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CALIFORNIA AMERICAN WATER
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FILED

FEB - 9 2007

LISA M. GALDOS
CLERK OF THE SUPERIOR COURT
DEPUTY

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF MONTEREY

10 CALIFORNIA AMERICAN WATER,)

11 Plaintiff,)

12 vs.)

13)
14 CITY OF SEASIDE; CITY OF)
MONTEREY; CITY OF SAND CITY;)
15 CITY OF DEL REY OAKS; SECURITY)
NATIONAL GUARANTY, INC.; GRANITE)
16 ROCK COMPANY, INC.; D.B.O.)
DEVELOPMENT COMPANY NO. 27,)
17 INC.; MURIEL E. CALABRESE 1987)
TRUST; ALDERWOODS GROUP)
18 (CALIFORNIA), INC.; PASADERA)
COUNTRY CLUB, LLC; LAGUNA SECA)
19 RESORT, INC; BISHOP MC INTOSH &)
MC INTOSH, a general partnership; THE)
20 YORK SCHOOL, INC.; and DOES 1)
through 1,000, Inclusive,)

21 Defendants.)

22 MONTEREY PENINSULA WATER)
23 MANAGEMENT DISTRICT,)

24 Intervenor.)

25 MONTEREY COUNTY WATER)
RESOURCES AGENCY,)

26 Intervenor.)

27 AND RELATED CROSS-ACTIONS)
28

Case No. M66343

[PROPOSED] ORDER RE: (1)
WATERMASTER'S POST-JUDGMENT
PETITION; AND (2) JOINT POST-
JUDGMENT MOTION TO REQUEST
CLARIFICATION OF THE COURT'S
FINAL DECISION RELATING TO THE
CALCULATION OF THE OVER-
PRODUCTION REPLENISHMENT
ASSESSMENT

(Assigned to Hon. Roger D. Randall, Ret.)

[PROPOSED] ORDER RE: (1) WATERMASTER'S POST-JUDGMENT PETITION; AND (2) JOINT POST-JUDGMENT MOTION TO REQUEST CLARIFICATION OF THE COURT'S FINAL DECISION RELATING TO THE CALCULATION OF THE OVER-PRODUCTION REPLENISHMENT ASSESSMENT

1 Both the Watermaster's Post-Judgment Petition and the City of Seaside's and California
2 American Water's Joint Post-Judgment Motion to Request Clarification of the Court's Final
3 Decision Relating to the Calculation of the Over-Production Replenishment Assessment came
4 regularly for hearing before this Court on January 12, 2007. Present and appearing for their
5 parties were attorneys Nicholas Jacobs for California American Water, Russell McGlothlin and
6 Donald Freeman for City of Seaside, James Heisinger for City of Sand City, David Laredo for
7 Monterey Peninsula Water Management District (MPWMD) and Eric Robinson for Bishop,
8 McIntosh and McIntosh and specially appearing for Laguna Seca Resort, Inc., Pasadera Country
9 Club, LLC, and the York School, Inc.

10 Having reviewed and considered the pleadings, the memoranda of points and authorities,
11 and the documents submitted by the parties, and having heard oral argument by counsel, the Court
12 **HEREBY ORDERS:**

13 1. The Court adopts California American's approach to calculating the Over-
14 Production Replenishment Assessment. The Watermaster shall amend its Rules and Regulations
15 to include the calculation methodology proposed by California American.

16 2. With the revisions set forth below, which were ordered by the Court at the January
17 12, 2007 hearing, the Court approves the Basin Monitoring and Management Program (MMP)
18 submitted with the Watermaster Petition. The MMP shall be revised as follows:

19 a. Watermaster staff shall coordinate with MPWMD and California
20 American to report their quarterly water quality testing in the Seaside Basin. Reports of the testing
21 shall be prepared within ninety days of the testing and made available upon request to the
22 Watermaster.

23 b. Any detection of salinity intrusion in the Seaside Basin by the
24 Watermaster staff or any party to this matter shall be reported immediately to the Watermaster and
25 to the Court.

26 c. No later than March 13, 2007, Watermaster shall report to the Court that a
27 contract has been let for a consultant to oversee implementation of the MMP.

1 d. No later than June 11, 2007, Watermaster shall report to the Court that
2 consultants implementing the MMP have designated and identified the sites for drilling the
3 groundwater monitoring wells required by the MMP.

4 3. The Decision shall be amended to reflect that after the potential 10% reduction in
5 Operating Yield that may occur on January 1, 2009, subsequent potential reductions would occur
6 triennially thereafter on October 1st of 2011, 2014, 2017, 2020, 2024, etc. This change reflects the
7 switch from an Administrative Year to a Water Year/Fiscal Year. For the initial potential 10%
8 reduction in Operating Yield that will occur, if at all, on January 1, 2009, the 10% reduction would
9 apply to 75% of the Operating Yield, because 25% of the Water Year would have already elapsed.
10 Assuming the current Operating Yield of 5600 acre-feet, the Basin-wide Operating Yield would be
11 reduced to 5,180 acre-feet on January 1, 2009. Subsequent potential Operating Yield reductions
12 would occur on the Water Year schedule set forth in the MMP.

13 4. With the exceptions ordered by the Court at the hearing on this matter, the Court
14 approves the revisions to the Decision requested in the Watermaster Petition. The Amended
15 Decision is attached as Exhibit A to this Order.

16 5. The Watermaster shall ~~consider~~ ^{revis} revising its Rules and Regulations to address the
17 following issues:

18 a. Section 9.0 should set forth the quantum of proof required in Watermaster
19 proceedings. The Court suggests a preponderance of the evidence standard.

20 b. Section 11.0 should contain more information regarding the types of
21 acceptable water measuring devices and/or a requirement that the Watermaster approve of each
22 party's measuring device(s).

23 IT IS SO ORDERED.

24
25 Dated: 9 February 07

By 

Honorable Roger D. Randall

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PROOF OF SERVICE

I am employed in the County of Sacramento; my business address is Hall of Justice Building, 813 Sixth Street, Third Floor, Sacramento, California; I am over the age of 18 years and not a party to the foregoing action.

On January 26, 2007, I served a true and correct copy of

[PROPOSED] ORDER RE: (1) WATERMASTER'S POST-JUDGMENT PETITION; AND
(2) JOINT POST-JUDGMENT MOTION TO REQUEST CLARIFICATION OF THE
COURT'S FINAL DECISION RELATING TO THE CALCULATION OF THE OVER-
PRODUCTION REPLENISHMENT ASSESSMENT

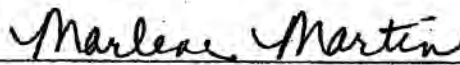
X (by mail) on all parties in said action listed below, in accordance with Code of Civil Procedure §1013a(3), by placing a true copy thereof enclosed in a sealed envelope in a designated area for outgoing mail, addressed as set forth below. At Somach, Simmons & Dunn, mail placed in that designated area is given the correct amount of postage and is deposited that same day, in the ordinary course of business, in a United States mailbox in the City of Sacramento, California.

___ (by personal delivery) by personally delivering a true copy thereof to the person and at the address set forth below:

___ (by facsimile transmission) to the person at the address and phone number set forth below:

SEE ATTACHED SERVICE LIST

I declare under penalty of perjury that the foregoing is true and correct under the laws of the State of California. Executed on January 26, 2007, at Sacramento, California.



Marlene Martin