
State Water Resources Control Board

NOTICE OF PUBLIC HEARING AND PRE-HEARING CONFERENCE

The State Water Resources Control Board
Administrative Hearing's Office
will hold a pre-hearing conference and a public hearing
on the issues the court has referred
to the Board pursuant to Water Code section 2000 in

City of Marina v. RMC Lonestar,
Monterey County Superior Court No. 20CV001387.

**The Pre-Hearing Conference will begin on
May 25, 2022 at 9:00 a.m.**

**The Public Hearing will be held on
October 19-21, 24-28 and 31 and November 1-4, 2022.**

If necessary, the Administrative Hearings Office will schedule additional hearing days.

The Pre-Hearing Conference and the Hearing will be held by Zoom teleconference.

Any interested party may participate in the Zoom teleconferences
of the Pre-Hearing Conference and Hearing by using this link:

<https://waterboards.zoom.us/j/95899889673?pwd=R2lwclZjS2xwdWVRaXg4UT09> with Meeting ID: 958 9988 9673 and Passcode: 561435

or by calling in at: +16699009128,,95899889673#,,,,*561435# US (San Jose)

Any interested member of the public who would like to watch this pre-hearing
conference or this hearing without participating may access the Administrative Hearings
Office YouTube channel at:

<https://www.youtube.com/channel/UCM-gmpRyd7Nw-g8l-C7Nig/videos?view=57>

PURPOSE OF PROCEEDING

The purpose of this proceeding is for the State Water Resources Control Board (“State Water Board”) Administrative Hearings Office (“AHO”) to conduct an adjudicative hearing and related proceedings on the hearing issues described in this notice and to prepare a proposed report of referee, which the AHO will transmit to the Board for its consideration.

BACKGROUND

Court Reference

On October 7, 2021, the Monterey County Superior Court, in *City of Marina v. RMC Lonestar*, Case No. 20CV001387, issued an Order After Hearing. A copy of the court’s order is attached to this notice as Attachment 1. In this order, the court ordered a reference to the State Water Resources Control Board (“State Water Board” or “Board”) pursuant to Water Code sections 2000-2048. The court’s order seeks expert opinion from the State Water Board on eight listed questions, some of which contain sub-questions.

The court’s order also contains a ninth question, which asks the Board to provide a reasonable time estimate for the completion of the Board’s report of referee.

Assignment to the Administrative Hearings Office

Water Code section 1110 established the AHO within the State Water Board. Water Code section 1112, subdivision (c)(2), provides that the Board may assign an adjudicative hearing to the AHO. Water Code section 1112, subdivision (c)(3), provides that AHO hearing officers may perform additional work requested by the Board, including, but not limited to, presiding over hearings on non-adjudicative matters, mediations, and overseeing investigations.

Water Code section 1114 provides that, after the AHO holds a hearing and the matter is submitted to the AHO, the AHO hearing officer shall prepare a proposed order and provide it to the Board for the Board’s consideration.

On November 2, 2021, Tina Cannon Leahy, Staff Counsel IV in the Board’s Office of Chief Counsel (“OCC”), transmitted a memorandum to Eileen Sobeck, the Board’s Executive Director. This memorandum recommended that the State Water Board assign this court reference to the AHO for an evidentiary hearing.

On November 17, 2021, Ms. Sobeck transmitted a memorandum to Alan Lilly, Presiding Hearing Officer of the Administrative Hearings Office. This memorandum assigned this court reference to the AHO to conduct an adjudicative hearing and any necessary related proceedings, and to prepare a proposed report of referee with answers to

Questions 1-8 in the court's October 7, 2021 order, for transmittal to and consideration by the Board.

HEARING OFFICER AND HEARING TEAM

A hearing officer from the AHO will preside over the hearing in this matter. Other members of the AHO may be present and assist the hearing officer throughout these proceedings. The hearing officer and other AHO staff members may consult with staff of the Board's Division of Water Rights and the Board's Office of Research, Planning, and Performance, attorneys in the Board's Office of Chief Counsel, members of the executive management of the State Water Board, and State Water Board members, to discuss or deliberate on matters relevant to this proceeding. All of these people are collectively referred to as the "hearing team."

HEARING ISSUES

The AHO's hearing and related proceedings will consider the following issues, which are specified in the court's October 7, 2021 order:¹

1. Where are the subsurface drawing source points (including capture zones) for each of the currently proposed California-American Water Company ("Cal-Am") wells located in relation to:
 - a. seawater in the ocean itself;
 - b. drawing source points for the Marina Coast Water District ("MCWD") production wells;
 - c. the Subbasin Interface Zone;
 - d. the 180/400 foot Aquifer Subbasin;
 - e. the Monterey Subbasin;
 - f. the RMC Pacific Materials, LLC ("Cemex") property;
 - g. the MCWD wells.

Graphic depictions, if available, would be helpful.

2. Would water drawn by any of the currently proposed Cal-Am wells come from any source other than seawater from directly beneath the Ocean?
 - a. If so, from which sources? And which if any of these sources lie in whole or in part beneath the Cemex property?
 - b. If so, can one approximate with reasonable certainty in what quantities the water would be drawn from each source? Can this be expressed in percentages?

¹ The AHO has edited the text of these issues in the court's order to specify the referenced parties' names in more detail and to add some subparagraph letters.

- c. If so, do the relative amounts drawn from each source vary depending upon amounts drawn by the slant wells?
 - d. If so, can it be said with reasonable certainty that the amount drawn by the Cal-Am wells will not exceed 500 acre-feet per year (“afy”) from any water source beneath the Cemex property?
3. What is the hydrogeological connectivity, if any, between the areas from which Cal-Am proposes to draw water and the areas from which MCWD extracts water?
 4. Is it likely that any of the proposed draw for the Cal-Am wells would (a) result in or (b) increase any seawater intrusion into the Subbasin Interface Zone, the 180/400 foot Aquifer or the Monterey Aquifer, or any source for the MCWD production wells?
 - a. If so, what is the likely extent of the intrusion?
 5. Is it likely that any of the proposed draw will (a) lower the groundwater table or (b) reduce the storage space in any source other than seawater, and if so, can the extent be approximated?
 6. Has MCWD been pumping water from the Subbasin Interface Zone and, if so, for approximately what period of time?
 7. What effect, if any, would the proposed draw by Cal-Am slant wells have upon any primary or paramount water right of the City of Marina or MCWD?
 - a. What impact on quantity and quality of the water sourced by MCWD wells is likely?
 8. Does SWRCB have an opinion as to whether: (a) there is any legal theory upon which Cal-Am may rely to extract the proposed draw; and (b) the proposed Cal-Am extraction would infringe upon MCWD’s appropriative rights to groundwater?

ADMINISTRATIVE HEARINGS OFFICE AND BOARD PROCESSES

The AHO will hold its hearing on the hearing issues under California Code of Regulations, title 23, sections 648-648.8, 649.6 and 760, and as specified in this notice. Following this hearing, the AHO will prepare a draft report of referee and circulate it to the parties for their review, comments and objections, pursuant to Water Code sections 2010-2015. After considering the parties’ comments and objections, the AHO will prepare a proposed final report of referee and transmit it to the Board pursuant to Water

Code section 1114, for consideration and action by the Board pursuant to Water Code sections 1114 and 2016.

Following completion of the Board's final report of referee and transmittal of it to the clerk of the court, the AHO will issue a notice and hold a hearing to determine an appropriate allocation of the Board's expenses pursuant to Water Code sections 2040-2043. The AHO then will prepare a draft allocation order, circulate it to the parties for their review and comments, and then transmit the AHO's final proposed allocation order to the Board pursuant to Water Code section 1114, for consideration and action by the Board pursuant to Water Code sections 1114 and 2043.

PRE-HEARING CONFERENCE

The hearing officer will hold a pre-hearing conference on the date and at the time listed on the first page of this notice. The AHO will hold this conference by Zoom teleconference. The AHO will not allow any in-person appearances at this conference. To participate in this conference, please use the Zoom teleconference information provided on the first page of this notice.

The pre-hearing conference will be recorded electronically by Zoom teleconference. The hearing officer may prepare a pre-hearing conference order after the conference. The AHO is not ordering a court reporter for this pre-hearing conference. Any party may order a court reporter at its own expense.

The pre-hearing conference will address the following issues:

1. Should the hearing officer make any changes to the pre-hearing or hearing schedule?
2. Should the hearing officer adjust any of time limits specified in this notice for oral policy statements and oral summaries of written statements, and parties' opening statements, oral summaries of written testimony, cross-examination, and rebuttal testimony?
3. Are there any other procedural issues concerning the hearing that any of the participants would like to raise? If so, what are those issues?
4. Should the AHO schedule a site visit in connection with this hearing? If so, what procedures and schedule should the AHO and the parties follow for the site visit?

Parties do not need to file pre-hearing conference statements. If any party wants to file a pre-hearing conference statement, then the party shall file the statement with the AHO before the deadline listed below. Any pre-hearing conference statement may address any of the pre-hearing conference issues listed above. Because the AHO will post all pre-hearing conference statements on the Water Board's FTP site, parties do not need to send copies of their statements to the other parties.

NOTICES OF INTENT TO APPEAR

Any person or entity who wants to participate in the pre-hearing conference or the hearing in this matter must file a Notice of Intent to Appear (NOI) with the AHO, using the form enclosed with this notice, before the deadline listed below. Because the AHO will post all NOIs on the Water Board's FTP site, parties do not need to send copies of their NOIs to the other parties. All parties that already have filed NOIs in this proceeding shall file new NOIs, with their witness lists and time estimates.

The AHO encourages parties to agree to accept electronic service (by e-mail and FTP downloads) of all documents regarding this hearing. If a party is not willing to do this, then the party may check the appropriate box on the NOI form. Parties not agreeing to accept electronic service of documents will experience delays as paper copies of documents are transmitted to them by U.S. Mail. If this box is not checked, then the AHO will assume that the party agrees to accept electronic service.

After the deadline to submit NOIs and pre-hearing conference statements, the AHO will post the NOIs and any pre-hearing conference statements on the Water Board's FTP site ("FTP site," discussed below) in the folder for this matter.

STIPULATIONS REGARDING PROCEDURAL OR SUBSTANTIVE ISSUES

The parties may prepare and execute, and then file with the AHO, stipulations regarding any procedural or substantive issues associated with any of the hearing issues. Such stipulations may include stipulations on factual or legal issues or stipulations on use during the AHO hearing of transcripts of prior depositions or testimony. The parties shall file any such stipulations by the deadline specified in this notice unless the hearing officer, based on demonstrated good cause, allows later filings.

DEPOSITIONS

Following the January 18 and February 7, 2022 status conferences, the AHO has set the dates specified below for parties to take depositions of the witnesses for whom other parties have submitted written proposed direct or rebuttal testimony.

If any party wants to file any motion regarding any dispute the parties cannot resolve regarding these depositions, including any disputes regarding payment of expert witness fees, then the party shall file such motion with the court, and not with the AHO.

PRE-HEARING AND HEARING SCHEDULE AND DEADLINES

Deadline / Schedule	Date and Time
Deadline for any party that wants to participate in the hearing to file an NOI.	May 16, 2022, 1:00 p.m.
Deadline for filing optional pre-hearing conference statements.	May 16, 2022, 1:00 p.m.
Pre-hearing conference.	May 25, 2022, 9:00 a.m.
Deadline for the parties to file with the AHO any stipulations regarding any procedural or substantive issues.	June 1, 2022, 1:00 p.m.
Deadline for all parties to file written proposed direct testimony, associated exhibits, and exhibit identification indices with AHO	July 1, 2022, 1:00 p.m.
Deadline for all parties to file written proposed rebuttal testimony, associated exhibits, and exhibit identification indices with AHO.	Aug. 10, 2022, 1:00 p.m.
Dates for depositions of witnesses for whom parties have submitted written proposed testimony.	Aug. 17 through Sept. 23, 2022.
Hearing begins	Oct. 19, 2022, 9:00 a.m.
Additional hearing days (if necessary)	Oct. 20-21, 24-28, and 31, and Nov. 1-4, 2022, beginning each day at 9:00 a.m.
Deadline for all parties to file written closing briefs	Dec. 19, 2022, 1:00 p.m.

SUBMITTALS OF DOCUMENTS TO AHO AND OTHER PARTIES

All documents submitted to the AHO shall be addressed and submitted to the AHO by one of the following methods. (Parties may not upload NOIs or pre-hearing conference statements to the FTP site.)

Method	Address
By email (preferred method for documents besides exhibits):	AdminHrgOffice@waterboards.ca.gov adminhrgoffice@waterboards.ca.gov With Subject Line “City of Marina Court Reference CDO Hearing”
By Uploading to State Water Board FTP site (preferred method for exhibits):	The AHO will provide a unique username and password to each party that has filed an NOI, which that party then may use to access the State Water Board FTP site to upload exhibits and other documents.
By Hand Delivery (see following paragraph):	Joe Serna Jr. CalEPA Building Administrative Hearings Office 1001 I Street, 2 nd Floor Sacramento, CA 95814

Service of documents by hand-delivery may be more difficult or delayed due to closures of the CalEPA Building related to the COVID-19 pandemic. Please plan ahead if you wish to hand deliver documents and e-mail AHO staff in advance at AdminHrgOffice@waterboards.ca.gov to arrange for hand-delivery of documents.

Please see the part of this notice below titled “PROCEDURES FOR THIS WATER-RIGHT HEARING” for more information regarding hearing procedures and submittals of exhibits.

INITIAL ADMINISTRATIVE RECORD; AHO STAFF EXHIBITS

The AHO has copied public documents from court’s files and the State Water Board’s files and has included these documents in the initial administrative record for this proceeding.

The AHO has posted files of these documents on the State Water Board’s FTP site in the folder for this hearing, in folders titled “Documents from court’s files” and “Historical documents.” Instructions on how to access this folder in the State Water Board’s FTP site are included in Section 8 below. The parties may submit as exhibits copies of other relevant documents in these files.

The AHO may mark some or all of the documents that it has filed in these folders as exhibits and circulate an exhibit identification list for these AHO exhibits before the deadline for the parties to submit their exhibits or later in the hearing process. The hearing officer will ask the parties during the hearing if they have any objections to these AHO exhibits being accepted into evidence.

AHO WEBPAGE AND NOTICES

Subject to legal limitations, including the requirements for Internet website accessibility in Government Code section 11546.7, the AHO will post all of its notices and other AHO

documents regarding these proceedings on the AHO's Internet webpage at https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/

HEARING LIVE-STREAM AND RECORDING

The pre-hearing conference and hearing will be live streamed through the Administrative Hearings Office YouTube channel, accessible by clicking on the link on the first page of this notice. The live stream will consist of a morning session and an afternoon session. Each session may be accessed through the appropriate link on the Administrative Hearings Office YouTube channel. To view the morning session, click the link identified as "morning." The morning session will conclude at the lunch break. To view the afternoon session, click the link identified as "afternoon." The afternoon session will begin after the lunch break.

After the conclusion of each hearing day, recordings of the morning and afternoon YouTube live-stream sessions will be available on the Administrative Hearings Office YouTube channel. These recordings will include automatic captions for accessibility.

INTERESTED PERSONS E-MAIL LIST; SERVICE LIST

Any person may add his or her e-mail address to the interested persons e-mail list for AHO notices by subscribing to the applicable Board LYRIS e-mail list. To subscribe, please use the following link:

https://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.html.

The AHO will send copies of all of its public notices regarding this proceeding to the parties on the general AHO LYRIS e-mail list.

The AHO has posted its current service list for this proceeding on the State Water Board FTP site, in the Hearing documents folder within the AHO folder for this proceeding. After the deadline for filing new NOIs specified in this notice, the AHO will update this service list as necessary. The AHO will include in this updated service list only the people and entities that have filed NOIs and the people and entities who have advised the AHO that they want to be on the updated service list for this matter.

If you want to continue to receive AHO notices and other parties' filings regarding this proceeding and are not filing an NOI, then you must advise the AHO in writing, using one of the methods listed above, that you want to be on the AHO's updated service list for this proceeding. You do not need to send copies of your request to the other parties. If you already have filed such a request with the AHO, you do not need to file a new request.

All parties shall use the current service list for this proceeding whenever they send any documents to the AHO, or file any documents with the AHO, for which service on other parties is required.

SEPARATION OF FUNCTIONS; PROHIBITION ON EX PARTE COMMUNICATIONS

While this proceeding is pending, *ex parte* communications between any party, party representative, or interested person and any member of the hearing team are prohibited. *Ex parte* communications include any type of communication regarding this proceeding that occurs between a party or interested person and the hearing officer, a State Water Board member, or some other member of the hearing team, without notice and an opportunity for all parties to participate in the communication. (See Wat. Code, § 1110, subd. (c); Gov. Code, §§ 11430.10-11430.80.) The AHO has posted a discussion of *ex parte* communications on the AHO's webpage at https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/docs/2021/2021-07-06_webpage_faq.pdf. (See response to FAQ 16.)

If any party wants to communicate with the hearing officer, any Board member or any other member of the hearing team at any time while this proceeding is pending regarding any procedural or substantive issue regarding this proceeding, including any issue regarding the pre-hearing conference, hearing procedures or filing of documents, then that party shall make such communication in writing (by e-mail or letter) and serve all other parties with copies of the communication and include a proof of service demonstrating such service of the written communication to the AHO. A party may provide this proof of service through a formal proof of service or by other verification. For e-mails, the verification shall be a list of the e-mail addresses of the parties or their representatives in an electronic mail "cc" (carbon copy) list. For letters, the verification shall be a list of the names and mailing addresses of the other parties or their representatives in the cc portion of the letter.

If the AHO receives any communication regarding this proceeding that is addressed to the AHO, a Board member or any other member of the hearing team, then the AHO will file a copy of the communication in the appropriate folder within the AHO-FTP folder for this proceeding that is posted on the State Water Board's FTP site.

Please do not attempt to communicate by telephone or in person with any AHO hearing team member regarding any procedural or substantive issue concerning this proceeding, because other parties would not be able to participate in such communications. If oral communications with any members of the AHO hearing team are necessary to discuss any procedural or substantive issue, then the AHO will set up a conference call in which representatives of all parties may participate. Any party may request such a conference call at any time using the written communications protocols described above.

PROCEDURES FOR THIS WATER-RIGHT HEARING

The following procedures apply to this hearing and related proceedings. The hearing officer may amend these procedures before, during or after the hearing as he or she deems appropriate.

- 1. HEARING PROCEDURES:** The AHO will conduct this hearing according to the procedures for hearings set forth in California Code of Regulations, title 23, sections 648-648.8, 649.6 and 760. Copies of these regulations are posted on the State Water Resources Control Board's website: http://www.waterboards.ca.gov/laws_regulations. If there is any conflict between any provision of this notice and any provision of these regulations or any applicable statute, then the provision of the regulation or statute shall apply to this hearing.

Consistent with California Code of Regulations, title 23, section 648.5, unless the hearing officer determines otherwise before or during the hearing, each party may make an opening statement, present witnesses and exhibits, cross-examine opposing parties' witnesses, impeach any witness, rebut adverse evidence, and subpoena, call and examine an adverse party or witness as if that witness were under cross-examination. After the hearing, the hearing officer will direct the parties to file closing briefs. These procedures are described in more detail in section 10. The hearing officer may issue rulings regarding these procedures before or during the hearing.

The AHO encourages parties with common interests to work together to make unified presentations and to take other actions to make the hearing process more efficient.

Parties may file any requests for exceptions to these hearing procedures in writing with the AHO and must serve any such requests on the other parties. To provide time for parties to respond, the hearing officer normally will not rule on procedural requests filed in writing until at least five days after receiving the request, unless the hearing schedule requires an earlier ruling.

- 2. SETTLEMENTS:** The AHO encourages the parties to enter into stipulations on some or all of the hearing issues. No representative of the AHO will participate in such discussions. If the parties or their representatives sign a written settlement agreement, then they shall promptly file a copy of the signed agreement with the AHO.
- 3. PARTIES:** As provided in California Code of Regulations, title 23, section 648.1, subdivision (b), City of Marina, Marina Coast Water District, California-American Water Company, and RMC Pacific Materials LLC, d/b/a CEMEX are the current parties to this proceeding.

The hearing officer may allow any other person or entity that timely files a Notice of Intent to Appear to participate in the hearing as a party. (See Cal. Code Regs., tit. 23, § 648.1, subd. (a) & (b).) A person or entity that is not identified as a party the preceding paragraph that wants to participate as a party in this hearing shall file a Notice of Intent to Appear with the AHO before the deadline specified in this notice. The person or entity shall include an attachment to the Notice of Intent to Appear

form demonstrating good cause as to why the hearing officer should allow the person or entity to participate in the hearing as a party rather than just as an interested person presenting a policy statement.

The hearing officer may impose limitations on any party's participation in the hearing. (See Gov. Code, § 11440.50, subd. (c).) The hearing officer also may designate persons or entities that do not file timely Notices of Intent to Appear as parties, for good cause shown and subject to appropriate conditions. Except as specifically provided in this notice or by a ruling of the hearing officer, the hearing officer will allow only parties to present evidence, make objections, and examine witnesses.

- 4. POLICY STATEMENTS BY INTERESTED PERSONS:** As provided in California Code of Regulations, title 23, section 648.1, subdivision (d), the hearing officer will allow interested persons who are not designated as parties to present or submit non-evidentiary policy statements. Interested persons may submit policy statements in writing before the hearing or present or summarize them orally during the hearing. The hearing officer will not permit a person or entity that appears and presents only a policy statement to make objections to parties' exhibits or testimony, offer evidence, conduct cross-examination, make legal arguments, or otherwise participate in the evidentiary hearing. The AHO will not add such persons or entities to the service list.

Policy statements are not subject to the pre-hearing requirements for testimony or exhibits, except that interested persons who want to make oral policy statements during the hearing should file Notices of Intent to Appear indicating an intent to make only a policy statement.

The AHO requests that interested persons and entities who file written policy statements with the AHO serve copies of their statements on all parties before the person or entity presents such statements or summaries of them during the hearing. See section 8 for details regarding electronic submittals of documents.

- 5. NOTICES OF INTENT TO APPEAR:** As provided in California Code of Regulations, title 23, section 648.4, all people and entities that want to participate in the hearing as parties must file either an electronic copy or a paper copy of a Notice of Intent to Appear with the AHO before the deadline specified in this notice.

As discussed in the preceding section, the AHO requests that any interested person who will not be participating as a party and will be presenting only a non-evidentiary oral policy statement or oral summary of a written policy statement file a Notice of Intent to Appear before the deadline and specify in the notice that the person only will be presenting an oral policy statement or summary.

As provided in California Code of Regulations section 648.4, subdivision (b), the Notice of Intent to Appear for parties (but not for people only presenting policy

statements) must state the name and address of the participant. For parties, the Notice of Intent to Appear also must state: (1) the name of each witness whom the party intends to call at the hearing; (2) a brief description of the subject of each witness's proposed testimony; and (3) an estimate of the time that the party requests for each of its witnesses to present an oral summary of his or her written proposed testimony. (See section 6 for requirements that apply to written testimony.)

If a party intends to call any expert witnesses, the party shall designate each expert witness as an expert witness in the party's Notice of Intent to Appear.

Parties that do not intend to present cases-in-chief but want to cross-examine witnesses or present rebuttal testimony should so indicate on their Notices of Intent to Appear.² A party that decides not to present a case-in-chief after having submitted a Notice of Intent to Appear should notify the AHO and the other parties as soon as possible.

Parties that are not willing to accept electronic service of hearing documents must check the appropriate box on the Notice of Intent to Appear. Because service of documents to such parties normally will be by U.S. Mail, such parties will experience delays in receiving hearing documents.

The AHO will maintain a current service list with the names of parties and their contact information to each person or entity that has submitted a Notice of Intent to Appear or asked to be on the updated service list and will post this service list on the State Water Board's FTP site in the folder for this proceeding. The service list will indicate if any party is not willing to accept electronic service.

6. WRITTEN PROPOSED TESTIMONY AND OTHER EXHIBITS: Exhibits include all written proposed testimony, statements of qualifications of expert witnesses, summary slides, and other documents to be submitted as evidence.

Exhibits also may include copies of Board decisions and orders that parties want to cite in their legal briefs and that are not posted on the Board's website at this link: https://www.waterboards.ca.gov/waterrights/board_decisions/adopted_orders/. Parties should not submit copies of Board decisions and orders that the Board has posted on its website at this link, and parties may cite such decisions and orders in their legal briefs without submitting copies of them as exhibits.

As provided in California Code of Regulations, title 23, section 648.4, subdivision (c), each party that wants to offer testimony into evidence shall submit written proposed direct testimony of each witness by the deadline for filing exhibits. The hearing officer will not permit a witness to give oral testimony that goes beyond the scope of

² A party is not required to present evidence as part of a case-in-chief. The hearing officer will allow parties not presenting evidence as cases-in-chief to participate through opening statements, cross-examination, and rebuttal, and to file closing briefs.

the witness's written proposed testimony absent good cause. Each party shall designate each of its witness's written proposed testimony as a separate exhibit. A witness does not need to sign his or her proposed testimony. After each witness takes the oath, the hearing officer will ask the witness to confirm that his or her written proposed testimony is his or her testimony for the hearing.

Each party must submit all of its witnesses' written proposed testimony with the party's other exhibits before the exhibit filing deadline. A party who offers expert testimony must submit an exhibit containing a statement of each expert witness's qualifications, in addition to a separate exhibit with the expert witness's written proposed testimony.

The AHO strongly encourages each party to prepare and submit as a separate exhibit for each witness a set of slides that summarize each witness's testimony. During the hearing, the party may use the exhibit with the slides to facilitate each of the party's witness's oral summary of his or her written proposed testimony. The parties must label the slides for each witness as a separate exhibit and submit it by the exhibit submittal deadline.

See section 10, part c. for more information about rebuttal evidence.

The AHO may prepare and circulate an Excel spreadsheet containing a list of the documents in the administrative record that the hearing officer may move into the evidentiary record during the hearing. These documents are AHO exhibits. The AHO will post this list in the AHO-FTP folder for this proceeding and notify the parties of the posting of this list at the time the AHO moves the parties' uploaded exhibits into the downloads folder (see section 8). The hearing officer may update or supplement this list during the hearing.

7. EXHIBIT FORMATTING AND ORGANIZATION: A party submitting evidence must file with the AHO both the exhibits and an Exhibit Identification Index. The Exhibit Identification Index is a list of exhibits in Excel format.

Each party should label exhibits with a short version of the party's name and sequential numbers. For example, City of Marina's exhibits should be numbered Marina 1, Marina 2, etc., Marina Coast Water District's exhibits should be numbered MCWD 1, MCWD 2, California-American Water Company's exhibits should be numbered Cal-Am 1, Cal-Am 2, etc. and RMC Pacific Materials LLC, d/b/a CEMEX's exhibits should be labeled RMC 1, RMC 2, etc. Do not use any sub-letters like 1a, 1b, etc. for exhibit numbers.

Each party should number each paragraph of each witness's written testimony sequentially, 1, 2, 3, etc. (This paragraph numbering will make it easier for the hearing officer and representatives of other parties to ask each witness questions about his or her written testimony.) Witnesses should not use any sub-paragraph letters like 1a, 1b, etc. in their written testimony. A witness may include headings

like “Background,” “Introduction,” etc. for different sections of the witness’s written proposed testimony, but should not number or letter these headings and should not re-start the paragraph numbering in each section.

The AHO encourages parties to use pleading paper with line numbers in the left margins for their witnesses’ written proposed testimony.

Each party must submit to the AHO the exhibits and exhibit identification indices for this hearing before the deadline specified in this notice. The AHO may treat a party’s failure to submit exhibits before this deadline as a waiver of the party’s right to submit exhibits for the hearing and a waiver of the party’s status as a party.

- a. Parties submitting exhibits based on complex technical analyses also must submit sufficient information so that a qualified independent expert could reproduce the results.

Parties submitting exhibits based on models or technical studies (such as reports, recommendations, or requirements) also must submit sufficient information to clearly identify and explain the logic, assumptions, development, and operation of the models or studies, so that a qualified independent expert could reproduce the model or technical study and use it to obtain the same results.

- b. Consistent with California Code of Regulations, title 23, section 648.3, the hearing officer has discretion to decide whether to receive into evidence by reference any relevant, otherwise admissible, public records of the State Water Board and any documents or other evidence that a public agency has prepared or published, provided that the original or a copy was in the possession of the State Water Board before the hearing officer issued this notice. A party offering such an exhibit by reference shall advise the other parties and the AHO of the title of the document, the particular portions of the document, including page and paragraph numbers, that the party will ask the hearing officer to consider, the purpose for which the party will use the portions of the exhibit if it is accepted into evidence, and the specific file folder or other exact location in the State Water Board’s files where the document may be found.
- c. The hearing officer normally will exclude exhibits that rely on unpublished technical documents unless the hearing office has admitted the unpublished technical documents into evidence.
- d. Parties submitting large-format exhibits such as maps, charts, and other graphics shall provide the originals for the hearing record in a form that can be folded to 8 ½ x 11 inches. Parties also shall file, for the hearing record, a reduced copy of a large-format original exhibit. The hearing officer will determine whether the large-format version or the reduced copy, or both, will be admitted into evidence.

- e. Documents uploaded by the parties normally must be in Adobe Portable Document Format (pdf), except that spreadsheets may be submitted in Microsoft Excel format, slide presentations may be submitted in Microsoft PowerPoint format, and exhibit identification indices must be submitted in Microsoft Excel format.
- f. If a party wants to submit an exhibit in any other format, then the party shall submit a written request to the hearing officer, and serve copies of the request on all other parties on the service list, at least 14 days before the deadline for submitting exhibits. The request shall describe the other format, explain what software is necessary for the hearing officer and other parties to be able to review the exhibit in that format, and explain why the party believes it is appropriate for the party to submit the exhibit in that format. The hearing officer normally will rule on such requests before the exhibit submittal deadline.

8. SUBMISSIONS OF DOCUMENTS: To expedite the exchange of documents, reduce paper use, and lower the cost of participating in the hearing, all participants must submit hearing documents by uploading them to the State Water Board's FTP site in electronic form (in addition to filing one paper copy of each exhibit with the AHO) unless the hearing officer authorizes submission of exhibits in different formats.

The State Water Board's FTP site may be accessed at <https://ftp.waterboards.ca.gov/>. All parties may use the shared account on this site to access and download documents in the administrative record for this hearing. The folders within this shared account are referred to in this notice as the "AHO-FTP Download Folders".

The AHO will provide each party a unique account to upload the party's documents for this hearing. These accounts are referred to in this hearing notice as the "Parties' Upload Folders".

a. AHO-FTP Download Folders:

The AHO has created a folder for this proceeding on the State Water Board's FTP site. The folder for this proceeding will contain all administrative record documents related to this proceeding and will contain various subfolders, including subfolders for background documents and hearing documents. This folder is referred to in this notice as the "AHO-FTP folder for this proceeding." Only AHO personnel may upload files to this folder. The AHO will post each party's hearing exhibits, exhibit identification indices and closing briefs to subfolders within this folder promptly after each filing deadline. The AHO may add other administrative record documents to this folder during this proceeding (including recordings of hearings, correspondence, and the AHO's proposed order). The documents in this folder will be the AHO's administrative record for

this proceeding. Anyone may download documents from the AHO-FTP Download Folder for this proceeding at any time.

If any party believes that the AHO should add documents to, or remove any documents from, this folder for this proceeding, then the party may file a request to the hearing officer for such action (by e-mailing the request to the AHO e-mail inbox), and shall transmit copies of the request to all other parties on the service list. The hearing officer will issue rulings or take other actions on such requests as the hearing officer deems appropriate.

b. Parties' Upload Folders:

The AHO will create a separate upload account for each party that files an NOI as a party for this hearing, so that the party may upload the party's exhibits and other documents to the folder for that account. In most cases, these accounts will be specific for each party and each hearing and the AHO will close the accounts for each hearing after the hearing and related proceedings have been completed.

Any party to this proceeding may upload documents for this proceeding (primarily exhibits and exhibit identification indices and closing briefs) using the party's upload account. Only the party may upload files to the party's folder, and only the AHO may view, transfer and download files from this folder. After the applicable filing deadline, AHO staff will move documents uploaded by each party to the administrative record in the AHO-FTP Download Folder for the proceeding, so all other parties may view and download the documents.

Each party shall upload its exhibits and its exhibit identification index to the party's folder on the State Water Board's FTP site before the exhibit filing deadline specified in this notice. A party that uploads hearing documents to the FTP site does not need to serve copies of the documents on the other parties, except that, if another party has not agreed to accept electronic service of documents, then the party uploading hearing documents to the Board's FTP site also shall serve paper copies of all such documents on that other party and shall file a proof of this service with the AHO. When a party has uploaded all of the party's exhibits to the Board's FTP site, the party or party's representative shall send an email the AHO at AdminHrgOffice@Waterboards.ca.gov, with copies to the other parties on the service list, notifying the AHO and the other parties that the party has uploaded the documents.

Each party also shall mail or hand-deliver one paper copy of each of the party's exhibits that is less than 100 pages long and the party's exhibit identification index to one of the AHO's two addresses listed below, with a proof of service of these paper copies. A party may provide this proof of service of these paper copies by sending an e-mail or letter to the AHO, with the transmittal of copies of the e-mail or letter to the other parties shown in the e-mail "cc" (carbon copy) list or the cc portion of the letter. The party shall make this mailing of the paper copies of the party's exhibits by the exhibit filing deadline, but the AHO does not need to receive the mailed paper copies of the exhibits by this deadline. Parties do not need to submit any paper copies of any exhibits that are over 100 pages long. Any party that elects not to submit paper copies of such exhibits shall state this election in the party's exhibit list.

After the exhibit filing deadline, the AHO will move all filed exhibits and exhibit identification indices from the parties' Upload Folders to the AHO-FTP folder for this proceeding and advise the parties that these documents are available for downloading from that folder. The AHO may rename or renumber exhibits that do not have proper exhibit names or numbers. If the AHO does this, then the AHO may create an electronic folder of documents that the party has submitted and a separate electronic folder of any documents the AHO has renamed or renumbered, in the administrative record folder.

If a party cannot upload exhibits to the State Water Board's FTP site, then the party may mail two paper copies of all its exhibits to the AHO at:

State Water Resources Control Board
Administrative Hearings Office
P. O. Box 100
Sacramento, CA 95812-0100

Alternatively, a party may send paper copies of its exhibits to the AHO by overnight delivery to:

Joe Serna Jr. CalEPA Building
State Water Resources Control Board
Administrative Hearings Office
1001 I Street
Sacramento, CA 95814

If a party uses either of these alternative means of filing paper copies of its exhibits with the AHO in lieu of electronically filing the exhibits, then the party shall complete the filing of the paper copies by the exhibit filing deadline specified in this notice.

9. PRE-HEARING CONFERENCES: The hearing officer will conduct a pre-hearing conference before the hearing to discuss the pre-hearing and hearing schedules, the scope of the hearing, the status of any protests, the formats of exhibits, opening statements and policy statements, methods of service, and any other appropriate procedural issues. This notice states the date and time of the pre-hearing conference. The hearing officer may issue notices of subsequent pre-hearing conferences. The hearing officer may issue a pre-hearing conference order after each pre-hearing conference.

10. ORDER OF PROCEEDING: The hearing officer will follow the order of proceedings specified in California Code of Regulations, title 23, section 648.5, unless the hearing officer decides to modify the order of proceeding before or during the hearing. The hearing officer has set the time limits for each element of the proceeding specified below and may modify these time limits before or during the hearing.

- a. **Policy Statements:** The hearing officer will allow interested persons to present oral policy statements and oral summaries of written policy statements at the start of the hearing before the presentations of cases-in-chief. The hearing office will limit oral policy statements and oral summaries of written policy statements to 5 minutes.
- b. **Presentation of Cases-In-Chief:** Each party that so indicates in its Notice of Intent to Appear may present a case-in-chief addressing the key issues in this notice. Each case-in-chief will consist of an opening statement, if the party decides to make one, and oral summaries of the witnesses' written proposed testimony. The hearing officer then will allow other parties to cross-examine the witnesses who have presented written proposed testimony or oral summaries of their written proposed testimony. The hearing officer may allow re-direct examination and re-cross examination. The hearing officer will decide whether to accept the party's exhibits into evidence upon the party's request or motion after completion of all examinations of the party's witnesses.

The AHO requests that documents such as written proposed testimony, motions, written comments, and briefs shall be submitted to the AHO on pleading paper (with each line numbered in the left margin) using 12-point font and one-inch margins. If pleading paper is not available, the documents described above shall be double-spaced. For either format, the party shall sequentially number the paragraphs in the written testimony.

- i. **Opening Statements:** At the beginning of each party's case-in-chief, the party or the party's attorney or other representative may make an opening statement that briefly and concisely states the objectives of the case-in-chief, the major points that the proposed evidence is intended to establish, and the relationship between the major points and the key issues. The hearing officer will limit oral opening statements to 5 minutes per party. A party may submit a written opening statement before the hearing or during the hearing before the party's case-in-chief and then, if desired, may provide an oral summary of the written opening statement. A party should include any policy-oriented statements in the party's opening statement.
- ii. **Oral Summaries of Written Testimony:** All witnesses presenting testimony shall appear at the hearing. Before testifying, all witnesses shall swear or affirm that the written and oral testimony they will present will be true and correct. A witness shall not read written proposed testimony into the record, but instead shall just provide a summary. A witness provides his or her direct testimony when he or she confirms that a designated exhibit or exhibits is or are his or her testimony. The hearing officer will allow each party a maximum of 15 minutes for each witness to summarize his or her written proposed testimony. The purpose of this part of the hearing will be for each witness to briefly summarize his or her testimony. The hearing officer will not allow witnesses to testify orally to matters not in their written proposed testimony.
- iii. **Cross-Examination:** The hearing officer will permit other parties to cross-examine a party's witnesses on the witnesses' written submittals, oral summaries and clarifying testimony, and other relevant matters not covered in the direct testimony. (Gov. Code, § 11513, subd. (b).) If a party presents multiple witnesses, the hearing officer will decide whether the party's witnesses will be cross-examined individually or as a panel or panels. The hearing officer initially will limit cross-examinations to 30 minutes per witness or panel of witnesses. The hearing officer may allow additional time for cross-examination if the cross-examining party demonstrates in an offer of proof good cause to take additional time for cross-examination. Ordinarily, only a party or the party's representative will be permitted to cross-examine a witness, but the hearing officer may allow a party to designate a person technically qualified in the subject being considered to cross-examine a witness.
- iv. **Re-Direct and Re-Cross Examination:** The hearing officer may allow re-direct and re-cross examination of each party's witnesses. Any re-direct examination and re-cross examination permitted may not exceed the scope of the cross-examination and the re-direct examination, respectively. The hearing officer may establish time limits for any permitted re-direct and re-cross examination.

- v. **Hearing Officer's Questions:** Consistent with California Code of Regulations, title 23, section 648.5, subdivision (b), the hearing officer may ask any witness questions, and may cross-examine any witness, at any time.
- c. **Rebuttal:** Rebuttal evidence is new evidence used to rebut evidence another party will present in its case-in-chief. Parties shall submit written proposed rebuttal testimony and related rebuttal exhibits by the deadline specified in this notice. Each part of each witness's written proposed rebuttal testimony shall specify, with citations to the specific pages of the other parties' witnesses' written proposed direct testimony, the specific proposed testimony that is being rebutted.

After all parties have presented their cases-in-chief and their witnesses have been cross-examined, the hearing officer will allow parties to present their rebuttal evidence. The hearing officer normally will limit cross-examination of witnesses offering rebuttal evidence to the scope of the rebuttal evidence.

- d. **Closing Briefs:** This notice specifies the deadline for parties to file written closing briefs. The parties shall follow the procedures described above for uploading exhibits to the parties' folders on the State Water Board's FTP site when they upload their closing briefs, and they shall file one paper copy with the AHO. Each party shall mail a paper copy of its closing brief to any party that has not agreed to accept electronic service of documents and shall indicate this service in a proof of service filed with the AHO. No party may attach any documents of an evidentiary nature to the party's closing brief unless the hearing officer already has admitted the document into evidence or the document is the subject of an offer of proof made during the hearing. After the deadline for filing closing briefs, the AHO will file all closing briefs in the AHO-FTP folder for this proceeding.

11. RULES OF EVIDENCE: Government Code section 11513 shall apply to all evidence offered during this hearing. Consistent with Government Code section 11513, subdivision (d), a party may use hearsay evidence to supplement or explain other evidence, but over timely objection such evidence will not be sufficient by itself to support a finding unless the evidence would be admissible over objection in a civil action.

12. COURT REPORTER: The AHO will not order a court reporter for any pre-hearing conferences or hearings in this proceeding. Any interested party may order a court reporter at the party's own expense. Any party that arranges for a court reporter and intends to submit the reporter's transcript to the AHO should inform the court reporter that court reporter's transcripts submitted to the AHO will become public documents upon submission and that the AHO will file them in the AHO-FTP folder for this proceeding. However, even if the AHO files such transcripts, the AHO's official record of this proceeding will include the audio+video recordings described in the following paragraphs and not the reporter's transcripts.

13. OFFICIAL RECORD: The official administrative record for this proceeding will be all the electronic files that the AHO has saved in the AHO-FTP folder this proceeding. The AHO uses the paper copies of exhibits that parties submit to the AHO for internal use only.

The official record of any part of this proceeding, such as a conference or hearing, is the audio-plus-video recording file of that part of the proceeding. All citations in written briefs to parts of this proceeding shall include the dates and times of the cited portions of the audio-plus-video recordings of those parts of this proceeding. If a party has filed a court reporter's transcript of any part of this proceeding, then the party may include a parallel citation to the transcript, but the first part of each citation shall be to date and time in the audio-plus-video recording.

14. TELECONFERENCE HEARING: The AHO is conducting this hearing by Zoom teleconference. New users of Zoom may want to review Zoom's support guide: <https://support.zoom.us/hc/en-us/categories/200101697>.

To facilitate a clear understanding of who is speaking, the hearing officer will ask each person to identify himself or herself as necessary during the teleconference hearing. The hearing officer prefers that parties participate by both audio and video through the Zoom meeting link. If this is not possible, then the hearing officer will accept audio-only participations.

The AHO will record all pre-hearing conferences and hearings using the Zoom videoconference recording software and will post an audio-plus-video file and a Zoom-generated transcript of each such proceeding in in the AHO-FTP folder for this proceeding.

Parties should test their devices' video and audio functions before the start of the hearing or pre-hearing conference. At the lower left-hand side of the Zoom window is a microphone and a video camera symbol. If there is a red line across the symbols, your microphone is on mute and video camera is off.

Please plan to call into the video conference at least 10 minutes before the scheduled hearing or pre-hearing conference time to ensure you can resolve any technical issues before the hearing or pre-hearing conference begins. You will initially be in a virtual waiting room and will be admitted to the hearing by a member of the AHO. When you speak, please turn your video on and unmute your microphone by clicking on the symbols in the lower left-hand side of the Zoom window. During the hearing, please be respectful and patient, raising your hand on-screen to get the hearing officer's attention. To reduce acoustic background noise, please remain on mute if you are not speaking. If you have other devices that are tuned into the meeting, please turn off the speaker volume of those devices. Other participants will be able to see your name, depending on your Zoom account settings. Other participants may also see the last three digits of your phone number unless you have called in anonymously. During the hearing, AHO staff may add designations of participants' names to the Zoom display.

If the device you are using freezes, please notify staff at AdminHrgOffice@Waterboards.ca.gov or by calling (916) 341-6940 and leaving a voicemail message and restart the device. AHO staff will be monitoring the e-mail inbox and voicemail and will notify the hearing officer. If restarting the device does not work, try calling into the hearing using the phone number provided to you with the Zoom meeting information.

In lieu of participating in the Zoom hearing, anyone may watch past or present AHO hearings by clicking "Watch AHO Hearings" on https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office. People watching AHO hearings by this method will not be able to participate in the hearing, and will not be identified to anyone else.

May 6, 2022 _____
Date

/s/ ALAN B. LILLY _____
Alan B. Lilly
Presiding Hearing Officer

Attachments:

1. Court's Oct. 7, 2021 Order After Hearing
2. Notice of Intent to Appear form
3. Sample Exhibit Identification Index form
4. Service List (copies of notice sent by e-mail only, to all listed e-mail addresses)

ATTACHMENT 1

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY**

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 10/07/2021
By Deputy: Conder, Perla

City of Marina, et al.

Plaintiff/Petitioner

vs.

RMC Lonestar, et al.

Defendant/Respondent

Case No.: 20CV001387

ORDER AFTER HEARING

This matter came on before the Court on October 6, 2021 for further hearing on the motion of Defendants California-American Water Company (“Cal-AM”), RMC Lonestar and RMC Pacific Materials, LLC dba CEMEX (“CEMEX”) for referral of this matter to the State Water Resources Control Board (“SWRCB”).

This action involves fairly complex factual history and disputes regarding the slant wells proposed by Cal-AM for a proposed desalination project.

The motion for referral to SWRCB is well-taken, particularly in view of the fact that SWRCB prepared a report previously in 2013 regarding the same proposed project, and the motion is GRANTED.

The Court, by reference to the SWRCB pursuant to California Water Code section 2000, seeks the expert opinion from the SWRCB on the following questions in this action:

1. Where are the subsurface drawing source points (including capture zones) for each of the currently proposed Cal-Am wells located in relation to:

a. seawater in the ocean itself;

b. drawing source points for the Marina Coast Water District (“MCWD”) production wells;

- c. the Subbasin Interface Zone;
- d. the 180/400 foot Aquifer Subbasin;
- e. the Monterey Subbasin;
- f. the Cemex property;
- g. the MCWD wells.

Graphic depictions, if available, would be helpful.

2. Would water drawn by any of the currently proposed Cal-Am wells come from any source other than seawater from directly beneath the Ocean?

If so, from which sources? And which if any of these sources lie in whole or in part beneath the Cemex property?

If so, can one approximate with reasonable certainty in what quantities the water would be drawn from each source? Can this be expressed in percentages?

If so, do the relative amounts drawn from each source vary depending upon amounts drawn by the slant wells?

If so, can it be said with reasonable certainty that the amount drawn by the Cal-Am wells will not exceed 500 acre-feet per year (“afy”) from any water source beneath the Cemex property?

3. What is the hydrogeological connectivity, if any, between the areas from which Cal-Am proposes to draw water and the areas from which MCWD extracts water?

4. Is it likely that any of the proposed draw for the Cal-Am wells would (a.) result in or (b.) increase any seawater intrusion into the Subbasin Interface Zone, the 180/400 foot Aquifer or the Monterey Aquifer, or any source for the MCWD production wells?

If so, what is the likely extent of the intrusion?

5. Is it likely that any of the proposed draw will (a.) lower the groundwater table or (b.) reduce the storage space in any source other than seawater and if so, can the extent be approximated?

6. Has MCWD been pumping water from the Subbasin Interface Zone and, if so, for approximately what period of time?

7. What effect, if any, would the proposed draw by Cal-Am slant wells have upon any primary or paramount water right of Marina or MCWD?

What impact on quantity and quality of the water sourced by MCWD wells is likely?

8. Does SWRCB have an opinion as to whether
(a.) there is any legal theory upon which Cal-Am may rely to extract the proposed draw; and
(b.) the proposed Cal-Am extraction would infringe upon MCWD's appropriate rights to groundwater?

9. Preliminarily, what does SWRCB believe is a reasonable time estimate for the completion of such a report?

The Court sets a hearing for November 5, 2021 at 11:00 a.m. in Department 15 for review of a Proposed Work Plan from the SWRCB, which should include a response to question #8 above.

Dated: 10/7/21



Thomas W. Wills
Judge of the Superior Court

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//

CERTIFICATE OF MAILING
(Code of Civil Procedure Section 1013a)

I do hereby certify that I am employed in the County of Monterey. I am over the age of eighteen years and not a party to the within stated cause. I placed true and correct copies of the **Order After Hearing**, for collection and mailing this date following our ordinary business practices. I am readily familiar with the Court's practices for collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Services in Monterey, California, in a sealed envelope with postage fully prepaid. The names and addresses of each person to whom notice was mailed is as follows:

Paul Skip Spaulding III
One Maritime Plaza 18th Floor
San Francisco CA 94111

Howard Francis Wilkins III
555 Capitol Mall Ste 800
Sacramento CA 95814

Robert Rory Moore
Three Embarcadero Center 12th Floor
San Francisco CA 94111-4074

Ruth Stoner Muzzin
350 Sansome Street Suite 800
San Francisco CA 94104

Kerry Shapiro
2 Embarcadero Center 5th Floor
San Francisco CA 94111

Meredith Enns Nikkel
621 Capitol Mall 18th Fl
Sacramento CA 95814

James Lee Markman
350 South Grand Avenue 37th Floor
Los Angeles CA 90071


David Leon Osias
600 West Broadway 27th Floor
San Diego CA 92101-0903

Susan Kimberly Blich
168 West Alisal Street 3rd Floor
Salinas CA 93901-2653

Andrew Sawyer
Tina Leahy
David Rose
1001 I Street 22nd Floor
Sacramento CA 95814

Dated: October 7, 2021

Clerk of the Court

By: 
P Conder, Deputy Clerk

ATTACHMENT 2

NOTICE OF INTENT TO APPEAR FORM

(Name of Participant or Party) _____ plans to participate in the water right hearing regarding the City of Marina Court Reference Public Hearing,

Scheduled to begin on October 19, 2022

1) Check only one of the following boxes:

- Option 1:** I/we intend to present a policy statement only and, therefore, not to participate as a party in this hearing.
- Option 2:** I/we intend to participate as a party by presenting any of the following: an opening statement, direct testimony, cross-examination or rebuttal, and intend to participate as a party in this hearing.

2) If you selected Option 2 above and intend to provide direct testimony, complete the witness table below. If not, skip to item 3 below.

Witness Name	Expert Witness?		Subject of Proposed Testimony	Estimated Length of Oral Direct Testimony (minutes)
	Yes	No		
	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>		

(If more space is required, please add additional pages.)

3) Fill in the following information of the participant, party, attorney, or other representative:

Name (type or print):

Represented party (if applicable):

Mailing Address:

Telephone Number:

E-mail Address:

Optional:

I/we decline electronic service of hearing-related materials.

Signature: _____

Date: _____

ATTACHMENT 4

Service List City of Marina v. RMC Lonestar Court Reference

Marina Pantchenko
Salinas Valley Basin Groundwater
Sustainability Agency
Office of County Counsel
168 West Alisal
3rd Floor
Salinas, CA 93901
Pantchenkoms@co.monterey.ca.us

Howard F. Wilkins III (Chip)
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Sacramento, Ca 95814
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Attorney for Marina Coast Water District

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*Attorney for RMC Pacific Materials LLC
d/b/a CEMEX*

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Control Board*

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