility regulated by the California Public Utilities Commission ("CPUC") that serves retail customers in the Monterey Peninsula. Cal Am has been ordered by the State Water Resources Control Board to significantly reduce its diversions from the Carmel River, its largest source of water supply, on a schedule that will result in Cal Am being able to divert only 30 percent of its historical draw from the Carmel River by December 31, 2016. Cal Am requires additional sources of water to serve Cal Am's Monterey Peninsula customers. CPUC approval for certain aspects of such additional water supplies is required.

D. The CPUC previously approved Cal Am's participation in the "Regional Project," in conjunction with the Monterey County Water Resources Agency and the Marina Coast Water District (Decision 10-12-016, December 2, 2010.) The Regional Project was intended, among other things, to fulfill Cal Am's need for additional water supplies. However, Cal Am has withdrawn from participation in that project, and is seeking alternative approaches to meet its needs.

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E. The Seaside groundwater basin ("Seaside Basin") is in a state of overdraft, and rights to water and pumping thereof have been adjudicated by the Monterey Superior Court. The Seaside Basin is governed by a Watermaster appointed by the Court.

F. MPWMD and Cal Am have an existing aquifer storage and recovery project ("ASR") which involves the injection of water into the Seaside Basin, and its recovery for the benefit of Cal Am. This initial phase ("ASR Phase 1") uses water diverted from the Carmel River, which is injected and extracted using two existing wells.

G. MRWPCA treats wastewater at the RTP, creating a potential source of water supply.

H. The parties believe that an additional increment of water supply should be generated for the benefit of Cal Am and its customers, many of whom are within the service areas of MPWMD and MRWPCA, by conveying advanced treated wastewater from the MRWPCA to the Seaside Basin, where it could be injected for storage and subsequent recovery by Cal Am ("GWR Project").

I. There would be substantial benefits of such a Groundwater Replenishment Project, including but not limited to:

- Drought resistant element of water supply portfolio;
- Cost-effective water supply; and
- Diversification of Cal Am's water supply portfolio
- There are also other benefits to this project, including but not limited to:
  - i. Improved water quality in Monterey Bay
  - ii. Advance the State of California's recycled water policies;
  - iii. Reuse of water otherwise discharged to the ocean;
  - iv. Lower carbon footprint relative to desalination;

J. The Parties intend by this GWR MOU to enable planning and environmental evaluation of a groundwater replenishment project by the following:

- to commit themselves to evaluate the ways in which a groundwater replenishment project could be effectively accomplished;
- to commit themselves to negotiate in good faith to reach agreement on such a project, should it be deemed viable;
- for MRWPCA to commit to act as lead agency to achieve California Environmental Quality Act ("CEQA") compliance for such a project, should it be deemed viable;
- for MPWMD to assist MRWPCA in providing the necessary financial support for the foregoing planning and CEQA compliance activities, subject to Recital M, below; and
- to identify non-binding preliminary terms of a GWR project agreement, which will assist in focusing the development of a GWR project responsive to the Parties' capabilities and needs.

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K. Except as set forth in Recital J above, the terms set forth in this GWR MOU are the Parties' preliminary concept of terms that may be included in future agreements by and among some or all of the Parties ("GWR Agreements".) They are not intended to be, nor should they be considered as, binding on the Parties.

L. None of the Parties intends by this GWR MOU to commit itself, or the other Parties, to a particular course of action, other than as set forth in Recital J above. The Parties reserve their discretion to evaluate and determine the feasibility or viability of any GWR Project, as well as project impacts, alternatives and mitigation measures, including but not limited to not proceeding with the GWR Project.

M. MPWMD financial support for GWR described in Recital J above is contingent upon successful implementation of a new revenue collection mechanism during the 2012-13 fiscal year.

## II.

### **BINDING TERMS REGARDING PROCESS TO EVALUATE AND IF FEASIBLE DEVELOP A GROUNDWATER REPLENISHMENT PROJECT**

#### **1. MRWPCA**

- A. MRWPCA is anticipated to be the source of the recycled water supply. MRWPCA would apply additional treatment to wastewater from the RTP, convey that water to the Seaside Basin, and inject it into the aquifer, thus making an additional source of water available for use by Cal Am and its customers.
- B. MRWPCA will in good faith commit to evaluate its resources and capabilities with respect to the feasibility of performing the foregoing functions.
- C. In the event that a feasible project is identified, MRWPCA will act as lead agency pursuant to CEQA, and will prepare or have prepared an environmental document pursuant to CEQA to evaluate the environmental impacts of such a GWR Project. If MRWPCA chooses to implement a GWR Project, MRWPCA will adopt or certify an environmental document – including any necessary supplements or addenda thereto (collectively "CEQA Documents") – that in its judgment complies with CEQA. MRWPCA will use funding provided by MPWMD, in addition to its own funds, for this effort.
- D. MRWPCA will negotiate in good faith with the other Parties to develop GWR Agreements acceptable to all Parties, which agreements will be consistent with the CEQA Documents. The Parties' goal is that such agreement will be complete and fully executed in a timeframe which will enable the GWR Project to be operational

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such that water can be made available to Cal Am on the schedule set forth by the SWRCB.

- E. MRWPCA expressly retains its discretion with respect to whether it will implement a GWR Project or enter into a GWR Agreement, and on what terms. Nothing in this agreement shall be construed as limiting MRWPCA's obligation to consider any and all alternatives, including the "no project" alternative, and any and all mitigation measures, and to make the requisite findings, in the above-referenced CEQA process.

## 2. MPWMD

- A. MPWMD will provide matching funding for MRWPCA and MPWMD GWR evaluation, planning, pre-design, and environmental review costs for the GWR derived from its new revenue collection mechanism implemented for the 2012-13 fiscal year. The Parties anticipate that MPWMD will contribute 50% of MRWPCA's actual GWR related costs, which 50% is currently estimated to be \$1,036,550 in FY 2012-13 and \$1,469,200 in FY 2013-14. Initially within 90 days after MPWMD's implementation of its new revenue collection mechanism for FY 2012-13, and by April 1 of each following year, the MRWPCA and MPWMD will meet and confer to review and must agree upon the Project budget for the following fiscal year. During a fiscal year, upon presentation to MPWMD by MRWPCA of invoices representing Project expenditures, MPWMD will remit to MRWPCA within 60 days an amount representing 50% of the expenditure. However, if required by MPWMD's new revenue collection mechanism, invoices presented before November 1 shall be paid no later than December 31, and invoices presented before May 1 shall be paid no later than June 1.
- B. If MPWMD determines that a GWR Project is viable, MPWMD will negotiate in good faith with the other Parties to develop a GWR Agreement acceptable to all Parties, which agreement will be consistent with the above-described CEQA Documents. The Parties' goal is that such agreement will be complete and fully executed in a timeframe which will enable the GWR Project to be operational such that water can be made available to Cal Am on the schedule set forth by the SWRCB.
- C. In the event that GWR Agreements are executed, MPWMD will undertake the permanent financing of GWR with long-term debt, secured by either revenues of MPWMD or payments to be received under a water purchase agreement with Cal Am, or both. Proceeds of the financing, or revenues received from water sales, will be used to reimburse MRWPCA for its past out-of-pocket contributions of MRWPCA for a GWR Project (any unreimbursed costs including the MRWPCA investment before execution of this MOU). Such permanent financing will be undertaken when and if the Parties agree that the Project shall proceed to design and construction and requires funding in excess of that reasonably available from pay-as-

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you-go monies, notwithstanding that MRWPCA and MPWMD may decide to undertake more than one permanent financing in order to facilitate a pilot project or construction in phasing.

- D. MPWMD expressly retains its discretion with respect to whether it will enter into any GWR Agreement, and on what terms; as well as its discretion to consider the CEQA Documents in a manner fully consistent with its role as a responsible agency under CEQA.

### 3. CAL AM

- A. If each Party independently agrees that a GWR Project is viable, Cal Am will negotiate in good faith with the other Parties to develop a GWR Agreement acceptable to all Parties, which agreement will be consistent with the above-described CEQA Documents. The Parties' goal is that such agreement will be complete and fully executed in a timeframe which will enable the GWR to be operational such that water can be made available to Cal Am on the schedule set forth by the SWRCB.
- B. Subject to ratemaking treatment approved by the CPUC and terms acceptable to Cal Am, Cal Am will enter into a GWR Agreement with MPWMD, with minimum annual purchase obligations of water at a price sufficient to pay the annual costs of debt and the costs of the GWR Project, including without limitation, operations, maintenance, repair, replacement, regulatory compliance, and administration costs, associated with the portion of the GWR Project's output purchased by Cal Am.
- C. As the CPUC regulated entity, Cal Am will have the primary role with respect to the CPUC, including but not limited to, obtaining the approvals required by that agency.
- D. Cal Am will bear its own costs with respect to all of its efforts in furtherance of realizing a GWR Project.

### 4. Good Faith Commitment

- A. In order to explore the potential public and private benefits of this project, and to ensure that each Party's efforts in furtherance of realizing such a project are well spent, the Parties hereby make a good faith commitment to pursue development of such a GWR, in compliance with all applicable laws. The Parties shall meet with the goal of reaching agreement by June 30, 2012, on the criteria for determining the viability of a GWR Project, which criteria shall include but not be limited to (1) providing for a schedule and for adjustments of same for the timeframe within which the GWR Project will be operational, and (2) a process and timeframe for verifying that the range of estimated costs for GWR Project water are consistent with the MRWPCA current cost estimates of \$2500-\$3000 per acre foot.

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## **5. Term and Termination**

- A. This GWR MOU shall expire upon the earlier of (1) full execution of a GWR Agreement, or (2) upon written agreement of the Parties to terminate.
- B. Upon thirty days advance written notice to all Parties, and upon the withdrawing Party's good faith determination that further participation is not feasible for any reason, any Party may withdraw from this MOU. If two Parties withdraw, this MOU is terminated.
- C. Any obligation to pay survives termination until such payment is made in full.

## **III. NON-BINDING PRELIMINARY TERMS**

The provisions in this Section III set forth the Parties' preliminary understanding that may be included in a final project agreement or agreements ("GWR Agreement"). These provisions are not intended to be, nor should they be considered as, binding on the Parties. Each Party expressly retains discretion with respect to whether it will enter into a GWR Agreement, or on what terms.

- 1. The GWR Project is intended by the Parties to provide approximately 3500 AF of advanced treated wastewater ("Replenishment Water") that can be made available, conveyed to the Seaside Basin and injected therein using new wells, by MRWPCA. MRWPCA will design, construct, own and operate the facilities to convey the water from the RTP and inject it into the Basin.
- 2. Upon payment by MPMWD to MRWPCA as set forth below, MPWMD shall take title to the Replenishment Water that has been injected into the aquifer. MPWMD will make the Replenishment Water available for purchase by Cal Am for the purpose of serving Cal Am's retail water customers in the Monterey Peninsula area.
- 3. Upon permanent financing, MPWMD will pay to MRWPCA the full amount of MRWPCA's costs to design, construct, obtain regulatory approvals, treat, deliver and inject the Replenishment Water. The commodity cost for the Replenishment Water shall recover at minimum all costs associated with GWR operation, maintenance, repair, replacement and administration, including regulatory compliance.
- 4. MRWPCA, MPMWD, and Cal Am shall coordinate the scheduling of injection of recycled water, Carmel River water, and any other water.
- 5. Subject to CPUC ratemaking approval, Cal Am shall enter into a contract to purchase the Replenishment Water from MPWMD. This contract will inter alia promptly

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reimburse MPWMD for the following prudently incurred costs: MPWMD's annual cost of debt service, Replenishment Water payments to MRWPCA for operations and maintenance, reimburse MRWPCA for any of its project development costs not previously reimbursed by MPWMD, as well as for MPWMD's costs.

6. The parties anticipate that terms addressing the following non-exhaustive list of topics will also be needed:

- Additional Financial Provisions;
- No Partnership, Joint Venture or JPA.
- Coordination with others
- CPUC approvals
- Regulatory Compliance
- Storage and Recovery Agreement with Seaside Basin Watermaster
- Brine Disposal
- Additional Acts
- Representations and Warranties.
- Litigation; Cooperation in Litigation
- Force Majeure
- No Third Party Beneficiaries.
- Dispute Resolution
- No Assignment
- Default, Cure and Remedies
- Attorneys Fees
- Notices
- Miscellaneous Provisions

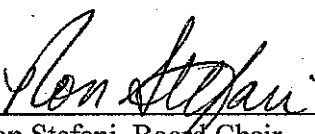
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The Parties re-confirm that neither a GWR Agreement, nor any replenishment project, can proceed unless and until the Parties have negotiated, executed and delivered mutually acceptable GWR Agreements, with any public agency action performed in compliance with CEQA and on other public review and hearing processes, and subject to all applicable governmental approvals. The Parties intend by this GWR MOU to inform and focus the work necessary to develop and review a water transfer program, not to pre-determine what that program may be.

**WHEREFORE**, this GWR MOU was executed by the parties on the date first above written.

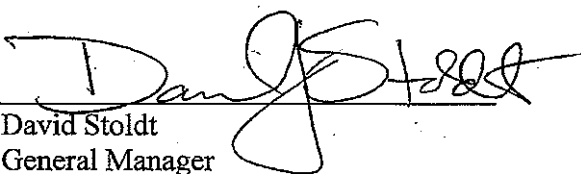
MRWPCA

MONTEREY REGIONAL WATER POLLUTION  
CONTROL AGENCY,

By:   
Ron Stefani, Board Chair  
MRWPCA Board of Directors


MPWMD

MONTEREY PENINSULA WATER MANAGEMENT  
DISTRICT,

By:   
David Stoldt  
General Manager

CALAM

CALIFORNIA AMERICAN WATER COMPANY,

By:   
Robert MacLean  
President

# EXHIBIT B

**MRWPCA-MPWMD  
GROUNDWATER REPLENISHMENT PROJECT  
COST SHARING AGREEMENT**

This Cost Sharing Agreement is entered into as of May 20, 2013, by and between the Monterey Regional Water Pollution Control Agency, a joint powers authority ("MRWPCA") and the Monterey Peninsula Water Management District, a California special act district ("MPWMD"), collectively the "Parties", based upon the following facts, intentions and understandings of the Parties.

**I.  
BACKGROUND**

A. The Agency was formed as a Joint Powers Agency by a Joint Exercise of Powers Agreement for the Monterey Regional Water Pollution Control Agency, effective as of June 29, 1979. Member entities formed the Agency in order to seek joint solutions to their wastewater treatment needs. The Agency owns and operates the Regional Treatment Plant ("RTP"), 25 wastewater pump stations, a land and ocean outfall. From the RTP, MRWPCA produces tertiary treated wastewater for agriculture irrigation. MRWPCA could treat waste waters through advanced treatment to provide for additional reuse.

B. MPWMD was created by the California Legislature in 1977 for the purposes of "conserving and augmenting the supplies by integrated management of ground and surface water supplies, for control and conservation of storm and wastewater, and for the promotion of the reuse and reclamation of water." The MPWMD's specific functions are "management and regulation of the use, reuse, reclamation, conservation of water and bond financing of public works projects." It is authorized to issue bonds, assess charges for groundwater enhancement facilities, levy assessments on real property and improvements, and "fix, revise, and collect rates and charges for the services, facilities, or water furnished by it".

C. The parties believe that an additional increment of water supply should be generated for the benefit of Cal Am's Monterey District customers, many of whom are within the service areas of MPWMD and MRWPCA, by conveying advanced treated wastewater from the MRWPCA to the Seaside Basin, where it could be injected for storage and subsequent recovery ("GWR Project").

D. The Parties and California American Water Company jointly entered into a Groundwater Replenishment Project Planning Term Sheet And Memorandum of Understanding To Negotiate In Good Faith ("GWR MOU") on April 20, 2012 to, among other things, enable planning and environmental evaluation of a groundwater replenishment project by the following:

- to commit themselves to evaluate the ways in which a groundwater replenishment project could be effectively accomplished;

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- to commit themselves to negotiate in good faith to reach agreement on such a project, should it be deemed viable;
- for MRWPCA to commit to act as lead agency to achieve California Environmental Quality Act ("CEQA") compliance for such a project, should it be deemed viable;
- for MPWMD to assist MRWPCA in providing the necessary financial support for the foregoing planning and CEQA compliance activities; and
- to identify non-binding preliminary terms of a GWR project agreement, which will assist in focusing the development of a GWR project responsive to the Parties' capabilities and needs.

E. Since 2005, MRWPCA has incurred costs of about \$2,698,265 for conceptual planning for a Groundwater Replenishment Project.

## II. AGREEMENT

NOW, THEREFORE, in consideration of the foregoing facts recited and the mutual goals and objectives contained herein, the Parties agree as follows:

### A. Finance

#### 1. **Planning and Development Costs Defined**

This Agreement is by its terms limited to sharing of costs of planning and development of the GWR Project, incurred beginning April 1, 2012. Examples of those costs include:

- a. CEQA
- b. Feasibility Review
- c. Facilities Planning
- d. Monitoring Well Construction and Testing
- e. Pilot Treatment and Pilot Injection
- f. Public Outreach

#### 2. **Financing of GWR Project Planning and Development Costs**

The Parties estimate that the costs described in Section 1., immediately above, will total \$6,957,352 as shown in the budget in Appendix A. Beginning FY2013-14, MPWMD shall pay seventy-five percent (75%) of such costs, and MRWPCA shall pay twenty-five percent (25%) of such costs. Seventy-five percent (75%) of full employee costs (salary and benefits) incurred by MRWPCA for up to two (2) of its employees' allocable time committed to tasks falling within the components described in Section 1., immediately above, shall be paid (reimbursed) by MPWMD. Prior to FY2013-14, such costs are shared fifty percent (50%) by each Party. Other employee costs incurred by either Party and allocable to the GWR Project will be reimbursed from the proceeds of the permanent financing pursuant to any reimbursement resolution adopted by MPWMD or MRWPCA.

**3. Grants and Loans**

MRWPCA or MPWMD may each pursue and receive grants, state revolving fund loans, or other forms of reimbursement from local, state, or federal sources. All such receipts will be delivered to MRWPCA and credit the GWR Project ledger as received. Such receipts will be deemed to offset project costs.

**4. Reimbursement**

MRWPCA shall invoice MPWMD and MPWMD shall pay, subject to the conditions described in Section 10.

**5. Limited Obligation**

MPWMD's financial obligations are limited obligations payable from its Water Supply Charge. MPWMD will provide a quarterly report to MRWPCA indicating the status of available funds.

**B. Ownership****6. System Ownership**

MRWPCA shall hold title to all GWR Project facilities to be constructed under this Agreement.

**C. Governance of Agreement****7. Scope of Work**

MRWPCA shall be the lead Party for performance and completion of work under this Agreement. However, the Parties will endeavor to meet regularly to monitor the progress of work under this Agreement.

**8. GWR Project Budgets**

The Boards of MRWPCA and MPWMD shall approve a joint budget each fiscal year for phases of the GWR Project ("GWR Project Budgets".) To the extent that additional funds are required to complete work authorized by this Agreement the Parties will meet to discuss appropriate modifications to the GWR Project Budget, and neither Party shall unreasonably refuse to modify the GWR Project Budget as necessary to complete work authorized by this Agreement. MRWPCA shall meet at least quarterly to review the budget and provide MPWMD updates and modifications to the budget on a timely basis.

**D. MRWPCA's Obligations****9. Day-to-Day Management**

MRWPCA shall provide day-to-day management of the work authorized by this Agreement, subject to applicable terms and conditions herein. MRWPCA shall serve as the contracting authority for the Parties for the GWR Project and, with MPWMD's concurrence, contract directly with all professionals, firms, and outside contractors.

**10. Payment**

MRWPCA shall pay for consultants, contractors, and other GWR Project-related costs in accordance with the terms of this Agreement. MRWPCA shall submit monthly invoices to MPWMD which will include back-up documentation substantiating the GWR Project-related costs incurred by MRWPCA.

**11. Purified Water Sales Agreement**

Before final design and construction proceeds, MRWPCA shall work jointly with MPWMD to develop a Recycled Water Sales Agreement under which MRWPCA will deliver recycled water to MPWMD for storage in the Seaside Groundwater Basin. Such agreement will address quantity delivered, cost, quality, Watermaster storage and recovery agreement, metering and measurement of flows, invoicing, and other matters.

**E. MPWMD's Obligations****12. Payment of Invoices**

MPWMD shall have the right to review and confirm that the invoices submitted by the MRWPCA are in conformance with the terms of this Agreement. Payments will be made within 30 days of receipt of invoice. If during the review of invoice MPWMD disputes any payments as not being in accordance with this Agreement, the MPWMD will notify the MRWPCA within the 30 days to resolve any disputes.

**13. Wholesale Water Purchase Agreement**

Before final design and construction proceeds, MPWMD shall work jointly with California American Water Company to develop a Wholesale Water Purchase Agreement under which MPWMD will deliver potable water to California American from storage in the Seaside Groundwater Basin. Such agreement will address quantity delivered, cost, minimum annual purchase amounts, water quality, metering and measurement of flows, invoicing, and other matters.

**F. Term and Termination****14. Term**

This Agreement shall remain in force and effect for five years. Before final design and construction proceeds, and in no case later than within thirty (30) days after the fourth anniversary of the date of adoption of this Agreement, the Parties shall meet to decide whether to extend this Agreement. Any extension of this Agreement shall be in writing and on mutually acceptable terms and conditions.

**G. Events of Default; Dispute Resolution****15. Event of Default**

The failure of a Party to comply with any provision of this Agreement that has a material and adverse effect on the other Party, except to the extent caused by a breach of this Agreement by the other Party, shall constitute an Event of Default under this Agreement;

provided, however, that the defaulting Party shall first have a period of thirty (30) days following receipt of notice from the other Party of such failure to comply to cure such failure, or if such cure cannot be effected within such thirty (30) day period, such period shall extend for a total of one hundred eighty (180) days, so long as the defaulting Party is diligently trying to cure such failure throughout such period.

#### **16. Dispute Resolution**

Staffs of both Parties shall meet and use their best efforts to settle any dispute, claim, question or disagreement (a "Dispute") arising from or relating to this Agreement. To that end, staffs of both Parties shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. If the Parties do not reach such a solution within a period of thirty (30) days after the first meeting of the staff regarding a Dispute, then the Parties shall pursue non-binding mediation to be completed within sixty (60) days after the first meeting of the Parties regarding the Dispute. If the Parties do not settle the Dispute within the sixty (60) day period, either Party may pursue any and all available legal and equitable remedies.

#### **H. Miscellaneous.**

##### **17. Force Majeure**

Neither Party shall be deemed to be in default where failure or delay in performance of any of its obligations (other than payment obligations) under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, actions of legislative, judicial, executive or regulatory government bodies or other cause, without fault and beyond the reasonable control of such Party. If any such events shall occur, the time for performance by either Party of any of its obligations hereunder shall be extended by the Parties for the period of time that such events prevented such performance. Upon the occurrence of an event of Force Majeure, the affected Party shall: (i) promptly notify the other Party of such Force Majeure event, (ii) provide reasonable details relating to such Force Majeure event and (iii) implement mitigation measures to the extent commercially reasonable.

##### **18. Indemnities**

- a. **MPWMD Indemnity.** MPWMD shall fully indemnify MRWPCA and its respective directors, , employees and agents against, and hold completely free and harmless from, any cost, expense, claim, demand, judgment, loss, injury and/or liability of any kind or nature, including personal or bodily injury, death or property damage ("Losses"), that may arise from (i) any grossly negligent act or omission of MPWMD related to construction of the GWR Project or (ii) any claim made by a MPWMD employee specifically retained to provide services with respect to the facilities.
- b. **MRWPCA Indemnity.** MRWPCA shall fully indemnify MPWMD and its respective directors, employees and agents against, and hold completely free and harmless from, any Losses, that may arise from (i) any grossly negligent act or omission of MRWPCA related to the GWR Project construction, management,

operation, maintenance or repair, except for costs, expenses, claims, demands, judgments, losses, injuries and/or liability arising from any grossly negligent act or omission of MPWMD related to construction of the GWR Project or (ii) any claim made by a MRWPCA employee specifically retained to provide services with respect to the GWR Project.

#### **19. Insurance/Self Insurance**

The Parties are either insured or self-insured as to any requirements under this Agreement. No policies or bonds are required of either party as to any provisions of this Agreement.

#### **20. Notices**

All notices to MPWMD required or permitted under this Agreement shall be in writing and shall be deemed delivered (i) when delivered in person, (ii) on the third day after mailing, if mailed, postage prepaid, by registered or certified mail (return receipt requested); (iii) on the day after mailing if sent by a nationally recognized overnight delivery service which maintains records of the time, place, and recipient of delivery; (iv) upon receipt of a confirmed transmission, if sent by telex, telecopy or facsimile transmission; or (v) via electronic mail provided the sender's system is capable of creating a written record of such notice and its receipt in each case to the parties at the following addresses or to other such addresses as may be furnished in writing by one party to the other:

Monterey Peninsula Water Management District  
5 Harris Court, Building G  
Monterey, CA 93940  
Attention: General Manager

All notices to MRWPCA required or permitted under this Agreement shall be in writing and shall be deemed delivered (i) when delivered in person, (ii) on the third day after mailing, if mailed, postage prepaid, by registered or certified mail (return receipt requested); (iii) on the day after mailing if sent by a nationally recognized overnight delivery service which maintains records of the time, place, and recipient of delivery; (iv) upon receipt of a confirmed transmission, if sent by telex, telecopy or facsimile transmission; or (v) via electronic mail provided the sender's system is capable of creating a written record of such notice and its receipt in each case to the parties at the following addresses or to other such addresses as may be furnished in writing by one party to the other:

Monterey Regional Water Pollution Control Agency  
5 Harris Court, Building D  
Monterey, CA 93940  
Attention: General Manager

#### **21. Successors And Assigns**

The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective heirs, representatives, successors and permitted assigns.

**22. Further Acts and Assurances**

The Parties agree to execute, acknowledge and deliver any and all additional papers, documents and other assurances, and shall perform any and all acts and things reasonably necessary, in connection with the performance of the obligations hereunder and to carry out the intent of the Parties.

**23. Captions**

The captions in this Agreement are inserted only as a matter of convenience and reference and in no way define, limit or describe the scope or intent of this Agreement nor in any way affects this Agreement. Words of any gender in this Agreement shall be held to include any other gender and words in the singular number shall be held to include the plural when the sense so requires.

**24. Severability**

Should it be found that any part of this Agreement is illegal or unenforceable, such part or parts of this Agreement shall be of no force nor effect and this Agreement shall be treated as if such part or parts had not been inserted.

**25. Entire Agreement**

All previous negotiations had between the Parties hereto and/or their agents or representatives with respect to this Agreement are merged herein and this Agreement alone fully and completely expresses the Parties' rights and obligations.

**26. Modifications In Writing**

This Agreement shall not be modified in any manner except by an instrument in writing executed by the Parties or their respective successors in interest.

**27. Interpretation**

Each of the Parties hereby waives any provisions of law to the effect that an ambiguity in a contract or agreement should be interpreted against the Party that drafted the contract, agreement or instrument.

**28. Governing Law**

This Contract shall be governed by and construed according to the laws of California.

**29. No Third-Party Beneficiaries**

Nothing in this Agreement is intended to create any third-party beneficiaries to the Agreement, and no person or entity other than the Parties, and the permitted successors and assigns of either of them, shall be authorized to enforce the provisions of this Agreement.

**30. Assignment**

Neither Party may assign its interest in this Agreement without the prior written consent of the other Party.

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**31. Representation and Warranties**

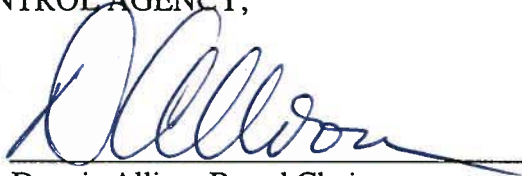
No representations or warranties are made or have been relied upon by either Party other than those expressly set forth herein, if any.

**WHEREFORE**, this Cost Sharing Agreement was executed by the parties on the date first above written.

MRWPCA

MONTEREY REGIONAL WATER POLLUTION  
CONTROL AGENCY,

By:



Dennis Allion, Board Chair  
MRWPCA Board of Directors

MPWMD

MONTEREY PENINSULA WATER MANAGEMENT  
DISTRICT,

By:



David Pendergrass, Chair  
MPWMD Board of Directors

**From:** [Soneff, George](#)  
**To:** [comments](#)  
**Subject:** Oct. 19, 2020 Board Meeting -- Item #9  
**Date:** Monday, October 19, 2020 11:33:23 AM  
**Attachments:** [image001.png](#)  
[Agenda Report Consider Adoption of Proposed Operations Plans.pdf](#)  
[MWS Contract Management Plan.pdf](#)  
[Water System Operations.pdf](#)

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District Board of Directors:

To ensure their inclusion in the administrative record for **Item #9** on tonight's agenda, I am attaching the following three documents:

1. Agenda Report entitled "Consider Adoption of Proposed Operations Plans for Rule 19.8 Acquisition of Monterey Water System"
2. Monterey Peninsula Water System Operations Plan, dated October 9, 2020
3. Monterey Water System Contract Management Plan, dated September 2020

**George Soneff**

Partner

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**Manatt, Phelps & Phillips, LLP**  
 2049 Century Park East  
 Suite 1700  
 Los Angeles, CA 90067  
**D** (310) 312-4186 **F** (310) 996-6970  
[GSoneff@manatt.com](mailto:GSoneff@manatt.com)

[manatt.com](http://manatt.com)



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Government Finance Officers Association  
203 North LaSalle Street, Suite 2700  
Chicago, Illinois 60601-1210  
312.977.9700 fax: 312.977.4806

10/15/2020

Alvin Edwards  
Board Chair  
Monterey Peninsula Water Management District, California

Dear Mr. Edwards:

We are pleased to notify you that your comprehensive annual financial report (CAFR) for the fiscal year ended June 30, 2019 qualifies for GFOA's Certificate of Achievement for Excellence in Financial Reporting. The Certificate of Achievement is the highest form of recognition in governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

When a Certificate of Achievement is awarded to a government, an Award of Financial Reporting Achievement (AFRA) is also presented to the individual(s) or department designated by the government as primarily responsible for its having earned the Certificate. This award has been sent to the submitter as designated on the application.

We hope that you will arrange for a formal presentation of the Certificate and Award of Financial Reporting Achievement, and give appropriate publicity to this notable achievement. A sample news release is included to assist with this effort.

We hope that your example will encourage other government officials in their efforts to achieve and maintain an appropriate standard of excellence in financial reporting.

Sincerely,

Michele Mark Levine  
Director, Technical Services