

## State Water Resources Control Board

### NOTICE OF APPLICATION TO MODIFY STATE WATER BOARD ORDER WR 2009-0060 BY CALIFORNIA-AMERICAN WATER COMPANY

COUNTY: Monterey

STREAM SYSTEM: Carmel River

#### SUMMARY

On October 20, 2009, the State Water Resources Control Board (State Water Board) adopted State Water Board Order WR 2009-0060, a cease and desist order regarding California-American Water Company's (Cal-Am's) unlawful diversions from the Carmel River. At that time, Cal-Am was diverting an average of 10,978 acre-feet per annum from the Carmel River, with an average of 7,602 acre-feet being without a valid basis of right. Order WR 2009-0060 requires Cal-Am to take various actions, and to terminate all unlawful diversions from the Carmel River by December 31, 2016. At the time the Order was issued, Cal-Am, other parties to the hearing, and the State Water Board anticipated that the Coastal Water Supply Project, a proposed large-scale desalination project, would be developed and used as the primary water supply for the Monterey Peninsula communities. The Coastal Water Supply Project was never developed. Cal-Am's unlawful diversions from the Carmel River have decreased since 2009, but remain substantial.

On November 20, 2015, Cal-Am, along with the Monterey Peninsula Regional Water Authority (MPRWA), Monterey Peninsula Water Management District (MPWMD), the Pebble Beach Company, and the City of Pacific Grove, filed an application under Water Code section 1832, to modify Order WR 2009-0060. The applicants request that the State Water Board issue a new, amended order that extends the deadline for Cal-Am to terminate all unlawful diversions from the Carmel River from December 31, 2016, to December 31, 2020, to allow additional time to develop replacement water supplies. On April 28, 2016, the same applicants filed an amended application requesting an extension of the compliance timeline until December 31, 2021, and other changes to the initial application.

A copy of Cal-Am's current application, as well as the previous filing, is available at:

[http://www.waterboards.ca.gov/waterrights/water\\_issues/projects/california\\_american\\_water\\_company/index.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/projects/california_american_water_company/index.shtml).

The application requests an extension of the deadline for Cal-Am to eliminate unauthorized diversions from the Carmel River from December 31, 2016 until December 31, 2021, with certain milestones to demonstrate progress and mandatory reductions of diversions if milestones are missed. It anticipates that, by then, two new water supply projects, the Monterey Peninsula Water Supply Project (MPWSP) and the Pure Water Monterey Project (Pure Water), will provide water to Monterey Peninsula communities. MPWSP is a proposed desalination project using slant well technology with a designed capacity of up to 9.6 million gallons per day. Pure Water will deliver purified recycled water for groundwater replenishment, domestic delivery to Monterey Peninsula urban water customers and treated water for Salinas Valley irrigation. MPRWA and MPWMD are jointly developing Pure Water. Additionally, applicants anticipate a second pipeline for an existing groundwater storage project, the Aquifer Storage and Recovery (ASR) Project, will allow for additional lawful diversions from the Carmel River in wet years.

Under the requested changes to Cal-Am's compliance schedule, Cal-Am could continue Carmel River diversions at a level of 8,310 acre feet per annum, so long as permitting and construction milestones for the water supply and diversion projects are met. Failure to meet the milestones

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would result in significant annual reductions in the amount Cal-Am could divert from the Carmel River. The application proposes a "credit" system to adjust the annual reduction amount if a milestone is not achieved. Additionally, the application requests changes to the manner in which ASR pumping and agreements to reduce pumping of lawful diversions affect the diversion limits in the compliance schedule. Applicants also request other minor changes to Order 2009-0060.

#### **EX PARTE COMMUNICATIONS BAR**

Because consideration of this application to amend an existing cease and desist order will come before the entire State Water Board, State Water Board staff has decided, in an abundance of caution, to implement an ex parte communications bar regarding consideration of the application. Please limit any communications regarding the application, aside from non-controversial procedural matters, to written comments, which will be posted at:

[http://www.waterboards.ca.gov/waterrights/water\\_issues/projects/california\\_american\\_water\\_company/index.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/projects/california_american_water_company/index.shtml).

This website will be the means through which all communications regarding the application are disclosed to interested parties. The State Water Board has posted all comments received since the first application was filed.

#### **TIMELINE FOR CONSIDERATION OF THE APPLICATION**

The State Water Board anticipates considering whether to make changes to State Water Board Order 2009-0060 at a Board Meeting, on or about **July 19, 2016**. State Water Board staff anticipates releasing a recommendation on action for the State Water Board's consideration prior to that date. The staff recommendation will be posted on or about **June 16, 2016** at:

[http://www.waterboards.ca.gov/waterrights/water\\_issues/projects/california\\_american\\_water\\_company/index.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/projects/california_american_water_company/index.shtml)

#### **PUBLIC COMMENT**

Any comments on the application that will be taken into account prior to release of the staff recommendation are due by **June 1, 2016**.

The deadline for submitting written comments for the State Water Board to consider in its action will be announced upon posting of the staff recommendation. Comments may also be submitted at the State Water Board meeting where the item is under consideration. Please direct any correspondence to:

Mr. Matthew Quint  
State Water Resources Control Board  
Division of Water Rights  
P.O. Box 2000  
Sacramento, CA 95812-2000  
[Matthew.Quint@waterboards.ca.gov](mailto:Matthew.Quint@waterboards.ca.gov).  
(916) 341-5400 (fax)

Please note that our server cannot accept files of greater than 15 megabytes in a single e-mail message. Those hand-delivering comments must check in with Cal/EPA Building lobby security personnel, who can contact Mr. Quint or the Division of Water Rights. Procedural questions of a non-controversial nature may also be addressed to Mr. Quint.

Date of Notice: **May 6, 2016**