

WATER SUPPLY PLANNING COMMITTEE

DISCUSSION

2. REQUIREMENTS FOR LIFTING OF THE CEASE AND DESIST ORDER AND MORATORIUM ON NEW SERVICE CONNECTIONS

Meeting Date:	June 1, 2020	Budgeted:	N/A
From:	David J. Stoldt General Manager	Program/ Line Item No.:	N/A
Prepared By:	David J. Stoldt	Cost Estimate:	N/A

General Counsel Approval: N/A
Committee Recommendation:
CEQA Compliance: N/A

THIS REPORT WAS BEEN REVISED IN AUGUST 2020 TO REFLECT CORRECTIONS IN THE HISTORICAL PUMPING DATA

SUMMARY: Last month, staff described how annual compliance with the Cease and Desist Order (CDO) Effective Diversion Limit (EDL) is calculated. This discussion item covers the mechanics for lifting the CDO, as well as the process for cancelling the moratorium on new service connections.

DISCUSSION:

Lifting the CDO: The CDO is issued by the State Water Resources Control Board (SWRCB) and is directed to California American Water Company (Cal-Am). Ordering paragraph 15 (p.27) states:

“15. 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.”

Thus, the process of lifting the CDO starts with a discretionary action of Cal-Am and requires a response from the SWRCB. One can reasonably assume that Cal-Am could provide certification at, or shortly after, start-up of a new water supply. The SWRCB response could take 2-3 months. The worst case would be if the SWRCB desires to see performance of the new water supply over time.

How much water supply is needed to lift the CDO? There are two “tests” to examine. Test 1 would focus solely on replacing unlawful pumping. Using the five-year average pumping through Water Year 2019, the test would look like this:

Test 1 - Water for the River	AFA
5-Year Average of Pumping from the Carmel River:	6,314
Legal Right to Pump from the Carmel River:	<u>3,376</u>
Replacement Supply Needed:	2,938

This test would imply that Pure Water Monterey, at 3,500 AFA, would be sufficient to lift the CDO, however it is not. Test 2 examines water supply required to meet customer demand:

Test 2 - Water for Customer Demand	AFA
Carmel River Supply	3,376
Seaside Basin Supply	774
ASR Supply	1,300
Sand City Desal Supply	94
Pure Water Monterey Supply	<u>3,500</u>
Total Supply	9,044
5-Year Average Customer Demand	<u>9,825</u>
Additional Supplies Needed to Lift CDO	781

However, a new supply substantially in excess of this amount is needed to meet growth in demand. Because future growth in consumer demand for water will take time to materialize, the additional water supply to meet future growth is presently available to allow the banking of water for future needs. Additionally, for several years the actual available from Sand City desalination and Table 13 water rights would yield additional supplies. However, ASR could be lower until additional accumulation occurs. Finally, an additional 700 AF becomes available after 25 years of in-lieu recharge of the Seaside Basin is concluded.

How does the moratorium on the setting of new meters get cancelled? The moratorium was established by the California Public Utilities Commission (CPUC) in Decision 11-03-048 in March 2011. Ordering paragraph 5 of the Decision states:

“5. 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 is the moratorium. The time for review of a Tier 1 advice letter by CPUC Division of Water and Audits staff is 30 days from the service date, hence if Cal-Am was ready in advance they could file the Tier 1 advice letter shortly after receipt of the SWRCB letter and the

moratorium would be lifted 30 days later, if the advice letter is not challenged.

U:\dstoldt\Board Subcommittee Items and Exhibits\2020\WSP 6-1\Item 2.docx