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EXEMPT FROM FEES

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MONTEREY

CALIFORNIA AMERICAN WATER,

Plaintiff,

v.

CITY OF SEASIDE, et al.,

Defendants.

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT,

Intervenor.

MONTEREY COUNTY WATER RESOURCES AGENCY,

Intervenor.

AND RELATED CROSS-ACTIONS.

Case No. M66343

Assigned for All Purposes to the Honorable Leslie C. Nichols

SEASIDE GROUNDWATER BASIN WATERMASTER'S 2018 CASE MANAGEMENT STATEMENT

Action Filed: August 14, 2003
Trial Date: December 13, 2005

Post-Judgment Case Management Conference: March 23, 2018

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I. INTRODUCTION

A post-judgment case management conference is scheduled in this action for March 23, 2018 before the Honorable Leslie C. Nichols. For convenience and reference, the 2016 and 2017 case management statements are attached to this 2018 case management statement. The 2016 statement includes substantial background regarding management of the Seaside Groundwater Basin ("Seaside Basin" or "Basin"), and contemporaneous matters that may affect the Basin. The 2017 statement also includes substantial background as well as a glossary of terms, a description of essential agencies, and an overview of Watermaster's structure in response to the Court's prior request.

This case management statement provides a summary of (i) current Basin conditions and issues that Watermaster will continue to monitor and address over time, (ii) the status of long-term regional water supply planning and the central role that the Basin will play with respect to those long-term water supplies, and (iii) matters that may come before for the Court for consideration this year.

II. BASIN CONDITIONS AND GROUNDWATER MANAGEMENT CONCERNS

As discussed in the Annual Reports and prior status reports, the principal groundwater management concerns within the Basin arise from the overdrafting of the Basin leading to the Decision. Overdraft has resulted in depressed groundwater levels within the Northern Coastal Subarea and the Laguna Seca Subarea. Within the Northern Coastal Subarea, the primary concern pertains to potential seawater intrusion into the Basin. In the Laguna Seca Subarea, the primary concern pertains to long-term overpumping in and adjacent to the subarea, ultimately resulting in the water table falling such that wells are unusable at present depths. The following information is pertinent to these overdraft concerns.

A. 2017 Extraction Quantities

The total amount of water pumped from the Basin in WY 2017 was 3,049 acre-feet. After performing the first three ramp-downs in production required by the Adjudication Decision, the allowable pumping quantity was 3,920 acre-feet. Thus, in WY 2017 production from the Basin

was below the allowable production level and 49 acre-feet above the natural safe yield for the Basin.

B. Northern Coastal Subarea Groundwater Levels and Seawater Intrusion Analysis Results

Currently, there is no indication of seawater intrusion in the Northern Coastal Subarea. Each year the Watermaster has its consultant, HydroMetrics, prepare a Seawater Intrusion Analysis Report (SIAR) to determine whether or not there are any indications that seawater intrusion is either occurring or is imminent. Previous SIARs have stated that depressed groundwater levels, continued pumping in excess of recharge and fresh water inflows, and ongoing seawater intrusion in the nearby Salinas Valley, all suggest that seawater intrusion could occur in the Seaside Groundwater Basin. As discussed in previous reports, in 2016 for the first time there was conflicting data from two of the Watermaster's Sentinel Wells. Some of the data were suggestive of the possible initial onset of seawater intrusion, while other data indicated seawater intrusion was not occurring. Verification water quality resampling was undertaken at Sentinel Well SBWM-2, Sentinel Well SBWM-4, and the Ord Terrace Shallow Monitoring Well. The analysis of this data by HydroMetrics concluded that none of the samples indicated incipient seawater intrusion and that initial results of concern were related to sampling technique.

To further examine the water quality in these wells, in late-2017 another of the Watermaster's hydrogeologic consultants, Martin Feeney, performed fluid resistivity logging in the Sentinel Wells. None of the data obtained from this logging indicated that seawater intrusion was occurring. Although this logging indicated that samples historically collected from within the well casing were representative of the water quality within the casing, they were not representative of the groundwater from the aquifer surrounding the wells. The groundwater quality data collected from within the Sentinel Wells was therefore not considered representative of the aquifer and should not be used in seawater intrusion analysis. Subsequent to review of sampling technique, the 2017 SIAR recommended that water quality sampling in those wells be

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discontinued, and that they be used only for induction logging,[1] as was the original intent when those wells were constructed.

The Watermaster continues to analyze the data that is being gathered at each monitoring site as part of its overall Basin management program.

C. Laguna Seca Subarea Groundwater Levels and Coordination with the Monterey Subbasin GSA

Due to its far distance from the coast, seawater intrusion is not an issue of concern in the Laguna Seca subarea, but persistent, though gradual, declines in water levels within the Laguna Seca subarea remain a concern. The rate of decline in groundwater levels in the western portion of this subarea is between one and two feet per year. However, data from recent years indicates that the water levels have started to stabilize.

Groundwater levels in the eastern Laguna Seca subarea, however, have historically been declining at rates of 0.6 feet per year in the shallow aquifers, and between two and three feet per year in the deep aquifers. These declines have occurred since 2001 despite the triennial reductions in allowable pumping imposed by the decision in this case. As previously reported, the cause of this decline is due in part to the pumping of water within the Laguna Seca subarea of the Basin and in part due to the influence of groundwater extractions to the east of the Seaside Groundwater Basin within the Corral de Tierra subarea of the Monterey Subbasin, which is a subbasin of the larger Salinas Valley Groundwater Basin.

As has been previously reported, Watermaster's hydrogeologist, HydroMetrics, performed a study for Watermaster in 2013, which, in part, reported as follows:

> The Seaside Basin groundwater flow model predicts that if Cal Am discontinues pumping from the Laguna Seca subarea, groundwater elevations in the subarea will continue to decline during the simulation period of 2009-2041. The eastern

[1] Induction logs measure the conductivity of the formation and fluids outside of the well casing. The measured conductivity is an aggregate measurement of the electrical conductivity of the formation fluid and the formation solids. Induction logging is a common method to detect changes in salinity concentrations due to the differences in conductivity correlated to the salinity concentrations in the surrounding formation and water therein.

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side of the subarea suffers the greatest and most persistent declines. Pumping groundwater elevations are predicted to fall below the top of the well screen prior to 2041 in wells Bishop #3, Ryan Ranch #7, and Laguna Seca Golf Resort – Racetrack.

An average annual natural safe yield of 240 acre feet per year was calculated for the Laguna Seca subarea. This is considerably lower that the adjudication Decision perennial safe yield of 608 acre feet per year. A scenario with the pumping in Laguna Seca reduced to the natural safe yield of 240 acre feet per year failed to achieve stable groundwater levels.

An attempt was made to estimate the operational safe yield for the subarea using the groundwater flow model. However, it was found that eliminating all pumping from the subarea does not completely halt the predicted decline in groundwater elevations in the easternmost wells: FO-6-Shallow and FO-6 Deep. Consequently, it was not possible to determine an operational safe yield. The presence of nearby pumping wells east of the subarea appears to influence groundwater elevations in the eastern portion of the Laguna Seca subarea.

The unsuccessful attempt to estimate the operational safe yield, and an analysis of flows along the Laguna Seca eastern boundary, suggest that wells outside of the Laguna Seca subarea are preventing the subarea from achieving stable groundwater elevations. This influence could be tested more thoroughly using the groundwater model as follows: Multiple scenarios could be run in which pumping from individual wells outside of the Laguna Seca subarea is either removed or their pumping reduced. The resulting changes to groundwater levels in the Laguna Seca subarea could then be compared to baseline conditions to infer the influence that each well has on the subarea.

This study is contained as Attachment 11 of the 2014 Annual Report. Watermaster acknowledges the issues and concerns raised by this report.

In late 2017, the Watermaster began engaging with the new Salinas Valley Basin Groundwater Sustainability Agency ("SVBGSA") to address this concern through the development of the mandatory Groundwater Sustainability Plan ("GSP") for the Monterey Subbasin. The Watermaster was also appointed as a member of Advisory Committee to the SVBGSA where it will continue to engage in identifying appropriate solutions to the groundwater declines in the Corral de Tierra and Laguna Seca areas. The Watermaster also plans to provide input to the consultant that the SVBGSA hires to develop the GSP.

The process to address the falling water levels in the eastern Laguna Seca Subarea will likely take several years of engagement with the SVBGSA and development of supplemental water supplies. Solutions to the long-term groundwater declines in the Laguna Seca may involve

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a reduction of pumping in the neighboring Coral de Tiera area, continued reductions in authorized pumping in the Laguna Seca Subarea, and substitution of supply via the Monterey Peninsula Water Supply Project ("MPWSP"), described in previous reports and below. California American Water ("Cal Am") included supply to each of its Laguna Seca subsystems as a component of the MPWSP and expects to cease all pumping from Laguna Seca in 2021 when the MPWSP is complete. Furthermore, Cal Am has requested a moratorium on new connections in its Laguna Seca systems pending completion of the MPWSP, which request is under review by the California Public Utilities Commission ("CPUC").

Until the GSP is established for the Monterey Basin (inclusive of the Corral de Tierra area) and the MPWSP is completed, it is arguably premature to address modifications to the pumping allocations for the Laguna Seca Subarea. However, Watermaster notes that this issue will need to be deliberately addressed over time and must remain a matter of focus and future action by Watermaster and the Court.

D. Intended Cal Am Replenishment of the Basin Once Future Replacement Water Supplies are Available

The Decision provides that Standard Producers that exceed their allocation of Natural Safe Yield are subject to a Replenishment Assessment for each acre foot of Over-Production for each Water Year. The Decision also provides that Cal Am has the right to claim a credit against its Replenishment Assessment for costs incurred for water supply augmentation that has or will result in replenishment of the Basin.

Under a January 2009 Memorandum of Understanding ("MOU") between the Watermaster and Cal Am, the Watermaster agreed to grant Cal Am credit for such costs on the condition that, upon completion and implementation of its water supply project(s), Cal Am would provide to the Watermaster, at no cost to the Watermaster, either (1) water for artificial replenishment through direct replenishment and/or (2) cause in-lieu replenishment of the Basin by forbearing to produce water to which Cal Am would be entitled as Cal Am's share of the Native

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Safe Yield, in an amount equal to Cal Am's total acre feet of over-production for all Water Years for which Cal Am was granted Replenishment Assessment credits.

In June of 2014 the Watermaster and Cal Am amended the MOU to provide that Cal Am's replenishment obligation be fulfilled by in-lieu replenishment (non-pumping) of 700 acre-feet per year for a period of 25 years (or other time period as required to fulfill its obligation) beginning in the water year subsequent to Cal Am's completion of the MPWSP. The amendment includes a provision that the volume of artificial or in-lieu replenishment would be based on a running five (5) Water Year average. It also provides that if the average volume of artificial or in-lieu replenishment is less than 700 acre-feet annually, and if the Watermaster declares that water for artificial replenishment is available from sources other than the MPWSP, the Watermaster will have the option of requiring Cal Am to pay a part of its outstanding Replenishment Assessment for the purpose of providing the Watermaster with funds to obtain artificial replenishment in sufficient quantities to replenish that quantity not provided via in-lieu replenishment.

III. STATUS OF THE MONTEREY PENINSULA WATER SUPPLY PROJECT

As has been reported in past status conference statements, Cal Am, together with multiple local and state governments, are diligently working on the MPWSP to develop new water supplies for the Monterey Peninsula to offset historic use of the Carmel River and Seaside Basin. The elements of the MPWSP include:

- A desalination project - A desalination plant and related facilities, including a subsurface seawater intake system and requisite water treatment and conveyance facilities.
- Aquifer storage and recovery ("ASR") - Wet period diversions of Carmel River water for storage and subsequent recapture by Cal Am from the Seaside Basin;
- A Water Purchase Agreement ("WPA") for water from The Pure Water Monterey Project ("PWM") (also referred to as the Groundwater Replenishment Project or GWR) – An advanced-treatment, recycled water project undertaken by Monterey

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One Water ("M1W")[2] and the Monterey Peninsula Water Management District ("MPWMD"), which will treat tertiary treated effluent water.

Significant progress was made on these elements in 2017 and additional developments are anticipated in 2018 as discussed below. When completed, the MPWSP will result in sufficient long-term water supplies for the Monterey Peninsula, when combined with Cal Am's groundwater entitlements from the Seaside Basin and legal diversion rights from the Carmel River[3] to (i) meet current and projected future demands, (ii) eliminate unauthorized diversions from the Carmel River Valley as required by the Cease and Desist Order ("CDO") issued by the State Water Resources Control Board ("SWRCB")[4], and (iii) "pay-back" its extractions from the Basin in excess of its share of the Native Safe Yield since the entry of the Decision as required by Cal Am's MOU with Watermaster and as discussed above.

A. The MPWSP

Cal Am's application to the CPUC requesting issuance of a certificate of public convenience and necessity ("CPCN") to authorize Cal Am to construct the MPWSP is pending before the CPUC. Progress is ongoing and a decision by the CPUC on a CPCN is anticipated this summer. There is a near-term impetus to approve the CPCN for the project this summer to satisfy a September 2018 milestone set by the SWRCB within the CDO.[5] Cal Am and numerous other

[2] Monterey One Water is the new name of the agency formerly known as the Monterey Regional Water Pollution Control Agency.
[3] Cal-Am possesses 3,316 AFY of legal right (pre-1914 appropriative rights) to divert subterranean stream flow from the Carmel River Valley. Cal-Am's allocation of the Basin's Native Safe Yield is approximately 1,474 AFY.
[4] See discussion of the CDO (SWRCB WR Order 2009-0060) in the 2016 status conference statement.
[5] The CDO imposes annual milestone that must be met by Cal-Am. The 2018 milestone, which must be satisfied by the end of September, is presently set as approval of a CPCN for the desalination project. If the CDO milestone is missed, the CDO functions to reduce the quantity of water that Cal Am is authorized to divert from the Carmel River on an interim basis by 1,000 AFY, reducing the interim limit from 8,310 AFY to 7,310 AFY. As mentioned below, some parties intend to petition the SWRCB to modify the CDO to add alternative satisfactory annual milestones correlated with the proposed PWM expansion effort.

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parties to the CPUC proceeding have been regularly meeting to explore a potential settlement of remaining disputes regarding the MPWSP.

B. PWM and ASR

As reported in the 2017 Status Conference Statement, on September 15, 2016, the CPUC authorized Cal Am to enter into the WPA with the MPWMD and M1W to purchase 3,500 AFY of water from the PWM project at a cost of $85.5 million, and for Cal Am to invest up to $50 million in a new pipeline (the "Monterey Pipeline") and pump station. Both projects are now under construction. The Monterey Pipeline, which is anticipated to be completed and in operation later this year, will allow Cal Am to move PWM water and ASR water, both of which will be recovered from the Seaside Basin, (and ultimately desalination water) into the Cal Am distribution system and also allow additional ASR water to be pumped from the Carmel River to the Seaside Basin for injection during wet periods. PWM is on schedule to deliver water for injection into the Seaside Basin in mid-2019. In addition to the current PWM project (for delivery of 3,500 AFY to Cal Am), M1W and the MPWMD are exploring the potential for further expansion of the PWM project by up to an additional 2,250 AFY of additional supply that could be made available to Cal Am for a total of up to 5,750 AFY ahead of the CDO deadline of December 31, 2021.

C. MCWD Water Sale Proposal

Another potential source of water for replenishment of the Basin has recently been proposed by Marina Coast Water District. The details the proposal are being reviewed. If viable, the proposal would need to be approved by Watermaster and the Court. The parties may request the Watermaster to file a motion with the Court for consideration and potential approval of the proposal if the details can be agreed upon by the relevant parties and Watermaster.

IV. WATERMASTER ACTIVITIES AND POTENTIAL MATTERS FOR FUTURE COURT CONSIDERATION

A. 2018 Watermaster Activities

Over the course of 2018, Watermaster intends to do the following:

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1. Engage with the Monterey Subbasin GSA to ensure that the GSP governing the Corral del Tierra Subarea includes appropriate provisions to address lowering of water levels within the Laguna Seca Subarea of the Seaside Basin.

2. In March and September perform induction logging in the sentinel wells and water quality sampling in other wells, to monitor water quality conditions in the Northern Coastal Subarea.

3. Consult with Cal Am, M1W, MPWMD, and MCWD concerning progress on efforts to develop long-term replacement water supplies for the Monterey Peninsula, particularly those projects that concern activities within the Basin (e.g., storage and recovery of augmented recharge).

4. Update the Court on each of these subjects in its 2018 Annual Report and subsequent status conferences.

B. Potential Motion for Relief from Final Triennial Ramp-Down in 2021

As was discussed in the 2016 and 2017 status conference statements, there may arise a need to move the Court to adjust or postpone the triennial ramp down in authorized pumping. The next and final triennial ramp down is scheduled to become effective in 2021. Due to considerable conservation and suppressed water demands within the Cal Am service area as a result of the drought and a CPUC-imposed moratorium, relief from the 2018 triennial ramp down was unnecessary. If progress on the replacement water supply projects continue to progress on current projected timelines, Cal-Am should be able to meet demands with its available interim supplies, comply with the CDO's 2021 deadline, and reduce its Seaside Basin extractions consistent with the 2021 triennial ramp down and its MOU with Watermaster. However, if circumstances change and the amended CDO schedule cannot be met or Cal Am cannot otherwise comply with the CDO's final 2021 deadline, Cal Am and the community may be compelled to request relief from the Decision's 2021 triennial ramp down.

C. Request to Change Due Date for Annual Reports and Consolidate the Annual Status Conference Statement with the Annual Report

Again in 2017(as has been the case every year since water quality monitoring was begun under the Monitoring and Management Program), as of the date of preparation of the Draft 2017 Annual Report, the Watermaster's consultants were still waiting for some of the water quality data from the laboratory from wells in Watermaster's water quality monitoring network. This

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problem became exacerbated in 2017 when Watermaster changed the second set of annual sampling dates from July to September, as recommended by HydroMetrics, to more accurately reflect the time of year when the lowest water levels are likely to occur. As a result, the consultants could not finalize their reports in time to have them presented in final form to the Watermaster's Technical Advisory Committee (TAC) and Board of Directors in time to meet the current deadline of December 15 to submit the Annual Report. For this reason, the Watermaster requests that the Court revise the deadline for submittal of the Annual Report to January 15, to allow sufficient time for the consultants to submit their final, not draft, reports for review by the TAC and the Watermaster Board prior to finalizing and submitting the Annual Report.

Watermaster proposes that status conferences continue in approximately March as has occurred the last two years (preferably by Court Call unless the Court or any party requests an in-person conference). However, for the sake of efficiency, Watermaster proposes that the Annual Report substitute for the advance status conference statement unless the Court or any party requests discussion of a specific matter in one or more status conference statements filed in advance of the status conference. Watermaster certainly welcomes any requests from the Court for information to be included in the Annual Report and/or a separate status conference statement if preferred.

Dated: March 16, 2018

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By: 

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PROOF OF SERVICE

STATE OF CALIFORNIA)
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I, Caitlin Malone, am employed by Brownstein Hyatt Farber Schreck in the County of Santa Barbara, State of California. I am over the age of 18 and not a party to the within action; my business address is: 1020 State Street, Santa Barbara, California 93101. On March 16, 2018, I served the within document:

- **Seaside Groundwater Basin Watermaster's 2018 Case Management Statement**

☐ **BY OVERNIGHT DELIVERY.** By placing with an overnight mail company for delivery a true copy thereof, enclosed in a sealed package, delivery fees prepaid addressed as shown on the Service List below.

☐ **BY MAIL.** By placing each envelope (with postage affixed thereto) in the U.S. Mail addressed as shown below.

☐ By personally sending a true copy via e-mail to the parties at the e-mail addresses listed on the attached Service List, on the date below.

☒ By posting the document listed above to the Odyssey e-FileCA website for e-service on all parties listed on the Court's website for this matter.

SEE ATTACHED SERVICE LIST

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 16, 2018, at Santa Barbara, California.

Caitlin Malone
CAITLIN MALONE

California American Water v. City of Seaside
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