

SEASIDE GROUNDWATER BASIN WATERMASTER

SPECIAL BOARD MEETING AGENDA

TUESDAY, AUGUST 25, 2009, 3:00 P.M.

MONTEREY REGIONAL WATER POLLUTION CONTROL AGENCY

BOARD ROOM, 5 HARRIS COURT, BUILDING "D"

"RYAN RANCH"

MONTEREY, CALIFORNIA

WATERMASTER BOARD:

City of Seaside – Mayor Ralph Rubio, Chair

Coastal Subarea Landowner – Director Paul Bruno, Vice Chair

Monterey Peninsula Water Management District – Director Judi Lehman, Secretary

City of Del Rey Oaks – Mayor Joseph Russell, Treasurer

California American Water – Director Craig Anthony

Laguna Seca Subarea Landowner – Director Bob Costa

City of Monterey – Mayor Chuck Della Sala

City of Sand City – Mayor David Pendergrass

Monterey County/Monterey County Water Resources Agency -- Supervisor Dave Potter, District 5

I. CALL TO ORDER

II. ROLL CALL

III. MINUTES;

The minutes of the Regular Board meeting of July 1, 2009 are attached to this agenda. The Board is requested to consider approving the minutes.

IV. REVIEW OF AGENDA

If there are any items that arose after the 72-hour posting deadline, a vote may be taken to add the item to the agenda pursuant to the requirements of Government Code Section 54954.2(b). (A 2/3-majority vote is required.)

V. PUBLIC COMMUNICATIONS

Oral communications is on each meeting agenda in order to provide members of the public an opportunity to address the Watermaster on matters within its jurisdiction. Matters not appearing on the agenda will not receive action at this meeting but may be referred to the Watermaster Administrator or may be set for a future meeting. Presentations will be limited to three minutes or as otherwise established by the Watermaster. In order that the speaker may be identified in the minutes of the meeting, it is helpful if speakers would use the microphone and state their names. Oral communications are now open.

VI. CONSENT CALENDAR

A. Consider Approval of Summary for Payments Made during July and August, 2009 totaling \$105,826.49

B Consider Year-End Financial Reports – Through July 31, 2009

VII. ORAL PRESENTATION

A. Receive update and provide instruction to staff concerning the City of Seaside's proposed golf course in-lieu replenishment program

VIII. OLD BUSINESS

- A. Review and Consider draft letter to the SWRCB requesting modification of the Draft Cease and Desist Order regarding California American Water's diversions from the Carmel River.
- B. Discuss and Consider taking Action regarding comments submitted by Watermaster on the Draft Environmental Impact Report (DEIR) on the California American Water--Coastal Water Project.

IX INFORMATIONAL REPORTS (No Action Required)

- A. Timeline Schedule of Milestone Dates (Critical date monitoring)
- B. Technical Advisory Committee (TAC) minutes of August 12, 2009
- C. Water Production Report for Third Quarter of Water Year 2009 (April 1, 2009 through June 30, 2009)
- D. Revised Water Production Limits for Water Year 2008-2009 for DBO Development and Granite Rock

X. DIRECTOR'S REPORTS

XI. EXECUTIVE OFFICER COMMENTS

XII. NEXT REGULAR MEETING DATE –SEPTEMBER 2, 2009 (MRWPCA-Board Room) 2:00 P.M.

XIII. ADJOURNMENT

This agenda was forwarded via e-mail to the City Clerks of Seaside, Monterey, Sand City and Del Rey Oaks; the Clerk of the Monterey Board of Supervisors, the Clerk to the Monterey Peninsula Water Management District; the Clerk at the Monterey County Resources Agency and the California American Water Company for posting on August 20, 2009 per the Ralph M. Brown Act, Government Code Section 54954.2(a).

ITEM NO. III.

MINUTES

REGULAR MEETING
Seaside Groundwater Basin Watermaster
July 1, 2009

DRAFT MINUTES

I. CALL TO ORDER

Chairman Rubio called the meeting to order at 2:00 p.m. in the Monterey Regional Water Pollution Control Agency Boardroom at 5 Harris Court, Building D, Monterey.

II. ROLL CALL

City of Seaside – Mayor Ralph Rubio, Chairman
Coastal Subarea Landowner – Director Paul Bruno, Vice Chair
Monterey Peninsula Water Management District (“MPWMD”) – Director Judi Lehman, Secretary
City of Del Rey Oaks – Mayor Joseph Russell, Treasurer
Laguna Seca Subarea Landowner – Director Bob Costa
California American Water (“CAW”) – Director Craig Anthony
City of Monterey – Mayor Charles “Chuck” Della Sala
City of Sand City – Mayor David Pendergrass
Monterey County/Monterey County Water Resources Agency (“MCWRA”) – Curtis Weeks (Alternate)

Absent: None

III. APPROVAL OF MINUTES

It was moved by Director Weeks, seconded by Director Bruno, and unanimously carried to approve the minutes of the Watermaster Regular Meeting of May 6, 2009.

IV. REVIEW OF AGENDA

There were no changes to the agenda.

V. PUBLIC PARTICIPATION/ORAL COMMUNICATIONS

There were no questions or comments from the public.

VI. CONSENT CALENDAR

- A. Consider Approval of Summary for Payments made during May and June 2009 totaling \$94,717.00.
- B. Consider current year Financial Reports – Through June 30, 2009.
- C. Approve two payments authorized and paid by CEO each under the \$10,000 authorized limit.
 - 1. HydroMetrics: \$7,500 (Obtain additional groundwater modeling data)
 - 2. MPWMD: \$5,000.00 (Make improvements to Watermaster database)

Moved by Director Weeks, seconded by Director Lehman, and unanimously carried, to approve the consent calendar as presented.

VII. ORAL PRESENTATION

There were no oral presentations scheduled.

VIII. OLD BUSINESS

A. COMMITTEE REPORTS

1. TECHNICAL ADVISORY COMMITTEE (TAC)

- a) The Board reviewed the submitted TAC report responding to informational requests from the Board regarding City of Seaside obtaining irrigation for its golf courses from the Marina Coast Water District (MCWD). Mr. Robert Jaques, Watermaster Technical Program Manager, stated it was the opinion of the TAC that it would not be possible for the City of Seaside-MCWD proposed project to achieve sufficient in-lieu replenishment of the Seaside Basin during the current Water Year in order to avert pumping reductions required by the Decision. He stated that the TAC did not look at the 09/10 water year however he was aware that, taking into consideration the new golf course irrigation design for conservation, the amount of water needed for irrigation for the upcoming year would be roughly 500 acre feet; with the 10% reduction equating to 560 acre feet, it appears that there would not be enough savings from the project to offset the 10% reduction in pumping even if the project was operational the entire upcoming water year. Chair Rubio stated the project was feasible for the City and MCWD however the City was not entering into agreements until Watermaster made a determination of the amount of offset made possible by the project and whether the court would accept the offset in whole or part. The Watermaster Budget and Finance Committee had not met yet on the issue.

Director Bruno felt that data obtained and determinations made by the TAC relating to one of the four conditions in the Decision that allows an exemption to the 10% cutback – sufficient groundwater levels in the basin determined to create a positive offshore gradient – should be addressed when seeking approval from the court for an accrued production offset.

Director Anthony expressed confidence that California American Water would reduce its pumping by 10% this water year.

Chair Rubio directed staff to

- Convene a Budget and Finance Committee on how to finance the project
- Provide a status report at the next regular meeting on basin production versus pumping limits for the current water year (Production amounts are due July 15th for a compilation of a report on production through 3 quarters of the current water year)
- Provide a report on the steps deemed necessary by Watermaster to implement the project by October 1, 2009
- Determine via a legal interface with the court if any accrued production offset from the project could be applied against the 10% cutback for the current or ensuing water year.

IX. NEW BUSINESS

A. COMMITTEE REPORTS

1. TECHNICAL ADVISORY COMMITTEE (TAC)

- a) The Board reviewed the submitted memorandum from Mr. Jaques regarding the selection of scenarios to be evaluated by the updated Seaside Basin Groundwater Model. Mr. Jaques stated that HydroMetrics LLC, the consultant to Watermaster for groundwater modeling, was hopeful that it could provide preliminary modeling information to the TAC by August 2009. The TAC selected five scenarios for presentation to the board out of many submitted by HydroMetrics. The Recycled Urban Water Augmentation Project could be considered as being included in scenarios where water is brought in from outside the basin (not necessarily identified from where). Mr. Jaques stated that HydroMetrics was tasked with the details of the outcomes of the scenarios, and it could be determined by the TAC that detailed data warranted additional scenarios. The intent of the scenarios was to determine 1) protective water levels, 2) storage, and 3) water movement. Since the location of the seawater/groundwater interface is unknown, scenarios could not factor that in. The “baseline” scenario would be one where nothing changes, boundary conditions would be established and changes would be tracked by other scenarios over time. Once protective water levels were reached, the basin would be considered “full.”

Moved by Director Costa, seconded by Director Weeks, and unanimously carried, to approve the selection of scenarios to be evaluated by the updated Seaside Basin Groundwater Model as presented.

- b) The Board reviewed the submitted Request for Service (RFS) from Martin Feeney to install a new monitoring well in the inland area of the former Fort Ord where no wells currently exist as per the Monitoring and Management Program (M&MP) scope of work and 2009 Capital Fund budget. A cluster of wells was recommended as less expensive to install and likely to give the most reliable data. The RFS allows up to 1,000 feet of drilling in order to obtain the data although 800 feet is hoped to be all that is needed. CEO Evans advised the board that the RFS provides for the transfer of \$44,199 from the Operations Fund to the Capital Fund to cover full projected costs. Director Lehman requested that the wording in the RFS be changed to more clearly reflect that the cost includes one installation of 3 “clustered” wells to avoid being interpreted as a per-well cost.

Joe Oliver, MPWMD Senior Hydrologist, responded to Mayor Russell’s inquiry stating that one of the scenarios approved in the previous agenda item would consider where existing wells could be redistributed to more effectively pump from the basin and possibly optimize its yield. The monitoring site being pursued is in an area of the basin where no wells were currently located and placement would aid in a better understanding of the basin’s characteristics including underlying formations. Director Bruno stressed the critical need for a clear determination of the importance of obtaining data at the considered location not only because of the high costs involved,

but also to properly prioritize the competing need to obtain data along the coast to determine protective water levels. Mr. Feeney responded that the priority placement of the well at the considered location was based on the need to know the gradient of inflow recharging the basin across General Jim Moore Boulevard in order to determine protective levels. No control data currently exists with the exception of water level data from 20 years ago from the well at Camp Hoffman. He felt that inland control was needed and that the Decision called for monitoring in that area.

Mr. Jaques stated the TAC felt Mr. Feeney's rates were very reasonable in comparison to similar services bid elsewhere in recent years. The TAC had confidence in his selection due to his extensive work with so many well drilling contractors in this part of the County. Watermaster was saved the cost of an added contingency by not going out to bid.

Moved by Mayor Della Sala, seconded by Mayor Russell, and unanimously carried, to approve the Request for Service to Martin Feeney to design and construct a monitoring well at an estimated cost of \$262,599 at the location specified, and to transfer \$44,199 from the Operations Fund to the Capital Fund to cover the estimated funding shortfall.

X. INFORMATIONAL REPORTS (No Action Required)

- A. Timeline Schedule of Milestone Dates (Critical date monitoring)
- B. Technical Advisory Committee minutes of April 22, May 13, May 28 & June 10, 2009
- C. Water Production Report for Second Quarter Water Year 2009 (January 1 - March 31, 2009)
- D. TAC Progress Report on two topics: Groundwater Modeling – Protective Water Levels and Installation of New Monitoring Well

XI. DIRECTORS' REPORTS

Director Bruno would be absent next meeting on August 5, 2009 and inquired if he could call into the meeting. The MRWPCA board room does not have the capability for wireless internet conferencing - there is only a speaker phone that is hard for the remote listener to hear through. Director Bruno would send an alternate.

Mayor Pendergrass, speaking as a representative of Watermaster, stated that the SNG Ecoresort court case had been appealed by MPWMD that claimed to have CEQA authority, challenging Judge Randall's ruling that no CEQA was required under the Decision. Mayor Pendergrass felt that other permit requests to MPWMD from water rights holders under the Decision would be scrutinized, challenged and delayed in like manner by MPWMD. Mayor Pendergrass requested that Watermaster strategize on how to protect the interests of the basin and the pumper's rights. Chair Rubio directed that legal counsels within each respective jurisdiction determine if there were concerns that needed to be brought collectively to the board and provide a reporting at the next regular meeting as a possible action item.

XII. EXECUTIVE OFFICER COMMENTS

Third quarter water production and level reporting is due July 15, 2009 in order to report final amounts at the next regular meeting. Water quality analysis is due August 15, 2009 for inclusion in the Annual Report due in November. The next Watermaster TAC meeting is scheduled for Wednesday, August 12, 2009 at 1:30pm at the Seaside City Hall portable building conference room; the July meeting is cancelled. Next Budget and Finance Committee meeting to be announced by e-mail notice. The TAC has had a continuing agenda item regarding the status of the City of Seaside in-lieu golf course irrigation project and any update is listed in the TAC minutes provided at each regular board meeting. Chair Rubio requested that the City of Seaside look at the issue and determine if any further assistance is needed from the TAC. Marina Coast Water District and the City of Seaside were meeting today; unknown what time and what issues were to be discussed.

Mr. Freeman reported that the State Water Resources Control Board has the Draft Cease and Desist Order on its closed session agenda on July 7, 2009.

XIII. NEXT MEETING DATE – Regular Meeting to be held on August 5, 2009, at the Monterey Regional Water Pollution Control Agency (MRWPCA) Board meeting room at 5 Harris Court, Building "D" on Ryan Ranch in Monterey at 2:00 p.m.

XIV. There being no further business, Chairman Rubio adjourned the meeting at 3:00 p.m.

ITEM NO. VI.

CONSENT CALENDAR

**SEASIDE GROUNDWATER BASIN
WATERMASTER**

TO: Board of Directors
FROM: Dewey D Evans, CEO
DATE: August 25, 2009
SUBJECT: Summary of Payments Authorized to be paid during July and August, 2009.

PURPOSE:

To advise the Board of payments authorized to be paid during the months of July and August, 2009

RECOMMENDATIONS:

Consider approving the payment of bills submitted and authorized to be paid during the month of July, 2009

COMMENTS and FISCAL IMPACT:

DDEvans Consulting (Professional Services Agreement—CEO)—June 1, 2009 through June 30, 2009 worked on Watermaster business a total of 61.0 hours at \$100.00 per hour or **\$6,100.00**. Reviewed and discussed TAC meeting agenda with Bob Jaques and others as appropriate. Responded to a variety of telephone calls, meetings, email correspondence with a number of people regarding a wide variety of items involving the Seaside Basin. This month special interest was focused on the HydroMetrics contract on groundwater modeling and the RFS with MPWMD. Several discussions were held with Joe Oliver and Bob Jaques on water production and water quality reports. Coordinated setting up and attending a variety of Watermaster related meetings. Prepared staff action and informational reports for the July 1, 2009 regular Board meeting.

Robert “Bob” Jaques (Technical Program Manager)—May 28, 2009 through June 26, 2009 worked a total of 60.50 hours at \$100.00 per hour or **\$6,050.00**. Prepared TAC material, attended and transcribed minutes for meetings of May 28 and June 10, 2009. Research and respond to Bureau of Land Management letter regarding location of monitoring well. Met with Joe Oliver of MPWMD regarding change in water sampling methods. Prepared staff reports for July 1, 2009 Board meeting agenda. Prepared RFS for Martin Feeney for monitoring well installation; reviewed and approved HydroMetrics and MPWMD invoices.

HydroMetrics, LLC—Four invoices were submitted and authorized for payment during the months of June and July totaling **\$53,801.99**. The four invoices included 374 hours of time spent finalizing the 2008 Basin Management Plan, working on the Seaside Basin Model and attending and participating in the Watermaster TAC meetings.

Martin Feeney—One invoice was submitted and authorized for payment for the month of July for **\$2,850.00**. The amount billed and paid was for the final amounts owed for RFS—2009--01 and 02 which were issued to assist the Watermaster with the selection of a site for design and construction of new monitoring well and to prepare Basis of Design Report for the construction of a monitoring well in the inland area of the former Fort Ord.

Monterey Peninsula Water Management District (MPWMD)—Three invoices were submitted and authorized for payment for the third quarter of Water Year 2008-2009, (January 1, 2009 through March 31, 2009) totaling **\$28,624.50**. The amounts billed include conducting ongoing data entry/database maintenance, site representation and selection, collect monthly water levels, quarterly water quality samples, prepare Basin Management and Action Plan, perform seawater intrusion analysis, prepare response plan, etc. during the entire year.

DDEvans Consulting—(Professional Services Agreement--CEO)—July 1, 2009 through July 31, 2009 worked on Watermaster business a total of 62.0 hours at \$100.00 per hour or **\$6,200.00**. Activities for the month consisted of preparing and attending July 1, 2009 Watermaster Board meeting and follow-up items. Discussions and review of TAC meeting agenda with Bob Jaques. Discussions, preparing for and attending Budget and Finance Committee meeting and follow-up items. Review, discuss and sent out reminder notices to water producers on need for water production and water level reports. Reviewed and discussions with City of Seaside personnel regarding Watermaster financial accounts. Coordinated with City of Seaside the transfer of 10 acre feet of water rights from Granite Rock to City of Seaside. Reviewed and paid bills, received and reviewed SWRCB—Cease and Desist Order regarding Calif. American Water. Reviewed and discussed HydroMetrics contract with Bob Jaques.

Robert “Bob” Jaques—(Technical Program Manager)—June 30, 2009 through July 31, 2009 worked a total of 22.0 hours on Watermaster business at \$100.00 per hour or **\$2,200.00**. Activities for the month included attending RPOG meeting in Marina; met with Martin Feeney at Sentinel Well site for induction logging; prepared for and attended Watermaster Board meeting on July 1, 2009; attended Budget and Finance Committee meeting; preparing for TAC related meetings; attended MPC Board meeting regarding approval of monitoring well site on future MPC property on Fort Ord; reviewed and approved HydroMetrics invoices; sent variety of e-mails on TAC and other related matters.

Total payments authorized to be paid during July and August, 2009 totaled **\$105,826.49**

Seaside Groundwater Basin Watermaster
Budget vs. Actual Administrative Fund
 Fiscal Year (January 1 - December 31, 2009)
 Balance through July 31, 2009

	<u>2009 Adopted Budget</u>	<u>Contract Amount</u>	<u>Year to Date Revenue / Expenses</u>
Available Balances & Assessments			
Dedicated Reserve	25,000.00		25,000.00
FY 2008 (Estimated Rollover)	24,241.00		24,241.00
FY 2009 Assessments	108,759.00		93,097.70
Available	<u>158,000.00</u>		<u>142,338.70</u>
Expenses			
Contract Staff	108,000.00	108,000.00	49,100.00
Legal Advisor	25,000.00	-	-
Total Expenses	<u>133,000.00</u>	<u>108,000.00</u>	<u>49,100.00</u>
Total Available	25,000.00		
Dedicated Reserve	<u>25,000.00</u>		
Net Available	<u><u>-</u></u>		

Seaside Groundwater Basin Watermaster
Budget vs. Actual Monitoring & Management - Operations Fund
 Fiscal Year (January 1 - December 31, 2009)
 Balance through July 31, 2009

ITEM VI.B.
8/25/2009

	<u>2009 Adopted Budget</u>	<u>Contract Encumbrance</u>	<u>Year to Date Revenue/Expenses</u>
Available Balances & Assessments			
Monitoring & Management - Ops Fund	\$ 683,998.00	\$ -	\$ 636,118.14
FY 2008 Rollover	133,496.15	-	133,496.15
Total Available	\$ 817,494.15	\$ -	\$ 769,614.29
Appropriations & Expenses			
GENERAL			
Technical Project Manager	\$ 100,000.00	\$ 100,000.00	\$ 35,125.00
Contingency @ 20% (not including TPM)	45,273.00	\$ 45,273.00	-
Total General	\$ 145,273.00	\$ 145,273.00	\$ 35,125.00
CONSULTANTS (Hydrometrics)			
Program Administration	\$ 35,000.00	\$ 35,000.00	\$ -
Production/Lvl/Qlty Monitoring	29,000.00	-	-
Basin Management (BMAP, Modeling)	305,000.00	294,200.00	161,887.33
Seawater Intrusion (Plan, Analysis)	37,000.00	35,960.00	5,900.00
Total Consultants	\$ 406,000.00	\$ 365,160.00	\$ 167,787.33
MPWMD			
Production/Lvl/Qlty Monitoring	\$ 99,670.00	91,000.00	\$ 13,670.00
Basin Management	12,800.00	12,800.00	5,200.00
Seawater Intrusion	6,800.00	6,800.00	1,600.00
Direct Costs	-	5,840.00	7,629.50
Total MPWMD	\$ 119,270.00	\$ 116,440.00	\$ 28,099.50
OTHER			
Program Administration	\$ -	\$ -	\$ -
Production/Lvl/Qlty Monitoring	2,645.00	-	-
Basin Management	4,600.00	1,447.50	1,447.50
Seawater Intrusion	6,210.00	1,447.50	1,447.50
Total MRWMD	\$ 13,455.00	\$ 2,895.00	\$ 2,895.00
Transfer Out to Capital Fund			44,199.00
Total Appropriations & Expenses	\$ 683,998.00	\$ 629,768.00	\$ 233,906.83
Total Available	133,496.15		

**Seaside Groundwater Basin Watermaster
Budget vs. Actual Monitoring and Management - Capital Fund
Fiscal Year (January 1 - December 31, 2009)
Balance through July 31, 2009**

ITEM VI.B.
8/25/2009

	2009 Adopted Budget	Contract Encumbrance	Year to Date Revenue / Expense
Available Balances and Assessments:			
Monitoring & Management Fund - Capital	\$ 225,000		\$ 209,250
FY 2007-2008 Rollover to 2009	-		9,877
Transfer in from Operations Fund	-		44,199
Subtotal	<u>225,000</u>		<u>263,326</u>
Appropriations & Expenses:			
Professional Services			
Project Management	-	-	-
Subtotal	<u>-</u>	<u>-</u>	<u>-</u>
Direct Costs			
Well Drilling -	225,000	275,199	11,625
Subtotal	<u>225,000</u>	<u>275,199</u>	<u>11,625</u>
Total Appropriations and Expenses	<u>\$ 225,000</u>	<u>\$ 275,199</u>	<u>\$ 11,625</u>
Total Available	<u>\$ -</u>		

Footnote 1 - Contract amounts with Martin Feeney total \$275,199.00 which includes the site location, design work, and installation of a monitoring well in the inland area of the former Fort Ord. Funding for the project consists of:

Cash in Fund - Rollover	\$ 9,877
Assessments collected FY 2009	209,250
Transfer In from M&M Operations Fund	44,199
Assessments owed by City of Seaside	
FY 2007 \$ 7,000	
FY 2009 15,750	22,750
Total	<u>\$ 286,076</u>

ITEM NO. VII.

ORAL PRESENTATION

**SEASIDE GROUNDWATER BASIN
WATERMASTER**

TO: Board of Directors

FROM: Dewey D Evans, CEO

DATE: August 25, 2009

SUBJECT: City of Seaside's Proposed Golf Course In-Lieu Replenishment Program

RECOMMENDATION:

Receive update and provide instruction to staff concerning the City of Seaside's proposed golf course in-lieu replenishment program.

DISCUSSION:

Representatives from the City of Seaside will update the Board on the proposed golf course in-lieu replenishment program and staff will be ready to receive further instructions from the Board.

ATTACHMENTS:

None

ITEM VIII.

OLD BUSINESS

**SEASIDE GROUNDWATER BASIN
WATERMASTER**

TO: Board of Directors
FROM: Dewey D Evans, CEO
DATE: August 25, 2009
SUBJECT: Letter to State Water Resources Control Board (SWRCB) requesting modification of the draft Cease and Desist Order regarding California American Water's diversions from the Carmel River

PURPOSE:

To present to the Board a draft letter from the Watermaster to the State Water Resources Control Board requesting a modification of the draft Cease and Desist Order regarding California American Water's diversions from the Carmel River, dated July 27, 2009.

RECOMMENDATION:

Consider approving the attached draft letter from the Watermaster requesting a modification of the draft Cease and Desist Order regarding California American Water's diversions from the Carmel River.

DISCUSSION:

The proposed letter requests that the SWRCB take into consideration the adjudicated groundwater rights that allows for transfers of water rights between parcels within the Seaside Groundwater Basin and such other rights allowed for in the Court decision.

ATTACHMENTS:

Two letters are attached:

- 1) The first is the proposed letter that the Board is being asked to approve for sending to the SWRCB.
- 2) The second letter is from the City of Seaside that is referenced in the Watermaster draft letter

**SEASIDE GROUNDWATER BASIN
WATERMASTER**

August 17, 2009

VIA ELECTRONIC MAIL TO:
COMMENTLETTERS@WATERBOARDS.CA.GOV

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

RE: Cal-Am CDO Hearing Workshop
Subj: Seaside Groundwater Basin Watermaster Comment Letter

Dear Ms. Townsend:

I am the chairman of the Seaside Basin Watermaster ("Watermaster). The Watermaster concurs with the comments submitted by the City of Seaside, and joins in Seaside's request that the State Water Resources Control Board ("Board") modify the Draft Cease and Desist Order ("Draft CDO") to except the 108.728 acre-feet of remaining allocation within Monterey Peninsula Water Management District's ("MPWMD") Water Allocation Program from the Draft CDO's proposed moratorium on new and expanded water service.

The Watermaster further requests that the Board modify the Draft CDO with respect to the provisions set forth at page 55, which provide that any community seeking to develop a new source of supply must first apply the new water to reduce its share of the water being illegally diverted by Cal-Am. Watermaster is concerned that this provision could be interpreted to prohibit a holder of adjudicated groundwater rights within the Seaside Basin from exchanging Seaside groundwater rights for water service from Cal-Am, or from wheeling pumped groundwater through Cal-Am's water service infrastructure. The Watermaster therefore requests that the Board modify this provision of the Draft CDO to ensure that it is not interpreted to apply to such circumstances.

The court judgment that adjudicated groundwater rights within the Seaside Groundwater Basin allows for transfers of adjudicated rights between parcels overlying the Seaside Basin. However, it may be far more convenient for the parties, and in the best interest of the Basin, that groundwater rights be exchanged with and pumped by Cal-Am to serve a specific parcel or parcels rather than being pumped by the water rights holder. An apt example is a parcel adjacent to the coast that enjoys adjudicated groundwater rights. By exchanging the adjudicated rights with Cal-Am for water service, the groundwater rights can be pumped from Cal-Am's inland wells rather than from coastal wells that may increase the potential for seawater intrusion into the Basin. Likewise, circumstances may arise in which the convenience of the parties, and the desire to avoid construction of duplicative infrastructure, warrant the wheeling of pumped groundwater through Cal-Am's infrastructure.

Allowing these types of common water distribution arrangements would not add any additional burden upon the Carmel River since Cal-Am's delivery obligation would be limited to the water that it has either already pumped pursuant to an exchange agreement or received pursuant to a wheeling agreement. Allowing these types of arrangements will, however, afford needed flexibility within the

Seaside Basin Watermaster's Comment Letter

Page 2

current constrained water supply environment, and assist Watermaster in properly managing the use of the adjudicated groundwater rights in the most efficient and prudent manner possible.

For the above-stated reasons, the Watermaster respectfully requests that the Board add the following text to the end of Section 19.2 of the CDO:

The provisions of this Section 19.2 shall not be interpreted to prohibit any entity possessing adjudicated groundwater rights within the Seaside Groundwater Basin from either: (1) exchanging such adjudicated groundwater rights with Cal-Am for water service from Cal-Am pursuant to an exchange agreement, provided that Cal-Am commits to not exchange water in excess of the quantity that it produces from the Seaside Groundwater Basin in advance of such exchange; or (2) wheeling water produced pursuant to such adjudicated rights through Cal-Am's infrastructure pursuant to a wheeling agreement, provided that that Cal-Am commits to not wheel water in excess of the quantity that it receives in advance.

The Watermaster appreciates the opportunity to make this request and thanks the Board for its consideration.

Sincerely,

Ralph Rubio
Seaside Basin Watermaster Chairman

cc: Dewey Evans, Seaside Basin Watermaster Executive Director

City of Seaside Letterhead

August 19, 2009

VIA ELECTRONIC MAIL TO:
COMMENTLETTERS@WATERBOARDS.CA.GOV

Jeanine Townsend
Clerk of the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

RE: Cal Am CDO Hearing Workshop
Subj: City of Seaside's Comment Letter

Dear Ms. Townsend:

The Draft Cease and Desist Order ("Draft CDO") proposes to implement a moratorium on new or expanded water service within California American Water's ("Cal Am") service area.¹ The City of Seaside respectfully requests that the State Water Resources Control Board ("Board") modify the Draft CDO to except the 108.728 acre-feet of remaining allocation within Monterey Peninsula Water Management District's ("MPWMD") Water Allocation Program² from the proposed water service moratorium. If adopted as drafted, the proposed moratorium would impose a substantial hardship upon the local community without a commensurate benefit to the Carmel River in-stream habitat. The City of Seaside asks that the Board consider the following key points in this regard:

- Except for the roughly 108 acre-feet of remaining allocation within the MPWMD Water Allocation Program, a water service moratorium is already in place since no new water service can be initiated within the Cal Am service area as a result of the MPWMD's water distribution regulations.
- Eliminating the 108 acre-feet of remaining allocation would significantly harm the communities that have planned upon its availability to support essential in-fill development, including projects of great social value, such as senior and affordable housing units.
- The City of Seaside would be especially harmed because it possesses roughly half (54.8 acre-feet) of the remaining allocation. Although the City was only granted about 20% of the original allocation, its opportunities for use of its allocation have been restrained by the economic challenges facing the City following the closure of the adjoining Fort Ord Army Base in 1993. Because of the City's restrained use of its allocation, its share of the total remaining allocation has grown, while other jurisdictions used their allocation. As a result, the City would now be disproportionately harmed by the elimination of the remaining 108 acre-feet of allocation.

¹ See Paragraphs 2(a) and (b) of the Draft CDO, p. 58.

² The MPWMD's Water Allocation Program was established by Ordinance No. 52, adopted on December 13, 1990. An allocation of 308 acre-feet of water was allocated among the Peninsula communities by MPWMD Ordinance No. 70, adopted on June 21, 1993 following the drilling of the Peralta Well within the Seaside Groundwater Basin. No further allocations have been made since.

City of Seaside's Comment Letter

August 19, 2009

Page 2

- The City of Seaside has relied upon its remaining allocation for its planning goals, and has identified 15 in-fill development projects that it intends to support with this allocation. (See Seaside Exhibit 6.) As presented at the CDO hearing, the City's economist concluded that an inability to proceed with these projects would result in a loss of up to \$2.7 million in the City's future general fund revenue (9% of the City's anticipated 2012 revenue), and a loss of approximately 900 new long-term jobs and 1,620 one-time jobs associated with the construction of these projects. (Seaside Exhibit 7, Decl. of David Zehnder, 3:1-5.)
- Included within the City's planned infill development are projects of significant social value, including up to 150 affordable senior housing units, and expansions to the City library and City Hall.
- The 108 acre-feet of remaining allocation is a comparatively small amount of water. Indeed, it would represent less than one percent of the water served annually within the Cal Am service area, and less than 3/10 of one percent of the amount of stream flow within the Carmel River at the Highway 1 bridge during the 2008-2009 water year (a below-average precipitation year.)
- Exempting this 108 acre-feet of future use should not adversely impact the Carmel River habitat. (See Direct Testimony of Kevan Urquhart (MPWMD's fisheries biologist), Phase II, p. 6 [explaining that "the draft CDO's first two levels of diversion cuts for CAW are probably not enough to permanently re-water very much habitat, year round in all water year types, and thus may serve no more than a policy/disciplinary benefit for the Board, and not much of an ecological one for the river and its aquatic life, including steelhead and red-legged frogs."])

The City acknowledges the fundamental challenges facing the Steelhead Trout and other habitat requirements within the Carmel River. The City also will continue to do all in its capacity to support and hasten regional efforts to develop alternative water supplies. However, in the interim, the Draft CDO must balance the needs of the river and the community's needs. The Public Trust Doctrine requires as much. (*National Audubon Society v. Superior Court of Alpine County* (1983) 33 Cal.3d 419, 446-447 [the state's duty is to "balance the diverse interests" involved when rendering water resource decisions, and "to preserve, so far as consistent with the public interest, the uses protected by the trust."]) The Draft CDO's proposed immediate moratorium on all new and expanded water service connections, without regard for the MPWMD's existing program, does not reflect a fair balancing of the diverse public interests involved. The proposed immediate and complete moratorium would substantially harm the community's financial and social welfare for the reasons explained, but would achieve little benefit for the Carmel River's in-stream habitat given the comparatively small amount of allocation remaining. A more equitable and balanced approach would be to provide that no new or expanded water service may be initiated except pursuant to the remaining 108 acre-feet within the MPWMD's Water Allocation Program.

The City also concurs with the comments submitted by the Seaside Basin Watermaster, and joins in the Watermaster's request that the Board modify the Draft CDO with respect to the provisions set forth at page 55 of the Draft CDO concerning development of new supply sources to clarify that these provisions do not prohibit a party from exchanging adjudicated groundwater rights within the Seaside Basin for water service from Cal Am or wheeling water through Cal Am's system. As explained in Watermaster's comment letter, such common water distribution strategies provide important flexibility and advantages with respect to the prudent management of the Seaside Groundwater Basin.

City of Seaside's Comment Letter

August 19, 2009

Page 3

Thank you for your consideration.

Sincerely,

Ray Corpuz
City Manager

cc: Russell M. McGlothlin

SEASIDE GROUNDWATER BASIN
WATERMASTER

TO: Board of Directors

FROM: Robert S. Jaques, Technical Program Manager
MODIFIED AND APPROVED BY: Dewey Evans, CEO

DATE: August 25, 2009

SUBJECT: Discuss and consider taking Action regarding comments submitted by
Watermaster on the Draft Environmental Impact Report (DEIR) on the California
American Water (CAW) Coastal Water Project (CWP)

RECOMMENDATION:

Provide direction to staff regarding any actions the Board wishes to have pursued regarding the matter of having additional water provided to the Seaside Groundwater Basin (SGWB or Basin) through whatever project the California Public Utilities Commission (PUC) recommends or approves.

BACKGROUND:

At its March 18, 2009 meeting the Board directed the Watermaster staff to submit a comment letter on the Draft Environmental Impact Report (DEIR) which was prepared by the PUC for the CAW CWP. A copy of the comment letter that was submitted is attached to this Agenda item.

DISCUSSION:

I was (informally) informed that the response to Watermaster comment is likely to be a recommendation to the PUC that only the 2,600 acre feet per year needed to offset the current level of over-pumping mentioned in the DEIR be included in any project that the PUC approves or recommends for implementation, and that no additional water for the SGWB will be recommended for inclusion in any of the projects being considered in the DEIR. It was also indicated to me that the objective of whatever project is selected is only to “protect” not to “restore” the SGWB. The Watermaster comment in this regard pertained to page 2-1, and also to pages 2-6, 2-7 (Table 2), and 5-3 of the DEIR. The comments, taken directly from the attached comment letter, read as follows:

The amount of water that will be needed to satisfy the Seaside Basin Adjudication Decision will be significantly more than the roughly 2,600 AFY of water that would be needed to enable producers to reduce their production down to the 3,000 AFY Natural Safe Yield established by the Decision. This is because the water levels in the Basin have dropped below levels high enough to protect the wells against sea water intrusion. The annual quantity of water that will be needed to replenish the Basin so as to bring the water levels up to protective levels, and the time period over which that quantity of water will be required, is being determined through studies currently being performed by the

SBW's consultants. The results are expected to be available in late 2009. Until the Modeling work now being undertaken by the SBW is completed and results are available, it is not possible to estimate how much additional water should be provided each year for a specified number of years in order to restore protective ground water levels in the SGWB. Any amount in addition to the 2,600 AFY mentioned above would be helpful, and the larger the additional amount the sooner protective levels will be restored. The SBW recommends that any project which is implemented include initially at least 2,000 AFY of additional water supply to the SGWB (for a total of 4,600 AFY) for an initial period of at least 5 to 10 years, in order to help restore the SGWB. A more refined number and time frame will be available toward the end of 2009, when the Modeling work has been completed. At that time the results of the modeling work could be used to update this initial 2,000AFY quantity. The water demands that each of the Projects is designed to meet should include this additional amount of replenishment water. Therefore, the demand figures shown in several of the tables in Section 2 of the DEIR should be revised accordingly.

Watermaster staff strongly feels that the additional water requested in our comments is essential to the "protection" of the SGWB. Only providing the 2,600 AFY amount proposed in the DEIR will keep the seawater intrusion problem from getting worse, but will still leave the SGWB vulnerable to seawater intrusion. This is because water levels in the SGWB have been clearly shown to be below sea level, and therefore seawater intrusion will occur unless these levels are raised by providing additional water. The exact amount of additional water was estimated by staff to be on the order of 2,000 AFY, but this amount will be refined when the Groundwater Modeling currently being prepared for the Watermaster by HydroMetrics is completed later this year.

It is not clear to staff exactly what action, or approach, can or should be taken by the Watermaster at this point in the PUC's EIR process. It may be that some form of legal filing with the Administrative Law Judge that is overseeing and directing the PUC's process would be in order, or there may be some other approach to raise the Watermaster's concerns regarding this matter.

Staff wishes to make sure the Board is aware of this situation, so it can provide to staff whatever direction it feels is appropriate.

ATTACHMENT:

1) Letter and Comments on Coastal Water Project Draft Environmental Impact Report dated March 24, 2009 from Watermaster CEO to Mr. Andrew Barnsdale, C/O Coastal Water Project

**Seaside Basin Watermaster
2600 Garden Road, Suite 228
Monterey, CA 93940
(831) 641-0113**

March 24, 2009

Mr. Andrew Barnsdale
C/O Coastal Water Project
Environmental Science Associates
225 Bush Street, Suite 1700
San Francisco, CA 94104

Subject: Comments on Coastal Water Project Draft Environmental Impact Report

Dear Mr. Barnsdale:

Through a legal process that is referred to as an "Adjudication" the Seaside Basin Watermaster was created on March 26, 2006 by entry of Judgment in California Superior Court, Monterey County, under Case No. M66343. The purpose of the Watermaster is to assist the Court in the administration and enforcement of the provisions of the Judgment, which pertains to overseeing and managing the groundwater resources of the Seaside Groundwater Basin. The Watermaster's objective is to help resolve the problems of lowered groundwater levels and the threat of seawater intrusion which are the result of overpumping of the Basin.

The Seaside Basin Watermaster submits the attached comments pertaining to the Draft Environmental Impact Report for California American Water's Coastal Water Project. For the most part our comments pertain to project components which would directly or indirectly affect the volume and/or quality of water that the Coastal Water Project, and the alternatives to it, is proposing for use in replenishing the Seaside Basin.

If you have any questions regarding our comments, please contact the Watermaster's Technical Program Manager, Mr. Robert Jaques, by telephone to his home office (831) 375-0517 or by email at bobj@mrwpca.com.

Thank you for the opportunity to provide these comments.

Sincerely,

Dewey Evans
Chief Executive Officer

SEASIDE BASIN WATERMASTER COMMENTS ON DEIR FOR THE CAW COASTAL WATER PROJECT

Abbreviations Used in This Table:

CWP = Coastal Water Project

GWRP = Ground Water Replenishment Project

RUWAP = Regional Urban Water Augmentation Project

SGWB = Seaside Ground Water Basin

SBW = Seaside Basin Watermaster

WTP = Water Treatment Plant

DEIR PAGE NO.	PERTAINS TO PROJECT NOs.	COMMENTS
ES-3 (Table ES-1)	1,2,3,4	The 2 to 7 additional injection wells proposed for the SGWB will require approval by the SBW before they can be constructed
ES-7 & Fig. 3- 22b	1,2	SBW approval and a storage agreement between CAW and the SBW should be added under the “Facility Permits” section of the CWP Schedule.
Exec. Summary	3,4	A Schedule should also be included for both Phases 1 and 2 of the Regional Project, so these can be evaluated alongside the CWP Schedule.
ES-13	4	As explained in Section ES.4.2.2 under the subheading titled “Surface Water,” the Phase 4 Regional Project would use the same RUWAP pipeline for both tertiary recycled water and for advanced treated water. This could result in a degradation of quality of the advanced treated water, which would be used to replenish the SGWB, and therefore appears to be in conflict with the State Department of Public Health’s Title-22 regulations pertaining to recycled water, as wells as its Ground Water Recharge Regulations. This apparent conflict should be formally resolved with concurrence from the Department of Public Health, and this aspect of this Project redesigned if necessary.

