
State Water Resources Control Board

POST-HEARING ORDER AND NOTICE

The State Water Resources Control Board
Administrative Hearings Office
held hearing days on October 26-29 and 31,
November 1 and 3, and December 7-9, 12 and 14-15, 2022,
and January 31, February 2, and March 1, 2023,
in the AHO proceeding
on the issues the court has referred
to the Board pursuant to Water Code section 2000 in

City of Marina v. RMC Lonestar,
Monterey County Superior Court No. 20CV001387.

The AHO has scheduled additional hearing days for
March 16, and May 9-12 and 15-19, 2023.

If necessary, the Administrative Hearings Office will schedule additional hearing days.
All hearing days will be held by Zoom teleconference.

Any interested party may participate in the Zoom teleconferences by using this link:
<https://waterboards.zoom.us/j/95899889673?pwd=R2lwclZjS2xwdWVRaXg3ZlhtWXg4UT09>
with Meeting ID: 958 9988 9673 and Passcode: 561435
or by calling in at: +16699009128,,95899889673#,,,,*561435# US (San Jose)

Any interested member of the public who would like to watch this hearing without
participating may access the Administrative Hearings Office YouTube channel at:

<https://www.youtube.com/@swrcbadministrativehearing728/streams>

BACKGROUND

The purpose of this proceeding, background, hearing issues, and pre-hearing and hearing processes are described in the May 6, 2022 Notice of Public Hearing and Pre-Hearing Conference issued by the State Water Resources Control Board (“State Water Board”) Administrative Hearings Office (“AHO”).

This order and notice follows the AHO hearing days listed above. Except as expressly stated in this order and notice, all provisions of the May 6, 2022 hearing notice and subsequent AHO orders and notices remain in effect.

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

POST-HEARING ORDER AND NOTICE

March 12, 2023 Joint Status Report:

The parties' technical experts shall continue to proceed as described in their February 17, 2023 joint status report. The parties' technical experts shall prepare a new supplemental joint status report that updates their February 17, 2023 joint status report, and they shall file this new supplemental report with the AHO on or before **March 12, 2023, at 1:00 pm**. This filing shall be made to the AHO's e-mail address, with cc's to everyone on the service list for this proceeding.

This new supplemental report shall describe the areas of agreement and the areas of disagreement regarding the topics described in the February 17, 2023 joint status report. For each area of agreement, the new supplemental report shall briefly describe the agreement. For each area of disagreement, the new supplemental report shall briefly describe the issue and each side's position.

March 16 Hearing Date

The AHO hearing officer will hold the hearing day as scheduled on **March 16, 2023, beginning at 9:00 am**. The purpose of this hearing day will be to give me an opportunity to ask the technical experts follow-up questions about their groundwater modeling work, particularly areas of agreement and areas of disagreement.

Supplemental Notice for May 9-12 and 15-19, 2023 Hearing Dates

Following the discussions during the March 1 hearing, I designate the model scenarios in the following table as the scenarios to be run by the parties' technical experts. If the parties' technical experts reach agreement on the use on the calibration model run based on the WY2019-WY2021 data, with or without adjustment, for the "no SGMA implementation" scenario, then I will delete the column for either Option A or Option B from the following table and re-label Options C and D as Options B and C.

Cal-Am slant well pumping rate	Calibration and SGMA Implementation Scenarios			
	Option A	Option B	Option C	Option D
	(WY 2019-2021 calibration; no SGMA implementation)	(WY 2019-2021 calibration adjusted; no SGMA implementation)	(WY 2019-2021 calibration adjusted; Cal-Am scenario for SGMA implementation)	(WY 2019-2021 calibration adjusted; MCWD/Marina scenario for SGMA implementation)
No Cal-Am slant well pumping	1A	1B	1C	1D
11.6 mgd Cal-Am slant well pumping (for 4.8 mgd production)	2A	2B	2C	2D
15.5 mgd Cal-Am slant well pumping (for 6.4 mgd production)	3A	3B	3C	3D

Following the model nomenclature proposals in the January 30, 2023 Pre-Hearing Status Report of the California-American Water Company (“Cal-Am”), I designate the new groundwater model being prepared by Cal-Am’s technical experts as the “2023 Cal-Am Water Board Referral Steady State Model” or “Cal-Am WBSSM²⁰²³” and the new groundwater model being prepared by the technical experts of the Marina Coast Water District (“MCWD”) and the City of Marina as the “2023 MCWD Water Board Referral Steady State Model” or “MCWD WBSSM²⁰²³.” References to “side” or “sides” in this order and notice refer to Cal-Am individually, and to MCWD and City of Marina jointly.

Issues 1-10 on pages 4-5 of the December 21, 2022 Post-Hearing Order and Notice of Additional Hearing Dates, and the text regarding exhibits and testimony on pages 4-5 of the February 6, 2023 Post-Hearing Order and Notice of Additional Hearing Dates, are replaced with the following issues and text. The parties’ technical experts shall address these issues and text in their supplemental technical memoranda, written proposed testimony and related exhibits, which are to be filed on April 10, 2023.

Model assumptions

1. What model assumptions do all parties’ technical experts agree are appropriate for the groundwater modeling work in this proceeding?

2. For the model assumptions on which all parties' technical experts agree, what technical publications and other evidence and data support the model assumptions?
3. On what model assumptions for the groundwater modeling work in this proceeding do the parties' technical experts disagree?
4. For the model assumptions on which the parties' technical experts disagree, what technical publications and other evidence and data support the side's model assumptions? (Cal-Am's technical experts shall provide the response to this question for Cal-Am WBSSM²⁰²³, and MCWD's and City of Marina's technical experts shall provide this response for MCWD WBSSM²⁰²³.)

Model calibration

5. What time period and other model parameters do the parties' technical experts agree are appropriate for calibration of Cal-Am WBSSM²⁰²³ and MCWD WBSSM²⁰²³?
6. If one side's technical experts disagree with the other side's technical experts about the time period or model parameters that should be used for the calibrated model, then the side's technical experts shall provide supporting evidence as to why they believe that their time period and model parameters are more appropriate for model calibration.
7. What are the results of the calibration model runs and related analyses for Cal-Am WBSSM²⁰²³ and MCWD WBSSM²⁰²³? For each party, this response shall refer to the parties' exhibits described in paragraph (d) on the following page of this order and notice. (Cal-Am's technical experts shall provide the response to this question for Cal-Am WBSSM²⁰²³, and MCWD's and City of Marina's technical experts shall provide this response for MCWD WBSSM²⁰²³.)

Model scenarios and comparisons of results; other analytical calculations and technical methods

The parties' technical experts shall answer the following questions for implementation of the second scenario compared to implementation of the first scenario, for each of the following comparisons of model runs for model scenarios: (i) comparisons of scenarios 2A and 3A to scenario 1A; (ii) comparisons of scenarios 1B, 1C and 1D to scenario 1A; (iii) comparisons of scenarios 2B and 3B to scenario 1B; (iv) comparisons of scenarios 2C and 3C to scenario 3A; and (e) comparisons of scenarios 2D and 3D to scenario 1D.

8. What are the changes in estimated drawdowns and heads, by aquifer, particularly at and in the vicinity of the MCWD wells?

9. What are the estimated amounts of water, by aquifer and source, that would be pumped by Cal-Am's proposed slant wells each year? (This issue is not applicable for comparisons of scenarios 1B, 1C and 1D to scenario 1A.)
10. What are the changes in estimated annual amounts of seawater intrusion, by model layer, within the Reaches 1 through 5 described in exhibit MCWD exhibit 118, slide 20?
11. What are the changes in estimated groundwater storage, by aquifer?
12. Using analytical calculations or other technical methods based on the modeling results, what are the estimated changes in migration of saline water, particularly in the vicinity of MCWD's wells, by aquifer?

Types of Exhibits

As parts of their discussions of Issues 1-7, the parties' technical experts shall include in their April 10 submittals exhibits and testimony the following types of exhibits:

- (a) a figure or figures that depict the modeled annual recharge rates for each area within the model domain for the calibrated model that has a specific recharge rate, with a separate depiction for each model layer that is modeled to receive recharge;
- (b) figures that depict polygons of the modeled hydraulic conductivities, with a separate depiction for each model layer for the calibrated model;
- (c) geologic cross-sections and related information that explain the modeled extents of the relevant aquitards and other model layers for the calibrated model, and the justifications for these model assumptions, separately for each model layer; and
- (d) the following types of exhibits regarding model calibration: (i) a table of well IDs for all wells used in the calibration process, listing, for each well, the well's coordinates, the model layer the well is screened in, the observed hydraulic head, the calibrated model hydraulic head, residuals, and the calculated Normalized Root Mean Squared Error (NRMSE); (ii) an aerial map of each hydrostratigraphic unit that depicts the wells screened within that hydrostratigraphic unit and error bars for each well; (iii) a graph that shows the observed vs. calibrated heads; and (iv) a water balance analysis. As appropriate, these exhibits shall include data for the "without Cal-Am test slant well pumping" calibration scenario and the "with Cal-Am test slant well pumping" scenario.

As parts of their discussions of Issues 8-11, the parties' technical experts shall include the following figures and tables:

- (e) figures showing estimated drawdowns and head changes, by aquifer, particularly at and in the vicinity of the MCWD wells;
- (f) tables listing the estimated amounts of water, by aquifer and source, that will be pumped by Cal-Am's proposed slant wells each year (not applicable for comparisons of scenarios 1B, 1C and 1D to scenario 1A);
- (g) tables listing the estimated annual amounts of additional seawater intrusion, by model layer, within the Reaches 1 through 5 described in exhibit MCWD exhibit 118, slide 20; and
- (h) tables listing the estimated changes in groundwater storage, by aquifer.

The parties' technical experts shall submit in their written proposed rebuttal testimony and related exhibits, to be filed on April 24: (i) comparisons of their model assumptions with the other parties' model assumptions, (ii) explanations of the differences, (iii) discussions about which model assumptions they believe are most appropriate for the modeling work for this proceeding, and why, (iv) discussions of the differences in model calibrations and their significances; and (iv) discussions of the differences in model results and their significances.

I request that MCWD re-submit the figure depicting cross-section locations and the change in the southern boundary of the NMGWM model domain that MCWD submitted during the March 1, 2023 hearing. If appropriate, MCWD should label this figure as exhibit MCWD-123. Before re-submitting this figure, MCWD should review the title "MCWD Weiss Model Analysis," and edit it if appropriate.

Model Files

On or before **April 11, 2023, at 1:00 pm**, an attorney for each side shall send an e-mail to the AHO, with cc's to everyone on the service list for this proceeding, advising the AHO and the other side that the attorney has computer external hard drives with the side's model files for the proceeding available for delivery to the AHO and one of the other side's attorneys, and providing the contact information so the deliveries can be arranged. These external hard drives shall include all finalized Groundwater Vistas (GV) or Groundwater Modeling System (GMS) modeling files that include the gpr file (GMS) or GV modeling files. All GMS and GV files also shall include: all modeling parameters, MODFLOW files, MODPATH files, map files, well packages, hydraulic head outputs, and any other files that are linked to the main GMS or GV modeling file.

Filing Deadlines and Additional Hearing Days

The filing deadlines and the dates of additional hearing days listed on pages 5-6 of the December 21, 2022 notice are not changed.

Proposed Text for Draft Referee's Report

As I noted during the March 1, 2023 hearing, the references to "Order WR 2022-0154" on pages 4-5 of the February 6, 2023 Post-Hearing Order and Notice of Additional Hearing Dates should be to "Order WR 2022-0152."

Per the requests of the parties' attorneys during the March 1 hearing, I am changing the deadline for the parties' attorneys to submit proposed text for sections 3.1 and 3.2 of the outline that was attached for the February 6, 2023 order and notice from March 27, 2023 to June 12, 2023. All other deadlines for the proposed text for the draft referee's report listed on pages 4-5 of the February 6, 2023 order and notice remain unchanged.

March 7, 2023
Date

/s/ ALAN B. LILLY
Alan B. Lilly
Senior Hearing Officer

Enclosure:

-service list (copies of notice sent by e-mail only, to all listed e-mail addresses)

SERVICE LIST

Marina Pantchenko
Salinas Valley Basin Groundwater
Sustainability Agency
Office of County Counsel
168 West Alisal
3rd Floor
Salinas, CA 93901
Pantchenkoms@co.monterey.ca.us

Howard F. Wilkins III (Chip)
Christina L. Berglund
Kathryn A. Ramirez
Bridget K. McDonald
Remy, Moose, Manley LLP
555 Capitol Mall
Suite 800
Sacramento, Ca 95814
cwilkins@rmmenvirolaw.com
cberglund@rmmenvirolaw.com
kramirez@rmmenvirolaw.com
bmcdonald@rmmenvirolaw.com
Attorneys for Marina Coast Water District

David L. Osias, Robert R. Moore,
Michael J. Betz, Kathryn Horning,
Alexander J. Doherty
Allen Matkins Leck Gamble Mallory
& Natsis LLP
Three Embarcadero Center
12th Floor
San Francisco, CA 94111
dosias@allenmatkins.com
rmoore@allenmatkins.com
mbetz@allenmatkins.com
Kathryn.Horning@amwater.com
adoherty@allenmatkins.com
Attorneys for California-American Water Company

Robert E. Donlan
Ellison Schneider Harris & Donlan
2600 Capitol Avenue
Suite 400
Sacramento, CA 95816
red@eslawfirm.com
Attorney for California-American Water Company

B. Tilden Kim
Richards, Watson & Gershon
350 South Grand Avenue
37th Floor
Los Angeles, CA 90071
tkim@rwglaw.com
Attorney for Marina Coast Water District

James L. Markman
Richards, Watson & Gershon
1 Civic Center Circle
P.O. Box 1059
Brea, CA 92822-1059
jmarkman@rwglaw.com
Attorney for Marina Coast Water District

Kyle H. Brochard
Richards, Watson & Gershon
350 South Grand Avenue
37th Floor
Los Angeles, CA 90071
kbrochard@rwglaw.com
Attorney for Marina Coast Water District

Ruth Stoner Muzzin
Friedman & Springwater LLP
350 Sansome Street
Suite 800
San Francisco, CA 94104
rmuzzin@friedmanspring.com
Attorney for Marina Coast Water District

James Neudecker
Jeffer, Mangels Butler & Mitchell LLP
Two Embarcadero Center
5th Floor
San Francisco, CA 94111
jneudecker@jmbm.com
*Attorney for RMC Pacific Materials LLC
d/b/a CEMEX*

Paul P. Spaulding, III, Larisa A.
Meisenheimer, Joseph V. Mauch,
Suzanne S. Orza, Chris Berggren
Shartsis Friese LLP
One Maritime Plaza, 18th Floor
San Francisco, CA 94111-3598
sspaulding@sflaw.com
lmeisenheimer@sflaw.com
jmauch@sflaw.com
sorza@sflaw.com
cberggren@sflaw.com
Attorneys for City of Marina

Andrew Sawyer
Tina Leahy
David Rose
1001 I Street 22nd Floor
Sacramento CA 95814
andy.sawyer@waterboards.ca.gov
Tina.Leahy@Waterboards.ca.gov
david.rose@waterboards.ca.gov
*Attorneys for State Water Resources
Control Board*

Tom Luster
Tom.Luster@coastal.ca.gov

Administrative Hearings Office
adminhrgoffice@waterboards.ca.gov