

commentletters

From: Quint, Matthew@Waterboards
Sent: Wednesday, July 13, 2016 2:07 PM
To: commentletters
Subject: FW: California American Water's Amended Application for Order Modifying Order WR 2009-0060
Attachments: Attachment H to Marina Coast WD's CDO Comments -- 5-26-16 Curtis J Hopkins Tech Memo - North Marina Area Groundwater Data and Conditions.pdf; Attachments A through G to Marina Coast WD's CDO Comments.pdf; 7-12-16 Marina Coast WD Comments on Cal-Am CDO Proceeding.pdf
Follow Up Flag: Follow up
Flag Status: Flagged

From: Roger Masuda [<mailto:rmasuda@calwaterlaw.com>]
Sent: Tuesday, July 12, 2016 12:15 PM
To: Quint, Matthew@Waterboards
Subject: RE: California American Water's Amended Application for Order Modifying Order WR 2009-0060

Mr. Quint – Attached for filing with the State Water Board for the above proceeding are the following:

1. Marina Coast Water District's Comments.
2. Attachments A through G to the Comments.
3. Attachment H to the Comments.

Please don't hesitate to contact me if you have any questions.

Roger K. Masuda
Griffith & Masuda
A Professional Law Corporation
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From: Quint, Matthew@Waterboards [<mailto:Matthew.Quint@waterboards.ca.gov>]
Sent: Friday, July 08, 2016 10:15 AM
To: Roger Masuda <rmasuda@calwaterlaw.com>
Subject: RE: California American Water's Amended Application for Order Modifying Order WR 2009-0060

Mr. Masuda,
You can send Marina Coast WD's comments directly to this e-mail, which is my direct office e-mail. I will then post your comment letter or note on the SWRCB website soon after. Thank you,

Matthew J. Quint

WRC Engineer
State Water Resources Control Board
Division of Water Rights
(916) 341-5380



From: Roger Masuda [<mailto:rmasuda@calwaterlaw.com>]
Sent: Friday, July 08, 2016 10:04 AM
To: Quint, Matthew@Waterboards
Subject: California American Water's Amended Application for Order Modifying Order WR 2009-0060

Mr. Quint – Which SWRCB email or emails do I need to use to file Marina Coast WD's comments on the above matter, which are due on July 13, 2016?

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TECHNICAL MEMORANDUM

To: Mr. Keith Van Der Maaten
General Manager, Marina Coast Water District

From: Curtis J. Hopkins
Principal Hydrogeologist, Hopkins Groundwater Consultants, Inc.

Date: July 13, 2016

Subject: Proposed Settlement Agreement on Monterey Peninsula Water Supply Project
(MPWSP) Desalination Plant Return Water

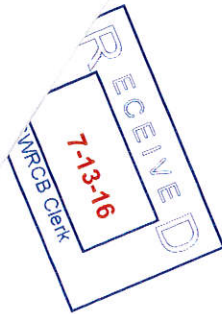
I. Introduction

Hopkins Groundwater Consultants, Inc. (Hopkins) has reviewed California-American Water Company's (Cal-Am's) proposed return water settlement agreement for groundwater extracted by the Monterey Peninsula Water Supply Project (MPWSP or project), dated June 14, 2016, as requested by Marina Coast Water District (MCWD). Cal-Am's proposed return water settlement agreement provides:

Pursuant to the terms of this Settlement Agreement, the Parties propose that Cal Am deliver Return Water to the Castroville Community Services District ("CCSD") and to the CSIP *to satisfy Return Water requirements that may arise out of the Agency Act, CEQA, or California groundwater law*, in accordance with terms and conditions and general principles contained in this Settlement Agreement and separate Return Water Purchase Agreements between Cal Am as seller and CCSD and the Agency, respectively, as purchasers of Return Water.

(Settlement Agreement on MPWSP Desalination Plant Return Water, p. 4 [¶AA].) As explained below, available information indicates the proposed return water settlement agreement will not satisfy the MPWSP's Return Water requirements under the California Environmental Quality Act (CEQA) or California groundwater law.

Our January 22, 2016 memorandum (entitled "Cal-Am's Return Water Proposal for Monterey Peninsula Water Supply Project") addressed many of the inadequacies in Cal-Am's currently proposed return water settlement agreement, specifically the inadequacies in the amount of water Cal-Am's estimates will need to be returned and its originally preferred return



ough Castroville Seawater Intrusion Project (CSIP).¹ This is and provides our professional opinion on why providing proposed in the Return Water Settlement Agreement will impacts caused by the project in the North Marina Area of n the Salinas Valley Groundwater Basin (SVGB). As expanded upon herein, providing return water north of direct groundwater in those aquifers, but it will not mitigate impacts to the aquifers south of the Salinas River and their water

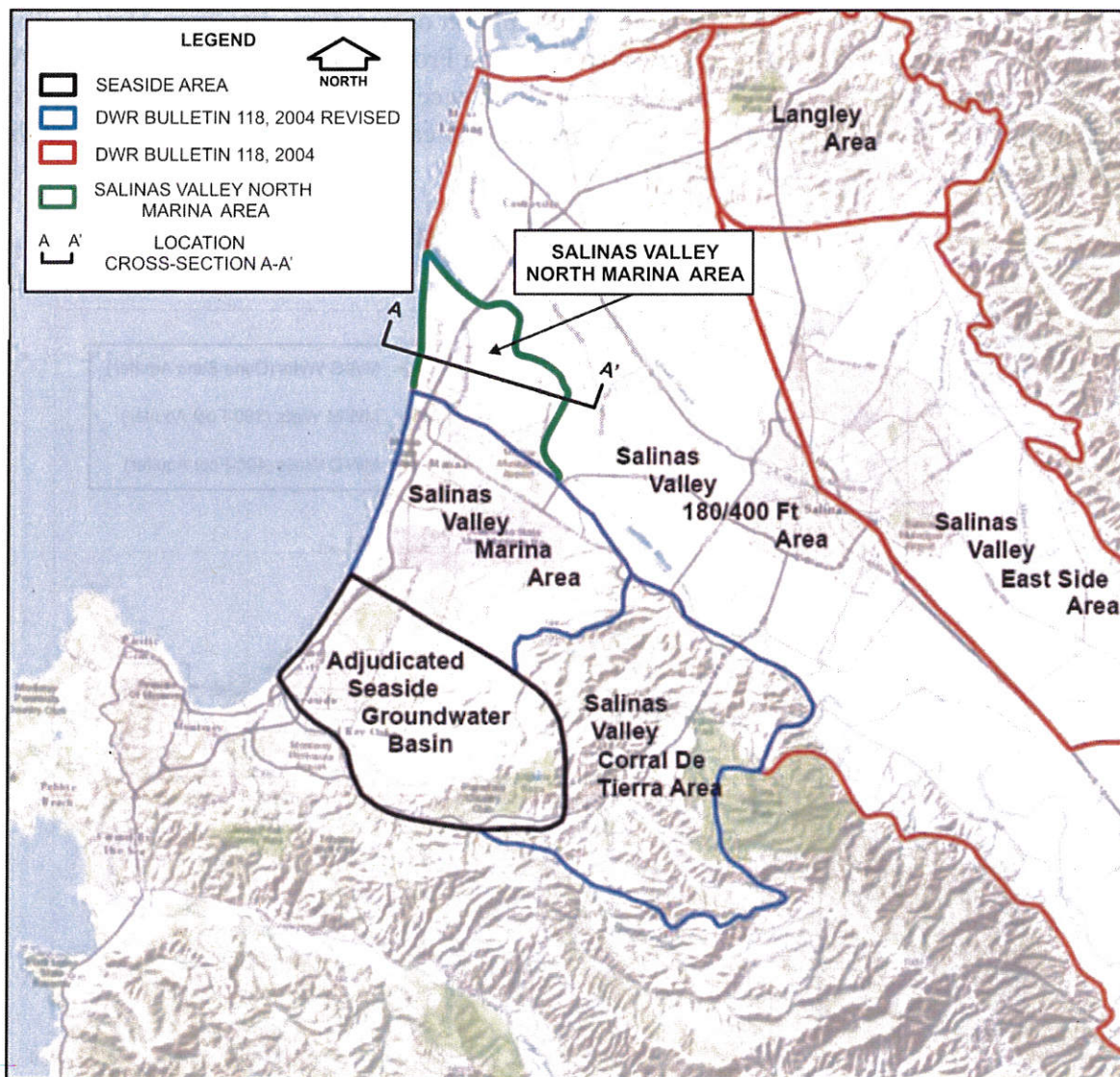
Marina Area Geology Differs from the Geology North of the Salinas River.

The geology in the North Marina Area differs from the geology north of the Salinas River in the main portion of the 180-400 Foot Aquifer Subbasin and has been described in detail by studies conducted for the MPWSP. An interpretation of subsurface deposits within this specific coastal area is provided in Plate 1 – Cross-Section A-A’, which is a portion of a subsurface profile constructed by Geoscience Support Services, Inc. from borehole data collected in the area (Geoscience, 2014). The approximate location of Cross-Section A-A’ is shown in Figure 1 – Groundwater Basin Boundary Map. As shown and as described by previous study (Geoscience, 2014 and 2015, KJC, 2004), the terrace deposits that comprise the 180-Foot Equivalent Aquifer (180-FTE) in the North Marina Area grade into the alluvial deposits that comprise the 180-Foot Aquifer in the main portion of the basin around the present location of the Salinas River.

¹ / As explained in our January 22, 2016 memorandum, updated return water estimates based on unbiased modeling calibrated with actual data—rather than unproven assumptions—from the MPWSP test slant well project (TSW) and monitoring well data from the aquifers within the Northern Marina Subarea affected by the project are required to provide any meaningful basis for evaluating the efficacy of Cal-Am’s return water proposals. As updated modeling is not available, we have not updated our estimates of the amount of return water that will be required to mitigate the proposed project impacts.

² / For purposes of the memorandum, the North Marina Area is defined as that portion of the 180/400 Foot Aquifer Subbasin located south of the Salinas River and north of the Salinas Valley Marina Area as indicated in Figure 1.

Figure 1 – Groundwater Basin Boundary Map

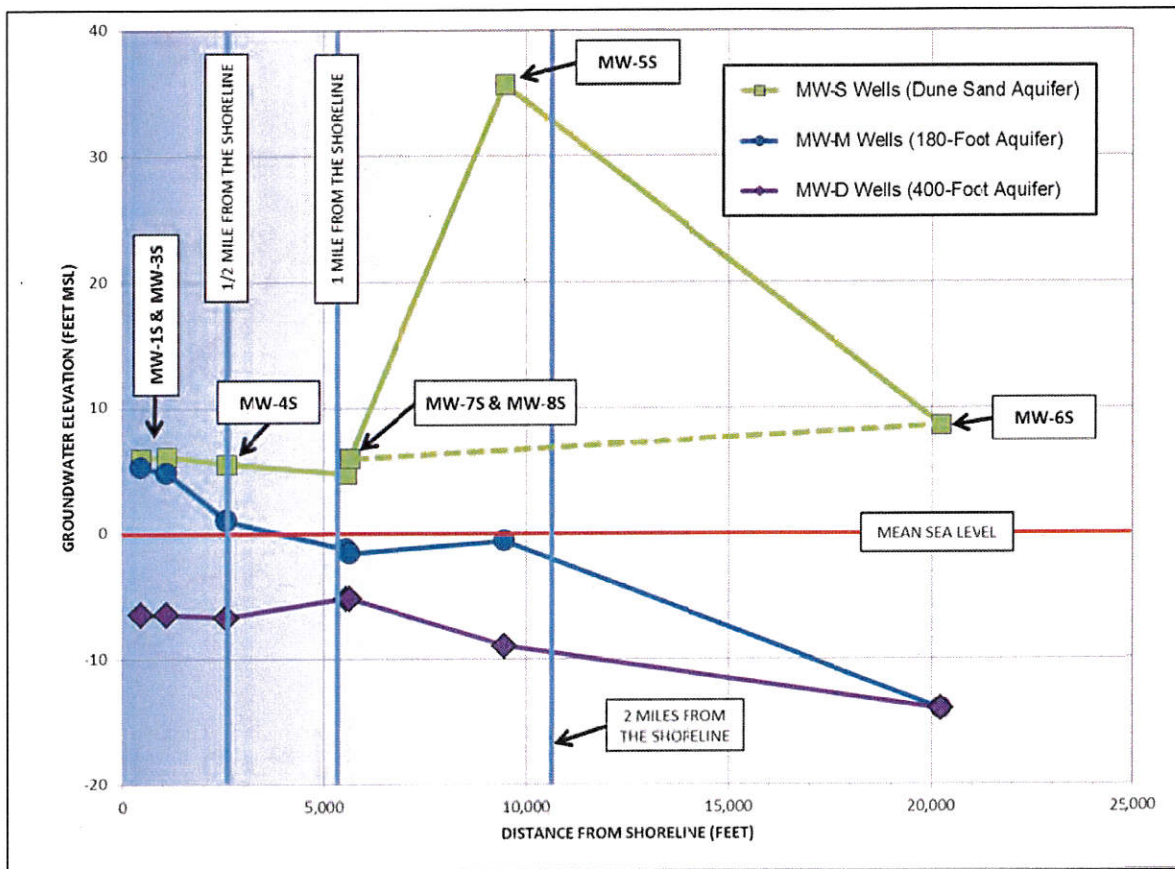


Recent investigation for the MPWSP includes the installation of a test slant well and multiple monitoring wells in and around the CEMEX property where the MPWSP intake wells are proposed to be located. The monitoring well network is being used to generate background water level and water quality data within the North Marina Area of the 180-400 Foot Aquifer Subbasin. The location of the monitoring facilities is shown on Plate 2 – Well Location Map.

Routine monitoring of the well network is presented in weekly summary reports that are posted on the Cal-Am website. Water level data are graphically presented as hydrographs which show daily changes and seasonal trends. A set of hydrographs provided by the MPWSP test slant well long term pumping test Monitoring Report No. 61 are included as Attachment A -

MPWSP Water Level Data. We must note that while we have over a year of data, the climatic conditions prior to initiation of testing have been extremely dry. For comparison of the groundwater conditions across the area prior to resumption of pumping, data from May 2, 2016 were used to construct Figure 2 - Groundwater Elevation From MPWSP Monitoring Wells. As shown, the water level elevations vary significantly between the shallow Dune Sand Aquifer (indicated by the MW-S Wells), the 180-FTE Aquifer (indicated by the MW-M Wells), and the 400-Foot Aquifer (indicated by the MW-D Wells).

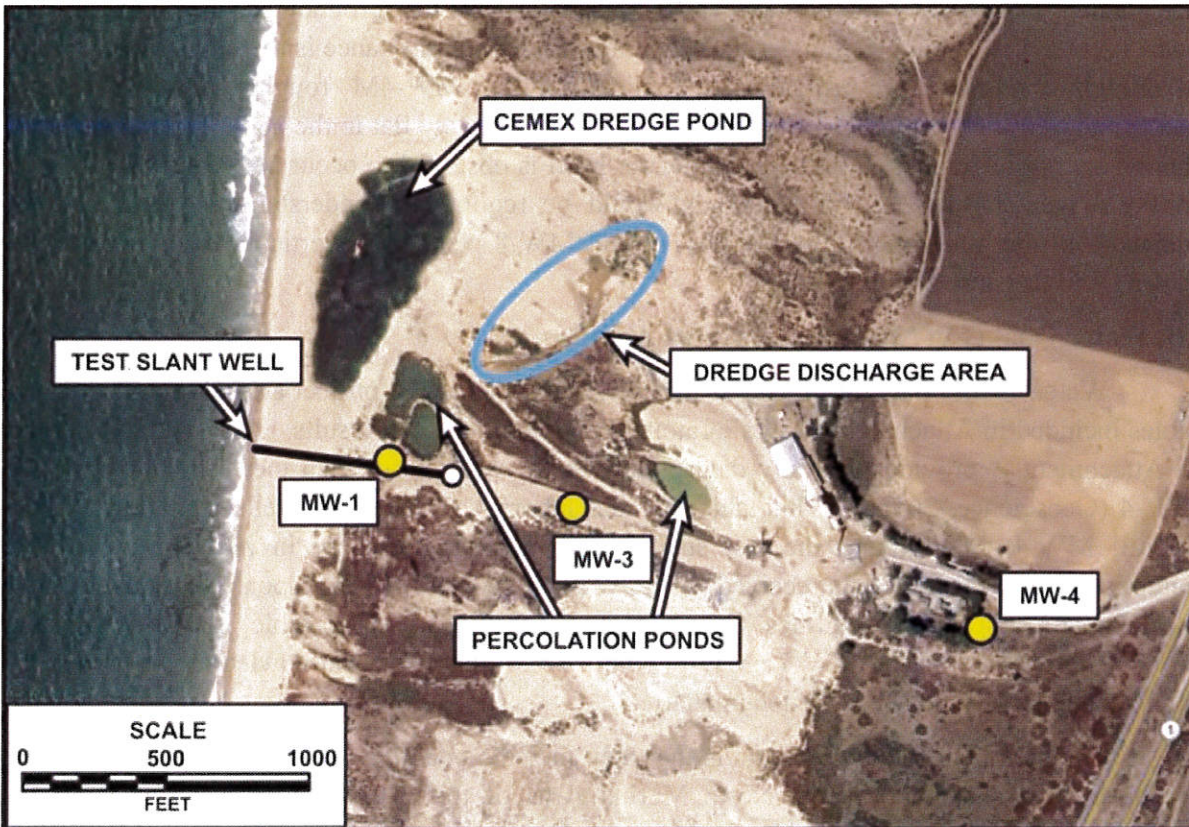
Figure 2 – Groundwater Elevation From MPWSP Monitoring Wells



Notably, the monitoring performed to date shows the Dune Sand Aquifer has water levels above sea level that maintain a protective head against seawater intrusion (Geoscience, 2013). The coastal groundwater mounding at MW-1 and MW-3 is believed to be maintained by the CEMEX dredge pond operation that is discharged on the landward side of the coastal dunes as well as process water that is discharged to percolation ponds that are proximate to the 2 monitoring well locations. Figure 3 – CEMEX Salt Water Discharge Locations shows the surface water features that have influenced the groundwater levels and quality at this location along the coast for decades. The maintenance of these features undoubtedly increases the

amount of ocean water present in shallow groundwater in the vicinity of the test slant well that likely does not exist at the location of the MPWSP source wells proposed south of the test slant well location.

Figure 3 – CEMEX Salt Water Discharge Locations



As explained in our January 22, 2016 memorandum, these data developed from the MPWSP investigation show there is a perched groundwater condition in the vicinity of MW-5 where the groundwater elevation is 36 feet above mean sea level (msl). The groundwater perched above the Salinas Valley Aquitard equivalent flows toward the coast and results in downward recharge where the aquitard layer thins (or ends) and provides fresh water recharge into the coastal unconfined Dune Sand Aquifer and the underlying 180-Foot Aquifer in the vicinity of MW-7 and MW-8. (See January 22, 2016 memorandum, pp. 10-12, Figures 4-7.) Again, this is a very significant development given that the groundwater found with a 36-foot elevation in the Dune Sand Aquifer at the location of MW-5S (and a 6-foot elevation at MW-7S), effectively provides a protective layer preventing seawater from intruding into the Basin at a shallow depth in the Project area and percolating downward into the underlying aquifers. Instead of allowing a shallow pathway for ocean water, the Dune Sand Aquifer having a potable fresh water quality based on its TDS concentration, appears to be slowly recharging the lower

aquifers (i.e., the 180-Foot Aquifer and perhaps 400-Foot Aquifer), which has significantly reduced their TDS levels in this coastal area.

Monitoring data also indicate that the elevation of the water levels in Monitoring Wells MW- 7M and MW-8M under static groundwater conditions in May 2016 were lower than the levels in both MW-4M and MW-5M. While the groundwater elevation is near mean sea level, the gradient indicated by the higher level at MW-5M shows that groundwater flows toward the coast up to MW-7 and MW-8 under these conditions. The significance is that after several years of drought conditions, the groundwater gradient between MW-4M (roughly ½ mile from the coast) and MW-5M (almost 2 miles from the coast) is relatively flat in the 180-FTE Aquifer even though a significant decline in the groundwater level is observed to occur between MW-5M and MW-6M (see Figure 2). Further study would be required to understand if the mounding indicated in the 400-Foot Aquifer at MW-7 and MW-8 were from vertical recharge from the 180-FTE in this area along the coast.

III. Water Quality in North Marina Area Aquifers.

Water quality data developed as part of the test slant well project are summarized in the tables included in Attachment B – Laboratory Water Quality Test Results. The first table shown in Attachment B provides the only data published for wells other than the test slant well and MW-4 (Geoscience, 2015a). This table includes laboratory results for wells including MW-1, MW-3, MW-4, MW-5, and the test slant well. The second table in Attachment B is a compilation of laboratory data received by MCWD in October 2015 in response to a data request in the California Public Utilities Commission proceedings. This table includes data for monitoring wells MW-6, MW-7, MW-8, and MW-9 that to our knowledge, have not be published in any of the MPWSP documents.

The significance of these data is that they indicate beneficial conditions have developed (or have always existed) in the North Marina Area of the 180-400 Foot Aquifer Subbasin contrary to information published by the Monterey County Water Resources Agency (MCWRA). The recent investigation that is being conducted in and around the North Marina Area as part of the MPWSP has uncovered an occurrence of freshwater within the shallow Dune Sand Aquifer and the underlying 180-Foot Aquifer within the area delineated as seawater intruded by the MCWRA. As previously shown, water level data from wells in the shallow dune sand aquifer appear to show protective water levels that are sufficiently above sea level to prevent seawater intrusion in the shallower sediments. This condition, combined with the lack of pumping in the 180-Foot Aquifer in the North Marina Area, appears to have slowed seawater intrusion in this portion of the coastline. Water quality test results for total dissolved solids and chloride concentrations in these two uppermost aquifer zones are shown on Figures 4 and 5 – Average Total Dissolved Solids Concentrations in Groundwater and Average Chloride Concentrations in Groundwater, respectively.

Figure 4 – Average Total Dissolved Solids Concentrations in Groundwater

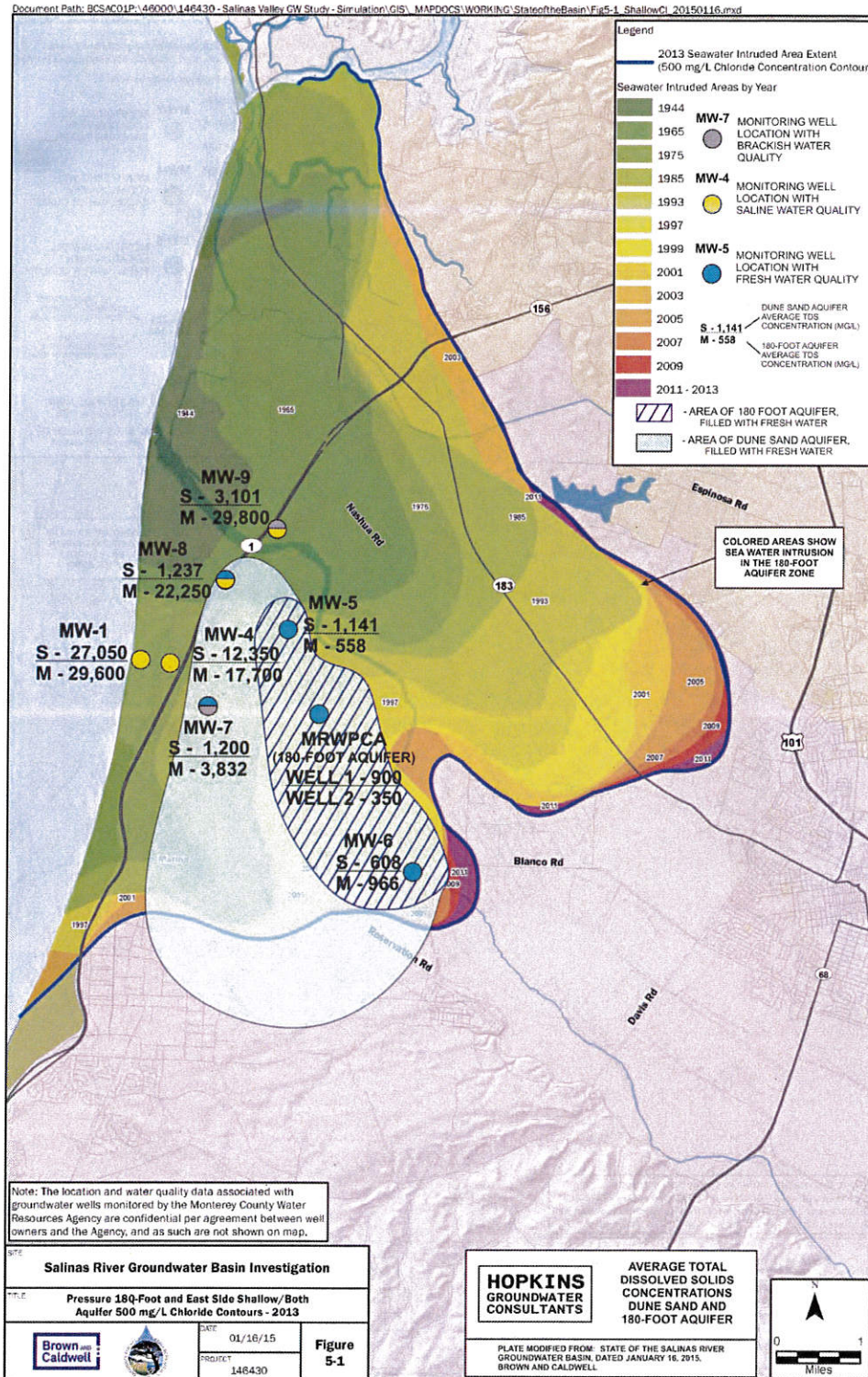
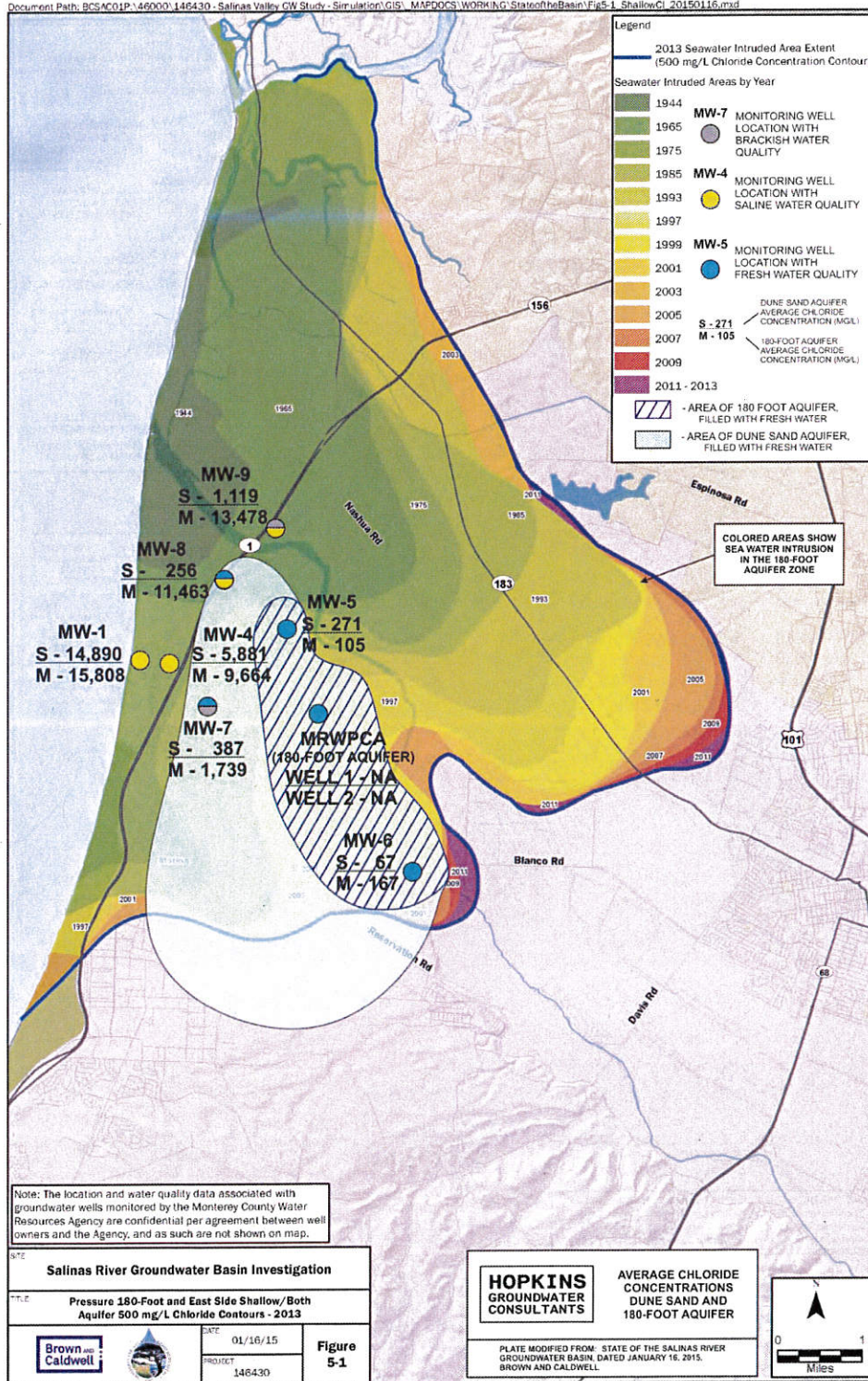


Figure 5 – Average Chloride Concentrations in Groundwater



These data suggest a change of groundwater conditions in this coastal section of the aquifer or alternatively, they may reveal the groundwater conditions that existed in an area largely lacking historical data. While the freshwater in this area contains salts and nutrients that are derived from overlying land uses that include agriculture, landfill, and wastewater treatment plant and composting facilities, the chemical character is not sodium chloride, which is indicative of seawater intrusion. Figure 6 and 7 – Stiff Diagrams of Dune Sand Aquifer Groundwater and 180-Foot Aquifer Groundwater, respectively show that the chemical character of groundwater in these new wells is predominantly calcium chloride and calcium bicarbonate.

Additionally, elevated concentrations of nitrate are present in monitoring wells MW-5S, MW-7S and MW-8S and range from 115 mg/l to 237 mg/l. The concentration of nitrate decreases with depth at all of these sites, and is the highest at MW-5, which is closest to the landfill and the wastewater treatment facilities. While future use of this area for a direct potable groundwater supply is unknown, existing conditions show abatement of seawater intrusion in the shallower aquifer zones in this coastal portion of the Salinas Valley Groundwater Basin. This condition could support the future beneficial uses of the 180-Foot Aquifer zone potentially including aquifer storage and recovery of highly purified recycled water for indirect potable reuse.

These data indicate a unique condition exists in the North Marina Subarea south of the Salinas River that provides a significant degree of protection against seawater intrusion in the shallower aquifers under the present and recent past hydrologic conditions.

Figure 6 – Stiff Diagrams of Dune Sand Aquifer Groundwater

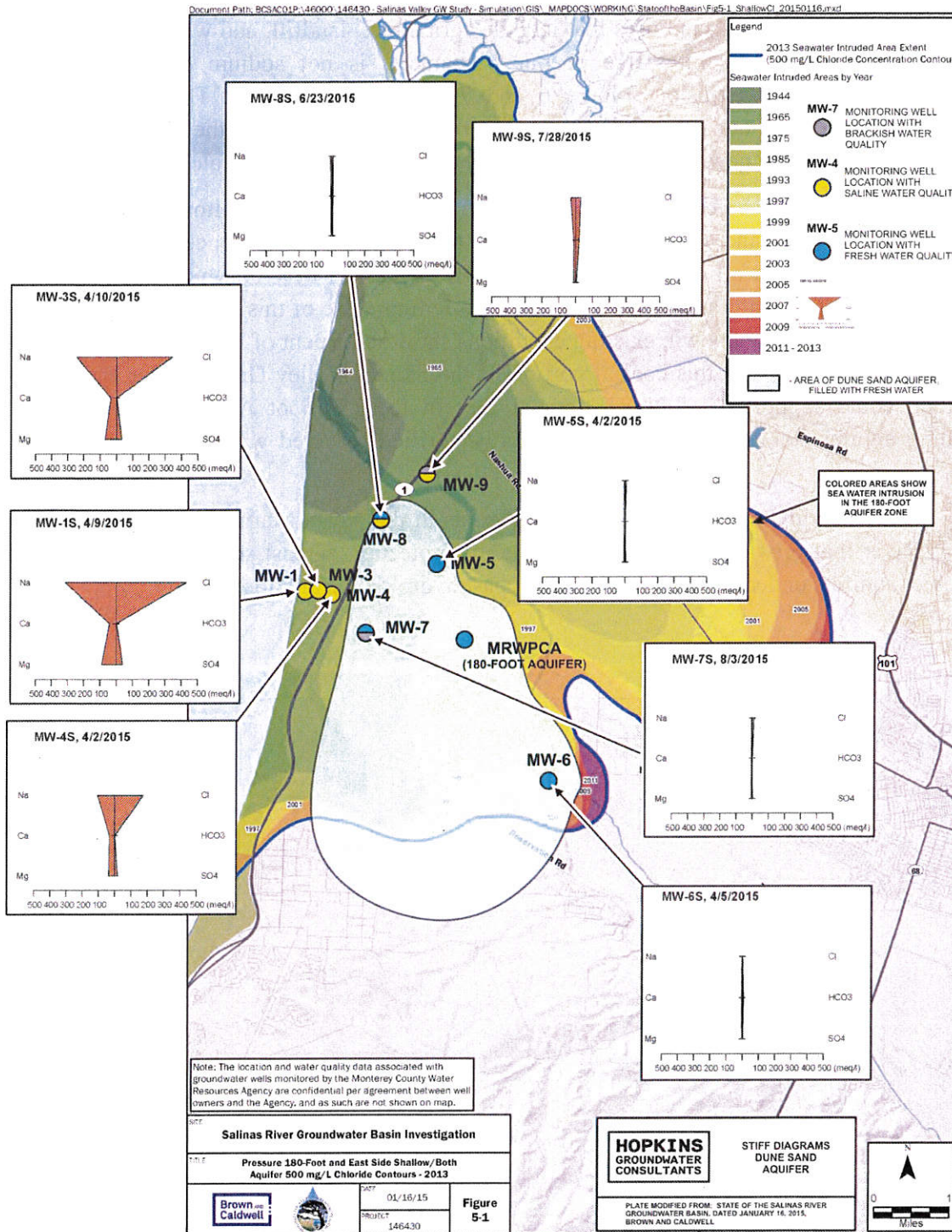


Figure 7 – Stiff Diagrams of 180-Foot Aquifer Groundwater

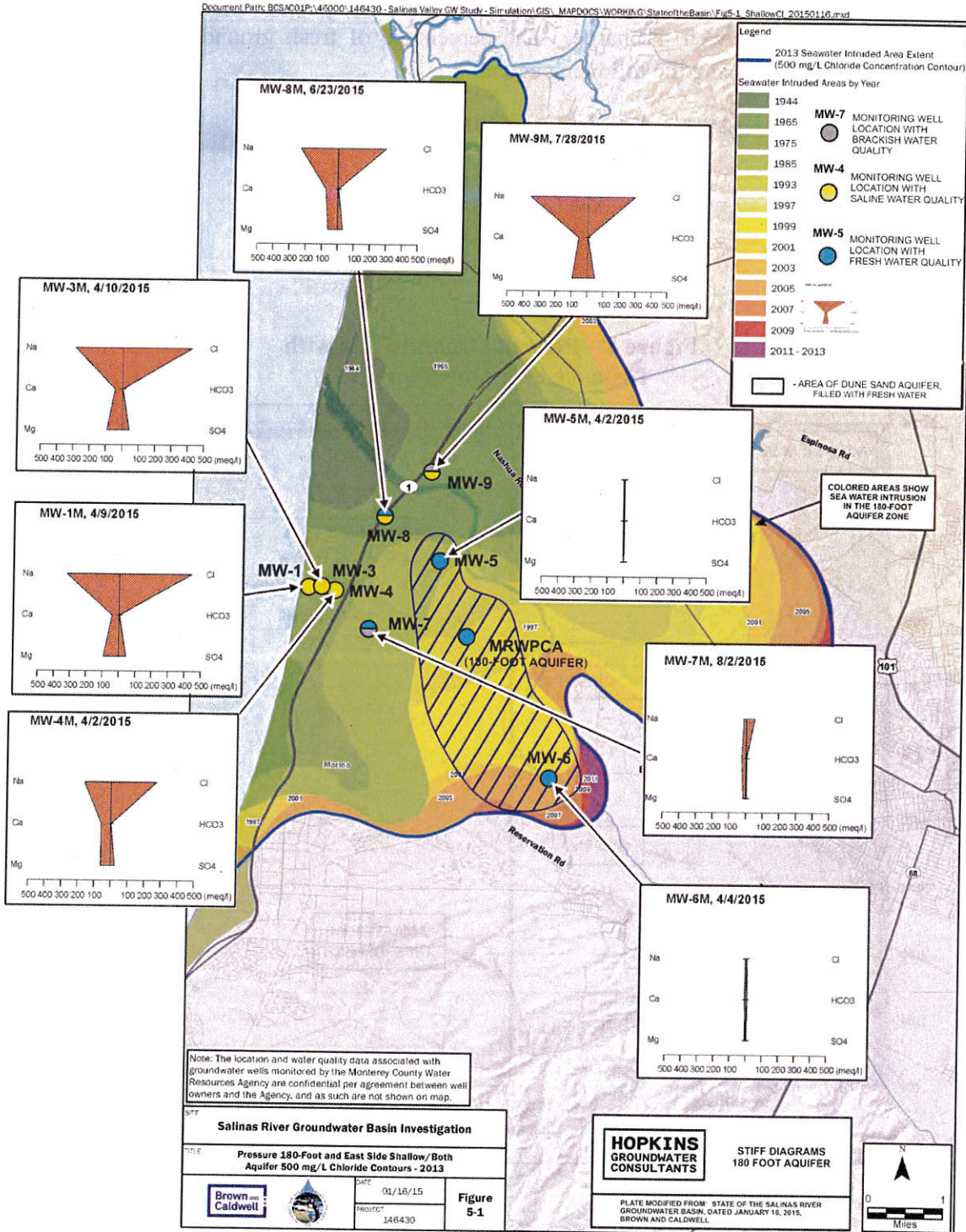


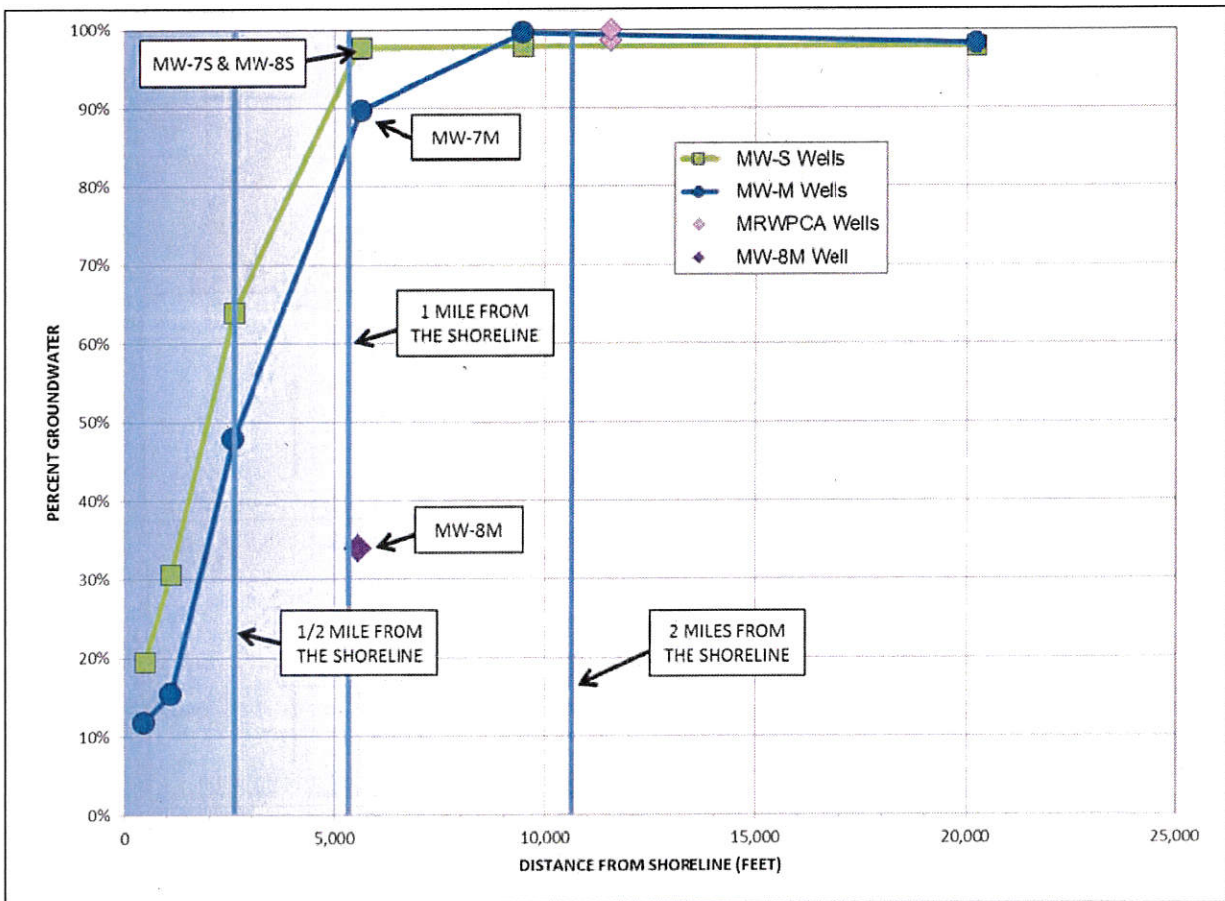
Figure 8 – Percent Groundwater with Distance From the Shoreline shows the rudimentary calculation of groundwater percentage versus ocean water percentage using the same equation applied to the test slant well discharge. The percentage of fresh groundwater in well water samples was calculated using the following equation:

$$GWP = [1 - (WSS - GWS/OWS - GWS)] \times 100$$

Where:

- GWP = Percent Groundwater
- WSS = Well Sample Salinity (mg/l)
- GWS = Groundwater Salinity (420 mg/l)
- OWS = Ocean Water Salinity (33,500 mg/l)

Figure 8 – Percent Groundwater with Distance From the Shoreline



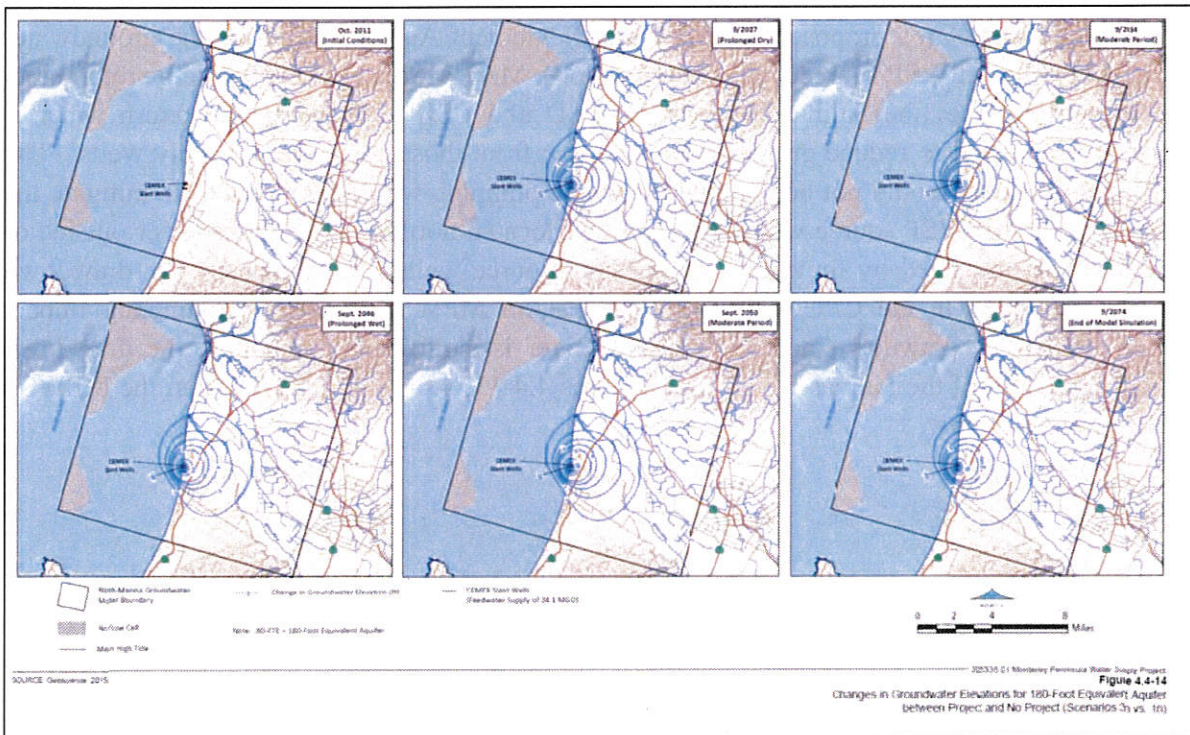
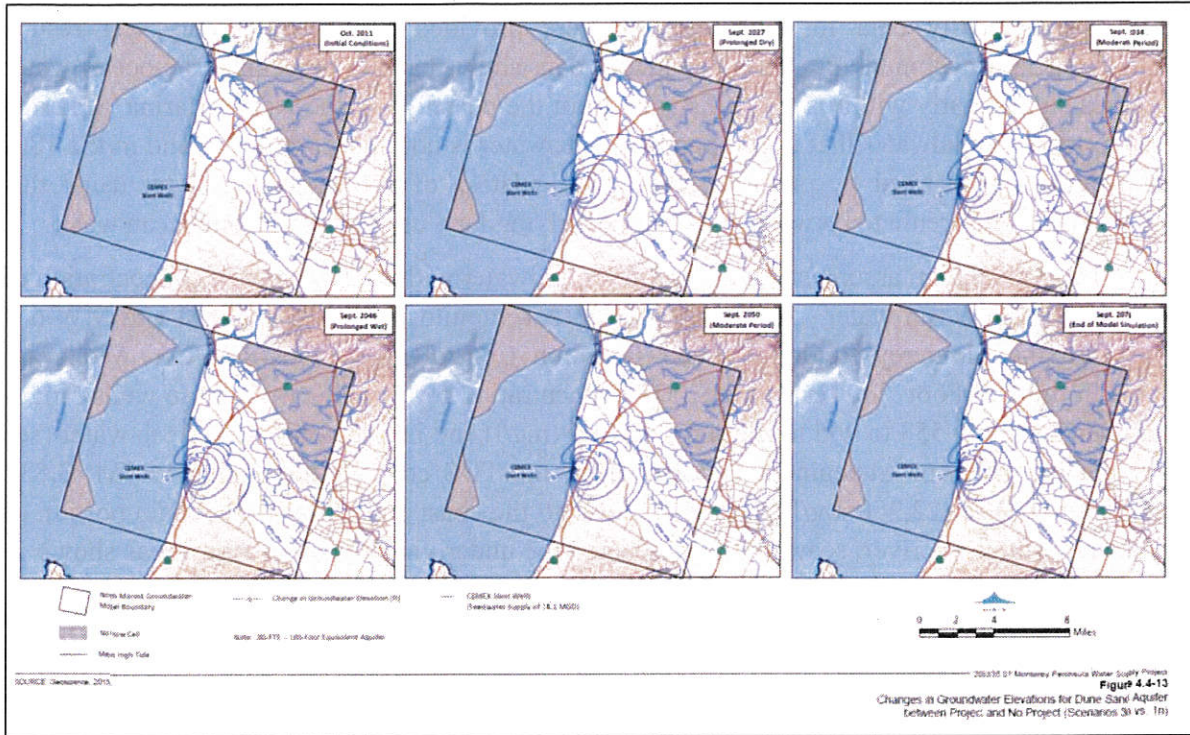
Water quality data for this analysis were provided by the laboratory test results summarized in Attachment B. These available data show that the percentage of ocean water decreases significantly within a short distance from the coastline in the North Marina Area and the salinity of groundwater that is comparable to seawater is not up to 8 miles inland in the 180-Foot Aquifer as assumed by previous study. Calculation of percent ocean water using this method cannot differentiate between salts from overlying land uses and salt from ocean water.

This calculation assumes that all salt in groundwater with a TDS above a concentration of 420 mg/l is from ocean water. As shown in Figure 4, monitoring wells MW-5M and MW-6M along with the Monterey Regional Water Pollution Control Agency (MRWPCA) Wells are located in the 180-Foot Aquifer and the TDS concentration for samples from these wells ranges from approximately 558 to 966 milligrams per liter (mg/l) and is also considered fresh water (see water quality tables in Attachment B). However, the TDS concentration for MW-7M (3,832 mg/l) and MW-8M (22,250 mg/l) show that closer to the coast and closer to the main portion of the Basin north of the river, seawater has impacted the underlying 180-Foot Aquifer as shown in Figures 4 and 7.

IV. Proposed Return Water Settlement Agreement Does Not Mitigate MPWSP's Adverse Groundwater Impacts to North Marina Area Aquifers.

Under Cal-Am's proposed Return Water Settlement Agreement, all of the groundwater extracted by the MPWSP source wells from the North Marina Area aquifers would be returned to water users north of the Salinas River (i.e., CCSD and CSIP). Notably, the return water is reportedly provided to reduce groundwater pumping from those users water supply wells. The wells that allegedly would not be pumped (or where pumping would be reduced) to mitigate the impacts of the MPWSP source wells, however, are located north of the Salinas River outside of the area most impacted by the proposed MPSWP source wells. As shown by the drawdown contours provided in the CPUC's April 2015 CalAm MPWSP Draft Environmental Impact Report ("DEIR"), drawdown north of Salinas River is significantly less than the drawdown anticipated south of the Salinas River. See Figures 4.4-13, 4.4-14 and 4.4-15 from the MPWSP DEIR provided below.³

³ / While the modeling used in the CPUC's April 2015 CalAm MPWSP DEIR should not be relied upon to predict the likely amount of drawdown at any particular location for the reasons outlined in our January 22, 2016 memorandum, it is illustrative of how groundwater impacts from the MPWSP sources wells will lessen with distance.





Perhaps more importantly, the CCSD and CSIP wells where pumping will be reduced (or cease) do not pump water from the Dune Sand or 180-FT Aquifers that the MPWSP will extract water from. This is important for two reasons.

First, as discussed above, groundwater conditions in the Dune Sand or 180-FTE Aquifers inland of the proposed MPWSP intake system create protective heads in the shallow dune sand that is evident by the water levels in monitoring wells MW-4S, MW-7S, and MW-8S. Downward recharge into the underlying 180-FTE was observed to elevate the groundwater levels above sea level during 2015-2016 winter season (the single season of record), which occurred after a 4-year drought. The benefits from these unique groundwater recharge conditions that create shallow mounding in the North Marina Area will be removed by the project and delivery of return water north of the Salinas River to reduce pumping will not mitigate the potential impacts realized by these changed conditions.

Moreover, as indicated by water levels in MW-6M and MW-6D, there is direct vertical recharge between aquifers at certain locations with the North Marina Area where aquitard layers are discontinuous. Leakage through these layers can facilitate vertical flow of seawater that is induced into the North Marina Area by the project. Cal-Am’s return water proposal does not address the increased seawater intrusion the project will cause within the North Marina Area by lowering existing protective heads and removing freshwater recharge. Given the groundwater gradients in the North Marina Area, water injected north of the Salinas River simply will not flow towards the North Marina Area, but rather away from it. For this same reason, reduced

pumping north of the Salinas River simply will not mitigate the reduced water levels and induced seawater intrusion in the North Marina Area that will result from the MPWSP. Figure 9 – Dune Sand Aquifer Groundwater Elevation Contour Map was included in our prior memorandum and is reproduced below to show the general North Marina Area where the project will impact groundwater conditions while the CCSD and CSIP wells where pumping would potentially be reduced under Cal-Am’s proposed Return Water Settlement Agreement are located a significant distance (miles) north of the area and the CEMEX site.

Figure 9 – Dune Sand Aquifer Groundwater Elevation Contour Map



Second, providing water north of the Salinas River as proposed in Cal-Am’s Return Water Settlement Agreement will not remedy the harms to the water users in North Marina Area from reduced water levels and water quality caused by the MPWSP source wells. Again, none of the water provided to the CCSD or CSIP will flow towards the North Marina Area or lessen the

Project's impacts in this area. Thus, the Cal-Am's proposed Return Water Settlement Agreement will not mitigate impacts to the North Marina area or its water users.

As we noted in our January 22, 2016 memorandum, providing return water through injection wells or percolation basins within the Northern Marina Subarea may be a viable option. Additional information and analysis is needed to determine whether these possible options would offset the impacts of the project on the Northern Marina Subarea aquifers and the groundwater users within the subarea. To evaluate such an alternative, we would need to know the location where the water is proposed to be injected or percolated, the zones and rates for an injection proposal, and what quality of water would be injected or percolated.

IV. Conclusion.

As indicated in our prior January 22, 2016 memorandum, updated modeling using information developed from the TSW field investigations and available from other studies in the North Marina Area must be used to refine the MPWSP modeling to accurately simulate aquifer conditions. Additional analysis regarding a method for returning groundwater pumped by the proposed MPWSP source wells that demonstrates the protective conditions that currently exist in the North Marina Area are not adversely impacted to the detriment of the groundwater users in the subarea. Without updated modeling and additional analysis, it is virtually impossible for the public and public agencies to provide meaningful testimony regarding Cal-Am's return water proposal. Nonetheless, it is clear that Cal-Am's Return Water Settlement Agreement will not mitigate the MPWSP's groundwater impacts to the groundwater aquifers within the North Marina Area.

In sum, Cal-Am's Return Water Settlement Agreement does not consider or address the adverse impacts that would result from the MPWSP's source wells. The return water method selected must ensure that the protective water level elevations within the North Marina Area aquifers are maintained to prevent further seawater intrusion within this portion of the SVGB. Unless a return water method ensures the protective conditions discussed above are not harmed, the MPWSP will induce seawater intrusion into the Dune Sand Aquifer and will exacerbate seawater intrusion in the 180-Foot Aquifer in the North Marina Area and likely result in cumulative impacts to aquifers and wells much further inland. It will also delay (or eliminate benefit from) efforts to reverse the trend of seawater intrusion in the North Marina Area and throughout the SVGB. The MPWSP will also undercut extensive efforts by the MCWD and others to eliminate the long-term overdraft condition and to respond to the serious existing drought conditions.

Sincerely,

HOPKINS GROUNDWATER CONSULTANTS, INC.

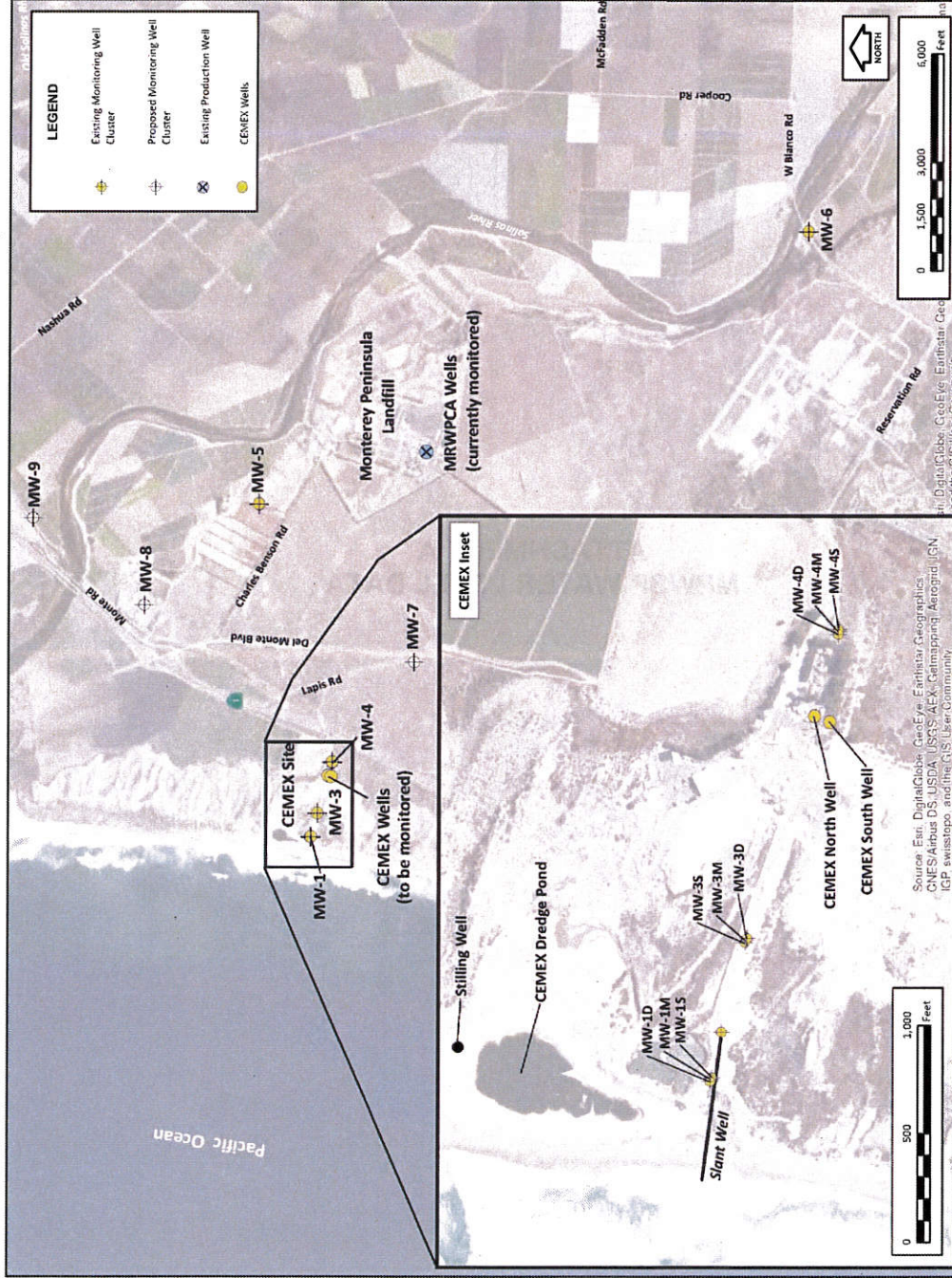


Curtis J. Hopkins
Principal Hydrogeologist
Certified Engineering Geologist, EG1800
Certified Hydrogeologist, HG114

References

- Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates (CPUC Application No. 12-04-019, Filed April 23, 2012) *Settlement Agreement on MPWSP Desalination Plant Return Water*, Dated June 14, 2016, Exhibit A to Joint Motion for Approval of Settlement Agreement on Desalination Plant Return Water.
- Environmental Science Associates (ESA, 2015), *Cal-Am Monterey Peninsula Water Supply Project, Draft Environmental Impact Report*, Prepared for California Public Utilities Commission, dated April.
- Geoscience Support Services, Inc. (Geoscience, 2013), *Technical Memorandum, Protective Elevations to Control Sea Water Intrusion in the Salinas Valley*, Prepared for Monterey County Water Resources Agency, Dated November 19.
- Geoscience Support Services, Inc. (Geoscience, 2014), *Monterey Peninsula Water Supply Project, Hydrogeologic Investigation, Technical Memorandum (TM1) Summary of Results – Exploratory Boreholes*, Prepared for California American Water, RBF Consulting, Dated July 8.
- Geoscience Support Services, Inc. (Geoscience, 2015), *Draft Technical Memorandum, MPWSP Action Items Discussed at the 19-May-15 Geohydrology Workshop, To Mr. Eric Zigas ESA, From Dennis Williams*, Dated June 12.
- Geoscience Support Services, Inc. (Geoscience, 2015a), *Monterey Peninsula Water Supply Project, Groundwater Modeling and Analysis, Draft*, Prepared for California American Water and Environmental Science Associates, Dated April 17.
- Geoscience Support Services, Inc. (Geoscience, 2016), *Monterey Peninsula Water Supply Project, Test Slant Well Long Term Pumping Monitoring Report No. 61, 22-June-16 – 29-June-16, Coastal Development Permit #A-3-MrA-14-0050 and Amendment No. #A-3-MrA-14-0050-A1*, Prepared for California American Water, Dated July 5.
- Hopkins Groundwater Consultants, Inc. (Hopkins, 2016), *Technical Memorandum, Cal-Am's Return Water Proposal for Monterey Peninsula Water Supply Project*, Addressed to Mr. Keith Van Der Maaten, General Manager Marina Coast Water District, Dated January 22.
- Kennedy-Jenks Consultants (KJC, 2004), *Hydrostratigraphic Analysis of the Northern Salinas Valley*, Prepared for Monterey County Water Resources Agency, Dated May 14.

PLATES



**ATTACHMENT A
MPWSP WATER LEVEL DATA**

**In the Matter of the Unauthorized Diversion and Use of Water by the California American Water
Company; Cease and Desist Order WR 2009-0060**

Comments of the Marina Coast Water District

ATTACHMENT A

CAL-AM'S TOTAL WATER PORTFOLIO OPTIONS WITH 100% CDO COMPLIANCE

Beginning January 1, 2022

All amounts are in Acre Feet per Year unless a percentage

	NO DESAL	2 MGD desal	3 MGD desal	6.4 MGD desal
Carmel River Legal Limit	3,376	3,376	3,376	3,376
Seaside Adjudicated Supply*	774	774	774	774
Sand City Desal Plant	250	250	250	250
ASR Phase 1 & 2**	1,970	1,970	1,970	1,970
GWR	3,500	3,500	3,500	3,500
2 MGD Desal Plant		2,240		
3 MGD Desal Plant			3,360	
6.4 MGD Desal Plant***				6,252
Additional water sources****	330	330	330	330
Totals	10,200	12,440	13,560	16,452
2015 demand	9,545	9,545	9,545	9,545
Water Supply Reserve	655	2,895	4,015	6,907
Percent Water Supply Reserve	6.9%	30.3%	42.1%	72.4%

*CAW adjusts 1,474 to 774 to account for the 700 in annual payback for Seaside Basin overpumping

**MPWMD states combined Phase 1 and 2 yield of 1,970 AFY, which is used here

CAW uses an ASR Average Annual Yield of only 1,300.

***CAW assumes only 6,252 AFY as opposed to 7,168 (6.4 X 1,120 AF)

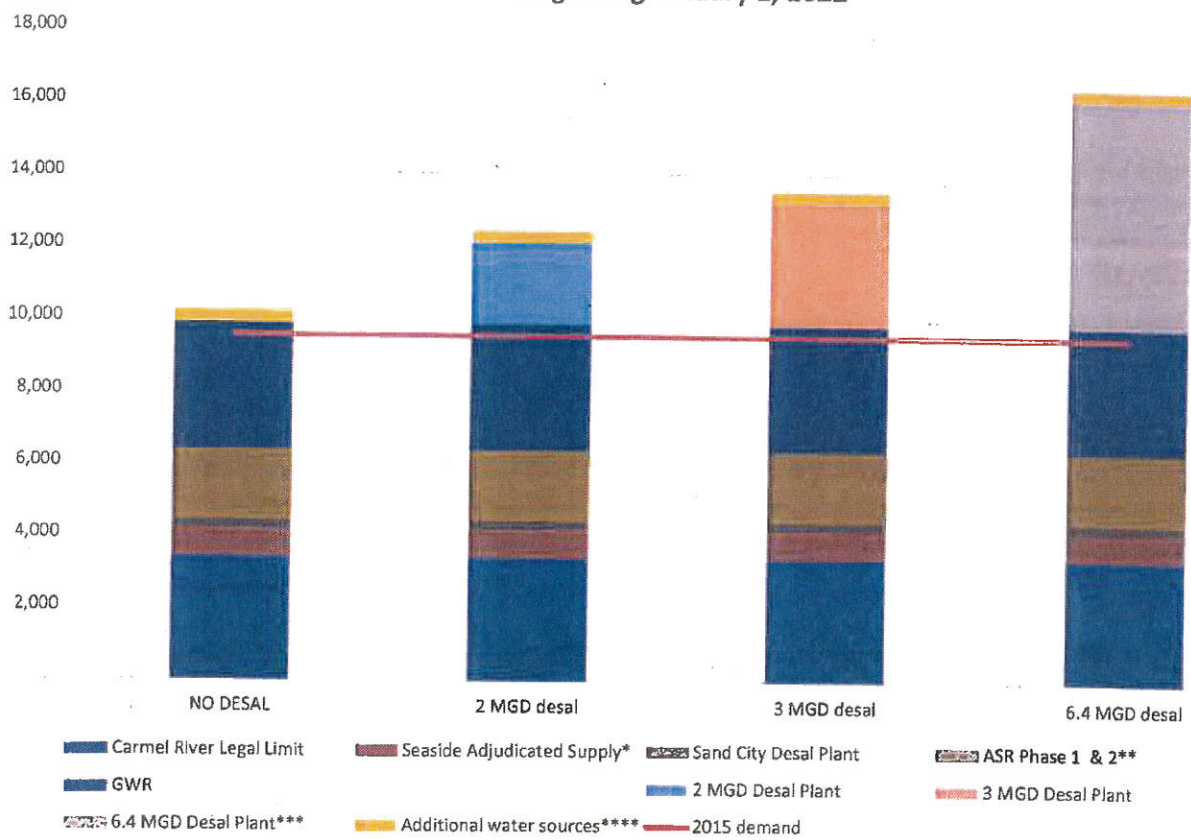
****Spreadsheet assumes a total combined additional water supply of 330 AFY from the Seaside Basin, ASR Project, and GWR Project

In the Matter of the Unauthorized Diversion and Use of Water by the California American Water Company; Cease and Desist Order WR 2009-0060

Comments of the Marina Coast Water District

ATTACHMENT B

Cal Am's Total Water Portfolio under 4 Options and 100% CDO Compliance Beginning January 1, 2022



In the Matter of the Unauthorized Diversion and Use of Water by the California American Water Company; Cease and Desist Order WR 2009-0060

Comments of the Marina Coast Water District

ATTACHMENT C

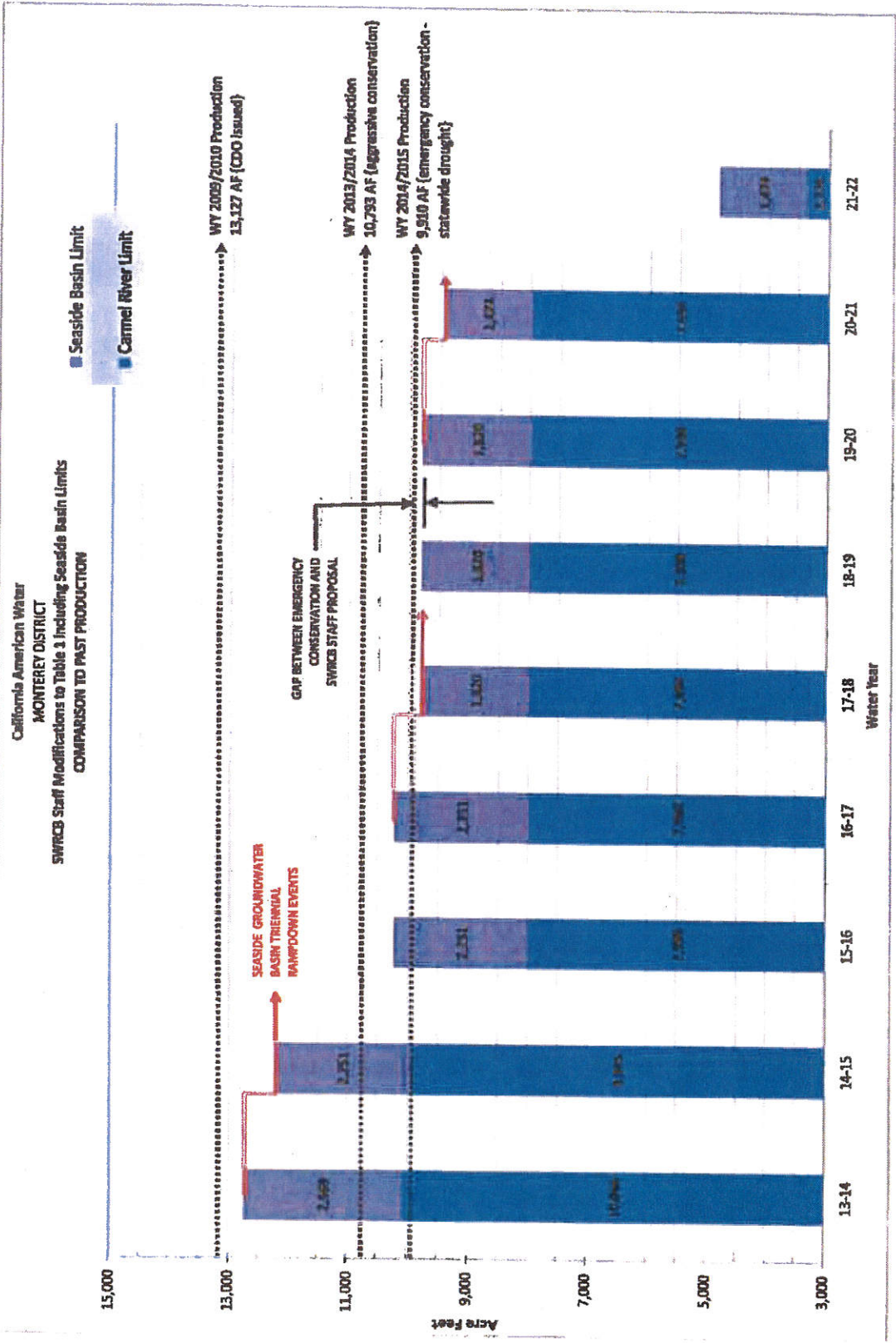


Figure 1

In the Matter of the Unauthorized Diversion and Use of Water by the California American Water Company; Cease and Desist Order WR 2009-0060

Comments of the Marina Coast Water District

ATTACHMENT D

AMENDMENT NO. 1
TO THE
MEMORANDUM OF UNDERSTANDING
BETWEEN
THE SEASIDE BASIN WATERMASTER AND CALIFORNIA AMERICAN WATER
DATED
DECEMBER 3, 2008

The Memorandum of Understanding pertaining to the repayment of Replenishment Assessments (December 3, 2008 MOU) between the Seaside Basin Watermaster (Watermaster) and California American Water (CAW), which was entered into pursuant to a motion passed by Watermaster on December 3, 2008 and executed by the Watermaster on January 21, 2009 and by CAW on January 29, 2009, is hereby modified by this Amendment No. 1 (Amendment) as follows:

RECITALS

- A. The December 3 2008 MOU was entered into to comply with and fulfill the conditions of the Amended Decision entered in the case California American Water Company v. City of Seaside et al., Monterey Superior Court, Case No. M66343.
- B. Section 2.a of the December 3, 2008 MOU states in part that "...upon completion and implementation of a water supply augmentation Project, CAW shall provide Watermaster, at no cost to Watermaster, and on a schedule that is feasible [emphasis added] 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 CAW is entitled as CAW's share of the Native Safe Yield, in an amount equal to CAW's total acre feet of Over-Production for the Water Years 05-06, 06-07, and 07-08, which total is 6,390.1 acre feet. Future CAW requests for Replenishment Credit shall be granted subject to the same conditions set forth in this Section 2 (a)."
- C. CAW is currently prosecuting before the California Public Utilities Commission an application for a Certificate of Public Convenience and Necessity to construct the Monterey Peninsula Water Supply Project ("MPWSP"), as an alternative to the Coastal Water Project.
- D. As of the date of this Amendment, CAW's total Over-Production for all Water years Through Water Year 2012-2013 is 11,981.29 acre feet, and it is anticipated that upon the estimated date on which CAW's MPWSP becomes fully operational, Cal-Am's total Over-Production will be 18,718.17 acre feet.
- E. On November 29, 2012 the Watermaster voted to accept a replenishment repayment schedule proposed by CAW under which the MPWSP would provide potable water to fulfill CAW's replenishment obligations as set forth in the December 3, 2008 MOU.
- F. Watermaster and CAW desire to amend the December 3, 2008 MOU to formalize their agreement that the replenishment repayment schedule proposed by CAW constitutes a "feasible" schedule as referred to in Section 2.a of the December 3, 2008 MOU.

AGREEMENT

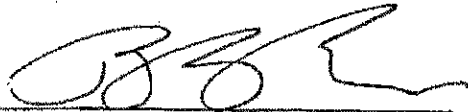
Watermaster and CAW agree as follows:

1. Except as modified by the language below, all terms and conditions of the December 3, 2008 MOU are unchanged by this Amendment No. 1 and remain in full force and effect.
2. Beginning October 1 following final completion and acceptance of all MPWSP components (as defined by the relevant MPWSP construction contracts) by CAW, CAW shall commence Artificial Replenishment of the Seaside Basin as follows:
 - a. At the conclusion of the first Water Year after final completion and acceptance of the MPWSP, and each Water Year thereafter, Watermaster shall report, in accordance with the Amended Decision and Watermaster Rules and Regulations:
 - i. The cumulative total of CAW's Overproduction from Water Year 05/06 to date;
 - ii. CAW's Non-Native Water Stored in the Basin;
 - iii. The cumulative total of CAW's prior Artificial Replenishment.
 - b. CAW's Replenishment Obligation shall be fulfilled in accordance with the Replenishment Schedule contained in Attachment "A" hereto. The volume of artificial or in-lieu replenishment shall be based on a running five (5) Water Year average. Should the average volume of artificial or in-lieu replenishment calculated by the Watermaster be less than 700 acre feet annually, and if the Watermaster declares that water for Artificial Replenishment is available from sources other than the CAW Water Supply Project, Watermaster shall have the option of requiring CAW to pay a part of CAW's Outstanding Replenishment Assessment for the purpose of providing Watermaster with funds to obtain Artificial Replenishment in sufficient quantities to replenish that quantity not provided via in-lieu replenishment.
 - c. Should conditions change in the Basin sufficient to indicate that seawater intrusion is occurring, this Replenishment Schedule shall be subject to immediate modification.
 - d. Replenishment Years subsequent to Replenishment Year 25 shall continue at 700 acre-feet annually based on a running 5-year average until CAW's total Replenishment Obligation has been fulfilled.
 - e. In accordance with Section 4 of the December 3, 2008 MOU, at any stage in CAW's replenishment prior to Replenishment Year 25 should the Court determine that the Basin has been replenished in an amount sufficient to prevent seawater intrusion, or the Basin has been protected by alternative seawater intrusion preventive measures, CAW's obligations under conditions set by the December 3, 2008 MOU shall be deemed fully satisfied.
 - f. CAW's total Replenishment Obligation pursuant to the December 3, 2008 MOU shall equal the number of acre feet CAW Overproduced and for which CAW was assessed a Replenishment Assessment beginning with the Water Year 05/06 to the first Water Year after final completion and acceptance of the MPWSP occurs. In no event shall the total amount of Artificial Replenishment by CAW be greater than the cumulative total of acre feet of CAW's Over Production for which CAW was granted Replenishment Credits.

3. All terms used in this Amendment No. 1 that are defined terms in the Amended Decision shall be defined herein as set forth in Section III.A of the Amended Decision.

IN WITNESS WHEREOF the Parties hereby agree to the full performance of the terms and conditions set forth in this Amendment No. 1.

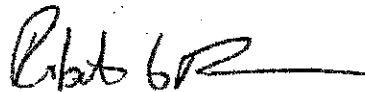
SEASIDE BASIN WATERMASTER



Chair, Seaside Basin Watermaster

Date: 4/25/14

CALIFORNIA AMERICAN WATER



President, California American Water

Date: 6-6-14

ATTACHMENT "A"

REPLENISHMENT SCHEDULE

REPLENISHMENT YEAR	ARTIFICIAL REPLENISHMENT (AFA)	IN-LIEU REPLENISHMENT (AFA)
1		700
2		700
3		700
4		700
5		700
6		700
7		700
8		700
9		700
10		700
11		700
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In the Matter of the Unauthorized Diversion and Use of Water by the California American Water Company; Cease and Desist Order WR 2009-0060

Comments of the Marina Coast Water District

ATTACHMENT E

Cal-Am June 29, 2016 Figure 1 Modified
to Show MCWD's No Desal Option as of January 1, 2022

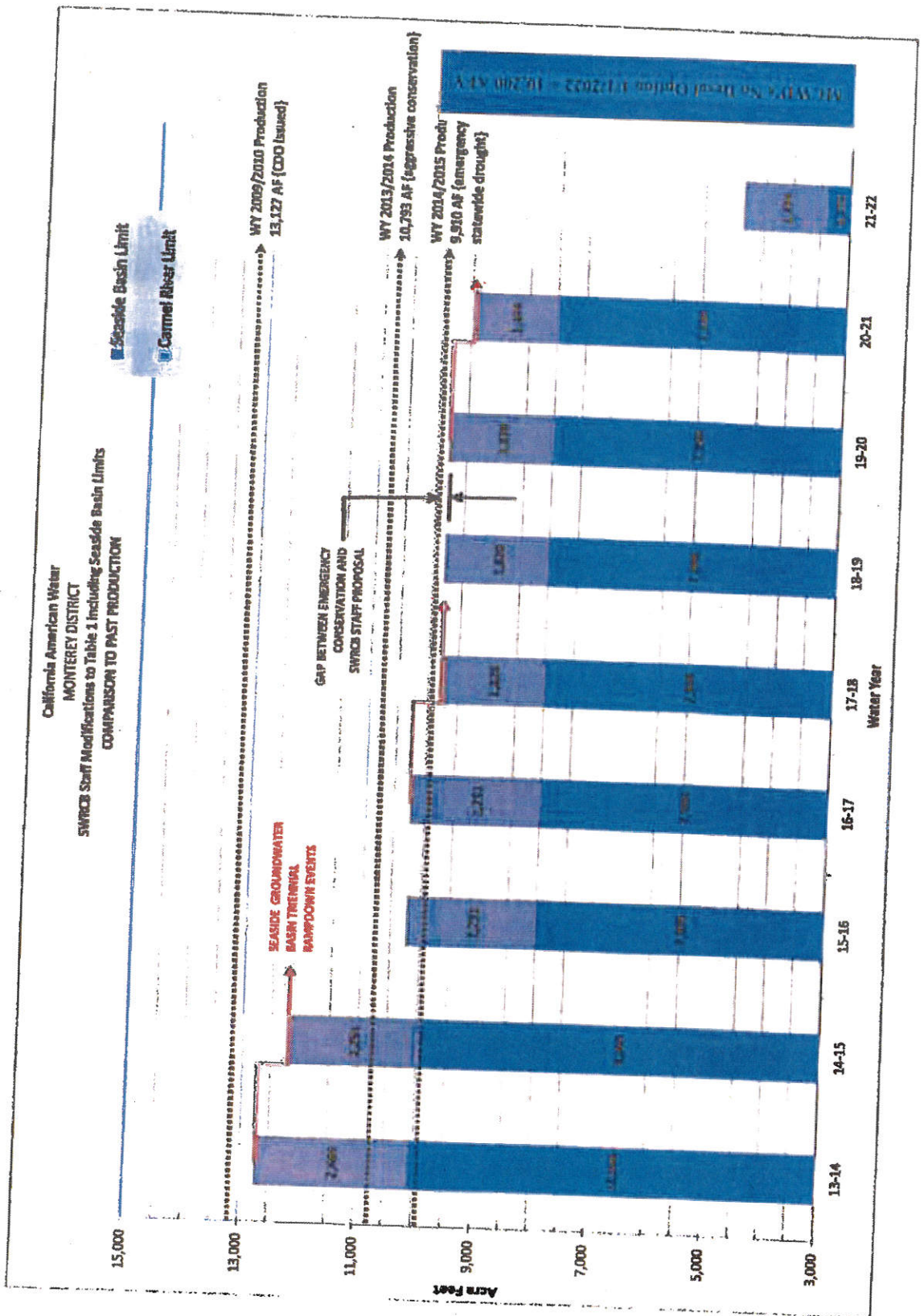


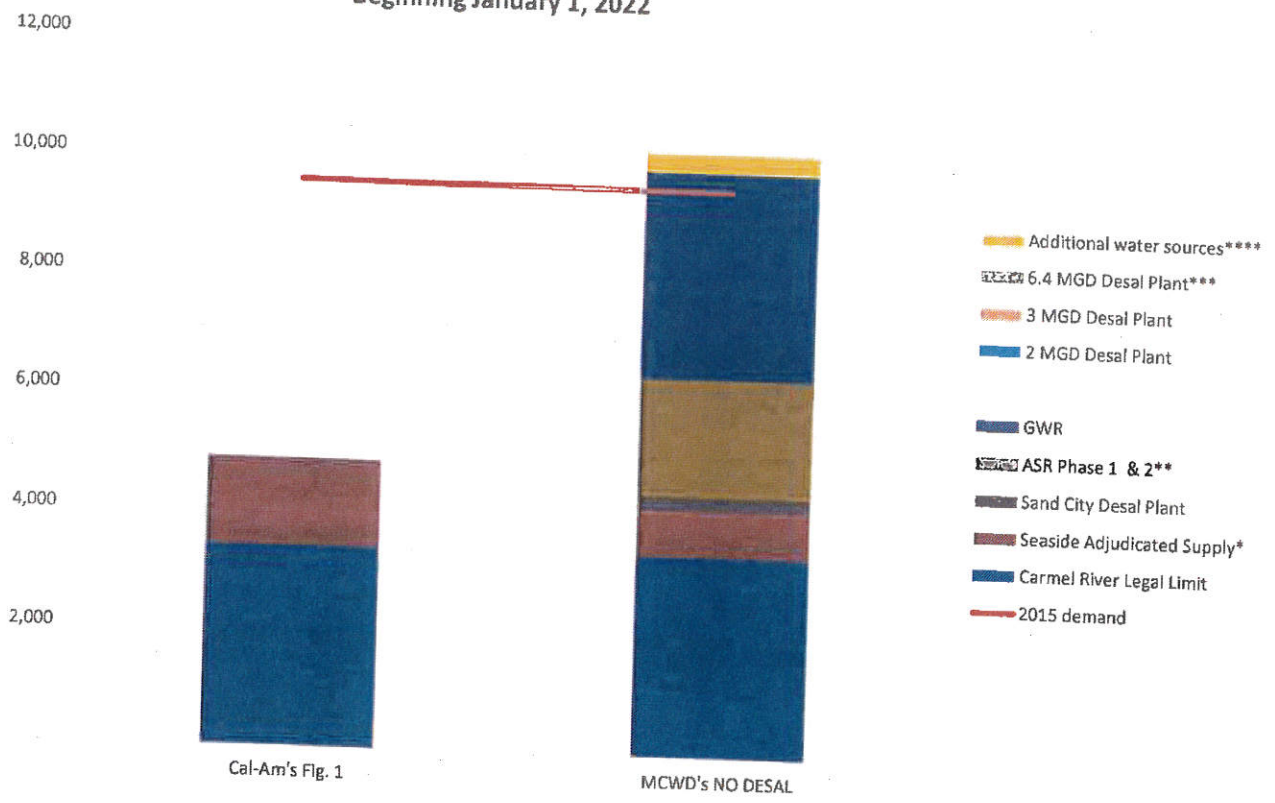
Figure 1

In the Matter of the Unauthorized Diversion and Use of Water by the California American Water Company; Cease and Desist Order WR 2009-0060

Comments of the Marina Coast Water District

ATTACHMENT F

Comparison of Cal Am's Figure 1 Water Year 21-22
 versus
 MCWD's NO DESAL Scenario
 Beginning January 1, 2022



In the Matter of the Unauthorized Diversion and Use of Water by the California American Water Company; Cease and Desist Order WR 2009-0060

Comments of the Marina Coast Water District

ATTACHMENT G

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EXEMPT FROM FILING FEES
(Cal. Gov. Code § 6103)

Attorneys for Seaside Groundwater Basin Watermaster

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

**REQUEST FOR STATUS CONFERENCE,
AND ADJUDICATION BACKGROUND
REPORT AND UPDATE**

([Proposed] Order Granting Status Conference
Filed Concurrently)

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

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1 Cal-Am anticipates that a decision on the proposed modified CDO will be issued by the SWRCB
2 during the second half of 2016.

3 **G. Potential Request for Relief From the 2018-2021 Triennial Rampdown**

4 Pursuant to terms of the proposed CDO extension, the most challenging years for the
5 Monterey Peninsula will be 2018-2020. Depending on the SWRCB's actions on the proposed
6 CDO extension, demand projections, and developments concerning the MPWSP, Cal-Am has
7 indicated that it may request Watermaster to seek the Court's permission to postpone the 2018-
8 2021 rampdown to the Operating Safe Yield of 560 AFY. Such relief from the Operating Safe
9 Yield is currently justified and consistent with the Decision, in the view of Watermaster,
10 principally because Watermaster, through an arrangement with the City of Seaside, has already
11 replenished 2,500 acre-feet of non-native water into the Basin. This has occurred through the City
12 of Seaside's acquisition of 2,500 acre-feet of imported water, which it has used in-lieu of
13 producing the Alternative Production Allocation to which it is entitled for irrigation of two golf
14 courses owned by the city. Watermaster, with the Court's concurrence, entered into an agreement
15 with the City to grant it a credit against the replenishment assessment liability that it incurred in
16 relation to the City's production of Standard Production Allocation for its small municipal water
17 system. Thus, effectively, Watermaster has purchased this 2,500 acre-feet of replenishment
18 supply for the Basin's benefit.

19 The Decision allows relief from the triennial rampdown if "Watermaster has secured and
20 is adding an equivalent amount of Non-Native water to the Basin on an annual basis" (Cite.)
21 Watermaster's in-lieu replenishment program with the City of Seaside does not meet the express
22 criteria of replenishing equivalent Non-Native water *on an annual basis*. However, there
23 currently is, in Watermaster's view, a reasonable basis to postpone the 2018-2021 rampdown for
24 the following reasons:

- 25 • The three-year rampdown total is 1,680 AF (560 AF x 3 years) and 2,500 acre-feet of
26 replenishment has occurred. Thus, the quantity of replenishment water is 149% of the
27 quantity of rampdown relief that may be requested.

- 1 • Watermaster has implemented a robust monitoring and seawater intrusion response
- 2 program, and there is no evidence of seawater intrusion or any other imminent adverse
- 3 impact to the Basin.
- 4 • Relief from the rampdown may be critical to avoid deleterious economic and social
- 5 consequences to the region associated with Cal-Am's CDO extension request.
- 6 • Once it is operational, the MPWSP will be able to provide water allowing for
- 7 replenishment of the Basin in an amount equivalent to the postponed rampdown.

8 Although it has not yet been determined whether relief from the 2018-2021 rampdown
9 will be requested, Watermaster apprises the Court of this issue now to afford the Court advanced
10 notice and, given the importance of this issue in the context of the CDO extension, to provide the
11 Court with an opportunity to ask questions and provide any early direction concerning the issue.

12 **H. Next Steps and Proposed 2017 Status Conference**

13 Watermaster will monitor and, to the extent possible, participate in the GSA formation
14 process for the Corral de Tierra Area Subbasin and begin coordination efforts once the GSA is
15 established. Cal-Am and the MPWMD will continue to update Watermaster on progress for the
16 MPWSP and GWRP.

17 In addition to reporting to the Court at the 2016 Status Conference requested herein,
18 Watermaster will report on the status of the issues described in this report in its 2016 Annual
19 Report to the Court. Watermaster also proposes that the Court set a subsequent status conference
20 hearing for the first quarter of 2017. At that status conference, Watermaster will update the Court
21 on the development of the MPWSP and the requested CDO extension from the SWRCB, report
22 on any updates to the strategy to address groundwater level declines in the LSSA, and discuss
23 whether a motion for relief from the 2018-2021 rampdown is anticipated in 2017.

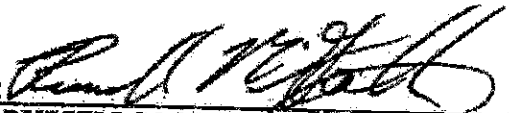
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Dated: May 23, 2016

BROWNSTEIN HYATT FARBEN
SCHRECK, LLP

By: 
RUSSELL M. MCGEOTHLIN
Attorneys for Seaside Groundwater Basin
Watermaster

In the Matter of the Unauthorized Diversion and Use of Water by the California American Water Company; Cease and Desist Order WR 2009-0060

Comments of the Marina Coast Water District

ATTACHMENT H

Curtis J. Hopkins' Technical Memorandum dated May 26, 2016, on "North Marina Area Groundwater Data and Conditions" is a separate PDF filed in this matter

C. The Seaside Groundwater Basin limitations need to be clarified because while Cal-Am states that its adjudicated allocation is only 1,424 AFY, Cal-Am pumped 3,232 AF in Water Year 2014 and 2,765 AF in Water Year 2015.

D. MCWD has no objection to the proposed Carryover Credit cap of 750 AFY.

E. MCWD generally supports the proposed milestones. However, as shown in these comments, Cal-Am's proposed MPWSP is unnecessary to meet its 2022 water supply needs and is not environmentally or legally sound.

F. The penalty for missed milestones should be fines imposed on Cal-Am, the corporation, and not reductions in the Effective Diversion Limit, which would only penalize Cal-Am's ratepayers and customers.

G. The proposed provisions addressing Cal-Am diversions of Carmel River water for the ASR Phases 1 and 2 and recovery of ASR water for use by its customers need to be reconciled and clarified.

H. The amount and breadth of required Carmel River steelhead mitigation measures under the existing and proposed Orders need to be contrasted with Cal-Am's refusal to propose any mitigation for adverse impacts to groundwater aquifers and legal users of groundwater within the immediate vicinity of the CEMEX property's source wells south of the Salinas River. Cal-Am's proposed mitigation to provide desalinated water to the Castroville area north of the Salinas River would not mitigate any adverse impacts to groundwater south of the Salinas River.

I. While Cal-Am is currently a very Carmel River surface water dependent system, a significant amount of its water supply comes from the Seaside Groundwater Basin. With the GWR Project, increased ASR production, and substantially decreased Carmel River diversions after 2021, Cal-Am's water supply will become very dependent upon Seaside Basin operations. The State Water Board Order Amending and Restating Order WR 2009-0060 must recognize the interplay between (1) Cal-Am's Seaside Basin pumping of its adjudicated groundwater and ASR and GWR recovery pumping and (2) Cal-Am's Carmel River diversions for direct use and for ASR.

J. Whether at the State Water Board or at the CPUC, the regulatory agencies need to first examine Cal-Am's Total Water Portfolio of existing and future water source options. As shown in these comments, a critical analysis of Cal-Am's 2022 Total Water Portfolio shows that Cal-Am should have sufficient water sources to meet its Monterey District demands, be 100% CDO compliant, and without the MPWSP.

K. Cal-Am should be required to produce for public review a computer model, which integrates all of Cal-Am's existing water sources, GWR water, and provision for additional water sources and which sets forth each source's availability by water year type and by month and which then compares water supply availability to water system demand by water year type and by month.

L. The Seaside Groundwater Basin Watermaster should be requested to independently review and prepare a public report to the State Water Board of Cal-Am's production rights and history, including, but not limited to Cal-Am's adjudicated groundwater rights, its over pumping right, the effect of rampdowns on Cal-Am's rights, and Cal-Am's payback obligation. The State Water Board should require Cal-Am to reimburse the Watermaster for all costs of such review and report.

The Marina Coast Water District and its Groundwater Rights. MCWD was formed in 1960. Today MCWD is a 100% groundwater dependent public water agency serving municipal and industrial water uses within the City of Marina and the former Fort Ord. Pursuant to that certain Annexation Agreement and Groundwater Mitigation Framework for Marina Area Lands dated March 1996 (1996 Annexation Agreement), among the Monterey County Water Resources Agency (MCWRA), MCWD, the City of Marina, the Armstrong Family, and RMC Lonestar, predecessor owner of the CEMEX property, MCWD itself was allocated the right to 3,020 AFY of potable groundwater. By October 2001 quitclaim deeds, the U.S. Army (retaining 1,729 AFY of potable water for its exclusive use) transferred to the Fort Ord Reuse Authority (FORA) and FORA in turn transferred to MCWD the 4,871 AFY of the potable groundwater previously allocated to the Army by MCWRA under that certain Agreement concerning the

Annexation of Fort Ord into Zones 2 and 2A of the MCWRA dated September 21, 1993.

Therefore, pursuant to the 1996 Marina Lands Annexation Agreement and the 2001 quitclaim deeds, MCWD owns vested potable groundwater rights of 7,891 AFY to serve its Central Marina and Ord Community service areas.

The 1996 Annexation Agreement was entered into for the express purposes of groundwater protection and reduction of seawater intrusion. The 1996 Annexation Agreement limits groundwater pumping of non-potable water on the CEMEX property to a total amount of not more than 500 acre-feet per year; all of which groundwater can only to be used on the CEMEX property. The then CEMEX property owner agreed to limit its then existing overlying groundwater rights in exchange for other consideration in the agreement and that limitation took effect upon signing of the Annexation Agreement in 1996.

In addition to these comments, MCWD incorporates by reference its previously filed comments dated May 31, 2016, in this matter.

II. Cal-Am's Total Water Portfolio Options versus System Requirements – The Need for an Integrated Approach to Cal-Am's Water Supply Planning

Cal-Am aggressively asserts that a minimum 6.4MGD desalination plant with source water intakes on the CEMEX property is vitally needed to make-up the water lost from the State Water Board rightfully curtailing Cal-Am's illegal diversions on the Carmel River. Cal-Am uses that mantra to push the CPUC to quickly grant approval of the MPWSP thereby avoiding an integrated and comprehensive environmental, legal, and feasibility review. While the State Water Board staff in its proposed Order addresses in part the interrelationship of the elements of Cal-Am's Total Water Portfolio, a closer examination is essential regarding Cal-Am's existing and proposed elements in its Total Water Portfolio, including how those existing and proposed source elements would interact and be integrated, and their relationship to Cal-Am's total system requirements.

Cal-Am's Monterey District is currently a Carmel River surface water-dependent water system, which will shift by 2022 to a Seaside Groundwater Basin-dependent system.

Cal-Am is proposing an 8,310 AFY soft cap on its Carmel River diversions. For calendar year 2015, Cal-Am's total system deliveries were 9,545 AF. $8,310 \div 9,545 = 87\%$. As everyone was reminded by the current drought, surface water supply varies considerably depending upon the water year type. For its estimated 87% surface water-dependent water system, Cal-Am has not produced for public review a computer model of its water supply sources and demands as they vary by water year type and by month. MCWD request that the State Water Board require Cal-Am to produce such a computer model for public review and use.

Cal-Am's Total Water Portfolio Options. Cal-Am's CDO extension request must be considered within the context of Cal-Am's Total Water Portfolio, including full consideration of its ratepayers' significant and continuing reductions in water use in recent years. To assist the State Board in that regard, MCWD has prepared the following:

- Spreadsheet of four water supply options for Cal-Am moving forward based upon (1) a Total Water Portfolio analysis, (2) 100% CDO compliance, and (3) using Cal-Am's 2015 system deliveries of 9,545 AF¹ as the baseline. [**Attachment A to MCWD's Comments**]
- Bar graph of the spreadsheet results. [**Attachment B to MCWD's Comments**]

MCWD examined four different Total Water Portfolio options, which could be in place by January 1, 2022, with 100% CDO compliance – NO DESAL, 2 MGD Desal, 3 MGD Desal, and 6.4 MGD Desal – in relationship to Cal-Am's actual 2015 water deliveries. The "NO

¹ Cal-Am's 2015 system deliveries may be found at <http://www.watersupplyproject.org/#!/system-delivery/pjews>.

DESAL” option assumes that Cal-Am’s MPWSP is not constructed. The “2 MGD Desal,” “3 MGD Desal,” and “6.4 MGD Desal” options assumes that Cal-Am would construct a desalination plant (location of source wells are not assumed to be the CEMEX property) with those respective treatment capacities. Cal-Am reports a 6.4 MGD plant would produce 6,252 AFY², but MCWD did not make a similar adjustment for the 2 MGD and 3 MGD options.

MCWD’s NO DESAL Option is based upon the following water sources, which should be available to Cal-Am when the GWR Project becomes operational and on January 1, 2022:

Cal-Am’s NO DESAL Water Sources When GWR becomes operational and on January 1, 2022	Acre Feet per Year
Carmel River Legal Limit	3,376
Seaside Basin Adjudicated Groundwater Supply	774
Sand City Desalination Plant	250
Aquifer Storage & Recover (ASR) Project Phases 1 and 2	1,970
Groundwater Replenishment (GWR) Project	3,500
Additional Water: Seaside Basin, ASR, and GWR	330
Total No Desal Water Supply	10,200

Carmel River Legal Limit: As determined in State Water Board Order 95-10.

Seaside Basin Adjudicated Groundwater Supply: The amount of Seaside Basin groundwater available to Cal-Am under its existing adjudicated rights varies depending upon

² See the table at the end of Amended Appendix H to its Amended Request to the CPUC, a copy of which was filed in this matter

how the data is represented. As shown in the following table, there are at least five possible amounts for Water Year 2014-15:

Data Source	Acre Feet
Represented by Cal-Am as its adjudicated AFY amount	1,474
Represented by Cal-Am in table at the end of Amended Appendix H to Amended Request to the CPUC filed by Cal-Am in this matter, which assumes that Cal-Am will payback the Watermaster for over pumping at a replenishment rate of 700 AFY for 25 years	774
Figure 1 to Applicants' June 29, 2016 comments for Water Years 2014-15 through 2016-17 with assumed "rampdown" from 2,669 to 2,251	2,251
Watermaster's report of Cal-Am's Total Production for Water Year 2014-15	2,775
Amendment No. 1 to the Memorandum of Understanding between the Seaside Basin Watermaster and California American Water dated December 3, 2008	2,436(?)

The reason for the discrepancies in the above numbers is because Cal-Am has failed to disclose to the State Water Board that the Seaside Basin Watermaster authorizes Cal-Am to pump more than Cal-Am's claimed 1,474 AFY adjudicated amount and more than Cal-Am's rampdown amount as Cal-Am has represented to the State Water Board in Figure 1 to Applicants' June 29, 2016 comments (**Attachment C to MCWD's Comments**) to the State Water Board staff's Preliminary Recommendation.

On April 25, 2014, the Watermaster signed Amendment No. 1 to the Memorandum of Understanding between the Seaside Basin Watermaster and California American Water dated December 3, 2008 (**Attachment D to MCWD's Comments**). Recital D to Amendment No. 1 recognizes Cal-Am's right to over pump by stating, "As of the date of this Amendment, CAW's total Over-Production for all Water years (sic) Through Water Year 2012-2013 is 11,981.29 acre

feet, and it is anticipated that upon the estimated date on which CAW's MPWSP becomes fully operational, Cal-Am's total Over-Production will be 18,718.17 acre feet." 18,718.17 – 11,981.29 = 6,737 AF. Assuming that in 2014, the Watermaster assumed that the MPWSP would become fully operational during Water Year 2019-20 – seven years after Water Year 2012-13 – then the average annual assumed Cal-Am over pumping would be 962 AFY. 1,474 AFY + 962 AFY = 2,436 AFY. However, MCWD has no information about the data assumptions used by the Watermaster to derive the 11,981 AF and 18,718 AF numbers.

This lack of transparency by Cal-Am is why MCWD requests the State Water Board to ask the Seaside Basin Watermaster to prepare an independent public report of Cal-Am's production rights and history, including, but not limited to Cal-Am's adjudicated groundwater rights, the effect of rampdowns on Cal-Am's rights, and Cal-Am's payback obligation.

Sand City Desalination Plant: The 250 AF amount comes from State Water Board Order WR 2009-0060's Table 1, Projected Reductions in Illegal Diversions from the Carmel River, as the Estimated Sand City Desalination Plant production for Water Year 2014-15.

ASR Project Phases 1 and 2: MPWMD on its website on "Aquifer Storage & Recovery" reports an average yield for Phase 1 of "about 920 AFY" and for Phase 2 of "approximately 1,050 AFY", for a total of 1,970 AFY.³ Cal-Am in the table at the end of Amended Appendix H to its Amended Request to the CPUC filed in this matter reports a "ASR Project (Existing)" of 1,300 AFY. The difference between MPWMD's total annual yield amount and Cal-Am's is 670 AFY. In addition, MCWD has not seen an analysis of the additional ASR water that would seemingly be available when Cal-Am reduces its diversions after December 31,

³ See <http://www.mpwmd.net/water-supply/aquifer-storage-recovery/>.

2021, to the Legal Limit of 3,376 AFY. For purposes of these comments, MCWD is using MPWMD's 1,970 AFY annual yield.

GWR Project Supply: A water purchase agreement wherein Cal-Am would purchase 3,500 AFY of GWR Project supply is pending before the CPUC.

Additional Water Supply from Seaside Groundwater Basin, ASR, and GWR:

In MCWD's analysis of Cal-Am Total Water Portfolio beginning January 1, 2022, MCWD has estimated additional water supply from the Seaside Basin, the ASR Project, and the GWR Project totaling 330 AFY, which MCWD believes is a reasonable number for 2022 based upon the information presented in these comments.

Additional Seaside Basin Groundwater. Once the GWR Project is operational, the Seaside Basin becomes a comingled pool of native groundwater, Carmel River ASR water, and GWR advanced treated water. The Watermaster will be responsible for managing and accounting for the imported and comingled waters and their extraction/recovery for use for the overall benefit of the Seaside Basin. Subject to an independent report of the Watermaster, the substantial increase in the amount of imported water into the Basin should be managed to significantly improve the groundwater conditions within the Basin thereby allowing for additional pumping by Cal-Am above the 774 AFY

Additional ASR Water. When Cal-Am reduces its Carmel River diversions by some 6,000 AFY to its Legal Limit of 3,376 AFY, more river water for ASR should be available at greater frequencies.

Additional GWR Project Water. The Central Coast Regional Water Quality Control Board in its June 15, 2016 letter to the State Water Board in this proceeding has asked the State Water Board to "direct CalAm to pursue sending its Salinas-area wastewater to the MRWPCA.

Increased wastewater flows could be used by MRWPCA's Pure Water Monterey Project to increase recycled water deliveries either directly to the Seaside aquifer for use by CalAm or to the agricultural irrigation project in the lower Salinas valley." MCWD supports the Regional Board's request.

Phase 1 of the GWR Project provides for the 3,500 AFY transfer to the MPWMD and 600 AFY to MCWD for use within its Ord Community service area, which includes a portion of the Adjudicated Seaside Basin. Phase 2 of the GWR Project will increase the Advance Water Treatment Plant capacity by at least an additional 827 AFY to produce additional water for MCWD. Planning for Phase 2 should include the feasibility of transferring additional advance treated water to MPWMD. The GWR Product Water Conveyance Facilities (pipeline), which will convey the advance treated water from the new treatment plant to MCWD's Ord Community service area and then to the new GWR injection facilities, will have sufficient capacity to convey more than 5,127 AFY. It should be noted that MCWD's peak use of the Advance Water Treatment plant and the pipeline will be during the summer months so a much greater portion of the treatment plant capacity and the conveyance capacity of the pipeline will be available during the other months to treat and convey water to the GWR injection facilities. Pursuant to the April 2016 Pure Water Delivery and Supply Project Agreement between MRWPCA and MCWD, the pipeline is to be designed, constructed, owned, and operated by MCWD.

New Potential Cal-Am Water Sources. Cal-Am's total effort has been to aggressively push the MPWSP as the "only" solution for compliance with the CDO for its illegal Carmel River diversions. Only recently has Cal-Am supported the GWR Project. Previously, Cal-Am worked against the GWR Project because it would significantly decrease the size of the MPWSP

thereby directly impacting Cal-Am's projected financial return from the MPWSP. As a result of the drought, stormwater capture is the new "low hanging fruit" for additional water supplies.

Salinas River Stormwater Capture. MCWD agrees that the primary purpose of the Salinas Valley Water Project should be to provide groundwater recharge for the Salinas Valley Groundwater Basin. However, during the wetter water years there are substantial Salinas River flows to Monterey Bay in excess of groundwater recharge and environmental flow needs. For example, because of the substantial magnitude of those wetter year flows, MCWRA's proposed Interlake Tunnel⁴ would divert water from Nacimiento Reservoir to San Antonio Reservoir that would otherwise have been spilled at Nacimiento Dam. MCWRA's Salinas River Diversion Facility (the "rubber dam") is a permitted diversion facility located near Marina at the MRWPCA's regional tertiary treatment plant and the site of the to-be-constructed Advance Treated Water plant. As the State Water Board knows, the MCWRA has existing unexercised water rights that could be modified to accommodate additional river diversions at the rubber dam for groundwater recharge. For example, a recharge project could divert some 5,000 AF when there are excess flows in the river with at least three potential uses for this water:

(1) If a blend of stormwater and tertiary treated water could be treated at MRWPCA's Advance Water Treatment plant, then a portion of this water could be incorporated into the GWR Project for use by Cal-Am's Monterey District. MCWRA's Agency Act only prohibits the export of Salinas Valley Groundwater Basin (SVGB) groundwater, not Salinas River water.

(2) A portion of the stormwater could be conveyed north of the Salinas River to the Castroville area for groundwater recharge. The river water would be treated (e.g., filtered and chlorinated) to the extent necessary. In spite of the many years that the Castroville Seawater Intrusion Project (CSIP) has been in operation, the Castroville Community Service District continues to experience significant groundwater supply problems.

(3) A portion of the stormwater should remain south of the Salinas River in the Marina area for seawater intrusion protection and groundwater recharge.

⁴ See http://www.mcwra.co.monterey.ca.us/interlake_tunnel/interlake_tunnel.php.

As discussed below, because the 180/400 Foot Aquifer Subbasin of the SVGB is classified as a Critically Overdrafted subbasin, this type of groundwater recharge project should be a mandatory project under the Groundwater Sustainability Plan for the 180/400 Foot Aquifer Subbasin.

Salinas River Stormwater Capture Variant – Salinas River Water Treatment Plant. This is not necessarily low hanging fruit but MCWD has already performed a preliminary analysis of the feasibility of diverting Salinas River water **in excess of existing agricultural and recharge uses** to meet potable water demands. The project would utilize excess water in MCWRA's water right licenses and permits and could utilize the rubber dam or wells along the Salinas River as Cal-Am does along the Carmel River. River water would not be available in all water years, but for a 5,000 AFY water treatment plant, 1,000 AFY could be used to meet potable water demands within MCWD's Ord Community and the remaining 4,000 AFY could be made available to Cal-Am's Monterey District.

III. Applicants' June 29, 2016 Comment Letter Wherein Applicants Misrepresent that Cal-Am will only have 4,850 AFY of Water Supply Available for Water Year 2021-22.

By letter dated June 29, 2016, the Applicants have provided their comments on the Preliminary Staff Recommendation. MCWD has the following comments relating to the Figure 1 graph in Attachment A to the June 29, 2016 filing. Figure 1 is Attachment C to MCWD's **Comments:**

1. Cal-Am significantly misrepresents its January 1, 2022 Total Water Portfolio available to meet Monterey District demands. In Figure 1, Cal-Am only shows the Carmel River Legal Limit of 3,376 AF and a Seaside Basin adjudicated amount of 1,474 AF for a total of 4,850 AF. Cal-Am seeks to hide the fact that if you add to this 4,850 AF, a GWR amount of 3,500 AF, a ASR amount of 1,970 AF, the Sand City Desalination Plant amount of 250 AF and

additional water supply discussed above in the amount of 330 AF, and you then subtract 700 AFY for payback water to the Seaside Basin Watermaster⁵, the total comes to 10,200 AF under the NO DESAL option, not 4,850 AFY. Attachment E to MCWD's Comments inserts MCWD's NO DESAL option in Figure 1 next to Cal-Am's representation of its Water Year 2021-22 water supply. Attachment F separately graphs the comparison between Cal-Am's representation of its Water Year 2021-22 water supply and the water supply for the same water year under MCWD's NO DESAL option. The Cal-Am depiction of Water Year 2021-22 water supply is very representative of why MCWD is requesting that Cal-Am be required to produce a water supply/demand computer model.

2. Cal-Am represents that its "Seaside Basin Limit" for Water Year 2013-14 was 2,669 AF and for Water Year 2014-15 was 2,251 AF. Yet the Watermaster reports that Cal-Am pumped from the Seaside Basin 3,232 AF in Water Year 2014 (October 1, 2013 to September 30, 2014) and 2,765 AF in Water Year 2015.⁶ As discussed in more detail above in Section II of these comments, the State Water Board cannot rely upon Cal-Am's representations as to Cal-Am's Seaside Basin "Limits." An independent report from the Seaside Basin Watermaster should resolve Cal-Am's pumping rights for the years shown on Figure 1.

3. Figure 1 also shows "Seaside Groundwater Basin Triennial Rampdown Events." The Applicants do not disclose that Cal-Am may petition to postpone the Water Year 2017-18

⁵ Amendment No. 1 to the Memorandum of Understanding between the Seaside Basin Watermaster and California American Water dated December 3, 2008, which is Attachment D to MCWD's Comments, may also be found at http://www.seasidebasinwatermaster.org/Other/WM_Cal-Am%20Amended%20RA%20Credit%20MOU.pdf. Under Section 2 of the Agreement, Cal-Am is not required to provide any payback water unless and until "final completion and acceptance of all MPWSP components." MCWD has shown that a MPWSP is not necessary to meet Cal-Am's objective of fully complying with the CDO by December 31, 2021. However, Cal-Am has over pumped the Seaside Basin and should be required to provide payback water and, as MCWD has shown, Cal-Am can do that even without the MPWSP.

⁶ See <http://www.seasidebasinwatermaster.org/Other/Final%20Annual%20Report%202014%2012-5-14.pdf> and [http://www.seasidebasinwatermaster.org/Other/Annual%20Report%202015%20Final%2012-2-15\[1\]%20reduced1.pdf](http://www.seasidebasinwatermaster.org/Other/Annual%20Report%202015%20Final%2012-2-15[1]%20reduced1.pdf).

through 2020-21 rampdowns. Every year the Watermaster is required to submit an annual report to the Monterey County Superior Court, which maintains oversight of the Watermaster's activities. MCWD has attached as Attachment G an excerpt from the Watermaster's May 23, 2016 annual report to the Court prepared by Russell M. McGlothlin who also represents the applicant Monterey Peninsula Regional Water Authority in this State Water Board proceeding. Section G of the Court filing discusses "Potential Request for Relief from the 2018-2021 Triennial Rampdown," which rampdowns are graphically represented in Figure 1. The basis for the potential rampdown postponement request is an April 2010 Land Transfer and Water Service Agreement between MCWD and the City of Seaside wherein MCWD agreed to supply the City with 2,500 AF total of potable groundwater for the City's two golf courses. The golf courses are within MCWD's Ord Community service area. Delivery of Salinas Valley groundwater to portions of the former Fort Ord are expressly exempt from the MCWRA Agency Act's groundwater export prohibition. Apparently, had MCWD sold the 2,500 AF directly to the Watermaster, that would have constituted a direct replenishment supply for the Basin's benefit upon which a rampdown could be postponed.

4. While the period between now and December 31, 2021, is important to Cal-Am and its Monterey District customers, a primary focus of this proceeding is on how Cal-Am can achieve full compliance with the CDO by December 31, 2021, and have sufficient water supply available to meet Monterey District demands in 2022 and beyond. As shown by MCWD's Total Water Portfolio analysis, by 2022, Cal-Am can achieve both (a) 100% compliance with the CDO and (b) have an adequate water supply without a desalination plant. However, Cal-Am has instead chose to misrepresent its projected Water Year 2021-22 water supply situation in Figure

1 by ignoring the then available water supplies from the ASR, GWR, and Sand City Desalination Project.

IV. Groundwater

As described above, Cal-Am is shifting its Total Water Portfolio from a Carmel River-centric system to a groundwater-centric system. Cal-Am currently depends upon the Adjudicated Seaside Groundwater Basin for its existing adjudicated groundwater supply and the ASR Project. That groundwater dependency will substantially increase in the future with the implementation of the GWR Project. In addition, Cal-Am is proposing to pump the source water for the MPWSP from that portion of 180/400 Foot Aquifer Subbasin of the SVGB located south of the Salinas River. In January 2016, the 180/400 Foot Aquifer Subbasin was designated by the State of California as a Critically Overdrafted Basin.⁷

The MPWMD has filed a timely request with the California Department of Water Resources (DWR) pursuant to the Sustainable Groundwater Management Act (SGMA) to modify the boundaries of the existing Seaside Area Subbasin of the SVGB and divide the subbasin into two separate areas: (1) the Adjudicated Seaside Basin, which would be a basin separate and apart from the SVGB, and (2) the Marina Area Subbasin of the SVGB, which would continue to consist of that area within the existing Seaside Area Subbasin located north of the Adjudicated Basin and south of the existing 180/400 Foot Aquifer Subbasin.

For reference purposes, these comments will use the following definitions:

“Adjudicated Seaside Basin” – That portion of the existing Seaside Area Subbasin, which has been adjudicated.

⁷ See http://www.water.ca.gov/groundwater/sgm/pdfs/COD_BasinsTable.pdf.

“Marina Area Subbasin” – that portion of the existing Seaside Area Subbasin located north of the Adjudicated Seaside Basin.

“North Marina Area” -- that portion of the 180/400 Foot Aquifer Subbasin located south of the Salinas River.

“Greater Marina Area” – the combined geographic area of the Marina Area Subbasin and the North Marina Area.

MCWD’s Central Marina and Ord Community water service areas are within the Marina Area Subbasin, the Adjudicated Seaside Basin, and a portion of the 180/400 Foot Aquifer Subbasin. MCWD’s production wells are located along the northern boundary of the Marina Area Subbasin and pump from the groundwater aquifers that are within both the 180/400 Foot Aquifer Subbasin and the Marina Area Subbasin. A MCWD production well is located approximately 1.6 miles from the CEMEX property.

Cal-Am has no existing overlying, appropriative or prescriptive groundwater right or claim of right to pump groundwater from the 180/400 Foot Aquifer Subbasin. Cal Am cannot obtain an “appropriative” right to export groundwater from the Basin either directly or through an equitable physical solution. In the State Water Board’s Final Review of California American Water Company’s Monterey Peninsula Water Supply Project dated July 31, 2013 (Final Review), the State Water Board states, “because groundwater in the Basin is in a condition of overdraft, the only way to show there is surplus water available for export to non-overlying parcels is for a user to develop a new water source” and “[t]he only water that would be available for export is a new supply, or developed water.” (Final Review at 35 and 40.) The Final Review went on to state at pages 45, 46, and 47,

Within this 2-mile radial zone, the three foreseeable injuries that overlying users could experience [from developed water] are: (1) a reduction in the overall

availability of fresh water due to possible incidental extraction by the MPWSP; (2) a reduction in water quality in those wells in a localized area within the capture zone; and (3) a reduction in groundwater elevations requiring users to expend additional pumping energy to extract water from the Basin.

* * *

As discussed in this report, additional data will be necessary to ensure that continued operation of the MPWSP, under different source water extraction scenarios, will not injure other legal groundwater users.

Both near and long-term, a new water supply from desalination, or the implementation of a physical solution could ensure an adequate water supply for all legal water users in the Basin and provide an assured supply of groundwater to the Basin's users. Even if overdraft continues continued in the Basin following imposition of the solution, Cal-Am possibly could continue pumping brackish water legally so long as the quantity was not detrimental to the conditions in the Basin and other Basin users' rights. "When the supply is limited public interest requires that there be the greatest number of beneficial uses which the supply can yield." (*Peabody*, supra, 2 Cal.2d at p. 368.)

The Final Review had to speak in general terms because as the State Water Board itself admitted, it lacked the necessary on-site technical information needed to make a legal determination. While emphasizing the need for accurate on-site technical information, the entire Final Review is founded on the misplaced acceptance for legal analysis purposes of Cal-Am's representation of the condition of the SVGB in the vicinity of the CEMEX property. For example, the State Water Board accepted Cal-Am's allegation that "the seawater intrusion front extends approximately 5 miles landward from the proposed [CEMEX] well locations" (Final Review at 45-46) and that consequently, almost all water pumped will be brackish water and not "fresh water" and that "[t]here is expected to be minimal impact to fresh water sources at start-up and for the first several years of operation as water will **certainly** be sourced from the intruded portion of the aquifer." (Final Review at 44, emphasis added.) The State Water Board also incorrectly assumes that "it is unlikely that Basin conditions would improve independent of MPWSP operations." (Final Review at 43.) In addition, the Final Review failed to use the

“Sources of Drinking Water” standard of 3,000 mg/L of total dissolved solids (5,000 uS/cm, electrical conductivity) contained in the State Water Board’s own Resolution No. 88-63, Adoption of Policy Entitled “Sources of Drinking Water,” which is incorporated by reference into the existing Water Quality Control Plan for the Central Coastal Basin. As discussed below, the Final Review assumptions about the groundwater conditions within the North Marina Area were wrong,

Because MCWD had major concerns about Cal-Am’s assertions about the groundwater conditions in the vicinity of the CEMEX property, MCWD retained Curtis J. Hopkins, Principal Hydrogeologist, Hopkins Groundwater Consultants, Inc. While Cal-Am and the Monterey Peninsula Regional Water Authority have sought to discredit Mr. Hopkins’ opinions, his analysis and opinions demonstrate that Cal-Am is misrepresenting the groundwater conditions in the vicinity of the CEMEX property and the probable adverse impacts of Cal-Am’s MPWSP source water pumping on the groundwater aquifers and adjoining groundwater users, such as MCWD. Attachment H to MCWD’s Comments is Mr. Hopkins’ Technical Memorandum dated May 26, 2016, on the North Marina Area Groundwater Data and Conditions. Mr. Hopkins analyzed the water quality data developed as part of Cal-Am’s test slant well project. The following are some of the important findings from pages 7 and 12 of his analysis:

The significance of these data is that they indicate beneficial conditions have developed (or have always existed) in the North Marina Area of the 180-400 Foot Aquifer Subbasin and may be contrary to information published by the Monterey County Water Resources Agency (MCWRA). The recent investigation that is being conducted in and around the North Marina Area as part of the MPWSP has discovered an occurrence of freshwater within the shallow Dune Sand Aquifer and the underlying 180-Foot Aquifer within the area delineated as seawater intruded by the MCWRA. As previously shown, water level data from wells in the shallow dune sand aquifer appear to show protective water levels that are sufficiently above sea level to prevent seawater intrusion in the shallower sediments. This condition, combined with the lack of pumping in the 180-Foot Aquifer in the North Marina Area, appears to have slowed seawater intrusion in this portion of the coastline. * * *

These data suggest a change of groundwater conditions in this coastal section of the aquifer or alternatively, they may reveal the groundwater conditions that existed in an area largely lacking historical data. While the freshwater in this area contains salts and nutrients that are derived from overlying land uses that include agriculture, landfill, and wastewater treatment plant and composting facilities, the chemical character is not sodium chloride, which is indicative of seawater intrusion.

* * *

These data indicate a unique condition exists in the North Marina Subarea south of the Salinas River that provides a significant degree of protection against seawater intrusion in the shallower aquifers under the present and recent past hydrologic conditions.

As Mr. Hopkins explained, Cal-Am's proposed MPWSP source water pumping on the CEMEX property would adversely impact the existing groundwater conditions in the vicinity of the CEMEX property and would destroy that existing protective condition against seawater intrusion.

Cal-Am misrepresents that MCWD's opposition to source water pumping from the CEMEX property is inconsistent with MCWD's prior support for the failed Regional Desalination Project. Cal-Am continues to argue that MCWD's position against locating the MPWSP source wells on the CEMEX property is totally inconsistent with MCWD's prior position supporting source wells along the coast for the abandoned Regional Desalination Project alternative of the Coastal Water Project. Cal-Am ignores the fact that unlike Cal-Am, MCWD has vested rights to pump groundwater from the SVGB and that MCWD has the ability to offset the amount of SVGB groundwater contained within the desalination project source water by reducing its own lawful pumping from the Greater Marina Area. That offset ensured that the Regional Desalination Project would not adversely affect groundwater aquifers or impair the existing rights of other users of SVGB groundwater.

Just as Cal-Am is required to mitigate for adverse impacts to steelhead from its Carmel River diversions, Cal-Am is required to mitigate for all of its adverse impacts from its proposed MPWSP source water pumping to the groundwater aquifers and legal users of groundwater in the area adjoining the CEMEX property south of the Salinas River.

Because new scientific data shows the probable adverse impacts from Cal-Am's MPWSP proposed source water wells on the CEMEX property on groundwater aquifers and legal users of the groundwater, MCWD asks the State Water Board to not support before the CPUC the proposed desalination plant component of the MPWSP as requested by the Applicants.

V. Comments on State Water Board Staff's Proposed Order

MCWD provides the following comments on the State Water Board staff's proposed Order:

Section 2, Extension of the Order to December 31, 2021. MCWD supports the extension to December 31, 2021, for the following reasons:

(1) Cal-Am has continually used the CDO's December 31, 2016 deadline as the primary reason for the CPUC to quickly review and approve the MPWSP. MCWD supports the five-year extension because the additional time is needed for a comprehensive and integrated environmental, legal, and feasibility review of the MPWSP as currently proposed by Cal-Am.

(2) MCWD contends that much of the additional costs and delays in developing a desalination project are due to Cal-Am's own actions and corporate attitude toward those who raise legitimate questions about the MPWSP, its impacts on the environment, and its lack of groundwater rights. Cal-Am's customers and ratepayers should not be punished because of that fact.

(3) Those Federal and State fishery agencies and NGOs most involved with Carmel River steelhead issues do not appear to have any objections to a five-year extension provided that the State Water Board imposes adequate steelhead mitigation measures.

Subsection 4.a, Effective Diversion Limit. MCWD could support a hard cap of 8,310 AFY. The higher cap would give credit for the forbearance agreement that would keep up to 300 AFY of river water currently for Rancho Canada golf course irrigation in the river through 2021. In addition, the Federal and State fishery agencies and NGOs most involved with Carmel River steelhead issues do not appear to have any objections to a hard cap of 8,310 AFY.

Subsection 4.b, Adjustments to the Effective Diversion Limit.

i. Pure Water Monterey Groundwater Replenishment Project Offset

The proposed Order states, "If the reduction will result in the Effective Diversion Limit for that year being lower than Cal-Am's available lawful diversions from the Carmel River in that year, Cal-Am may apply to the Deputy Director for a limitation of this condition such that the provision will not limit lawful diversions." It is unclear as to the intended meaning of the proposed term "Cal-Am's available lawful diversions from the Carmel River in that year," which is used elsewhere in the proposed Order. The ambiguity is created by the words "in that year," which implies that the term does not refer to the 3,376 AF Legal Limit since that limit should not vary year by year. Therefore, the term can be said to refer (1) to the 3,376 AF Legal Limit or (2) to 3,376 AF plus any lawful ASR diversions or (2) to the 7,990 AF? What would be the probable circumstances when this particular situation could occur? Does this qualifier go away if Cal-Am is fined instead of the Effective Diversion Limit being reduced because of a missed milestone?

ii. Seaside Groundwater Basin Limitations

Cal-Am states that its Seaside Basin adjudicated allocation will be 1,474 AFY. In addition, Cal-Am has agreed to pay back the Seaside Basin Watermaster 700 AFY for 25 years for over-pumping. At the very end of Cal-Am's Attachment H to its March 14, 2016 Amended Application to the CPUC, Cal-Am reported a Seaside Basin allocation of only 774 AFY. Yet

Cal-Am pumped from the Seaside Basin 3,232 AF in Water Year 2014 (October 1, 2013 to September 30, 2014) and 2,765 AF in Water Year 2015.

The first sentence of the proposed Order states that this provision would only apply when “an unexpected reduction in Cal-Am’s production allocation from the Seaside Groundwater Basin, or access to water pumped makes the supply unavailable.” Does the phrase “makes the supply unavailable” mean “totally unavailable”? What does the term “unexpected” mean? Cal-Am has a voting representative on the Seaside Basin Watermaster Board. The Watermaster proceeds very deliberately so no action by the Watermaster is ever “unexpected.” The Monterey County Superior Court, which oversees the Watermaster, acts upon filings made by the Watermaster so Cal-Am knows ahead of time of possible court actions pursuant the Seaside Groundwater Basin Judgment.

The proposed provision also overlooks the interplay within the Seaside Basin of Cal-Am’s adjudicated groundwater rights, ASR water, and GWR water. For example, while there may be “an unexpected reduction in Cal-Am’s production allocation” by order of the Watermaster or the Court, the ASR and GWR water recovered during the same water year could more than offset a temporary reduction in the applicable adjudicated production allocation. The new CDO order needs to address these issues.

For purposes of this proposed provision is the adjudicated production allocation number (1) 774 AFY or (2) 1,474 AFY or (3) a two or three-year running average? WY 2013-14 and WY 2014-15 averaged 2,999 AFY.

All of the above re-emphasizes the need for the State Water Board to request the Watermaster to independently explain and report on these issues.

iii/iv. Carryover; Cap on Carryover

As discussed above, Cal-Am can “game” the system by pumping more water from the Seaside Basin and diverting less water from the Carmel River during any water year. Cal-Am has existing seasonal pumping limits on Carmel River diversions to protect steelhead, including under its jointly held ASR water right permits, which will presumably not be relaxed to

allow Cal-Am to pump any Carryover Credit. The State Water Board should address in its Order how the existing seasonal pumping limits would limit the use of any Carryover Credit with or without a soft or hard cap on total diversions. This is a good example of where a computer model of Cal-Am's water supply sources and demands would be of assistance. MCWD does not object to a Carryover Credit cap of 750 AFY, but the implementation of any Carryover Credit must be based upon accurate diversion and environmental monitoring data

v. Milestones

MCWD understands the necessity for milestones but leaves their formulation to the State Water Board. MCWD would point out the need for the State Board to consider Cal-Am's Total Water Portfolio then available at any milestone and then to readjust milestones as appropriate.

The proposed milestones for the desalination plant component of the MPWSP will most likely continue to be a problem for Cal-Am. MCWD's analysis of Cal-Am's Total Water Supply Options demonstrates that no desalination plant is needed to serve its Monterey District. The pilot slant test well project could very well be terminated for violating monitoring well level criteria. As discussed above and in MCWD's May 31, 2016 comment letter, Cal-Am faces substantial legal, hydrogeological, and environmental impact mitigation issues pertaining to its proposed source well pumping on the CEMEX property. Mere facial compliance with the MCWRA Agency Act's non-export provision does not remedy those other substantive issues.

vi. Reductions to the Effective Diversion Limit Based on Missed Milestones

MCWD objects to reducing the EDL when Cal-Am misses a milestone. Cal-Am's Monterey District customers have done their part to conserve water. Delays in meeting milestones will be mainly due to Cal-Am's own actions or inactions and corporate attitude. Failure to meet a milestone should result in fines levied by the State Board on Cal-Am, the corporation, which should not be passed on to its ratepayers in increased rates. Cal-Am's ratepayers should not be penalized through a reduction in their water supply. MCWD requests this Board to recommend to the CPUC that any fines levied by the Board pursuant to the new

CDO Order be imposed upon Cal-Am the corporation and not be included in Monterey District rates.

ix and Section 8. ASR Project

Cal-Am pumps its adjudicated groundwater right from the Seaside Basin. ASR water is diverted from the Carmel River and injected into and recovered from the Seaside Basin. GWR water will also be injected into and recovered from the Seaside Basin. The proposed Order appears to assume that pumping of adjudicated water, ASR water, and GWR water can be clearly differentiated for accounting purposes under this Order. However, that is not necessarily the case since all of the pumping is from a common pool. MCWD recommends that the State Water Board work with the Seaside Basin Watermaster to address this water accounting issue.

Subsection 4.d.ix addresses ASR diversions from the Carmel River. Section 8 addresses recovery of ASR water from the Seaside Basin for use by Cal-Am customers, which is based upon Ordering Paragraph 4 of WRO 2009-0060. As requested by the Applicants, Subsection 4.d.ix proposes that the first 600 AFY of ASR water diverted from the Carmel River be counted against the cap. Section 8 states that "Cal-Am shall reduce its illegal diversions from the Carmel River at the same rate ASR water is recovered from the groundwater basin." For example, if Cal-Am diverts 1,800 AF of ASR water from the Carmel River and then recovers 1,000 AF for use, then pursuant to these two proposed provisions, 600 AF of ASR water diverted and the 1,000 AF recovered, a total of 1,600 AF would be counted against the cap. Is that what is intended by Subsection ix and Section 8 when they are read together?

A separate but related issue: The applicants themselves have requested that the first 600 AFY diverted under the existing ASR permits in any water year be counted against the hard cap; however, once Cal-Am's river diversions (excluding any ASR diversions) are reduced to the 3,376 AFY Legal Limit, then Subsection 4.d.ix should no longer apply since then all diversions would then be subject to existing permit limits.

Sections 5, 6 and 7. Steelhead Mitigation Requirements versus No Requirements on Cal-Am to Mitigate Impacts to Groundwater Aquifers and Legal Users of Groundwater in the Area Adjacent to the CEMEX Property South of the Salinas River

Cal-Am pumping on the Carmel River impacts the steelhead population. Consequently, Cal-Am is required to implement substantial mitigation measures because of those impacts.

MCWD has provided substantial evidence demonstrating the adverse impacts to the groundwater aquifers within the 180/400 Foot Aquifer Subbasin south of the Salinas River and to MCWD's production wells located in the immediately adjoining Marina Area Subbasin that would likely result from implementation of Cal-Am's proposed MPWSP. While MCWD understands Castroville Community Services District's groundwater problems and agrees that those problems should be alleviated, CCSD's groundwater problems are long-standing pre-existing problems and are not related in any way to Cal-Am's proposed MPWSP. More importantly, no desalinated water injected or provided as in-lieu groundwater recharge in the vicinity of the CCSD north of the Salinas River could result in any groundwater benefits or mitigation to the groundwater aquifers adjoining the CEMEX property.

As the State Water Board knows, on July 11, 1949, the predecessor to the Monterey County Water Resources Agency filed Application 13225, which resulted in the issuance of Permit 11043 on March 8, 1983. Two points of diversion were approved, including the "Castroville Canal Intake" project. While the Castroville Seawater Intrusion Project has been successfully implemented utilizing tertiary treated wastewater and supplemented by diversions of Salinas River water, which is diverted at a rubber dam near Marina, CCSD's groundwater problems have persisted. MCWD has described above potential "low hanging fruit" water supply options, which could significantly help CCSD.

VI. Conclusion

MCWD's comments demonstrate the following:

1. The State Water Board needs to closely examine Cal-Am's claimed Total Water Portfolio of existing and future water sources. As demonstrated by MCWD, the Applicants' Figure 1 to its June 29, 2016 comments misrepresent the water supply that will be available to Cal-Am come January 1, 2022. The actual 2022 water supply will be comparable to Cal-Am's representation in Figure 1 of the amount of its water supply for Water Year 2015-16 and 2016-17 and will be greater than that shown in Figure 1 for succeeding water years.

2. The shift in its Total Water Portfolio from a Carmel River-centric to a groundwater-centric water supply system requires that Cal-Am produce for public review a computer model, which integrates all of its water sources and Monterey District water demands by water year type and by month.

3. Cal-Am has failed to provide the State Water Board with accurate information on Cal-Am's Seaside Basin Groundwater rights versus what it is allowed to pump in excess of those rights. The claimed Seaside Groundwater Basin Triennial Rampdowns may not occur as claimed by Cal-Am. The Seaside Groundwater Basin Watermaster should be requested to independently review and prepare a public report to the State Water Board of Cal-Am's production rights and history, including, but not limited to Cal-Am's adjudicated groundwater rights, its over pumping right, the effect of rampdowns on Cal-Am's rights, and Cal-Am's payback obligation. The State Water Board should require Cal-Am to reimburse the Watermaster for all costs of such review and report. The State Water Board needs to be aware that Cal-Am is a voting member of the Watermaster Board and actively participates in all Watermaster committees.

4. Cal-Am's proposed MPWSP (utilizing sources wells on the CEMEX property) is unnecessary to meet Cal-Am's 2022 water demands and is not environmentally or legally sound.

Respectfully Submitted,

Dated: July 12, 2016.

MARINA COAST WATER DISTRICT

By *Roger K. Masuda*

Roger K. Masuda, Legal Counsel

Attachment	Description
A	Spreadsheet of Cal-Am's Total Water Portfolio Options with 100% CDO Compliance.
B	Bar graph of the Attachment B spreadsheet.
C	Figure 1 bar graph contained in Applicants' June 29, 2016 comments on the Preliminary Staff Recommendation.
D	Amendment No. 1 to the Memorandum of Understanding between the Seaside Basin Watermaster and California American Water dated December 3, 2008
E	Modification to Attachment C by inserting MCWD's NO DESAL option water supply as of January 1, 2022
F	Bar graph comparing Applicants' Figure 1 bar graph for Water Year 2021-22 with MCWD's NO DESAL option for the same year
G	Excerpt from the Seaside Groundwater Basin Watermaster's May 23, 2016 Annual Report filed with the Monterey County Superior Court
H	Curtis J. Hopkins' Technical Memorandum dated May 26, 2016, on North Marina Area Groundwater Data and Conditions.

