

Coalition of Peninsula Businesses

A coalition to resolve the Peninsula water challenge to
comply with the CDO at a reasonable cost

*Members Include: Monterey County Hospitality Association, Monterey Commercial Property Owners Association,
Monterey Peninsula Chamber of Commerce, Carmel Chamber of Commerce, Pacific Grove Chamber of Commerce,
Monterey County Association of Realtors, Community Hospital of the Monterey Peninsula,
Associated General Contractors – Monterey District, Pebble Beach Company*

January 18, 2017

Ms. Kathy Mrowka
Mr. John O'Hagan
Ms. Marianna Aue
Mr. Les Grober
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Dear Ms. Mrowka, Mr. O'Hagan, Ms. Aue and Mr. Grober,

This letter is to reiterate the position of the Coalition of Peninsula Businesses in support for the revised language and supporting documentation regarding Condition 2 as submitted by Monterey Peninsula Water Management District on January 3, 2017. The Coalition would urge SWRCB staff to accept the proposed revised language and the interpretation of Condition 2 by MPWMD.

As you know the Coalition, representing several organizations listed on this letterhead, has been an active participant in efforts to secure a long-term water solution with the ultimate goal to eliminate the over-pumping of the Carmel River. We participated with several members speaking at the SWRCB hearing and the meeting held with all of you.

We appreciated the opportunity to meet with staff and other interested parties last month to discuss Condition 2 of the Cease and Desist Order. We feel that good progress was made in addressing the difficulties in the interpretation of Condition 2 and the negligible impact on consumption, however it is apparent that subsequent conversations and emails among the interested parties still exists with additional clarification needed.

We fully understand and accept that no new meters can be set under the Cease and Desist Order. It is also important to note that the CDO is against Cal Am and the community as a whole and not against any individual property owner, whether commercial or residential. It should not be the obligation of any property owners to bear a disproportionate burden while the community is under the CDO. The Effective Diversion Limit as provided for in the extension of the CDO is the ultimate control and under which the entire community must do its part to support and comply with.

While it may not be the SWRCB's issue, it is important to understand how development and property rights are tied to the water allocation system that has existed for decades and has been the basis for making substantial economic decisions, while in fact conserving water. The ability to use or develop a property has been limited by the water allocated to a particular property. This allocation has been based on either the uses that predated the MPWMD or since the creation of the District with allocations being purchased. The allocation process has been well understood as one of the restricting factors in the use of one's property. It has also determined property values as well as promoting investment interests dependent on water availability for the site. The arbitrary nature of the interpretation of Condition 2 where existing uses can continue to use the historical allocation, but then a different legal and permitted use cannot, is unreasonable and does not make sense. To arbitrarily limit only those where there is a change in use or zoning at this time is extremely unfair to those property owners who have made significant investments based on reliance of the historical and current MPWMD regulations and policies.

As an example of the impact of this Condition consider the following:

The Monterey Bay Aquarium recently purchased two buildings on Cannery Row that had been largely vacant over the measurement period in the interpretation of Condition 2. Their investment decision was predicated on the historical water allocations using the MPWMD's established policies and practices. Based on this knowledge and reliance on past practices, they made very significant economic commitments. They determined the value of the property and further prepared to repurpose the property by demolishing one building and creating a new building to support different uses, converting from a former restaurant and retail uses to an educational center. It would appear that this would be an intensification of use resulting from a "change in use" under the interpretation of Condition 2. However, we understand that this is not considered to be a change in use and as such, demolition has begun.

The decision by the Monterey Bay Aquarium to purchase the property and to make plans for repurposing this site using the historical allocation was reasonable as was the interpretation that it was not a change in use. The interpretation of Condition 2 should be written so that there is certainty that permitted uses that do not increase use over the historical allocation are permitted. There are numerous other properties with very similar circumstances that need similar certainty.

If there is a concern of differing treatment between commercial properties and residential properties by others, we believe there should not be. There should be no distinction between properties and each should be entitled to utilize the property within the established allocation limits and per MPWMD established policies and regulations.

Finally, the discussion and emails all seem to focus on increased use that might occur but ignore the reality that the community is dynamic and the conditions are constantly changing. The fact is that some businesses increase and other decrease. The issue that is being considered here is a very small issue on a macro level (community consumption) but a very significant issue on a micro level (individual property owners).

The Coalition strongly believes that you accept the proposed revised language and interpretation of Condition 2 by MPWMD. It is our opinion that the entire community water use should be regulated to achieve the effective diversion limit from the Carmel River, not just individual properties in both the commercial and residential classifications, all should be regulated under the District's existing "water counting" rules, which are designed to ensure there is no increase in use. Historically this regulatory system has worked. Given a savings of 3000 acre feet of water since the CDO was issued, it is evident this practice along with other rules and regulations is serving the critical objective, reducing over-pumping of the Carmel River.

The Coalition appreciates the opportunity to be involved with this process as we continue to represent the opinions of commercial and residential individuals within our community in a unified manner.

Sincerely,



John Narigi
Chair, Coalition of Peninsula Businesses



Bob McKenzie
Consultant, Coalition of Peninsula Businesses

cc: Coalition Membership