



Date: June 29, 2016

Felicia Marcus, Board Chair  
Tom Howard, Executive Director  
State Water Resources Control Board  
1001 I Street  
Sacramento, CA 95814

Matthew Quint  
Division of Water Rights  
State Water Resources Control Board  
P.O. Box 2000  
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Via Email and Overnight Delivery

Re: ORDER WR 2009-0060 CALIFORNIA AMERICAN WATER-MONTEREY

Dear Ms. Marcus, Mr. Howard and Mr. Quint,

In accordance with the State Water Resources Control Board's ("SWRCB") Notice of Comment Deadline & Rationale Document for Preliminary Staff Recommendation, California-American Water Company ("Cal Am"), the Monterey Peninsula Water Management District ("MPWMD"), the Monterey Peninsula Regional Water Authority ("Authority"), the City of Pacific Grove, and the Pebble Beach Company ("PBC"), collectively "Applicants," hereby submit these comments on the Preliminary Staff Recommendation to Modify Cease and Desist Order WR 2009-0060 ("Preliminary Recommendation"), released by the SWRCB on June 17, 2016. Applicants greatly appreciate the acknowledgement by SWRCB Staff that an extension of the December 31, 2016 deadline in SWRCB Order WR 2009-0060 (the "CDO") to terminate unauthorized diversions from the Carmel River, to December 31, 2021, is necessary and appropriate and would support the tremendous ongoing efforts by Applicants, other state and local agencies, environmental groups, and the Monterey Peninsula community as a whole, to develop alternative water supplies for the Monterey Peninsula without causing great disruption to the community which currently relies in great part on the Carmel River for its water supply. Staff has also acknowledged the years-long efforts of Applicants, stakeholders and Staff to negotiate and develop a mutually acceptable set of conditions for extension of the CDO. Applicants' Amended Application for modification of the CDO, submitted on April 28, 2016 (the "Application"), reflects the results of these negotiated understandings, and many of the negotiated terms and conditions have been proposed by Staff in the Preliminary Recommendation.

Several important conditions proposed in the Preliminary Recommendation, however, deviate substantially from the conditions previously discussed and negotiated with Staff, and these changes

pose significant risks to the Monterey Peninsula community. Specifically, Applicants have significant concerns with four particular changes made by Staff in the Preliminary Recommendation. Applicants consider these particular conditions critical to water supply reliability and the economic health of the Monterey Peninsula, and feel strongly that they cannot practically be complied with. Accordingly, Applicants respectfully request that Staff modify the Preliminary Recommendation as follows:

- **The Effective Diversion Limit:** The Effective Diversion Limit (“EDL”) in the Amended CDO should be set at 8,310 acre-feet per annum (“afa”) throughout the extension period, as requested in the Application, and not the EDL of 7,990 afa proposed in the Preliminary Recommendation. Applicants also believe that the Preliminary Recommendation ignores the significant instream dedication of water to the Carmel River under the Trust for Public Land Forbearance Agreement (“Forbearance Agreement”), which should be considered in support of setting the EDL at 8,310 afa.
- **Carryover Credits:** The Amended CDO should allow Cal Am to carry over water credits to a subsequent water year when its diversions are less than the EDL in a given year, up to a maximum of 750 acre feet, even if the carryover results in an EDL in excess of 8,310 afa. The 8,310 EDL proposed in the Application reflects a carefully balanced compromise that will put Cal Am and the community up against the maximum authorized diversion limits in most non-drought years, and the carryover is critical to allow a minor degree of flexibility to accommodate variations in water demand from year to year.
- **Supplemental Water Rights and Acquisitions:** The Amended CDO should allow Cal Am to increase the EDL in any given year in an amount equal to 50% of any water rights or instream flows acquired pursuant to the supplemental water acquisition provisions in the Amended CDO. This was a condition initially proposed by Staff and was a critical consideration to the Applicants in agreeing to an EDL of 8,310 afa. This condition also allows Cal Am and the community to share in both the benefits and costs of additional investments in supplemental water rights and conservation. Without the shared benefit of these investments and the opportunity to carry those benefits over to later water years, the incentive to make these investments is eliminated.
- **Milestone #1:** The deadline proposed in the Preliminary Recommendation for Milestone 1 (i.e., approval by the California Public Utilities Commission (“CPUC”) of the Pure Water Monterey Groundwater Replenishment Project’s (“GWR Project”) water purchase agreements for Cal Am’s purchase of water from the project and construction of certain Cal Am conveyance facilities) should be changed from September 30, 2016 to December 31, 2016. Applicants are open to the concept of creating a milestone in 2016 and believe that CPUC approval of GWR purchase agreements is an appropriate milestone, but the current CPUC schedule for this approval is too uncertain at this time to consider September 30, 2016 as an appropriate milestone date.<sup>1</sup>

Applicants believe that these changes are necessary to avoid adoption of a modified CDO that jeopardizes the community’s ability to sustain compliance. The terms proposed in the Application are

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<sup>1</sup> On June 28, 2016, Cal Am and other interested parties filed a motion asking the CPUC to confirm its decision schedule. Please see the further discussion in footnote 4 in Attachment A hereto.

the results of substantial negotiation and compromise among Applicants, Monterey Peninsula cities and local agencies, environmental groups, and SWRCB Staff to reach consensus on a modified CDO that will both facilitate community support for the Monterey Peninsula Water Supply Project ("MPWSP") and also progress toward eliminating unauthorized diversions from the Carmel River. A more detailed explanation of the changes requested by Applicants, a description of the negotiations that led to the Application, and a listing of some of Cal Am's ongoing efforts to comply with the CDO's order to diligently implement actions to terminate unlawful diversions from the Carmel River, are provided in Attachment A hereto. The deviations from the Application made in the Preliminary Recommendation disrupt the carefully crafted balance achieved through negotiation and compromise, and create a significant (and likely unacceptable) risk that circumstances beyond Applicants' control may result in non-compliance with the CDO conditions during the extension period.

Applicants provide these comments well in advance of the comment deadline in order to provide ample time for the SWRCB and Staff to fully review and consider these measures before the comment deadline, and long before the SWRCB Board meeting on July 19, 2016. Applicants respectfully request that Staff modify its proposed amended CDO in accordance with these comments.<sup>2</sup>

Sincerely,



**Robert G. MacLean**  
President  
California-American Water Company



**Dave Stoldt**  
General Manager  
Monterey Peninsula Water Management District



**Bill Kampe**  
Monterey Peninsula Regional Water Authority  
Mayor, City of Pacific Grove



**Dave Stivers**  
Executive Vice President  
Pebble Beach Company

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<sup>2</sup> As noted, in this letter Applicants have focused their comments on four critical conditions proposed in the Preliminary Recommendation. However, Applicants, collectively or individually, intend to submit additional comments by the comment deadline.

## Attachment A

### I. Requested Revisions to the Preliminary Recommendation

#### A. The Agreed Effective Diversion Limit of 8,310 afa Should be Adopted

The EDL of 8,310 afa proposed in Applicants' Application was the result of lengthy negotiations with SWRCB Staff, and the hard work of many parties to reach a consensus. Despite sincere concern by Applicants that this EDL may be very close to risking an exceedance because of water use variations outside the control of Applicants, the Applicants accepted this EDL as potentially viable.

In contrast, given mandatory reductions in Seaside Groundwater Basin pumping in coming years, an EDL of 7,990 afa substantially increases the likelihood of exceeding the EDL during the CDO extension period to unacceptable levels, despite Cal Am's and MPWMD's continued conservation efforts. All reasonable conservation efforts are presently employed and will continue. Cal Am and MPWMD will not change any of the ongoing water conservation policies and practices regardless of the EDL. Indeed, in its self-certification to the SWRCB, Cal Am reported that "Due to SWRCB CDO and Order 95-10, we are choosing to use the 8% reduction target set by the State in response to the Emergency Drought Regulation," rather than allow a reduction in conservation efforts.

To a significant extent, water consumption by Cal Am's customers are outside of Applicants' control, as are numerous federal and state agency approvals necessary to develop alternative supplies. Factors such as a reduction in the statewide public awareness campaign that had alerted people to drought conditions and the need to conserve, less media attention, greater visitor occupancy, and hotter and/or dryer years that could cause additional landscape irrigation, could all contribute to an increase in water use and trigger an unintended exceedance of the EDL. Moreover, the Preliminary Recommendation's proposal to eliminate the carryover credit and water acquisition credit proposed in the Application will make it difficult for Cal Am and the community to take proactive action to avoid exceeding the lower EDL.

Figure 1 on the next page illustrates that with an EDL of 7,990 afa, insufficient supplies would be available to meet demand even with continuing conservation measures. Carmel River pumping limits are depicted by the blue bars, both historical CDO limits (Water Years 2013-2014 and 2014-2015) and as projected under the Preliminary Recommendation's EDL of 7,990 afa (Water Year 2015-2016 through Water Year 2021-2022). The proposed EDL of 7,990 afa is 1,713 af less than currently allowed under the CDO. The Seaside Basin limits (purple bar) for the same period are included to analyze available supply. Seaside Basin pumping reductions, occurring every three years, are highlighted by the red arrows. If future conditions are comparable to Water Year 2013-2014, during which aggressive conservation measures were taken, an EDL of 7,990 afa as suggested by SWRCB Staff would result in a supply shortfall beginning immediately and continuing throughout the CDO extension period. If future conditions are comparable to the most recent prior Water Year of 2014-2015, during which emergency conservation measures were taken pursuant to the Governor's Proclamation of a State of Emergency and the statewide drought, a supply shortfall first occurs in the 2017-2018 Water Year and continues throughout the CDO extension period.

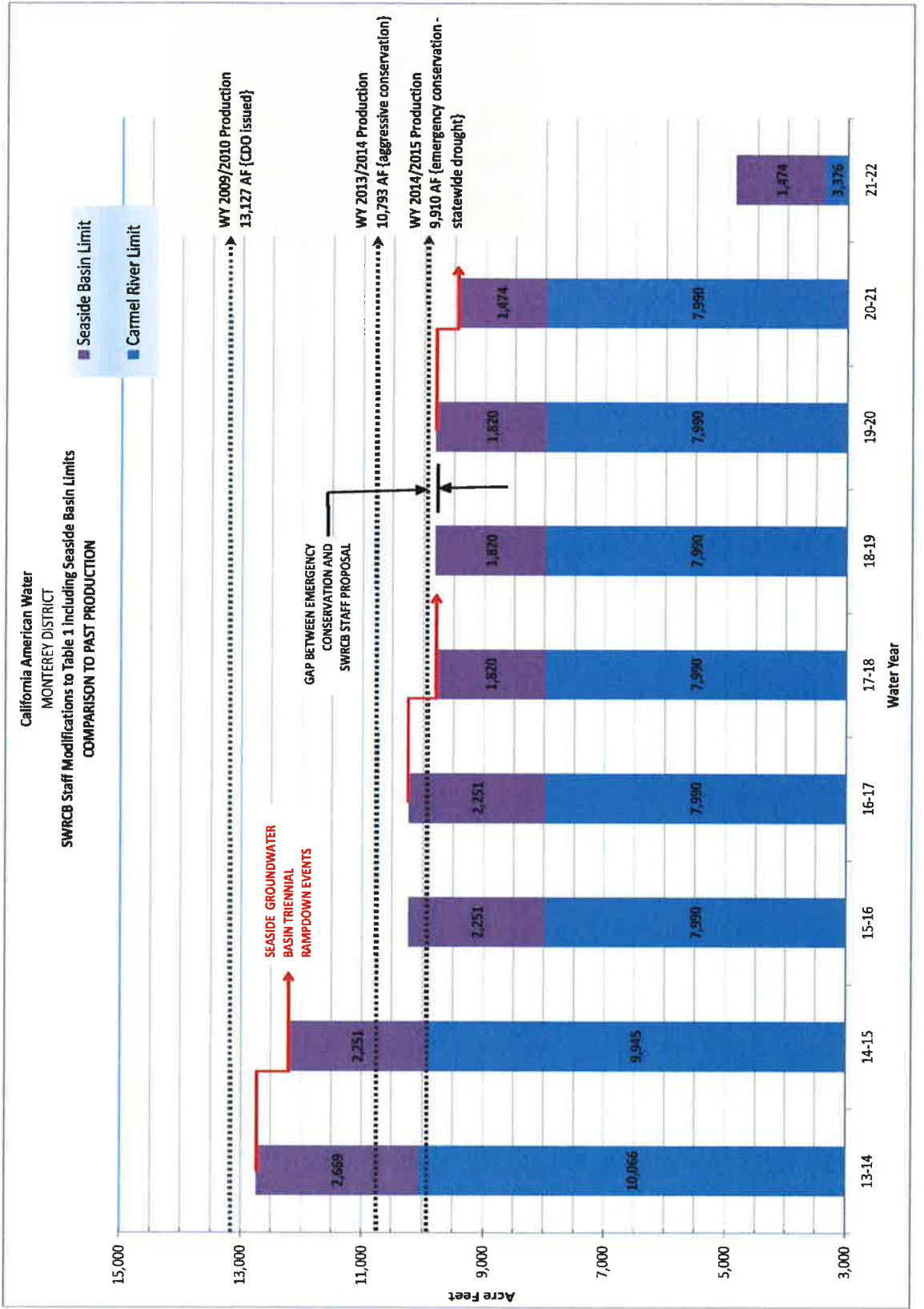


Figure 1

The Preliminary Recommendation also is silent on Cal Am's substantial investment in the Forbearance Agreement. Cal Am entered into the Forbearance Agreement in order to increase the flow in the Carmel River, as a means to partially offset its unauthorized diversion. As stated in the Application, the Forbearance Agreement between Cal Am and TPL, with approval and support of all parties (including parties who had originally opposed an EDL of 8,310), provides important justification for an EDL of 8,310 afa by causing the elimination of up to 300 afa of Carmel River production. The difference between the EDL of 7,990 proposed in the Preliminary Recommendation, and the consensus EDL of 8,310 afa, closely reflects the volumes of water being returned to the river under the Forbearance Agreement. Cal Am made a commitment to invest approximately \$3 million to facilitate the Forbearance Agreement. MPRWA and MPWMD accepted this investment as reasonable on the basis that it was necessary to gain unanimous consent by the Planning and Conservation League ("PCL"), Sierra Club, and the Carmel River Steelhead Association to the 8,310 afa EDL. Applicants respectfully request that Staff and the SWRCB recognize the substantial investment and benefits of the Forbearance Agreement, near-term and long-term, and set the EDL for the Amended CDO at the negotiated 8,310 afa.

#### **B. Carryover Credits**

The Application proposes a carryover credit, such that if Cal Am's actual diversions during a given Water Year are less than the EDL for that Water Year, Cal Am would be credited for the difference between the EDL and actual diversions. Any such credit could be carried over to a subsequent year, up to 750 afa, to offset a potential exceedance of the EDL in a future water year. The Preliminary Recommendation would eliminate the application of carryover credits above the 7,990 afa EDL.

Applicants object to this "hard cap." The carryover credit was a concept developed through negotiations that included SWRCB Staff, and is an important component of the overall balance struck in the package of measures presented in the Application. Carryover credits provide a cushion for Cal Am and its customers and promote efficient management of river resources. Eliminating the carryover credit above the 7,990 EDL would eliminate flexibility to accommodate variations in water demand from year to year. We respectfully request that Staff reconsider the implicated incentives, that the credit program be included in the Amended CDO up to 750 afa, and that the credit not be limited to the EDL value.

#### **C. Supplemental Water Rights and Acquisitions**

The Application proposes that if Cal Am is able to identify suitable and willing transacting parties, Cal Am will exercise reasonable efforts to acquire supplemental Carmel River rights at acceptable costs, and/or will pursue other Carmel River water acquisitions and water rights changes in order to increase flows in the Carmel River and decrease unauthorized diversions. The Application also proposes that Cal Am would use its best efforts to implement such a program to the extent it can negotiate acceptable agreements. A fundamental aspect of this condition was that 50% of any water acquired or made available under this condition, after the effective date of the amended CDO, would be credited to increase the EDL in that year, or carried over to a succeeding year as a credit.

The Preliminary Recommendation disallows the use of such acquisitions to increase the EDL, and prohibits carryover of credits associated with the acquisition. In so doing, the Preliminary Recommendation eliminates any incentive for Cal Am and its rate-payers to pursue such water rights and acquisitions. Applicants cannot accept a proposal which potentially requires Cal Am's customers to shoulder unreasonable costs with no corresponding benefit. Moreover, the Preliminary Recommendation inappropriately eliminates the language in the Application that all terms in such acquisition agreements be reasonable and acceptable.

**D. Milestone 1 Deadline of September 30, 2016**

The Preliminary Recommendation adds two milestones to those proposed by Applicants. The first, Milestone 1, for CPUC approval of a water purchase agreement and construction of Cal Am components related to the GWR Project, sets a deadline of September 30, 2016. Applicants are willing to accept the additional milestones, but meeting the deadline of September 30, 2016 is already outside of Applicants' control. Cal Am has timely submitted its application to the CPUC for the required approvals related to the GWR Project, and had anticipated a decision in August 2016.<sup>3</sup> Indeed, the CPUC reported to the SWRCB in a May 20, 2016 comment letter supporting the Application that a decision by the CPUC on these issues was scheduled for August 2016. But on June 10, 2016, the CPUC issued a Ruling that sets a workshop and public participation hearing for September 1, 2016 to address, among other things, "the current status of the proposed Water Purchase Agreement between [Cal Am] and the Pure Water Monterey Project," with an opportunity for the public to provide comments on these topics. Given this newly-noticed workshop and public hearing to discuss the GWR Project, Applicants cannot agree to a condition that requires the CPUC to reach a decision on the GWR Project water purchase agreement and conveyance facilities on or before September 30, 2016, when the date for CPUC action is in doubt. Applicants therefore respectfully request that the deadline for this Milestone be extended to December 31, 2016.<sup>4</sup>

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<sup>3</sup> Approvals from other agencies have already been obtained, and certain challenges to the project have also been resolved. For example, environmental review of the Cal Am conveyance facilities related to the GWR Project were reviewed in an EIR addendum which was approved by MPWMD on June 20, 2016, and a Notice of Determination was filed with the Office of Planning and Research on June 23, 2016. Additionally, protests raised by the National Oceanic and Atmospheric Association ("NOAA") and the California Department of Wildlife, respectively, concerning water rights applications for the GWR Project, have been resolved.

<sup>4</sup> On June 28, 2016, Cal Am and certain other parties in CPUC proceedings related to the GWR Project jointly filed with the CPUC a Motion for Ruling Confirming the Phase 2 Schedule. The parties to that motion seek confirmation that the CPUC's conditions for adopting a procedural schedule that provides for a decision on the GWR Project water purchase agreement and conveyance facilities by August 18, 2016 had been met. However, at this time, the parties have received no assurance from the CPUC that such a decision will be forthcoming by the September 30, 2016 Milestone 1 Deadline set forth in the Preliminary Recommendation. Cal Am will update the SWRCB with any additional information as soon as it becomes available.

## II. Events Leading to the Amended Application for an Order Modifying the CDO

### A. Historical Efforts to Reduce Diversions, Develop Alternative Supplies, and Reduce River Impacts

On October 20, 2009, the SWRCB issued the CDO, WRO 2009-0060, and ordered Cal Am to “terminate all unlawful diversions from the [Carmel] river no later than December 31, 2016.” The CDO also set a base diversion limit of 10,978 afa, with interim cumulative reductions prior to the 2016 deadline. Cal Am has fully complied with the CDO and has exceeded the required performance standards and reduced its Carmel River diversions far below the CDO requirements. Below is a chart of Cal Am’s Carmel Valley well production for Water Year (“WY”) 2009-2010 through WY 2014-2015, with the corresponding CDO target for that water year.

Water Year	CV Well Production	CDO Target
2008-2009	10,467.72	N/A
2009-2010	9,785.50	10,429.00
2010-2011	8,558.92	10,429.00
2011-2012	7,646.07	10,308.00
2012-2013	8,007.77	10,187.00
2013-2014	7,743.53	10,066.00
2014-2015	7,228.24	9,945.00

Reduced production in recent years has been significantly influenced by unprecedented drought conditions and regulatory responses to the drought, which may not continue during the CDO extension period. Further, recent reductions in Carmel River production were also tied to well outages and over-reliance on the Seaside Groundwater Basin that cannot be sustained in the future.

The community has continuously and aggressively pursued and, where possible, diligently implemented, projects to develop alternatives to Carmel River water supplies for the Monterey Peninsula. The community has invested millions of dollars and substantial human capital in furtherance of that effort, and has made substantial progress towards both obtaining alternative sources of supply and reducing demand. The Monterey Peninsula has achieved a level of conservation that exceeds that achieved by most other communities in California. Since Order 95-10, the Monterey Peninsula has cut its water consumption from the Carmel River by 46% due to a series of programs requiring investment and sacrifice. Additionally, despite setbacks along the way, Cal Am has persevered in its efforts to comply with the CDO’s command to “diligently implement actions to terminate its unlawful diversions from the Carmel River.” The Staff Rationale accompanying the Preliminary Recommendation lists some of these efforts, but merely notes that several large-scale proposals were “proposed, vetted, and ultimately failed.” Given the substantial time and effort put into these proposals by many, brief elaboration is in order.

- The SWRCB found in Order WR 95-10 in July, 1995, among other things, that groundwater in the Carmel Valley aquifer was a subterranean stream and subject to the permitting jurisdiction of the SWRCB. On that basis, the SWRCB found that Cal Am lacked water rights to pump the full



quantities of water it was producing from the Carmel Valley aquifer. In 1996 Cal Am sought CPUC approval to construct a dam and reservoir to increase its water supplies to meet community needs (the Carmel River Dam and Reservoir Project). MPWMD prepared a Supplemental Environmental Impact Report ("EIR") in 1998, building from the EIR certified for use in MPWMD's New Los Padres Dam and Reservoir (a project by MPWMD pre-dating Order WR 95-10). However, in 1998, Assembly Bill (AB) 1182 (Stats. 1998, Ch. 797) was enacted, which required the CPUC to identify an alternative to the dam. The CPUC completed a water supply contingency plan in 2002, concluding that a combination of desalination and aquifer storage and recovery could produce 10,730 afa, and the Carmel River Dam and Reservoir Project was determined to be no longer viable.

- In 2004 Cal Am filed an application with the CPUC for the Coastal Water Project, to replace existing Carmel River water supplies. The CPUC published a draft EIR in 2009, analyzing project impacts as well as two alternatives. In 2010, the CPUC approved Cal Am's participation in a project alternative, the Regional Desalination Project, with the Monterey County Water Resources Agency and Marina Coast Water District. In 2012, following allegations of a conflict of interest of a board member of one of the public agencies, court decisions finding violations of the California Environmental Quality Act ("CEQA") and ordering preparation of a new EIR, and other obstacles, Cal Am withdrew from the project and applied to the CPUC for a new project to address water supply issues.
- In 2012, Cal Am filed an application with the CPUC for the Monterey Peninsula Water Supply Project ("MPWSP"), a three-part project combining (1) a desalination plant and associated source-water slant wells and conveyance system, (2) the Pure Water Monterey Groundwater Replenishment Project to treat recycled water and replenish the Seaside Basin, and (3) an aquifer storage and recovery project to store water lawfully diverted from the Carmel River in the Seaside Basin for subsequent recovery. A draft EIR was released in April 2015, but the CPUC decided to revise and recirculate the draft EIR as a joint Draft EIR/Draft Environmental Impact Statement ("EIS"), with the Monterey Bay National Marine Sanctuary as the federal lead agency under the National Environmental Policy Act ("NEPA"). On March 17, 2016, the CPUC issued a new schedule for the joint EIR/EIS, with certification of the Final EIR/EIS now not expected until November 8, 2017.
- Although originally planned to be developed concurrently with a desalination plant, Cal Am has sought expedited authorization from the CPUC, separate and apart from the desalination project, to enter into a water purchase agreement and to construct a pipeline and pump station for the GWR Project to deliver GWR Project water to its customers. Assuming the CPUC promptly grants these approvals, Cal Am expects to begin delivering GWR Project water to its customers by 2018.
- In early 2016, the Carmel River Reroute and San Clemente Dam Removal project was substantially completed. This project, the largest dam removal project in California history, was jointly developed and/or funded by Cal Am, the State Coastal Conservancy, and NOAA's National Marine Fisheries Service, PCL, and the Nature Conservancy. This project has resulted in

substantial improvements to Carmel River flow and to habitat for the threatened South-Central California Coast steelhead and California red-legged frog.

- On April 25, 2016, Cal Am and TPL entered into the Forbearance Agreement, whereby Cal Am will pay TPL to forbear from diverting about 1,000 acre-feet over a four year period, and dedicate that volume of water to improve fish habitat and riparian conditions in the Carmel River. Prior to this transaction, the water had been used for golf course and landscaping irrigation. Cal Am's participation in the project is to partially offset Cal Am's unauthorized diversions, obtain recognition from the SWRCB for that offset, and achieve unanimous support among interested parties for an EDL of 8,310 afa during the CDO extension period.
- Numerous other projects undertaken by Cal Am are further described in the Application.

#### **B. Negotiations for an Extension of the CDO Deadline**

In January 2014, recognizing that the MPWSP would likely not be completed before the CDO deadline of December 31, 2016, Cal Am and other stakeholders began discussing an extension of the CDO to allow for sufficient time for the MPWSP to come on line.<sup>5</sup> Applicants have invested countless hours working with Monterey Peninsula cities and local agencies, environmental groups, and SWRCB Staff to reach a consensus on how to best balance the need to obtain alternative supplies for the Monterey Peninsula and reduce Carmel River diversions, while at the same time ensuring the health and safety and economic viability of Monterey Peninsula. As Staff recognized in the Rationale Document, "[t]hese discussions were productive and a broad framework emerged." Indeed, the Application and Proposed Order submitted by Applicants reflect these discussions and the consensus reached among interested parties, including SWRCB Staff, about how best to balance the need to facilitate progress toward alternative water supply development, continued protection of the Carmel River environment, and the health, safety and economic needs of the community.

Through discussions with SWRCB Staff, Applicants focused on measures to limit unauthorized diversions from the Carmel River, and on measures to protect and enhance the Carmel River fishery during the extension period. As a result of these preliminary discussions, Applicants proposed an EDL from the Carmel River of 8,671 afa as the maximum annual volume of water that Cal Am would be authorized to divert from the Carmel River during the CDO extension period, taking into account various debits if milestones are missed, and credits from activities that increase Cal-Am's authorized diversions or increase flows in the Carmel River. The initially proposed EDL of 8,671 af was calculated by deducting 1,000 af from the 2016 diversion limit established in WR Order 2009-60 of 9,671 af.

As a result of negotiations with SWRCB Staff and other stakeholders, the EDL number evolved into a proposed diversion limit of 8,671 afa in the first year of an extension period, and 8,310 afa thereafter, a number suggested by SWRCB Staff. These numbers reflected average diversion amounts over the recent hydrologic period, and also accounted for realistic assumptions about water volumes that Cal Am

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<sup>5</sup>Attendees at a January 15, 2014 meeting to discuss an extension of the CDO included Cal Am, SWRCB Staff, and representatives from the City of Carmel, City of Pacific Grove, City of Sand City, Monterey Peninsula Regional Water Authority, Monterey Peninsula Water Management District, Pebble Beach Company, local business groups, the Sierra Club, and the Carmel River Steelhead Association.

could produce from other non-Carmel River sources such as the Seaside Groundwater Basin. Community representatives were concerned that a diversion limit of 8,310 afa put the community on a “razor’s edge,” leaving little or no room between the anticipated water demands of the community during non-drought conditions, and compliance with the EDL limit in the CDO. Nevertheless, by the time the original application for a modification of the CDO was filed on November 20, 2015, the Applicants had agreed to accept the first-year EDL of 8,310 afa, with penalties imposed in the form of a reduction in the EDL of 1,000 afa for missed milestones.

The 8,310 afa EDL included agreed-upon opportunities for credits to add to the 8,310 afa throughout the extension period, and assumed that pumping less than the EDL in one year would allow for carry over into subsequent years. The 8,310 EDL thus reflects a delicate balance to motivate Cal Am and the other Applicants to achieve the milestones reflecting progress toward development and implementation of the alternative water supply projects while not fostering an exceedance of the EDL and corresponding enforcement procedures. That delicate balance, presented in the Applicant’s proposal, includes penalties for missed milestones and obligations to make substantial investments in projects to provide environmental benefits to the Carmel River during the extension period. The total package of measures reflected in the Application was the result of nearly two years of cooperative negotiations that ultimately achieved consensus among the parties. NOAA Fisheries staff also reviewed the draft proposal and did not object to an EDL of 8,310 afa. SWRCB Staff did not express concerns or alternative rationale for the proposed EDL, and Applicants reasonably understood that the negotiated provisions were supported by Staff.

Following the CPUC’s notification that the Final EIR/EIS on the MPWSP would be delayed approximately one year, the parties went back to work to reach an agreement on modifications to the project milestones to accommodate a CDO deadline of December 31, 2021. The Applicants submitted a revised Application on April 28<sup>th</sup>, 2016. The revised Application requested an additional year to bring the MPWSP fully on-line, from 2020 to 2021, and in exchange proposed a number of additional conditions, including a new lower initial EDL of 8,310 afa. At about the same time, in April 2016, Cal Am negotiated a forbearance agreement with TPL to pay TPL approximately \$3 million over a four year period to reduce and retire pumping of water from the Carmel River system that had been used to irrigate the two Rancho Canada golf courses in the lower Carmel River Valley. This transaction was undertaken with the support of PCL and the Sierra Club, who each agreed that the additional Carmel River flow resulting from the transaction would justify their support of the 8,310 afa EDL. PCL and Sierra Club were also supportive of the Applicants’ commitment to reduce the EDL on a one-for-one basis in any year that GWR Project water can be delivered to Cal Am’s customers. The availability of up to 3,500 afa of GWR Project water as early as 2018, and a one-to-one reduction in Cal Am’s unauthorized diversions for every acre-foot of GWR Project water delivered, could substantially accelerate the timeframe for ending unauthorized diversions. These additional commitments and efforts by the Applicants were developed and proposed with the understanding that the EDL during the CDO extension period would be 8,310 afa, and that the other water accounting measures and conditions set forth in the Application would allow Cal Am and the community to fully comply with the amended CDO throughout the extension period.