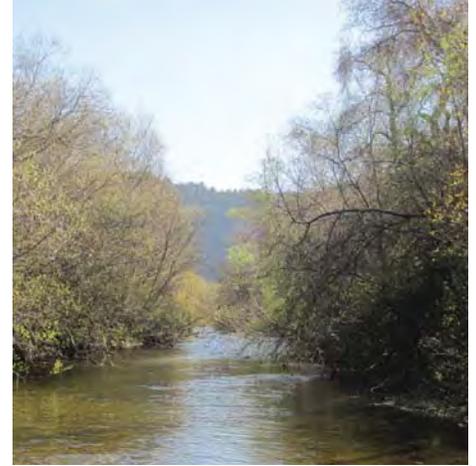


Eastwood/Odello Water Right Change Petition Final Environmental Impact Report

Water Right Application No. 30497B
SCH No. 2014031008
Monterey, California



Lead Agency
California State Water Resources Control Board
Division of Water Rights
Contact: Mitchell Moody
1001 I Street
Sacramento, CA 95814

June 2015

**EASTWOOD/ODELLO
WATER RIGHT CHANGE PETITION PROJECT**

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- Appendix I** Carmel River Steelhead Evaluation Addendum providing review of comments submitted regarding Eastwood/Odello Water Rights Change Petition on Carmel River steelhead (*Oncorhynchus mykiss*) draft Environmental Impact Report. (HDR, 2015)

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1.0 INTRODUCTION

1.1 BACKGROUND

This document, together with the Draft EIR (Draft EIR), constitutes the Final Environmental Impact Report (Final EIR) for the Eastwood/Odello Water Right Change Petition (“project” or “proposed project”). This Final EIR contains an introduction, written comments received during the 45-day Draft EIR public review period, formal responses to comments, and revisions to the Draft EIR text.

As described in **Chapter 3, Project Description**, of the Draft EIR, the proposed project would split existing License 13868 into two new licenses and result in changes to the authorized POD, POU, and purposes of use of the new licenses. License 13868 would be revoked and Licenses 13868A and 13868B would be issued. License 13868A would maintain the existing PODs, POU, and purpose of use and include new authorized PODs, POU, and purposes of use. License 13868A would authorize the municipal use of 85.6 acre feet per year (af/yr) and License 13868B would dedicate 46.2 af/yr to instream uses. The proposed project, as described in the Draft EIR, would authorize the right holder to divert water from three existing Cal-Am wells (Cañada #2, Cypress #2, and Pearce¹) to provide potable water for municipal purposes to existing lots of records within the parts of Cal-Am’s service area that are within the Carmel River watershed or the City of Carmel-by-the-Sea. License 13868B would be dedicated to instream uses within the Carmel River. The project would not increase the maximum authorized annual diversion rate or the maximum authorized instantaneous diversion rate beyond the existing authorized rates in License 13868.

The Draft EIR included an evaluation of a reasonable range of alternatives to the proposed project as required pursuant to CEQA Guidelines Sec. 15126.6. CEQA requires that an EIR evaluate alternatives to the proposed project that would reduce or eliminate the project’s potential significant effects (CEQA Guidelines Sec. 15126.6(b)). As described in the Draft EIR, the proposed project would not result in any potentially significant effects. Nevertheless, the Draft EIR evaluated a range of feasible alternatives that could minimize the extent of effects associated with the proposed project. These alternatives would not reduce the significance of potential effects (i.e., below less-than-significant), but could lessen the potential effects associated with the project by reducing the extent of the Project Affected Reach.² This could result in an increase in duration and volume of surface water flows below the proposed additional PODs. While the alternatives described in the Draft EIR would lessen the proposed project’s potential physical effects, several of the alternatives would result in additional physical impacts to the environment beyond those associated with the proposed project due to the construction of infrastructure improvements (e.g., new wells, pipelines, etc.).

¹ The Draft EIR referred to this well as “Pearse”, but State Water Board staff confirmed on 6/25/2015 that the name of the well should be “Pearce”.

² The Project Affected Reach (also referred to as “project study area”) consists of an approximately five-mile portion of the Carmel River between the existing authorized POD and the proposed furthest upstream proposed POD, as shown in **Figure 3-5** in the Draft EIR. The project study area represents the area in which the proposed project could result in a potential localized direct physical impact to the environment.

CEQA requires that an environmentally superior alternative to the proposed project be specified, if one is identified. The alternatives described in the Draft EIR were considered superior in some regards because they would reduce the extent of potential direct and indirect effects associated with the proposed project. However, these alternatives would result in impacts similar to or greater than the proposed project in certain resource areas due to the construction of infrastructure improvements (i.e., pipelines). Based on the analysis in the Draft EIR, it was determined that the Individual Well alternative would be environmentally superior to all other alternatives on the basis that this alternative would involve limited construction related effects (i.e., construction of new well or rehabilitation of existing well) as compared to the other alternatives. This alternative could also reduce the extent of the Project Affected Reach because the proposed POD (well) would be located farther downstream than several of the proposed Cal-Am PODs that would be used for the proposed project, and therefore would result in a smaller affected reach of the Carmel River than the affected reach under the proposed project.

1.2 CDFW & NMFS PROTEST-DISMISSAL AGREEMENTS

On December 8, 2014, the Licensee and California Department of Fish and Wildlife (CDFW or Department) entered into a Protest-Dismissal Agreement. On March 12, 2015 the Licensee entered into a Protest-Dismissal Agreement with the National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS). These Protest-Dismissal Agreements (collectively referred to as CDFW/NMFS Protest-Dismissal Agreements) specify several changes to the terms and conditions of the draft licenses that the Licensee and CDFW/NMFS jointly request be made by the State Water Board. The requested changes include reductions in the maximum authorized rate of diversion, addition of new terms, and changes to include a new authorized POD, as well as other changes. The following is a brief summary of requested changes described in the CDFW/NMFS Protest-Dismissal Agreements that are relevant to the potential environmental effects associated with the proposed project.

- Maximum authorized rate of diversion: reduction of maximum authorized monthly average pumping rate under License 13868A from 0.37 cubic feet per second (cfs) to 0.16 cfs, to be consistent with the maximum monthly average rate of pumping under a municipal use pattern as described in the Draft EIR (see Table 4.2-14 on Draft EIR pg. 4.2-35).
- Addition of SWRCB Standard Permit Term 27 to draft License 13868A, to clarify that the equivalent of the authorized continuous flow allowance for any 30-day period may be diverted during a shorter period of time, provided there is no interference with other rights and instream uses.
- New POD: Construct a new well (commonly referred to as the “Eastwood/Cañada Well”) and a pipeline connecting the new well to Cal-Am’s water system in the area depicted in Figure 6-1 of the Draft EIR, and install a meter that will measure the flow through this pipeline. The Agreement provides that this new well will be constructed within one year of the issuance of License 13868A. The three existing Cal-Am PODs will be available for interim and back-up purposes under License 13868A, as described below.
- Addition of a new term to draft License 13868A to provide that the Licensee shall use the new POD for all municipal diversions under the license, except when the new POD is not available for diversions, including under the following circumstances: a) during the first year after license issuance before the new well is constructed, b) during routine well maintenance, or c) due to an emergency outage. Any diversions between June 1 and November 30 through any of the three Cal-Am PODs shall be limited to the

maximum rate of 0.16 cfs (averaged over a 24-hour period), and subject to other restrictions on the use of the three Cal-Am PODs between December 1 through May 31 season based on the condition of Carmel River flows at the Highway 1 bridge. CDFW notification is also required prior to the use of any of the Cal-Am PODs for diversions under License 13868A.

- Addition of a new term to draft License 13868A limiting water diverted from the existing PODs (commonly referred to as the “Eastwood/Odello” POD’s) for irrigation purposes only.
- Elimination of Terms 7, 15, and 16 in draft License 13868B.

The Agreement’s requested changes to the draft license terms, including those related to the addition of a new POD, are consistent with the Individual Well Alternative described in the Draft EIR. At the time the Draft EIR was prepared the precise location of a new well and specific terms related to use were not known. As a result, the Draft EIR identified a general location of, and provided a general description of, where a new well and related improvements could be constructed. The information in the Agreement contains additional specificity related to the terms and conditions and further clarifies the nature of project alternatives. In particular, the Draft EIR concluded that the Individual Well Alternative was the environmentally superior alternative. Now, the Agreement provides additional specificity for that alternative.

On January 27, 2015, the Licensee submitted a change petition to the State Water Board that provides the specific location of the proposed Eastwood/Cañada Well. This specific location is within the general area for the new well described in the Draft EIR’s Individual Well Alternative. The Licensee also submitted information that clarifies and amplifies the Draft EIR’s analysis of project alternatives, including a technical memorandum prepared by West Yost & Associates (2015) that evaluates the potential environmental effects associated with the proposed Eastwood/Cañada Well, which would be located within the potential well location area described under the Individual Well Alternative. The conclusions of that analysis are consistent with the findings of the Draft EIR regarding the nature of potential impacts associated with the Individual Well Alternative. This additional information has been incorporated into the Final EIR to further refine the alternatives analysis by identifying a more detailed alternative that is consistent with the Agreements and the analysis in the Draft EIR. The proposed new Eastwood/Cañada Well would be constructed to serve municipal demand under proposed License 13868A and would be located in the general area depicted in Figure 6-1 in the Draft EIR (please refer to **Chapter 3.0, Revisions to the Draft EIR** for a detailed discussion of this alternative, as modified in this Final EIR).

For the purposes of this EIR, the supplemental information provided by the Licensee related to the location of a new POD has been incorporated as minor revisions to the Individual Well Alternative. This information consists of a more-refined version of the Individual Well Alternative. The more-refined information relating to the location of the proposed POD as part of the Individual Well Alternative would not result in any additional environmental impacts beyond those identified in the Draft EIR. The proposed Eastwood/Cañada Well would result in impacts comparable to those described in the Draft EIR, although the extent of potential impacts due to streamflow reductions may be less because the location of the proposed Eastwood/Cañada Well is located farther downstream from the most upstream part of the area shown in Figure 6-1. For more details concerning this revised alternative, please refer to **Chapter 3.0, Revisions to the Draft EIR**.

1.3 RECIRCULATION

CEQA Guidelines Sec. 15088.5(a) provides that: “A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR ... but before certification. New information added to an EIR is not ‘significant’ unless the EIR is changed in a way that deprives the public a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project’s proponents have declined to implement. ‘Significant new information’ requiring recirculation includes, for example, a disclosure showing that:

1. A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
2. A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
3. A feasible project alternative or mitigation measure considerably different from the others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project’s proponents decline to adopt it.
4. The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. [citation omitted]”

CEQA Guidelines Sec. 15088.5(b) further provides that: “Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.”.

As described above, modifications to the Draft EIR have been incorporated into this Final EIR to provide additional specificity regarding the nature of project alternatives and make minor modifications to clarify the existing analysis or make other refinements and minor corrections to the Draft EIR. Applicable revisions include identifying the specific location of a new POD (the Eastwood/Cañada well) that could be added to proposed draft License 13868A consistent with the Individual Well Alternative, as modified in this Final EIR, if the State Water Board decides to include the applicable terms of the Protest-Dismissal Agreements between Licensee and CDFW and NOAA in the new water-right licenses. This information is intended to clarify and amplify the existing analysis by providing more specific detail concerning a variation of the Individual Well Alternative, which is within the scope of the analysis of project alternatives described in the Draft EIR. Other modifications to the Draft EIR include minor changes to clarify and amplify the existing analysis or provide additional detail in response to comments on the Draft EIR.

Revisions identified in **Chapter 3.0, Revisions to the Draft EIR**, would not result in the disclosure of any new significant impacts or an increase in severity of an environmental effect described in the Draft EIR. As described in the Draft EIR, as modified in this Final EIR, all impacts would be less-than-significant. Moreover, the minor changes contained in this Final EIR do not include a feasible project alternative considerably different from those previously analyzed that would lessen the significant impacts of the proposed project. The proposed project would not result in any significant and unavoidable impacts. Moreover, as discussed above, the Draft EIR has been revised to refine the Individual Well Alternative. This

additional specificity regarding the location of the proposed POD is consistent with the Individual Well Alternative described in the Draft EIR and would result in impacts that are consistent with those described under the Individual Well Alternative (see Draft EIR pgs. 6-6 through 6-12). The inclusion of additional specificity regarding this alternative would not constitute “significant new information” warranting recirculation under CEQA. As described in **Chapter 3.0, Revisions to the Draft EIR**, the refinements to this alternative would not result in any new significant environmental impacts, nor result in any substantial increase in the severity of an environmental impact. This modified alternative is intended to clarify and amplify the existing analysis contained in the Draft EIR and is consistent with the Individual Well Alternative, which the Licensee has agreed to implement as the environmentally superior alternative.

The proposed project would not result in any significant impacts. Revisions to the Draft EIR described in this Final EIR are intended to clarify the nature of project alternatives and amplify the alternatives analysis by including additional information related to the siting of a new well as an alternative to the project. The information contained in this Final EIR describes further detail regarding an alternative that is consistent with the Individual Well Alternative, which remains the environmentally superior alternative. The proposed changes to the Draft EIR clarify and amplify the existing analysis of project alternatives and include additional specificity regarding the proposed location of a new well, consistent with the protest-dismissal agreements. Other minor changes have been incorporated into the Draft EIR to clarify and amplify the existing analysis and make minor corrections in response to comments received on the Draft EIR. All impacts associated with the proposed project would remain less-than-significant. The Individual Well Alternative would result in temporary construction related effects that would be less-than-significant through the implementation of standard construction phase Best Management Practices (BMPs). Appropriate mitigation has been identified to ensure that the temporary construction impacts would be substantially lessened consistent with the requirements of CEQA. For the reasons described above, recirculation of the Draft EIR is not appropriate.

1.4 PUBLIC PARTICIPATION

In accordance with CEQA Guidelines Sec. 15088.5(d) and 15088.5(f)(3), the State Water Board notified all responsible and trustee agencies, interested groups, and individuals that a Draft EIR had been completed for the proposed project. The State Water Board used the following methods to solicit input during the preparation of the EIR.

- The Notice of Preparation (NOP) was filed with the California State Clearinghouse for a 30-day review period from March 4, 2014 to April 2, 2014. The State Clearinghouse assigned the Clearinghouse Number 2014031008 to the Draft EIR. The NOP was distributed by the State Water Board to responsible and trustee agencies, and interested groups, organizations and individuals.
- The State Water Board conducted a public meeting on April 2, 2014 to discuss the project and solicit public input on the scope and content of the EIR.
- On October 31, 2014, the Draft EIR was distributed for a 45-day public review period to responsible and trustee agencies, interested groups, and individuals. The public review period for the Draft EIR closed on December 15, 2014.

1.5 REPORT ORGANIZATION

This Final EIR is organized into the following sections:

- **Section 1.0, “Introduction,”** contains this introduction to the Final EIR, including a discussion of the background of the environmental review, a description of the contents of the Final EIR, a description of the recent Protest-Dismissal Agreement with CDFW, and a summary of the environmental review process.
- **Section 2.0, “Responses to Comments,”** contains a list of all written comments received on the Draft EIR and contains copies of each of the comment letters and the corresponding responses to each of the individual comments contained in those letters.
- **Section 3.0, “Revisions to the Draft EIR,”** contains revisions to the text of the Draft EIR.

2.0 RESPONSES TO COMMENTS

2.1 INTRODUCTION

This section provides responses to comments on the Draft EIR. This section is based on all information in the public record for the Draft EIR as of December 19, 2014, and responds to comments in accordance with CEQA Guidelines Sec. 15088.

2.2 LIST OF COMMENTS

Following is a list of comments received during the public review period for the Eastwood/Odello Water Right Change Petition Draft EIR.

Agency/Party	Date Received
A. James E. Hiicks	November 18, 2014
B. Richard Morat	November 24, 2014
C. Donald G. Hubbard	November 25, 2014
D. Carmel River Watershed Conservancy	December 2, 2014
E. Tarios Viviani	December 11, 2014
F. City of Carmel-by-the-Sea	December 3, 2014*
G. Monterey Peninsula Regional Park District	December 8, 2014*
H. California American Water Company	December 12, 2014*
I. Monterey County Resource Management Agency	December 12, 2014*
J. Carmel River Steelhead Association	December 13, 2014*
K. Big Sur Land Trust	December 15, 2014*
L. Monterey Peninsula Water Management District	December 15, 2014*
M. Stan McKee	December 17, 2014**
N. David and Mary Rice	December 17, 2014**
O. Mark and Veronica Boen	December 17, 2014**
P. John and Gia Chaffin	December 17, 2014**
Q. Edward and Nikki Greco	December 17, 2014**
R. Erasmo Aiello	December 17, 2014**
S. Tony and Sara Filly	December 17, 2014**
T. Bill and Diane Whiteman	December 17, 2014**
U. Rick and Laura Ravalin	December 17, 2014**
V. Bob and Aimee Carroll	December 17, 2014**
W. Gary and Anne Banta	December 17, 2014**
X. Tom and Marilyn Byrne	December 17, 2014**
Y. Peter and Lynn Burwash	December 17, 2014**

Agency/Party	Date Received
Z. Scott and Chris Komar	December 17, 2014**
AA. Joshua and Molly Goshorn	December 17, 2014**
BB. Molly and Ferrell Daste	December 17, 2014**
CC. Lena and Stuart Clark	December 15, 2014
DD. Roy Thomas	Undated
EE. California State Clearinghouse	December 19, 2014**
FF. Mark and Bernadette Smith	December 18, 2014**
GG. Clarke and Sandi Herbert	December 18, 2014**

*The following comment letters reflect the date when the comment letter was sent rather than the date in which the letter was received and processed by the State Water Board.

** Denotes comments received after the close of the public review period.

2.3 RESPONSES TO COMMENTS

Each comment letter received on the Draft EIR is identified above and presented in this section. Individual comments within each of the comment letters are numbered. Correspondingly numbered responses to each comment are provided in the discussion following the comment letter. Where comments raise an environmental issue that require additions or deletions to the text, tables, or figures in the Draft EIR, a brief description of the change is given and the reader is directed to **Section 3.0, Revisions to the Draft EIR**. Where the same or similar comments have been made more than once, a response may direct the reader to another numbered comment and response. Some comments received do not raise environmental issues or do not comment on the analysis in the Draft EIR and, thus, do not require a response. These comments generally express an opinion on whether or not the project should be approved. CEQA does not require a substantive response to comments on an EIR that do not specifically relate to environmental issues. Responses to these comments are generally “comment noted.” The following responses are based on detailed technical review conducted by the EIR preparer and technical sub-consultants. Where technical responses are warranted, those responses have been provided by the appropriate resource expert as noted in the response.

MSM

Letter A

Mitchell Moody
Division of Water Rights
State Water Resources Control Board
POB 2000
Sacramento, CA 95812

11/18/14

Re: Eastwood Diversion

Ostensibly, the Eastwood "gift" of 86 AF to Carmel is a generous act which benefits land owners of lots of record and businesses.

A-1

In reality, it is a clever ploy to make water available to land, zoned R1 which he owns and probably wants to develop. The "gift" also gains him some measure of support with the public and county supervisor board, which he already controls (see Pebble Beach development in violation of previous environmental accords).

If the Carmel River is under stress and over-drafting now, would it not benefit both the public and the river to divert 86 AF back to the source (the Carmel River?) Apparently, Eastwood does not need the water for his Odello project.

A-2

Why does an 87 year old billionaire pseudo environmentalist need to endow his land holdings with water?

CEQA provisions let the developer hire the firm of its choice to do the EIR. Does this not seem like the foxes are doing the EIR for the security of the henhouse?

A-3

James E. Hiicks pob 552 Pebch 93953



2014 NOV 18 09:40:12
STATE WATER RESOURCES CONTROL BOARD
SACRAMENTO, CA

LETTER A. JAMES E. HIICKS RESPONSE

- A-1** Comment noted. This comment expresses an opinion concerning the project and associated benefits and does not raise an environmental issue warranting a response. CEQA Guideline Sec. 15088 requires that the lead agency evaluate comments on environmental issues received from persons who reviewed the Draft EIR and provide responses to those comments.
- A-2** Comment noted. The proposed project would not increase groundwater pumping beyond levels associated with the existing water-right license, and would, in fact, decrease diversions from the baseline level. Water use associated with the existing license is part of the existing environmental baseline and the proposed project would not increase pumping beyond historical levels associated with the existing license. As described in the Draft EIR (see for instance pg. 3-18), the Licensee currently has an existing license (13868) that allows the Licensee to pump 131.8 af/yr for irrigation purposes. Proposed pumping associated with proposed new license 13868A is consistent with the rate of average consumptive use based on modeling conducted by Davids Engineering (see Draft EIR pg. 4.2-27). The comment does not specifically address the Draft EIR, other than to suggest that the Carmel River would benefit more if the proposed project resulted in further reductions in diversions. Project alternatives that meet the goals of the project must be analyzed under CEQA in order to lessen the potential impacts of the project: here, the project causes no significant negative impact to the overdraft concerns on the Carmel River, and would not meet the project's goals and therefore analysis of an alternative is not warranted. No further response is warranted.
- A-3** Public Resources Code Sec. 21082.1 provides that the CEQA lead agency must be responsible for preparing the environmental document. The lead agency may rely on information prepared by others, which may be submitted in any format. That information shall be considered by the public agency, and may be included, in whole or in part, in any report or declaration. CEQA Guidelines Sec. 15084(d) provides that the CEQA lead agency may choose one of the following arrangements (or a combination of them) when preparing a draft EIR.
1. Preparing the draft EIR directly with its own staff.
 2. Contracting with another entity, public or private, to prepare the draft EIR.
 3. Accepting a draft prepared by the applicant, a consultant retained by the applicant, or any other person.
 4. Executing a third party contract or memorandum of understanding with the applicant to govern the preparation of a draft EIR by an independent contract.
 5. Using a previously prepared EIR.

Consistent with the requirements of CEQA Guidelines Sec. 15084(d)(3), the State Water Board may accept a draft prepared by the applicant or a consultant retained by the applicant

provided the lead agency independently reviews the analysis contained in the Draft EIR (CEQA Guidelines Sec. 15084(e)). In accordance with the requirements of Public Resources Code Sec. 21082.1 and CEQA Guidelines Sec. 15084(e), State Water Board staff independently reviewed the Draft EIR to confirm that the analysis contained therein reflected the State Water Board's independent judgment. Where appropriate, the State Water Board staff modified the Draft EIR to reflect their independent judgment consistent with the requirements of CEQA. See also *Friends of La Vina v. County of Los Angeles* (1991) 232 Cal.App.4d 1446, disapproved on other grounds in *Western States v. Petroleum Assn.* (1995) 9 Cal.4th 559, 570, fn. 2.

MSM

November 21, 2014

Mitchell Moody
Division of Water Rights
State Water Resources Control Board
P. O. Box 2000
Sacramento, CA 95812

2014 NOV 24 AM 11:56
RECEIVED

Re: Eastwood Odello Water Rights Change Petition, DEIR Comments

Consider, address and include these comments in the public record.

The DEIR is both incomplete and incorrect with respect to describing hydrological and biotic impacts relative to the petitioned change, specifically for aquatic resources and the federally threatened steelhead trout and the designated critical habitat which is in the petitioned change impact area. I address these comments specifically to the section on steelhead trout on pages 4.1-40 and 4.1-41.

B-1

The preparers of the DEIR claim they "...evaluated potential effects of the project on steelhead riverine and lagoon habitat, juvenile rearing, adult spawning, and migration." I see no such fish or fishery habitat evaluations presented. What I see is comparisons of stream physical conditions – surface area, depth, substrate, channel morphology and flow. Such metrics are only useful if the relationship between those metrics and steelhead habitat metrics are connected. There is no model of physical conditions relating to fishery habitat values presented. There is no evaluation of fishery impacts. All that is presented are some comparisons of physical conditions of stream/channel conditions and a claim that the differences from project induced changes would be small and less than significant. The section heading "Steelhead" really addresses only the Carmel River. The DEIR is incomplete.

B-2

Further this section offers a conclusion that the changes would "not be large enough to substantially reduce their numbers or reduce their usage." The summary significance statement offered is "Less than Significant". What is it? Not substantial or less than significant? We don't know because no fishery evaluation were performed and presented.

B-3

The section states that the project has the potential to reduce or eliminate pumping and thus "could slightly increase surface flows upstream of the lagoon during pre-winter conditions, potentially improving steelhead habitat in the lagoon." Again, the jump is made from flows to fishery habitat with no connection, and more disturbing is the use of the terms "could slightly", "potential" and "potentially". I am unsure what the inference is. The Board must understand this.

B-4

The presently permitted Purpose of Use is irrigation. The potential for "lightly increased surface flows immediately upstream of the lagoon during the pre-winter conditions," is unlikely. Irrigation during pre-winter conditions can be small to nil. Further in a protest to the change petition, this author commented that the claim of possible increase flows just

B-5

upstream of the estuary were wrong as the irrigation use was pumping subterranean flows of the Carmel River strongly connected to surface flows. All that would occur is some vertical mixing of water already hydraulically connected.

B-5

Hydrologic data inappropriately compares yearly and monthly differences between without-project and with-project conditions to highly-impaired baseline water condition (1963-2012). The state of the fishery resource is a reflection on historic dewatering by diversions in the watershed and thus even very small differences are significant. The unimpaired baseline can be reliably calculated for purposes of environmental analysis based on watershed characteristics and precipitation records. The steelhead resource in the Carmel River isn't listed federally threatened because hydrologic conditions are to their liking.

B-6

Certainly an assessment of "less than significant" can be stated when approached incrementally as the DEIR does. Cumulative impact assessments must be performed also. Even the last drop of water taken from a stream can be called "less than significant" if one looks at only relative change rather than absolute change. The finding of "less than significant" is subjective, but the finding that the impact is "adverse", albeit small, is objective.

B-7

The DEIR should be revised to display calculated unimpaired hydrologic conditions and the analysis of significance of project impacts reassessed using daily time steps.

CEQA is about environmental impacts, not meaningless numerical comparisons.

The basis of effective government is public confidence. The basis for decisions in the public interest is a sound EIR.

The DEIR needs to be corrected and made complete before being used as a decision document.

Sincerely,



Richard Morat
2821 Berkshire Way
Sacramento, CA 95864

LETTER B. RICHARD MORAT RESPONSE

B-1 This comment expresses generalized concern regarding the adequacy of the analysis of potential impacts to steelhead trout in the Draft EIR on pages 4.1-40 and 4.1-41. This comment does not raise any specific comments related to the Draft EIR, other than to suggest that the analysis is incomplete, and is perhaps best understood as an introductory paragraph for the comments in following paragraphs. Therefore a detailed response is not possible. However, it should be noted that the analysis contained in the Draft EIR was based on detailed technical analysis that evaluated the potential effects of the proposed project in terms of surface water and groundwater resources, as well as the project-specific effects to biological resources.

The EIR and associated supporting technical documents provide a succinct description of the steelhead life stages potentially occurring within the affected river reach, the habitats that support those life stages, the attributes of the habitat that could be affected by the project, including flow duration and volume, under both the environmental baseline and project conditions. The characterization of steelhead life history and habitat requirements is consistent with those reported in the literature, as described in **Appendix I**.

The Draft EIR fully evaluated the project's potential adverse environmental effects in accordance with the requirements of CEQA and was based on currently available information and project-specific technical analysis, which relied on documentation collected by the EIR preparer, technical sub-consultants, and State Water Board. In addition, the analysis contained in the Draft EIR also relied on extensive documentation prepared by the Monterey Peninsula Water Management District (MPWMD) as part of its on-going Mitigation Program, and other environmental and resource related management actions on the Carmel River.

B-2 The Draft EIR appropriately evaluated the potential environmental effects associated with the proposed project based on the findings of project-specific technical analyses prepared by Balance Hydrologics, Inc. ("Balance") and HDR, Inc. ("HDR"). These analyses evaluated the project's potential impacts related to surface water and groundwater resources and described how potential changes in surface water flows associated with increased pumping at the proposed PODs could potentially affect biological resources, including fisheries, due to potential changes in the duration and volume of surface water flows between the proposed POD and existing PODs (i.e., Project Affected Reach). The Draft EIR described and evaluated potential impacts to fisheries resources, including associated habitat (see Draft EIR pg. 4.1-34 through 4.1-39).

The Draft EIR and supporting technical analyses appropriately described potential project effects by evaluating the changes in stream conditions associated with implementation of the proposed project. The methodology used to evaluate the project's potential impacts to fisheries is consistent with the approach used to evaluate the effects of other water supply projects on the Carmel River and utilizes commonly accepted criteria to evaluate impacts to

the various stages of the life cycle of steelhead, as well as accepted critical fish passage criteria developed by CDFW. The Draft EIR identified and described the effect of the project on frequency of availability of the surface water flow and appropriately identified habitat versus existing conditions. The net effect, in terms of percent decrease in occurrence of the surface water flows was interpreted as the level of effect to the associated habitat and steelhead life stage. The Draft EIR appropriately relied on a comparison of pre-project and post-project stream conditions to determine the effects of changes surface flows and depth at several critical riffles locations in the Project Affected Reach (see below for further discussion). The Draft EIR also described the project's potential effects in terms of constraints to fall/winter downstream migration, constraints to spring smolt outmigration, and constraints to summer juvenile rearing and evaluated potential effects to steelhead spawning, juvenile rearing, and migration.

The Draft EIR appropriately evaluated potential effects to fisheries resources. As described above, the Draft EIR included a detailed analysis of the project's potential effects on critical riffles, which are defined as habitat units in streams and rivers with relatively shallow depth and swiftly flowing turbulent water (CDFW, 2013) (see Draft EIR pg. 4.1-22 through 4.1-25; see also Draft EIR pg. 4.1-29 through 4.1-34). Critical riffles serve multiple functions in the ecological processes of cold water streams and rivers, and are an integral link in the life histories of salmon and trout. Changes in streamflow and water depth may limit the hydrologic connectivity of river habitats and impede critical life history tactics of salmon and trout. The Draft EIR evaluated the effects of reduced surface flows on four (4) critical riffles located within the project study area, including several critical riffles that are actively monitored by the MPWMD in connection with mitigation requirements associated with MPWMD's Aquifer Storage and Recovery (ASR) Projects. The Draft EIR evaluated potential impacts to critical flows based on the critical depth for fish passage developed by the CDFW (CDFW, 2013). Based on the technical analysis performed by Balance and HDR, the Draft EIR determined that the proposed project would result in minor reductions in water depths at the four critical riffles. These results were considered "conservatively high and actual reduction in depth during periods relevant to adult passage and smolt migration would be less than the negligible changes identified in the Draft EIR" (see Draft EIR pg. 4.1-33).

The commenter also suggests that the Draft EIR is incomplete because it does not include an evaluation of potential effects to steelhead beyond the Carmel River. The potential direct effects of the proposed project (i.e., change in proposed POD) would result in physical changes to the environment (i.e., reduction in surface water flows due to increased pumping further upstream from existing PODs). The proposed project could potentially result in localized environmental effects, as more thoroughly described in the Draft EIR (see for instance **Section 4.1, Biological Resources**, and **Section 4.2, Hydrology and Water Quality**). The Draft EIR describes the potential effects of changes in surface water flows and how those changes would affect fishery resources downstream of the proposed PODs. As described in the Draft EIR, potential impacts to steelhead downstream of the existing POD (i.e., the furthest downstream POD in the Project Affected Reach) are reflected in existing baseline conditions. Moreover, CEQA requires that an EIR evaluate the project's reasonably foreseeable effects (CEQA Guidelines Sec. 15064). An evaluation of potential

environmental effects to steelhead beyond the Project Affected Reach would be inherently speculative and inappropriate given the limited direct effects described in the Draft EIR, and given that factors like ocean conditions and predation exert a much stronger influence over steelhead populations than the changed point of diversion, after the fish leave the Carmel River.

B-3 The Draft EIR concluded that potential impacts to steelhead would be less-than-significant in light of the determination that localized impacts would “not be large enough to substantially reduce their numbers or reduce their usage.” The evaluation of the extent of these impacts forms the basis for the “less-than-significant” determination and is not in conflict with it. This determination was based on detailed technical analysis conducted by Balance and HDR that evaluated the effects of the proposed project in terms of the life stages of steelhead. The Draft EIR appropriately concludes, based on technical analysis prepared by resource experts, that the potential effects of the proposed project would be less-than-significant for the purposes of CEQA.

B-4 The Draft EIR correctly states that there may be a slight increase in surface flows upstream of the lagoon (i.e., between the existing POD and lagoon) in June through September since the proposed project would reduce the extent of pumping compared to current baseline pumping under the existing license. It is additionally correct that the proposed project would have no overall impact on existing inflow to the lagoon from a combination of streamflow, underflow and surface runoff. Refer to Response B-5 below for further discussion of potential increased surface flows. The extent of these effects would be contingent upon the hydrogeomorphology of the Carmel River and underlying groundwater basin, but the EIR correctly states that increased surface water levels below the existing POD could potentially improve existing habitat by increasing the amount and duration of surface water flows below the existing POD, particularly during the summer period when these flows are most important. Moreover, it is important to recognize that there would be no net difference in the amount of consumptive use of water as compared to existing conditions. The proposed project would result in slightly less consumptive use during the summer period when flows to the lagoon are critical and would slightly increase consumptive use during the winter period when flows to the lagoon are less critical. Overall, there would be no net increase in average annual consumptive use and impacts would be less-than-significant. Please refer to Draft EIR pgs. 4.2-47 through 4.2-49; see also Draft EIR pg. 4.1-35.

B-5 This comment suggests that the potential increases in surface water flows below the existing POD identified in the Draft EIR during “pre-winter” conditions would be unlikely. The Draft EIR correctly states that there may be a slight increase in surface flows during certain times of the year directly upstream of the lagoon (i.e., between the existing POD and lagoon) because 1) groundwater pumping associated with municipal use would be less than irrigation pumping during the same period³, 2) the project would significantly reduce and eventually

³ The Draft EIR described estimated long-term water use in connection with the existing license (see Table 4-1). As shown in Table 4-1, the “pre-winter” months represents the period of highest estimated water use, which corresponds with periods of increased irrigation demand for agricultural purposes. As described in the Draft EIR, irrigation use under

eliminate groundwater pumping at the existing POD, and 3) the dedication of 46.2 af/yr to instream uses. As a result, it is reasonably foreseeable that the proposed project could result in a slight increase in surface water flows below the existing POD. As the commenter notes, the extent of these benefits may be limited due to the attenuating effects of withdrawing water from the aquifer as opposed to directly from the river, but the EIR correctly states that the proposed project could potentially increase surface water levels below the existing POD during the summer months when flows to the lagoon are critical. Balance (2014a) stated that the proposed project's effects on surface water flows would only occur due to changes in points of diversion. The proposed project would not increase the amount of pumping beyond existing levels. Pumping under the existing licenses is part of the existing baseline and is accounted for as part of the existing water balance for the lagoon under existing conditions. Proposed pumping under License 13868A is equal to the consumptive use under the existing license; proposed pumping under License 13868B is equal to the amount of return flows associated with the existing license. As a result, the proposed project would not negatively impact inflows to the lagoon (i.e., the project would not decrease the amount of inflow to the lagoon beyond current levels under License 13868). The Draft EIR has been revised to clarify that the proposed project would not affect overall inflow to the lagoon; please refer to **Chapter 3.0, Revisions to the Draft EIR**.

B-6 The comment suggests that the Draft EIR inappropriately compares pre-project and post-project hydrologic conditions to an impaired baseline condition. The comment suggests that the Draft EIR should have more appropriately evaluated a baseline condition that entailed “unimpaired” conditions. An “unimpaired” baseline condition, according to the commenter, would not include historic effects of diversions that are part of the baseline water condition. The comment further suggests that any additional changes, albeit relatively small, are significant due to historic dewatering.

According to CEQA Guidelines Sec. 15125, an EIR should include a description of the existing physical environmental conditions in the vicinity of the project to provide the “baseline physical conditions” against which project-related changes can be compared. Specifically, CEQA Guidelines Sec. 15125(a) requires that an EIR include a description of “the physical environmental conditions in the vicinity of a project, as they exist at the time...environmental analysis is commenced...” Normally, the baseline condition is the physical condition that exists at the start of the environmental review process or when the NOP for the EIR is published. (E.g. *Fat v. City of Sacramento* (2002) 97 Cal.App.4th 1270.) These environmental conditions constitute the baseline physical conditions by which the CEQA lead agency determines whether an impact is significant.

the existing license occurs predominately between April and October (see Table 4-1). Irrigation use is lowest between December and March. The Draft EIR also describes estimated monthly municipal demand associated with the proposed project based on historical Cal-Am pumping (between 1998 and 2007). Table 4.2-15 shows estimated minimum and monthly demand associated with the proposed project. Estimated monthly demand associated with the proposed project between May through September is less than the estimated monthly rate of historical use shown in Table 4-1. As a result, the proposed project would reduce the extent of groundwater pumping during “pre-winter” conditions as compared to current irrigation pumping.

For the purposes of the Draft EIR, the State Water Board concluded the existing environmental baseline represents the time when the environmental review process commenced.⁴ The environmental baseline includes current pumping associated with the existing license, as well as other existing diversions in the Carmel River. An evaluation of an “unimpaired” baseline would be inherently speculative and would not account for the current physical condition of the Carmel River and associated watershed and would be inconsistent with the requirements of CEQA (i.e., that the environmental baseline should represent the “real conditions on the ground.”). Finally, an “unimpaired” baseline condition would not materially change the conclusions of the analysis contained in the Draft EIR; under either scenario the extent of potential impacts associated with the proposed project would be limited. Under an “unimpaired” baseline, surface water flows would likely be greater and the proposed effects due to the change PODs would be proportionately less. An evaluation of the project’s effects as compared to current baseline conditions is appropriate for the purposes of identifying potential project impacts.

The commenter does not provide any supporting evidence to suggest that the small differences in post-project conditions associated with the proposed project would be significant. As a result, a specific response to this comment is not possible. While a specific response to this comment is not possible, it is important to note that the Draft EIR included a comprehensive evaluation of the project’s potential effects, based on detailed technical analysis performed by Balance, HDR, and other technical sub-consultants, and determined that the effects of the proposed project would be relatively minor in nature and would not represent a significant impact for the purposes of CEQA. Moreover, as described in the Draft EIR, the proposed project would not increase pumping beyond historical levels associated with the existing irrigation use under License 13868. The Draft EIR evaluated the potential impacts of the proposed project by comparing average conditions over a 40-year period to account for various hydrologic conditions. This approach represents a reasonable good faith effort to evaluate the potential effects of the proposed project that accounts for varying different hydrological conditions, including dry, multiple dry, normal, and above normal periods, and provides the basis for the determination that the potential impacts are not significant.

B-7 The Draft EIR included a detailed evaluation of potential cumulative effects of the proposed project. This analysis considered the impact of the project along with past, present, and reasonably foreseeable future projects consistent with the requirements of CEQA Guidelines Sec. 15065(a)(3). As described in **Chapter 5, CEQA Considerations** (see Draft EIR pg. 5-12 through 5-24), several of the cumulative projects are anticipated to have a net beneficial

⁴ The Draft EIR also described an alternate baseline for the purposes of identifying the amount of water used under License 13868. This baseline included a combination of historical and estimated values to conservatively estimate water use under the existing license over a 25-year period. As described in the Draft EIR, actual water use under License 13868 varies due to a variety of factors, including amount of precipitation and type of crop. During periods of lower precipitation, monthly average water use may fluctuate and higher annual water use may occur, whereas lower annual water use may occur during periods of higher precipitation. Therefore, the Draft EIR relied on an estimated average annual rate of water that accounted for a variety of climatological conditions.

effect on surface water and groundwater resources, as well as biological resources. The implementation of these projects and corresponding reduction in pumping from the Carmel River subterranean flow would have net beneficial effects in terms of the resources evaluated in the Draft EIR. The Draft EIR appropriately evaluated potential cumulative effects, including those effects associated with past, present, and reasonably foreseeable future projects, and the comment provides no evidence to support the implication that past, present or reasonably foreseeable future projects would cause the impact of the proposed project to be cumulatively considerable. Please refer to **Chapter 5, CEQA Considerations**, of the Draft EIR for more detailed information. Please refer to Response B-6 for more information related to the use of present conditions as a baseline.

MSM
perm

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DONALD G. HUBBARD
24972 OUTLOOK LANE
CARMEL, CA 93923
TELEPHONE: (831) 625-1524

November 21, 2014

U.S. Certified Mail – Return Receipt Requested – Tracking No. 7013 3020 0000 3631 2618

Mitchell Moody
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

Re: Eastwood/Odello Water Right Change Petition Draft
Environmental Impact Report; Water Rights Application
No. 30497, SCH No. 2014031008, Monterey, California.

Dear Mr. Moody:

This is an extremely well-conceived project. The Environmental Impact Report should be certified promptly so that this project may proceed as soon as possible.

C-1

Respectfully,



Donald G. Hubbard

DGH/jj

LETTER C. DONALD G. HUBBARD RESPONSE

- C-1** Comment noted. The comment expresses support for the project and does not raise any environmental issues warranting a response under CEQA.

Carmel River Watershed Conservancy
PO Box 223833, Carmel, CA 93922



Board of Directors:

Lorin Letendre, President
Michael Waxer, VP
Greg Pepping, Treasurer
Abbie Beane, Secretary
Catherine Bowie
Monica Hunter
Paul Bruno
Barbara Rainer
Andy Magnasco
Vince Voegeli
Vicki Sarris

December 2, 2014

Mitchell Moody

Mitchell.Moody@waterboards.ca.gov

Matt McCarthy

Matthew.McCarthy@waterboards.ca.gov

Division of Water Rights

State Water Resources Control Board

Re: Proposed Change to License 13868 (Eastwood, Carmel River, Monterey County)

Dear Mr. Moody and Mr. McCarthy:

Almost a year ago, the Carmel River Watershed Conservancy (CRWC) wrote a letter to the State Water Resources Control Board (SWRCB) expressing its full support for the Change Petition filed by Clinton Eastwood and the Margaret Eastwood Trust. (See January 13, 2014 letter attached hereto.) With the SWRCB's recent completion and circulation of the Draft Environmental Impact Report, CRWC urges the State Water Resources Control Board (SWRCB) to move forward and approve this important project.

All potential effects of the project on steelhead riverine and lagoon habitat, juvenile rearing, adult spawning, and migration were fully evaluated in the Draft EIR. There will be no significant adverse environmental impacts from the Eastwood Petition. Moreover, the project will reduce or eliminate pumping at the current point of diversion for License 13868, thus allowing an increase in surface flow upstream of the lagoon that will improve steelhead habitat in the lagoon. (See Page 4.1-41 of the Draft EIR)

D-1 In addition to the public trust benefits stemming from the proposed changes to License 13868 by permanently dedicating 46.2 acre feet per year to instream use, the project will benefit the community by allowing 85.6 acre feet per year to be used by Cal-Am, and will provide further environmental benefits by allowing temporary use of such water to advance the coordinated efforts undertaken by a number of local entities and agencies to restore the floodplain on the Odello East property (known as the Carmel River Floodplain Restoration project).

CRWC requests that the SWRCB immediately consider the Eastwood Petition for approval as a matter of utmost priority. This approval is imperative in order for the various agencies to move forward with its Carmel River Floodplain Restoration project, and to secure its public funding for such project.

Sincerely,



Lorin Letendre, President

501 C Nonprofit Corporation Tax ID # 77-0548869
225 Crossroads Blvd #322, Carmel CA 93923
E-mail: letendre@sbcglobal.net
Webpage <http://www.carmelriverwatershed.org>
Tel: 831-277-0276

LETTER D. CARMEL RIVER WATERSHED CONSERVANCY RESPONSE

- D-1** Comment noted. The comment expresses support for the project and for the evaluation presented in the Draft EIR. It does not raise any environmental issues warranting a response under CEQA.

MSM
A030497B

Mr. and Mrs. Tanios Viviani
27209 Prado del Sol
Carmel, CA 93923

2014 DEC 11 AM 10:13
STATE WATER RESOURCES CONTROL BOARD
SACRAMENTO

December 9, 2014

Mr. Mitchell Moody
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

Dear Mr. Moody
Reference is made to the Notice of Availability of Draft Environmental Impact Report on the Eastwood Odello Water Right Change Petition Project (License 13868, Application 30497B) Sch No. 2014031008 (the "Draft EIR")

I am writing to comment on the Draft EIR. I own a residence located at 27209 Prado Del Sol, Carmel, CA 93923.

My comments and opposition are specifically targeted at the change in extraction points for this water transfer. There are three proposed extractions points (wells): Pearse, Cypress and Canada. One of these wells, the Pearse, sits at the end of our street (Prado Del Sol) in the middle of a quiet residential neighborhood; it is an inappropriate location for a well for which increased use is contemplated. The Pearse well is less than 100 feet from several homes in the neighborhood; it hums incessantly when running, which it has done more and more of the time. In addition, when it breaks down, which has been fairly often, it requires heavy equipment to drive up and down our private street, damaging the road, increasing traffic congestion, and causing unreasonable noise and air pollution (pounding and diesel smoke of repair trucks and equipment). It is inappropriate to increase the use of the Pearse well.

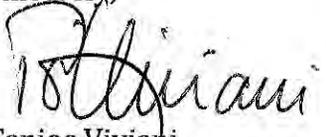
I believe that the Pearse well should be deleted as an extraction point and the water be extracted from the other two wells which, as I understand it, are out in the open away from homes. My neighbors agree that the Pearse well should be run as little as possible in order to avoid noise and air pollution, as well as traffic congesting from repair trucks. At the very least the use of the Pearse well should not be increased. Further, I believe increasing the use of the well will reduce the value of my property and that of my neighbors.

E-1

The more the Pearse well runs, the more noise, smoke and traffic it generates and this seriously affects our neighborhood. My point is that if there are other locations to extract this water, use those, not a well in the middle of a quiet residential neighborhood.

E-1

Sincerely,

A handwritten signature in black ink, appearing to read "Tanios Viviani". The signature is written in a cursive style with a large initial "T".

Tanios Viviani

LETTER E. TANIOS VIVIANI RES PONSE

E-1 The use of the Pearce well in connection with the proposed project would not result in any new significant impacts beyond those associated with existing well operations. The Pearce well has a submersible pump, which generally reduces the extent of noise associated with well operation (personal communication Eric Sabolsice, February 6, 2015). Cal-Am, in response to neighbor concerns, also insulated the well piping at the site. According to Cal-Am (ibid.), the insulating of the well, which was completed in September 2014, has greatly reduced noise due to well operation. The relatively small increase in groundwater pumping proposed in connection with the project would represent an insignificant proportion (at most 3 percent) of overall groundwater pumping associated with the Pearce well.

This increase in pumping would not result in additional environmental impacts beyond those associated with existing well operation. The Pearce well operates at a fixed rate and no increase in speed (and therefore noise) is required to accommodate the nominal increase in pumping due to the proposed project (ibid.). In addition, the Pearce well is the farthest upstream proposed POD under License 13868A. Operationally, Cal-Am's groundwater pumping occurs in the lower reaches of the river and gradually moves further upstream, as needed. Groundwater pumping at the existing Cal-Am PODs would occur primarily at either the Cañada #2 or the Cypress #2 wells (or a combination thereof) prior to pumping occurring at the Pearce well in connection with the proposed project. As a result, the use of the Pearce well as an authorized POD under License 13868A would be relatively minor in nature and would not result in any additional environmental effects beyond those associated with existing well operation.

As described above, operation of the Pearce well for the proposed project would not significantly increase existing noise, air quality emissions, or traffic beyond current levels associated with existing well use. Also, as described in **Chapter 1.0, Introduction**, the Licensee has entered into Protest-Dismissal Agreements with CDFW and NMFS, wherein the Licensee has agreed to construct and operate an individual well as the primary POD for proposed License 13868A. The existing Cal-Am PODs would still be included as authorized PODs under License 13868A, but only for interim and backup use. This existing PODs would be used for a duration of up to one year while the new well is constructed; the existing PODs would subsequently be used on a limited basis and backup uses only. Additionally, during the up-to one-year construction period of the new well, much or all of the municipal water will be used to off-set Cal-Am's existing unlawful diversions, and would therefore not require increased use of the Pearce well. The infrequent use of these PODs, including the Pearce well, for interim and backup use would address almost all of the commenter's concerns, and is in accord with the commenter's suggestion that the project use other locations to extract the water, if possible.

City of Carmel-by-the-Sea

POST OFFICE BOX CC
CARMEL-BY-THE-SEA, CA 93921
(831) 620-2000

December 3, 2014

Mr. Mitchell Moody
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

RE: Draft EIR for the Eastwood/Odello Water Right Change Petition Project (License 13868, Application 30497B; SCH No. 2014031008)

Dear Mr. Moody:

On behalf of the City Council of the City of Carmel-by-the-Sea, I am providing this comment letter on the Draft EIR for the Eastwood/Odello Water Right Change Petition Project (Eastwood/Odello Petition).

The City of Carmel-by-the-Sea is keenly interested in reducing and eliminating illegal diversions from the Carmel River, the development of additional water sources and other strategies to address the Monterey Peninsula area's ongoing water issues. As such, the City sees this petition as an important opportunity to provide an additional supply of municipal water to reduce illegal diversions from the Carmel River and serve existing lots of record and under-utilized commercial properties. It would also provide an additional water supply for other municipal purposes.

F -1

On January 27, 2014, counsel for the City of Carmel-by-the-Sea submitted the attached letter to Kathy Mrowka expressing the City's support for the Eastwood/Odello Petition. We continue to support the petition as proposed, with the inclusion of the entirety of the City of Carmel-by-the-Sea in the proposed new Place of Use (POU).

Specific comments on the Draft EIR are as follows:

1. In the discussion of potential Growth Inducing Impacts in Section 5.1, the DEIR properly acknowledges that the additional municipal water supply would remove an existing obstacle to growth and development, which could indirectly affect the environment. However, as noted in the DEIR, the proposed petition would not induce growth beyond that envisioned under current zoning and General Plan build-out assumptions. The City has a robust design review process and (as applicable) a Use Permit review process to ensure compliance with the City's Municipal Code and Design Guidelines for proposed new development facilitated by the petition request.

F -2

2. In Table 5-1 on page 5-3 of the DEIR, the City is noted as having 58 vacant residential lots. As noted in Table 2-5 of the City's 2007-2014 Housing Element, the correct number of vacant residential lots is 56. In addition, a note at the bottom of that table states that the total number of [residentially zoned] potential units is estimated to be 74. The correct number is 70. F -3

3. In Table 5-1 on page 5-3 of the DEIR, under the column "Vacant Commercial (unit)," 78 residential dwelling units are reported. As noted in Table 2-5 of the City's 2007-2014 Housing Element, the correct number of potential units on *vacant* commercial properties is 4. If however, this column were to include *under-utilized* commercial properties, the correct number of potential dwelling units would be 82, since an additional 78 dwelling units could be developed as mixed-use units on under-utilized commercial properties (refer to and cite Table 2-6 of the City's 2007-2014 Housing Element). Furthermore, while not quantified in the 2007-2014 Housing Element, additional mixed-use dwelling units could be developed through the conversion of commercial tenant spaces to residential uses, for example, through the conversion of upper floor office uses to dwelling units. The City recommends that Table 5-1 be revised accordingly. F -4

4. Section 3.9.3 of the DEIR notes that the Monterey Peninsula Water Management District (MPWMD) will be developing MPWMD Rule 23.7, which would set forth a process for processing and issuing water use permits for allocations of water entitlements based on the proposed License 13868A. We look forward to working with the MPWMD on the specifics of the proposed new Rule 23.7. F -5

Overall, the Eastwood Petition will provide social, environmental, and economic benefits to the community. Carmel respectfully urges the State Water Resources Control Board to: (1) certify the EIR and approve the Eastwood Petition and (2) issue a determination that the water delivered for municipal purposes, pursuant to the new License No. 13868A, is consistent with the Cease and Desist Order issued by the SWRCB in WR Order 2009-0060.

Again, we appreciate the opportunity to review and comment on this important project. Thank you for consideration of this letter.

Sincerely,



Jason Burnett

Mayor

City of Carmel-by-the-Sea

encl. Letter to Kathy Mrowka dated January 27, 2014

cc Vice Mayor Victoria Beach; Councilmembers Ken Talmage, Carrie Theis, and Steve Dallas
Doug Schmitz, City Administrator
Rob Mullane, AICP, Community Planning and Building Director
Marc Wiener, Senior Planner

January 27, 2014

Russell M. McGlothlin
Attorney at Law
805.882.1418 tel
805.965.4333 fax
RMcGlothlin@bhfs.com

VIA U.S. MAIL

Kathy Mrowka
Chief of Inland Streams Unit
State Water Resource Control Board, Division of Water Rights
Post Office Box 2000
Sacramento, CA 95812

RE: License No. 13868 Change Petition

Dear Ms. Mrowka:

Our law firm represents the City of Carmel-by-the-Sea. We recently received the notice of a petition to split License No. 13868, held by the Clint Eastwood and Margaret Eastwood Trust, into two licenses for municipal and irrigation purposes (new License No. 30497A) and fish and wildlife enhancement (new License No. 30497B). Carmel respectfully urges the State Water Resources Control Board to (1) approve the petition, and (2) issue a determination that the water delivered for municipal purposes, pursuant to the new License No. 30497A, is consistent with the cease and desist order issued by the SWRCB in Order 2009-0060 upon the California American Water Company.

The proposed use of water pursuant to the split licenses will realize multiple environmental, social, and economic benefits. Water currently used to irrigate crops on the Odello Ranch will be used for in-stream flow enhancement, temporary irrigation of rehabilitated native vegetation on the Odello Ranch, an interim water supply to reduce Cal-Am's unauthorized Carmel River diversions, and limited new municipal uses served by Cal-Am within the Carmel River Watershed and Carmel. The Eastwood Trust will allow Cal-Am to use the approximately 85 acre-feet authorized for diversion under the new License No. 30497A as an interim source of water to offset unauthorized diversions. This water will be gradually sold pursuant to subscription agreements to allow for limited new development that is presently precluded by the moratorium imposed pursuant to the CDO. The development that may proceed as a result will include socially valuable in-fill development, such as affordable housing and minor residential and commercial upgrades. As explained by the City's mayor, Jason Burnett, as quoted by the local paper, the Carmel Pine Cone:

Having more water for lots of record, having more water to enable restaurants to add a few seats, to allow people to add a bathroom if they want, to be able to have an apartment upstairs in the commercial core, are all sorts of wonderful things that this community would love to have, and we're being held back because of lack of water. Besides making some water available, the project would also have huge environmental benefits for the community and the river. It's going to be a win-win-win.

F -6

1020 State Street
Santa Barbara, CA 93101-2711
main 805.963.7000

The water diverted under the new License No. 30497A will be no greater than the historical amount consumptively used for crop irrigation on the Odello Ranch. The remainder of the water right (new License No. 13868B) will be dedicated to Carmel River stream flow enhancement. Consequently, the proposed change to the license will cause no harm to the river's riparian environment or other legal user of water.

Approval of the petition will also facilitate the transfer of the Odello Ranch to the Big Sur Land Trust, which will restore the property as a natural floodplain with rehabilitated native habitat and vegetation. This will enhance environmental, scenic, and recreational amenities adjacent to the Carmel River Lagoon.

The CDO imposed substantial economic and social hardship on Carmel and its sister communities. The facilitation of limited new development pursuant to the new License no. 30497A will alleviate a portion of that hardship. This partial relief, however, will not deter efforts underway to develop Cal-Am's Monterey Water Supply Project. The new project is proceeding through the California Public Utilities Commission and other regulatory venues with full support from the municipal jurisdictions served by Cal-Am. The Monterey Peninsula Regional Water Authority, the Monterey Peninsula Water Management District, the County of Monterey, and numerous other parties to the CPUC proceeding approved a settlement agreement last fall. The schedule for the proceeding provides for issuance of a draft Environmental Impact Report in the first quarter of 2014 and a certificate of public convenience and necessity for the project in mid-2014. Cal-Am is also diligently pursuing other necessary regulatory approvals with support from the Water Authority and Water Management District. In sum, efforts to remove Cal-Am's unauthorized Carmel River diversions are proceeding as fast as possible with full community support. Approval of this petition will not deter those efforts, but will facilitate modest new development and attendant economic and social welfare.

Carmel and its sister communities are dedicated to achieving a permanent water supply solution. In the interim, the minor relief afforded by this project would help the community endure until the new project is operational. Carmel respectfully urges the SWRCB to approve the petition.

Sincerely,



Russell M. McGlothlin

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F -6

LETTER F. CITY OF CARMEL-BY-THE-SEA RESPONSE

- F-1** Comment noted. The comment expresses support for the project and does not raise any environmental issues warranting a response under CEQA.
- F-2** The comment concurs with the conclusions in the Draft EIR regarding the proposed project's growth accommodating nature. More specifically, the commenter states that the proposed project would not induce growth beyond the assumptions contained in the City of Carmel-by-the-Sea's General Plan. The comment does not raise an environmental issue warranting a response under CEQA.
- F-3** Minor changes have been incorporated into the Final EIR as described in **Chapter 3.0, Revisions to the Draft EIR**, in response to this comment to correct the existing vacant residential lots and estimated units within the City of Carmel-by-the-Sea in Table 5-1 that the Draft EIR incorrectly noted due to clerical error.
- F-4** Minor changes have been incorporated into the Final EIR as described in **Chapter 3.0, Revisions to the Draft EIR**, in response to this comment. Table 5.1 has been revised to specify vacant/underutilized commercial lots that the Draft EIR misreported due to clerical error.
- F-5** Comment noted. The comment does not raise any environmental issues warranting a response under CEQA.
- F-6** This comment includes a letter that was previously submitted to the State Water Board on behalf of the City of Carmel-by-the-Sea on January 27, 2014 as a response to the Notice of Petition for Change dated December 31, 2013. The letter contains no new information relevant to the Draft EIR. This comment does not raise any issues associated with the Draft EIR that warrant a response under CEQA.



Monterey Peninsula Regional Park District

60 Garden Court, Suite 325 • Monterey, California 93940-5341

December 8, 2014

Mr. Mitchell Moody
Mr. Matt McCarthy
SWRCB - Division of Water Rights
PO Box 2000
Sacramento, CA 95812-2000

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GENERAL MANAGER

Rafael Payan, PhD
payan@mprpd.org

License 13868 (Eastwood Odello Property, Carmel River, Monterey County)

Dear Mr. Moody and Mr. McCarthy:

The Monterey Peninsula Regional Park District appreciates the opportunity to comment on the Draft EIR circulated for the Change Petition filed by Clinton Eastwood and the Margaret Eastwood Trust.

As stated, the Eastwood Petition seeks to re-allocate vested rights to the Carmel River that will result in (1) a dedication of 46.2 AFY to in-stream beneficial use and (2) a change in purpose that adds municipal uses up to 85.6 AFY of the remaining license to be diverted from Cal-Am wells.

The District owns the adjacent 4,500 acre Palo Corona Regional Park open space that borders and overlooks the river and lagoon and agrees that the dedication of 46.2 AFY supports public trust benefits inherent in the river, lagoon, and park environments. The District further agrees with the Draft EIR finding that the change of use of 85.6 AFY from crop irrigation to municipal uses will not adversely impact the Carmel River or lagoon given the long-term positive in-stream benefits.

The District appreciates the expansive effort made by Clinton Eastwood and Margaret Eastwood Trust to benefit the local community by making such water available for municipal uses within the District, and doing so in a manner that results in no significant adverse impact to the environment.

The Petition is a catalyst project for a unique collaborative conservation effort between a long list of state, federal and local resource agencies on the regionally significant Carmel River Floodplain Restoration and Environmental Enhancement Project.

The District respectfully requests that the SWRCB certify the EIR and approve the Petition.

Thank you,

A handwritten signature in black ink, appearing to be "Rafael Payan", with a long horizontal line extending to the right.

Rafael Payan
General Manager

cc: Mitchell.Moody@waterboards.ca.gov
Matthew.McCarthy@waterboards.ca.gov
Board of Directors
Michael Waxer

LETTER G. MONTEREY PENINSULA REGIONAL PARK DISTRICT RESPONSE

- G-1** Comment noted. The comment expresses support for the project and certain findings in the Draft EIR, and does not raise any environmental issues warranting a response under CEQA.

LETTER H. CALIFORNIA AMERICAN WATER COMPANY RESPONSE

H-1 Comment noted. The comment expresses support for the project and for certain findings in the Draft EIR. The letter does not raise any environmental issues warranting a response under CEQA.



Robert G. MacLean
President
1033 B Avenue, Suite 200
Coronado, CA 92118
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P 619.522.6361
C 845.893.6650
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December 12, 2014

Via First Class Mail and Email

Mr. Mitchell Moody
State Water Resources Control Board
Division of Water Rights
PO Box 2000
Sacramento, CA 95812-2000
Mitchell.Moody@waterboards.ca.gov

Re: *Continued Support for Proposed Change to License 13868 (Eastwood, Carmel River, Monterey County)*

Dear Mr. Moody:

California American Water Company (“CAWC”) supports the State Water Resources Control Board’s approval of the Petition to modify and partition the Eastwood/Odello Water Right License No. 13688 (Application 30497), and to certify the Environmental Impact Report for the Petition. CAWC agrees with the State Water Resources Control Board’s (“SWRCB”) environmental analysis that the project will not result in significant effects to the environment, and that the immediate and long-term effects to the Carmel River will be beneficial.

The proposed project will contribute many benefits to the Carmel River and surrounding environment by dedicating water that is currently being used for irrigation to in-stream uses and furthering the Big Sur Land Trust’s floodplain management and environmental enhancement project. These significant steps are consistent with CAWC’s overall efforts to improve ecosystem values and flood plain management.

Sincerely,

Robert MacLean
President

Cc (email only): Alan B. Lilly
Michael Waxer
Robert Donlan
Andrew Homer

H -1

MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY

Carl P. Holm, AICP, Acting Director



Michael A. Rodriguez, C.B.O., Director of Building Services

Michael Novo, AICP, Director of Planning

Robert K. Murdoch, P.E., Director of Public Works

168 W. Alisal Street, 2nd Floor
Salinas, CA 93901
www.co.monterey.ca.us/rma

December 12, 2014

Mitchell Moody
SWRCB – Division of Water Rights
P.O. Box 2000
Sacramento, CA 95812-2000

Subject: Eastwood Odello Water Right Change Petition Project (License 13868)

Dear Mr. Moody;

The Monterey County Resource Management Department (RMA) has reviewed the Draft EIR for the subject project. The Department appreciates the effort by Clinton Eastwood and Margaret Eastwood Trust to benefit the community by making additional water available for municipal uses and doing so in a manner that results in no significant impact to the environment.

1-1

Sincerely,

A handwritten signature in cursive script that reads 'Robert Schubert'.

Robert Schubert, AICP
Senior Planner

LETTER I. MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY RESPONSE

- I-1** Comment noted. The comment expresses support for the project and does not raise any environmental issues warranting a response under CEQA. No response is necessary.



Carmel River Steelhead Association

501 (C)(3) TIN 77-0093979

P.O. Box 1183

Monterey, CA 93942

December 13, 2014

Mitchell Moody

Mitchell.Moody@waterboards.ca.gov

Matt McCarthy

Matthew.McCarthy@waterboards.ca.gov

Division of Water Rights

State Water Resources Control Board

RE: Proposed Changes to License 13868 (Eastwood, Carmel River, Monterey County)

Gentlemen:

The Carmel River Steelhead Association (CRSA) originally protested the above referenced partition due to fear the change would have impacts to the threatened Carmel River Steelhead which CRSA has worked for 40 years to protect. After discussions with various people and reading technical reports, CRSA withdrew its protest satisfied any impacts to steelhead would be minimal and knowing 46.2 acre feet of water dedicated to in stream use would more than offset any unforeseen impacts.

Since March when CRSA withdrew its protest we have read the EIR for this project and agree with the findings of the EIR.

CRSA has also read the Protest Dismissal Agreement (PDA) between the applicant and the California Department of Fish and Wildlife. CRSA believes the changes in the PDA make the transfer even more beneficial to steelhead.

CRSA understands that the proposed License 13868A will be accounted for separately from all of Cal Am's other diversions, and therefore will not undermine or reduce the effectiveness of the prior SWRCB Orders WR 95-10 and WR 2009-0060.

CRSA thanks the SWRCB for its thoroughness in considering the Eastwood Petition and encourages the SWRCB to certify the EIR for this project, approve the Eastwood Partition, and issue a determination that the Eastwood Petition is consistent with WR 09-60.

Sincerely,

Brian LeNeve, President CRSA

LETTER J. CARMEL RIVER STEELHEAD ASSOCIATION RESPONSE

J-1 Comment noted. The comment expresses support for the project with the findings in the Draft EIR. It does not raise any environmental issues warranting a response under CEQA.



December 15, 2014

Mitchell Moody
Division of Water Rights
State Water Resources Control Board
PO Box 2000
Sacramento, CA 95812

**RE: Petition to Change License 13686 (Eastwood, Carmel River, Monterey County) –
Draft Environmental Impact Report (DEIR) Comment Letter**

Dear Mr. Moody:

Clint Eastwood and Margaret Eastwood (Eastwood) filed a change petition with the State Water Resources Control Board (SWRCB) in June 2013 to change the point of diversion, place of use and purpose of use under License 13686 (“Change Petition”). The Division of Water Rights issued notice of the Change Petition in December 2013, and on January 29, 2014, the Big Sur Land Trust (BSLT) sent the Division of Water Rights a letter expressing our support for this Change Petition.

More recently, on October 31, 2014, the SWRCB staff circulated the DEIR, which concludes that there will be no significant adverse environmental impacts resulting from this Change Petition. The DEIR contains a comprehensive analysis, and includes a number of technical expert reports prepared by Balance Hydrologics, Inc., HDR, Inc., Davids Engineering, Inc., Macaulay Water Resources, and West Yost Associates. Overall, BSLT agrees with the DEIR analysis and conclusions.

BSLT is working in partnership with Monterey County on the Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) Project. While the CRFREE Project is appropriately discussed in the DEIR under Cumulative Impacts (Section 5.2), and not as part of the proposed project description, BSLT notes that the CRFREE Project is proposed to be located on the existing Place of Use (POU) in the Eastwood License 13868. Further, BSLT anticipates Eastwood will donate this land for the CRFREE Project, upon conclusion of the SWRCB water rights petition process and subsequent local rulemaking by the Monterey Peninsula Water Management District for implementation of the proposed Change Petition. BSLT considers the Change Petition as ultimately creating beneficial conditions that will environmentally improve both the Carmel River and the Carmel Lagoon, while also benefitting the community directly through lower flood levels and improved access to the River and trails/recreation.

We urge the Division of Water Rights and the SWRCB to issue orders approving the Change Petition as soon as possible after the issuance of the Final EIR. The SWRCB and MPWMD

approvals of this Change Petition are necessary before the land donation for the CRFREE project can occur, which is critical to implementing this very important project that BSLT has spearheaded.

K- 1

Following are the Big Sur Land Trust's comments on the DEIR:

1. Project Description

As noted on page 3-18 of the proposed project description, BSLT is the holder of License 13888 (Permit 20905A), which allows for the diversion of up to 0.45 cfs of water (with an annual limitation of 28.1 af/yr) from one Point of Diversion (POD), Odello Well #2, for the irrigation of a Place of Use (POU) of 43.7 acres. BSLT therefore affirms that this POD must be retained for BSLT's continued irrigation on BSLT's POU. BSLT has a separate flow meter to monitor its diversion and use under our permit requirements, which will continue to be used for BSLT's irrigation reporting.

K- 2

BSLT notes that, in addition to BSLT's water right and land adjacent to the Eastwood property, we are the holder of an Agricultural and Conservation Easement (dated 12/10/1997) on a portion of the Eastwood existing POU (Assessor's Parcel 243-071-004). The easement deed includes an exception and reservation to the Grantor (Eastwood) for the water right associated with this parcel of land, pursuant to SWRCB Permit 20905 (Section 3.d).

K- 3

As discussed above and below under Cumulative Impacts, BSLT and Monterey County have partnered on the CRFREE Project, which will involve restoration of the floodplain on the Eastwood POU. Restoration of this land can benefit from short term, temporary use of a portion of the Eastwood licensed water to irrigate and establish vegetation being planned in the CRFREE Project. BSLT's understanding of the Eastwood Petition and DEIR is that there will not be a conflict with this purpose of use, and that we will be able to continue to irrigate this POU under the terms of the Change Petition on the CRFREE Project area that overlaps with the Eastwood POU. The Eastwood Applicants have confirmed to us that they are in agreement with the short term and temporary plans to continue to irrigate this property and we have been working together to achieve these positive environmental and community benefits. BSLT requests that the Project Description in the DEIR, as well as the Permit 20905B01 and License 13868A, include an affirmative statement that, with the retention of POD Odello Well #2 and the existing Eastwood POU in the Eastwood water right license and permit in the Change Petition, there is permissive flexibility to provide irrigation supply for the floodplain restoration area.

K- 4

While not noted in the DEIR Project Description, the draft Licence 13868a contains the following statement:

"11. Right holder shall make available to California American Water Company (Cal-Am) a site and/or easements, located at the easterly end of the Eastwood property shown on the map filed with Application 30497B01, for the purposes of installing, maintaining and operating a well for the diversion of water as well as a site or a location for a treatment plant. Right holder shall also grant Cal-Am reasonable access to the site for the installation, maintaining, and operating a well for the diversion of water as well as a treatment plant. Right holder shall not object to pumping by Cal-Am for discharge into the Carmel River for delivery to the lagoon. Any pumping by Cal-Am shall, however, be pursuant to its own water rights, and shall not reduce the amount of water granted to right holder under this right or interfere with the exercise of right holder's rights under this right."

K- 5

BSLT notes that this provision may be in conflict with the CRFREE grading and restoration area. If no longer necessary and applicable, BSLT requests that this condition be removed from draft License 13868a.

2. Biological Resources

As explained in the biological resources section of the DEIR, impacts to any species identified as a candidate, sensitive, or special-status biological resources would be “indiscernible”. (See DEIR, Section 4.1) In particular, the Change Petition will not result in any significant impacts to the steelhead population or its designated critical habitat, and the Change Petition would increase surface flow immediately upstream of the lagoon potentially improving steelhead habitat in the lagoon. (See DEIR, Section 4.1, Page 4.1-41) The change in diversion is located within the downstream reach of the river with existing poor habitat quality. Given this location and the timing of potential impacts relative to steelhead life-stage periodicity in the potentially affected reach along with the very small changes in surface flow in the project affected reach, any potential impacts are insignificant. (Id.) This also means that the Eastwood Petition will not have any adverse effect on MPWMD’s steelhead rescue actions. (Id.)

K- 6

3. Hydrology and Water Quality

The hydrology section of the DEIR, Section 4.2, explains that the change in point of diversion upstream to Cal-Am’s wells would result in a minor or insignificant change in surface flow along this affected reach of the Carmel River. (See DEIR, Section 4.2, page 4.2-48-49; see also West Yost Associates and Balance Hydrologics technical studies in Appendices C-1, C-2 and G).

The Eastwood Petition does not involve a net increase in volume of water use beyond the consumptive use already associated with the existing water right license. (See DEIR, Section 4.2; see also Davids Engineering, Inc. and Steve Macaulay Water Resources technical reports at Appendices E and F). Notably, Balance Hydrologics has conducted extensive hydrological studies relating to not only this Change Petition, but also for a multitude of other projects being considered along the Carmel River and hence the DEIR analysis is supported by the best and most knowledgeable experts in this area.

K- 7

4. Cumulative Impacts

As noted in Section 5.2, Cumulative Impacts, one water related project located in the watershed is the CRFREE Project. As previously discussed, BSLT and Monterey County have partnered on this project. It is located on a portion of the Eastwood Odello property that is anticipated to be donated following the SWRCB’s and MPWMD’s actions on the proposed Change Petition. The CRFREE Project includes creating a hydrologic connection under Highway 1 between the Eastwood lands and the Carmel River Lagoon to the west (referred to as the causeway component), as well as removal of portions of the Carmel River south bank levee and restoration of the floodplain on the Eastwood Odello property. The CRFREE Project will also include trails through the Eastwood/Odello property that will increase public access and connect to adjacent public lands (Palo Corona Regional Park, Carmel River State Beach).

K- 8

BSLT has worked diligently to secure nearly \$13M in Federal and State grant funds for the CRFREE Project. This includes funds from the California Wildlife Conservation Board (\$2.5 million), State Coastal Conservancy (\$2.5 million), U.S. Fish and Wildlife Service (\$925,000), the EPA West Coast Estuaries Program (\$686,000), the California Department of Water Resources (DWR) Urban Streams Program (\$1 million). Monterey County is managing additional grant funds BSLT helped acquire for the CRFREE Project from DWR’s Flood Protection Program (\$5 million). Monterey County and Caltrans have entered into a cooperative agreement on the proposed causeway component, which identified the County as the Lead Agency and Project Sponsor. Additional funds have also been committed by the California Department of Transportation (Caltrans).

The DEIR correctly describes the CRFREE Project and its benefits, which include restoring and enhancing the ecological and hydrologic functions of a portion of the historic floodplain, reducing flooding hazards to existing developed areas north of the Carmel River, reducing existing flooding hazards to State Route 1, increasing the quality and quantity of important habitat for special-status species (e.g., steelhead, red legged frogs, etc.), protecting existing farmland, increasing groundwater recharge, and improving water quality. The CRFREE Project is anticipated to have net beneficial effects on surface water and groundwater resources, including associated biological resources.

K- 8

As noted above in our comments on the Project Description, the CRFREE Project is planning short term use of a portion of the Eastwood water right through the existing POD (Odello Well #2) and on the existing POU to establish new vegetation.

Thus far, BSLT has made great progress with a number of planning and development activities associated with the CRFREE Project. Work conducted to date has included analyzing hydraulics, geotechnical conditions, bed elevation, scour and large woody debris potential in order to inform floodplain design alternatives; obtaining aerial topography data sets for project design considerations; analyzing groundwater for restoration considerations regarding plant survivability and final grade considerations; design plans for grading of the farm field and restoration area; initial CEQA review; and conceptual engineering of all CRFREE Project elements. At this time, BSLT and Monterey County are moving forward with plans to implement the project within the timeframe of the grants, by the end of 2018.

However, much of our remaining work and grant funds are contingent on securing the land donation for the Eastwood/Odello East Ranch property as a funding match. Again, this cannot occur until after the SWRCB approval of the Eastwood Change Petition. We hope that all necessary SWRCB approvals can be issued by the end of January 2015, so that the Eastwood/Odello East land donation can be completed, and BSLT and Monterey County can meet all of the obligations under the various funding agreements necessary to implement the CRFREE Project.

K- 9

Please contact my staff, Sarah Hardgrave, Conservation Program Manager, if you would like any additional information regarding the CRFREE Project and our support for the Eastwood/Odello Change Petition. She can be reached at shardgrave@bigsurlandtrust.org or at (831) 625-5523.

Sincerely,



Jeannette Tuitele-Lewis
President/Chief Executive Officer

Cc: Felicia Marcus, Chair of the State Water Resources Control Board
David Stoldt, General Manager of the Monterey Peninsula Water Management District
Carl Holm, Acting Director of the Monterey County Resource Management Agency
Michael Waxer and Alan Williams, Carmel Development Company

LETTER K. BIG SUR LAND TRUST RESPONSE

- K-1** Comment noted. The comment expresses support for the project and overall support for the analysis in the Draft EIR and recommends that the State Water Board approve the change petition. The comment does not raise any environmental issues warranting a response under CEQA.
- K-2** Comment noted. This comment does not raise any environmental issues warranting a response under CEQA.
- K-3** Comment noted. This comment does not raise a specific comment related to the Draft EIR that warrants a response under CEQA.
- K-4** The commenter requests minor revisions to the Draft EIR, as well as the Permit 20905B01 and License 13868A to include temporary irrigation to serve the Carmel River Floodplain Restoration and Environmental Enhancement Project (CFREEE) Project. As described in the Draft EIR, proposed License 13868A would include the existing authorized PODs, existing POU, and existing purposes of use (irrigation), as well as the proposed changes. Water would continue to be available for irrigation purposes on an interim basis in order to serve the temporary needs of the CRFREE Project. As a result, revisions to the Draft EIR are not necessary.
- K-5** The commenter requests that a condition in draft License 13868A related to providing a site and/or easement to Cal-Am for a new well on the eastern end of property owned by the Licensee be removed from the draft license if it is no longer applicable. This comment is noted, however the comment does not raise a specific comment related to the Draft EIR that warrants a response under CEQA.
- K-6** Comment noted. The comment supports analysis and conclusions in the Draft EIR, and does not raise an environmental issue warranting a response under CEQA.
- K-7** Comment noted. The comment supports analysis and conclusions in the Draft EIR, and does not raise any environmental issues warranting a response under CEQA.
- K-8** Comment noted. The comment supports the description of the CRFREE Project in the Draft EIR, and does not raise any environmental issues warranting a response under CEQA.
- K-9** Comment noted. The comment does not raise any environmental issues warranting a response under CEQA.



December 15, 2014

via Mitchell.Moody@waterboards.ca.gov

Mitchell Moody
SWRCB Division of Water Rights
PO Box 2000
Sacramento, CA 95812-2000

Subject: MPWMD Comments on Draft EIR for Eastwood/Odello Water Right Change Petition (License 13868, Application 30497B), Carmel River, Monterey County; SCH# 2014031008

Dear Mr. Moody:

The Monterey Peninsula Water Management District (MPWMD or District) appreciates this opportunity to comment on the above-referenced Draft Environmental Impact Report (EIR) for the proposed Change Petition for water rights associated with the Eastwood/Odello property along the lower Carmel River. A portion of existing rights would be transferred to California American Water (Cal-Am) for use by the community, while a remainder portion will be dedicated for instream benefits. The MPWMD is responsible for integrated water resources management for the Monterey Peninsula; its boundaries include the lower Carmel River watershed and the Cal-Am service area. In this case, the District will serve as a Responsible Agency under the California Environmental Quality Act (CEQA) and rely on the certified EIR for this project. The District's comments are as follows:

Chapter 1.2 -- The District concurs with the EIR text regarding the need for new MPWMD Rule 23.7, similar to the current Rule 23.5, that would specify a procedure for processing applications for Water Permits for new construction or remodels, based on proposed License 13868A. The proposal is for dedications of Cal-Am water for use on subscriber projects within the Carmel River watershed or the City of Carmel-by-the-Sea. It is noted that Rule 23.5 also refers to required fees for an MPWMD Water Permit as specified in Rule 24 (fee based on proposed fixture units).

L-1

In addition, MPWMD Rules 20, 21 and 22 require written District approval to amend an existing Water Distribution System (WDS). This would entail a separate permit process and public hearing for the Cal-Am WDS, similar to the recent Cal-Am/Cypress Amendment, when Cal-Am received water rights from property owners in the Seaside Groundwater Basin.

Chapter 3.3 and 3.9.3 -- The District has the same comments as for Chapter 1.2 above regarding the MPWMD permit processes. In addition, in the context of water supply/resource planning associated with an interconnected service area, the District is interested in subscriber projects located in other portions of the Cal-Am service area outside the watershed boundary, not

L-2

limited solely to the City of Carmel-by-the-Sea. Notably, the District has received several questions from the public regarding this possibility. A broader service area would not change the direct impacts to the Carmel River and associated species. However, the Final EIR should analyze the cumulative and other effects of subscriber projects located anywhere within the local Cal-Am service area.

L-2

Chapter 4, Page 4.1-14 – The third full paragraph, last sentence states: “*In addition, MPWMD also implements annual CRLF [red-legged frog] and steelhead rescues, habitat enhancement activities, and monitoring to minimize potential effects due to groundwater withdrawals.*” This is incorrect. CRLF rescues are not and never have been part of the MPWMD Mitigation Program. Instead, CRLF rescues are conducted by a consultant under contract to Cal-Am as authorized by the U.S. Fish and Wildlife Service (USFWS).

L-3

Chapter 4, Page 4.1-35 – The fourth full paragraph, last sentence states: “*Because the proposed project has the potential to reduce or eliminate pumping at the current PODs [Points of Diversion] for License 13868, the proposed project would slightly increase surface flow immediately upstream of the lagoon during pre-winter conditions, potentially improving steelhead habitat in the lagoon (HDR, 2014a).*” The District disagrees with this statement as written. There will be no net effect, which is not the same as a net improvement. The POD is still utilizing as much net water as before (85.6 AFY, the net amount currently diverted minus net historic return/percolation flows from irrigation), which would be diverted upstream. Thus, the net underflow/surface flow passing out of the original POD area will not differ.

L-4

Page 4.1-37, fourth full paragraph (Juvenile Steelhead Rearing) – The text concludes that the project would not adversely affect steelhead rearing habitat or cause the loss of steelhead rearing habitat during years when summer flows persist in the project area. The District disagrees with this conclusion. The impacts identified in this section may be meaningful and significant during years when these low flows occur and the amount of juvenile rearing habitat in the project reach is at critically low levels.

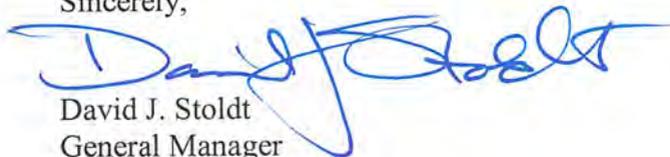
L-5

Page 4.1-41, first full paragraph, last sentence: The text states, “*Also , because the project has the potential to reduce or eliminate pumping at the current PODs for License 13868, it could slightly increase surface flow immediately upstream of the lagoon during pre-winter conditions, potentially improving steelhead habitat in the lagoon (HDR, 2014a).*” The MPWMD disagrees with this conclusion (see comment on page 4.1-35 above). Moving the point of diversion and using the same total volume of net diversion upstream cannot increase flows downstream.

L-6

Thank you for your consideration. I can be reached at 831/658-5650 or dstoldt@mpwmd.net if you have questions.

Sincerely,



David J. Stoldt
General Manager

Mitchell Moody
December 15, 2014
Page 3 of 3

MPWMD Comments on Eastwood/Odello DEIR

cc: Larry Hampson, District Engineer
Henrietta Stern, Project Manager
Kevan Urquhart, MPWMD Senior Fisheries Biologist

U:\Henri\wp\ceqa\2014\Eastwood-Odello Water Right_DEIRLetter_20141215.docx
Reviewed by District Engineer (LH) and General Manager (DS)

**LETTER L. MONTEREY PENINSULA WATER MANAGEMENT DISTRICT (MPWMD)
RESPONSE**

L-1 Comment regarding approval processes at MPWMD noted. The EIR has been amended in Sections 1.2, 3.3 and 3.9.3 to note the additional approval processes.

L-2 The comment states that the Final EIR should analyze the cumulative and other effects of additional subscribers located in the larger Cal-Am service area as opposed to the proposed place of use described in the Draft EIR (i.e., City of Carmel-by-the-Sea and Carmel River Watershed). Moreover, the comment further states that a broader service area would not change the direct impacts to the Carmel River and associated species.

The commenter correctly notes that a larger service area that would include all of the local Cal-Am service area would not result in any additional direct impacts beyond those associated with the proposed project. While a larger service area would not result in any additional direct effects, the secondary (or indirect) impacts associated with the development of existing lots of record in the local service area would be inherently speculative and beyond the scope of the project's identified POU. The scope of the analysis contained in the Draft EIR was limited to potential secondary effects within the City of Carmel-by-the-Sea and the unincorporated areas of Monterey County located within the Carmel River Watershed. The proposed POU under License 13686A is limited to those areas, as discussed in the Draft EIR.

The comment also suggests that the EIR should evaluate the cumulative effects of additional subscribers in the larger Cal-Am service area. An evaluation of cumulative effects associated with additional subscribers outside of the proposed POU would be inherently speculative in nature. Moreover, CEQA Guidelines Sec. 15130(b)(2) states that location represents an important aspect in determining the scope and nature of the cumulative analysis. As described therein, the cumulative analysis may take into consideration the location of the project and its type in determining when to include related projects. In addition, CEQA also provides that the cumulative analysis should be "guided by the standards of practicality and reasonableness, and should focus on the cumulative impact to which the identified other projects contribute rather than the attributes of other projects which do not contribute to the cumulative impact (CEQA Guidelines Sec. 15130(b))." As described in the Draft EIR, the cumulative analysis specifically evaluated those projects which were related geographically (i.e., located within the POU) and would result in potential impacts to similar resources (i.e., hydrology and water quality, and biological resources). Use of water diverted under License 13868A is not being proposed within the greater Cal-Am service area. As a result, it would be inappropriate to include an analysis of the cumulative effects of development within the larger Cal-Am service area because these projects are not related geographically and would not result in similar direct impacts as the proposed project.

L-3 The comment states that MPWMD is not responsible for implementing CRLF rescues and that these activities are conducted by a consultant under contract to Cal-Am. The Draft EIR has been revised to clarify the nature of CRLF rescues and MPWMD's responsibilities related to implementation of the Mitigation Program. Minor revisions to the Draft EIR have

been incorporated in response to this comment; please refer to **Chapter 3.0, Revisions to the Draft EIR**.

- L-4** This comment disagrees with the conclusions contained in the Draft EIR related to potential increase surface flows downstream of the existing POD. Specifically, the comment suggests that the underflow/surface flow passing out of the original POD area would not differ after the project is complete.

A detailed evaluation of the proposed project's potential hydrologic effects was performed by Balance Hydrologics, Inc., Davids Engineering, Inc., Macaulay Water Resources, and West Yost Associates. Based on the results of those evaluations, the Draft EIR identified that the proposed project could result in a slight increase in surface flows below the current POD identified under License 13868 due to a corresponding net reduction in pumping as compared to existing, pre-project conditions, and changes in demand patterns associated with municipal use, which would result in seasonal changes in pumping. The estimated reductions in pumping during the summer months could result in slightly greater surface flow downstream of the existing POD during this period. As stated by Balance (2014a), the proposed project would result in no negative impact to inflows to the lagoon. Please refer to Response B-3 and B-4 for further discussion. Minor revisions to the Draft EIR have been incorporated in response to this comment; please refer to **Chapter 3.0, Revisions to the Draft EIR**.

- L-5** The commenter disagrees with the conclusions contained in the Draft EIR regarding the project's potential effects to steelhead rearing habitat during the summer. Specifically, the comment suggests that potential impacts may be meaningful and significant during years where low flows occur and that the amount of habitat is at critically low levels. While the commenter asserts that potential impacts may be meaningful and significant, the comment is not supported by evidence. As a result, a detailed technical response to the merits of this comment is not possible. Nevertheless, the Draft EIR appropriately evaluated the proposed project's potential impacts to biological resources (i.e., juvenile rearing habitat) based on detailed project-specific technical analysis in accordance with the requirements of CEQA. Moreover, as described in further detailed below, impacts would not be significant.

The Draft EIR appropriately evaluated and described the nature of project-related effects and determined that they would be less-than-significant (see Draft EIR pg. 4.1-37). The analysis contained in the Draft EIR was based on detailed technical analyses prepared by Balance and HDR. As described in the Draft EIR, juvenile steelhead rarely occur in the lowermost river (downstream of RM 6.7) due to low flow or no flow, and warm temperatures during the summer. Monitoring by MPWMD indicates that juvenile rearing is substantially greater upstream. Moreover, juvenile rearing habitat is constrained in the lower Carmel River when flow at the Near Carmel gage falls below 1 cfs during the months of June-December (J&S, 2006) because much of the lower river is dry. When flows do occur during this period, the project could decrease surface flow in the Project Affected Reach by up to 0.16 cfs. A reduction of 0.16 cfs would increase the time that rearing habitat is constrained by less than 1 percent. According to HDR, the proposed project's limited effects (when flows are present) would not adversely affect steelhead rearing habitat or cause the

loss of steelhead rearing habitat during the rare occasions when flows in the project affected reach persist through the summer (Draft EIR pg. 4.1-37).

- L-6** This comment reiterates comments described in L-4 above. See Response B-3, B-4, and Response L-4 above for a detailed response to this comment. The Draft EIR stated that the Proposed Project could result in a slight increase in surface flows below the current POD during certain periods due to 1) a net reduction in pumping as compared to existing, pre-project conditions, 2) the dedication of 46.2 af/yr to instream uses under License 13868B, and 3) changes in demand patterns associated with municipal use (as compared to irrigation demand). As discussed in Response B-4, a municipal demand pattern would result in reduced pumping over the drier periods (i.e., summer/fall) when peak irrigation demand typically occurs. As a result, an increase in surface water flows could occur during these pre-winter conditions. Overall, the project would reduce the amount of pumping as compared to existing pre-project conditions, as described in the Draft EIR. The reduction of pumping during these periods could slightly increase the volume and duration of surface water flows downstream of the existing POD during pre-winter conditions, which could potentially improve steelhead habitat (HDR, 2014a). The Draft EIR has been revised to clarify the nature of project impacts in response to this comment; please refer to **Chapter 3.0, Revisions to the Draft EIR** for more information.

MSM
A030497B

Stan McKee
27197 Prado del Sol
Carmel, CA 93923

RECEIVED 17 0110 52

December 12, 2014

Mr. Mitchell Moody
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

Dear Mr. Moody:

Reference is made to the Notice of Availability of Draft Environmental Impact Report on the Eastwood Odello Water Right Change Petition Project (License 13868, Application 30497B) Sch No. 2014031008 (the "Draft EIR")

I am writing to comment on the Draft EIR. My comments and opposition are specifically targeted at the change in extraction points for this water transfer. There are three proposed extractions points (wells): Pearse, Cypress and Canada. One of these wells, the Pearse, sits in the middle of our quiet residential neighborhood, Prado Del Sol. This is an inappropriate location for a well for which increased use is contemplated. The Pearse well is located less than 100 feet from several homes in the neighborhood; it hums incessantly when running, which it has done more and more of the time. In addition, when it breaks down, which has been fairly often, it requires heavy equipment to drive up and down our private street, damaging the road, increasing traffic congestion, and causing unreasonable noise and air pollution (pounding and diesel smoke of repair trucks and equipment). It is inappropriate to increase the use of the Pearse well.

M-1

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Sincerely,



Stan McKee

LETTER M. STAN MCKEE RESPONSE

M-1 This comment expresses opposition to the use of the Pearce well and is similar to comments in Letter E. Please refer to Response E-1 for a detailed response to this comment.

MSM
A030497B

*David and Mary Rice
27200 Prado del Sol
Carmel, CA 93923*

2014 DEC 17 2PM 30
15

December 12, 2014

Mr. Mitchell Moody
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

Dear Mr. Moody:

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N-1

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Sincerely,

David Rice

LETTER N. DAVID AND MARY RICE RESPONSE

N-1 This comment expresses opposition to the use of the Pearce well and is similar to comments in Letter E. Please refer to Response E-1 for a detailed response to this comment.

MSM
A0304973

Mark and Veronica Boen
27216 Prado del Sol
Carmel, CA 93923

2014 DEC 13
DIVISION OF WATER RIGHTS

December 12, 2014

Mr. Mitchell Moody
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

Dear Mr. Moody:

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O-1

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Sincerely,



Mark Boen

LETTER O. MARK AND VERONICA BOEN RESPONSE

- O-1** This comment expresses opposition to the use of the Pearce well and is similar to comments in Letter E. Please refer to Response E-1 for a detailed response to this comment.

MSM
A030497B

John and Gia Chaffin
27217 Prado del Sol
Carmel, CA 93923

2014 DEC 17 11:11 AM
STATE WATER RESOURCES CONTROL BOARD

December 12, 2014

Mr. Mitchell Moody
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

Dear Mr. Moody:

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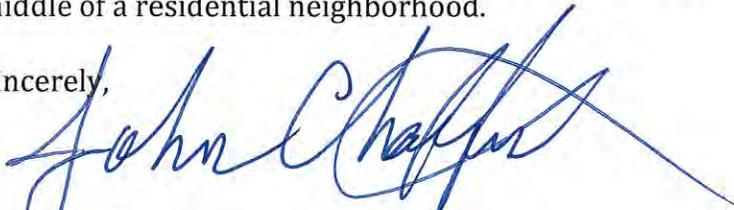
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P-1

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Sincerely,



John Chaffin

LETTER P. JOHN AND GIA CHAFFIN RESPONSE

P-1 This comment expresses opposition to the use of the Pearce well and is similar to comments in Letter E. Please refer to Response E-1 for a detailed response to this comment.

MSM
A030497B

Edward and Nikki Greco
27228 Prado del Sol
Carmel, CA 93923

2014 DEC 17 10:46:36
STATION

December 12, 2014

Mr. Mitchell Moody
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

Dear Mr. Moody:

Reference is made to the Notice of Availability of Draft Environmental Impact Report on the Eastwood Odello Water Right Change Petition Project (License 13868, Application 30497B) Sch No. 2014031008 (the "Draft EIR")

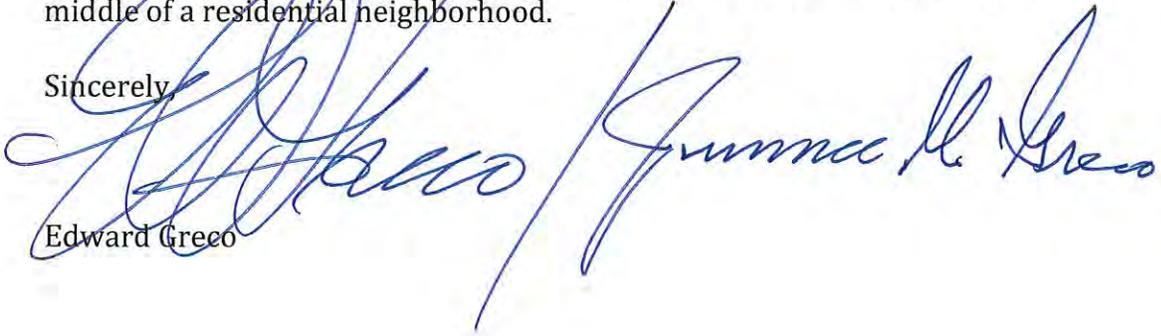
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Q-1

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Sincerely,



Edward Greco

LETTER Q. EDWARD AND NIKKI AIELLO RESPONSE

- Q-1** This comment expresses opposition to the use of the Pearce well and is similar to comments in Letter E. Please refer to Response E-1 for a detailed response to this comment.

MSM
A030497B

RECEIVED
2014 DEC 17 AM 10 56
SACRAMENTO

Erasmus and Cathy Aiello
27204 Prado del Sol
Carmel, CA 93923

December 12, 2014

Mr. Mitchell Moody
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

Dear Mr. Moody:

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R-1

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Sincerely,


Erasmo Aiello

LETTER R. ERASMO AND CATHY AIELLO RESPONSE

- R-1** This comment expresses opposition to the use of the Pearce well and is similar to comments in Letter E. Please refer to Response E-1 for a detailed response to this comment.

MSM
AD30497B

Tony and Sara Filly
27201 Prado del Sol
Carmel, CA 93923

20140721 17:00:46
10/15/14

December 12, 2014

Mr. Mitchell Moody
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

Dear Mr. Moody:

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S-1

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Sincerely,



Tony Filly

LETTER S. TONY AND SARA FILLY

S-1 This comment expresses opposition to the use of the Pearce well and is similar to comments in Letter E. Please refer to Response E-1 for a detailed response to this comment.

MSM
A03049713

Bill and Diane Whiteman
27193 Prado del Sol
Carmel, CA 93923

2014 DEC 17 11:11 AM
STATE WATER RESOURCES CONTROL BOARD

December 12, 2014

Mr. Mitchell Moody
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

Dear Mr. Moody:

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T-1

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Sincerely,



Bill Whiteman

LETTER T. BILL AND DIANNE WHITEMAN RESPONSE

T-1 This comment expresses opposition to the use of the Pearce well and is similar to comments in Letter E. Please refer to Response E-1 for a detailed response to this comment.

MSM
A030497B

Rick and Laura Ravalin
27181 Prado del Sol
Carmel, CA 93923

20140507 10:09:17

December 12, 2014

Mr. Mitchell Moody
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

Dear Mr. Moody:
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U-1

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Sincerely,


Rick Ravalin

LETTER U. RICK AND LAURA RAVALIN RESPONSE

U-1 This comment expresses opposition to the use of the Pearce well and is similar to comments in Letter E. Please refer to Response E-1 for a detailed response to this comment.

MSM
A030497B

Bob and Aimee Carroll
27177 Prado del Sol
Carmel, CA 93923

2014 DEC 17 AM 11:50
RECEIVED

December 12, 2014

Mr. Mitchell Moody
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

Dear Mr. Moody:

Reference is made to the Notice of Availability of Draft Environmental Impact Report on the Eastwood Odello Water Right Change Petition Project (License 13868, Application 30497B) Sch No. 2014031008 (the "Draft EIR")

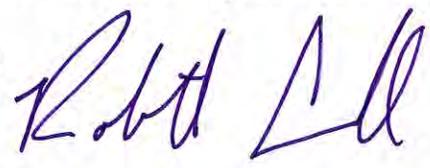
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V-1

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Sincerely,



Bob Carroll

LETTER V. BOB AND AIMEE CARROLL RESPONSE

V-1 This comment expresses opposition to the use of the Pearce well and is similar to comments in Letter E. Please refer to Response E-1 for a detailed response to this comment.

MSM
A03049713

Gary and Anne Banta
27185 Prado del Sol
Carmel, CA 93923

2014 DEC 17

December 12, 2014

Mr. Mitchell Moody
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

Dear Mr. Moody:

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Sincerely,



Gary Banta

LETTER W. GARY AND ANNE BANTA RESPONSE

W-1 This comment expresses opposition to the use of the Pearce well and is similar to comments in Letter E. Please refer to Response E-1 for a detailed response to this comment.

MSM
A030497B

Tom and Marilyn Byrne
27173 Prado del Sol
Carmel, CA 93923

December 12, 2014

Mr. Mitchell Moody
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

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X-1

I believe that the Pearse well should be deleted as an extraction point and the water be extracted from the other two wells which, as I understand it, are out in the open away from homes. My neighbors agree that the Pearse well should be run as little as possible in order to avoid noise and air pollution, as well as traffic congesting from repair trucks. At the very least the use of the Pearse well should not be increased.

Let me say that Cal-Am has worked with our neighborhood and attempted to make the Pearse well quieter. However, the more it runs, the more noise, smoke and traffic it generates and this seriously affects our neighborhood. My point is simply that if there are other locations to extract this water, use those, not a well in the middle of a residential neighborhood.

Sincerely,


Tom Byrne

LETTER X. TOM AND MARILYN BYME RESPONSE

X-1 This comment expresses opposition to the use of the Pearce well and is similar to comments in Letter E. Please refer to Response E-1 for a detailed response to this comment.

MSM
A030497B

Peter and Lynn Burwash
27169 Prado del Sol
Carmel, CA 93923

2014 DEC 17 11:11 AM
STATE WATER RESOURCES CONTROL BOARD

December 12, 2014

Mr. Mitchell Moody
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

Dear Mr. Moody:

Reference is made to the Notice of Availability of Draft Environmental Impact Report on the Eastwood Odello Water Right Change Petition Project (License 13868, Application 30497B) Sch No. 2014031008 (the "Draft EIR")

I am writing to comment on the Draft EIR. My comments and opposition are specifically targeted at the change in extraction points for this water transfer. There are three proposed extractions points (wells): Pearse, Cypress and Canada. One of these wells, the Pearse, sits in the middle of our quiet residential neighborhood, Prado Del Sol. This is an inappropriate location for a well for which increased use is contemplated. The Pearse well is located less than 100 feet from several homes in the neighborhood; it hums incessantly when running, which it has done more and more of the time. In addition, when it breaks down, which has been fairly often, it requires heavy equipment to drive up and down our private street, damaging the road, increasing traffic congestion, and causing unreasonable noise and air pollution (pounding and diesel smoke of repair trucks and equipment). It is inappropriate to increase the use of the Pearse well.

Y-1

I believe that the Pearse well should be deleted as an extraction point and the water be extracted from the other two wells which, as I understand it, are out in the open away from homes. My neighbors agree that the Pearse well should be run as little as possible in order to avoid noise and air pollution, as well as traffic congesting from repair trucks. At the very least the use of the Pearse well should not be increased.

Let me say that Cal-Am has worked with our neighborhood and attempted to make the Pearse well quieter. However, the more it runs, the more noise, smoke and traffic it generates and this seriously affects our neighborhood. My point is simply that if there are other locations to extract this water, use those, not a well in the middle of a residential neighborhood.

Sincerely,



Peter Burwash

LETTER Y. PETER AND LYNN BURWASH RESPONSE

Y-1 This comment expresses opposition to the use of the Pearce well and is similar to comments in Letter E. Please refer to Response E-1 for a detailed response to this comment.

MSM
A03049713

Scott and Chris Komar
27212 Prado del Sol
Carmel, CA 93923

2014 DEC 17 11:15:17

December 12, 2014

Mr. Mitchell Moody
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

Dear Mr. Moody:
Reference is made to the Notice of Availability of Draft Environmental Impact Report on the Eastwood Odello Water Right Change Petition Project (License 13868, Application 30497B) Sch No. 2014031008 (the "Draft EIR")

I am writing to comment on the Draft EIR. My comments and opposition are specifically targeted at the change in extraction points for this water transfer. There are three proposed extractions points (wells): Pearse, Cypress and Canada. One of these wells, the Pearse, sits in the middle of our quiet residential neighborhood, Prado Del Sol. This is an inappropriate location for a well for which increased use is contemplated. The Pearse well is located less than 100 feet from several homes in the neighborhood; it hums incessantly when running, which it has done more and more of the time. In addition, when it breaks down, which has been fairly often, it requires heavy equipment to drive up and down our private street, damaging the road, increasing traffic congestion, and causing unreasonable noise and air pollution (pounding and diesel smoke of repair trucks and equipment). It is inappropriate to increase the use of the Pearse well.

Z-1

I believe that the Pearse well should be deleted as an extraction point and the water be extracted from the other two wells which, as I understand it, are out in the open away from homes. My neighbors agree that the Pearse well should be run as little as possible in order to avoid noise and air pollution, as well as traffic congesting from repair trucks. At the very least the use of the Pearse well should not be increased.

Let me say that Cal-Am has worked with our neighborhood and attempted to make the Pearse well quieter. However, the more it runs, the more noise, smoke and traffic it generates and this seriously affects our neighborhood. My point is simply that if there are other locations to extract this water, use those, not a well in the middle of a residential neighborhood.

Sincerely,


Scott Komar

LETTER Z. SCOTT AND CHRIS KOMAR RESPONSE

Z-1 This comment expresses opposition to the use of the Pearce well and is similar to comments in Letter E. Please refer to Response E-1 for a detailed response to this comment.

MSM
A030497B

Joshua and Molly Goshorn
27208 Prado del Sol
Carmel, CA 93923

2014 DEC 17 AM 10:37
IN MAIL ROOM

December 12, 2014

Mr. Mitchell Moody
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

Dear Mr. Moody:

Reference is made to the Notice of Availability of Draft Environmental Impact Report on the Eastwood Odello Water Right Change Petition Project (License 13868, Application 30497B) Sch No. 2014031008 (the "Draft EIR")

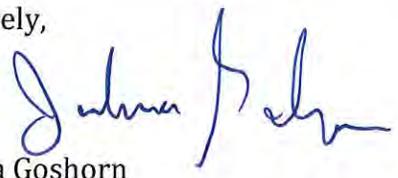
I am writing to comment on the Draft EIR. My comments and opposition are specifically targeted at the change in extraction points for this water transfer. There are three proposed extractions points (wells): Pearse, Cypress and Canada. One of these wells, the Pearse, sits in the middle of our quiet residential neighborhood, Prado Del Sol. This is an inappropriate location for a well for which increased use is contemplated. The Pearse well is located less than 100 feet from several homes in the neighborhood; it hums incessantly when running, which it has done more and more of the time. In addition, when it breaks down, which has been fairly often, it requires heavy equipment to drive up and down our private street, damaging the road, increasing traffic congestion, and causing unreasonable noise and air pollution (pounding and diesel smoke of repair trucks and equipment). It is inappropriate to increase the use of the Pearse well.

AA-1

I believe that the Pearse well should be deleted as an extraction point and the water be extracted from the other two wells which, as I understand it, are out in the open away from homes. My neighbors agree that the Pearse well should be run as little as possible in order to avoid noise and air pollution, as well as traffic congesting from repair trucks. At the very least the use of the Pearse well should not be increased.

Let me say that Cal-Am has worked with our neighborhood and attempted to make the Pearse well quieter. However, the more it runs, the more noise, smoke and traffic it generates and this seriously affects our neighborhood. My point is simply that if there are other locations to extract this water, use those, not a well in the middle of a residential neighborhood.

Sincerely,



Joshua Goshorn

LETTER AA. JOSHUA AND MOLLY GROSHOM RESPONSE

AA-1 This comment expresses opposition to the use of the Pearce well and is similar to comments in Letter E. Please refer to Response E-1 for a detailed response to this comment.

MSM
A030497B

Molly and Ferrell Daste
27161 Prado del Sol
Carmel, CA 93923

2014 DEC 17 11:11 AM
STATE WATER RESOURCES CONTROL BOARD

December 12, 2014

Mr. Mitchell Moody
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

Dear Mr. Moody:

Reference is made to the Notice of Availability of Draft Environmental Impact Report on the Eastwood Odello Water Right Change Petition Project (License 13868, Application 30497B) Sch No. 2014031008 (the "Draft EIR")

I am writing to comment on the Draft EIR. My comments and opposition are specifically targeted at the change in extraction points for this water transfer. There are three proposed extractions points (wells): Pearse, Cypress and Canada. One of these wells, the Pearse, sits in the middle of our quiet residential neighborhood, Prado Del Sol. This is an inappropriate location for a well for which increased use is contemplated. The Pearse well is located less than 100 feet from several homes in the neighborhood; it hums incessantly when running, which it has done more and more of the time. In addition, when it breaks down, which has been fairly often, it requires heavy equipment to drive up and down our private street, damaging the road, increasing traffic congestion, and causing unreasonable noise and air pollution (pounding and diesel smoke of repair trucks and equipment). It is inappropriate to increase the use of the Pearse well.

BB-1

I believe that the Pearse well should be deleted as an extraction point and the water be extracted from the other two wells which, as I understand it, are out in the open away from homes. My neighbors agree that the Pearse well should be run as little as possible in order to avoid noise and air pollution, as well as traffic congesting from repair trucks. At the very least the use of the Pearse well should not be increased.

Let me say that Cal-Am has worked with our neighborhood and attempted to make the Pearse well quieter. However, the more it runs, the more noise, smoke and traffic it generates and this seriously affects our neighborhood. My point is simply that if there are other locations to extract this water, use those, not a well in the middle of a residential neighborhood.

Sincerely,



Ferrell Daste

LETTER BB. MOLLY AND FERRELL DASTE RESPONSE

BB-1 This comment expresses opposition to the use of the Pearce well and is similar to comments in Letter E. Please refer to Response E-1 for a detailed response to this comment.

***Lena and Stuart Clark
27225 Prado del Sol
Carmel, CA 93923***

CERTIFIED MAIL

December 10, 2014

Mr. Mitchell Moody
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

Dear Mr. Moody

Reference is made to the Notice of Availability of Draft Environmental Impact Report on the Eastwood Odello Water Right Change Petition Project (License 13868, Application 30497B) Sch No. 2014031008 (the "Draft EIR")

I am writing to comment on the Draft EIR. My wife and I own a residence located at 27225 Prado Del Sol, Carmel, CA 93923, on which the Pearse well, as referred to in the Draft EIR, is located.

My comments and opposition are specifically targeted at the change in extraction points for this water transfer. There are three proposed extractions points (wells): Pearse, Cypress and Canada. One of these wells, the Pearse, sits on the property in which my residence is located. The well is also at the end of a cul-de-sac on a quiet residential street (Prado Del Sol) in the middle of a residential neighborhood; it is an inappropriate location for a well for which increased use is contemplated. Not only is the Pearse well on my property, but it is less than 100 feet to several other homes in the neighborhood; it hums incessantly when running, which it has done more and more of the time. In addition, when it breaks down, which has been fairly often, it requires heavy equipment to drive up and down our private street, damaging the road, increasing traffic congestion, and causing unreasonable noise and air pollution (pounding and diesel smoke of repair trucks and equipment). It is inappropriate to increase the use of the Pearse well.

I believe that the Pearse well should be deleted as an extraction point and the water be extracted from the other two wells which, as I understand it, are out in the open away from homes. My neighbors agree that the Pearse well should be run as little as possible in order to avoid noise and air pollution, as well as traffic congesting from repair trucks. At the very least the use of the Pearse well should not be increased. Further, I believe increasing the use of the well may violate the easement agreement

CC-1

for the well and will reduce the value of my property and that of my neighbors (without just compensation from Cal Am).

CC-1

I have done some quick calculations and it appears that it would be easy for two wells to extract the additional water to meet necessary requirements. There is no need to use three wells.

CC-2

Let me say that Cal-Am has worked with our neighborhood and attempted to make the Pearse well quieter. However, the more it runs, the more noise, smoke and traffic it generates and this seriously affects our neighborhood. My point is simply that if there are other locations to extract this water, use those, not a well in the middle of a residential neighborhood.

CC-1

Sincerely,



Stuart A. Clark

/sc

c: Denise Duffy

Robert Gardner, President, Prado del Sol Homeowners' Association

LETTER CC. LENA AND STUART CLARK RESPONSE

- CC-1** This comment expresses opposition to the use of the Pearce well and is similar to comments in Letter E. Please refer to Response E-1 for a detailed response to this comment.
- CC-2** This comment suggests that “quick calculations” conducted by the commenter indicate that there is no need to use three wells for the purposes of the proposed project. However, the commenter does not provide any supporting calculations. As a result, a detailed response to this comment is not possible.



Roy Thomas
 26535 Carmel Rancho Blvd
 Carmel, CA 93923-8749

M5M/M5M
A0301497B

General View

The Eastwood EIR takes a big view of what sometimes is a big river. More often the life on the river depends on very little water. The ongoing over extraction by legal and illegal operations have caused the Carmel River to fail to connect with the sea six times since 1976. All other steelhead streams in the ESU (Environmental Significant Unit) have connected to the sea in those years. The Eastwood project adds significantly to this environmental tragedy. The EIR agrees that there will be loss of river flow. They show that it will be concentrated in the spring and early summer months. The most critical time for young of the year (yoy) steelhead migrating to the only fresh water refuge in the lower river, the lagoon. There are many estimates of when and how much water is lost from river flow. For big rivers and big flows the number are cubic feet per second (cfs). For normal people to understand I have converted cfs to gallons per minute (gpm). Estimates of river flow reductions have gone from 1,700, 166.1, 72, 58.3 and 49.4 gpm. I believe that at various times all these estimates are correct. The problem for the river is that during the critical de-watering of the river period spring – summer all of these flow reductions can damage habitat and “Take” listed species.

DD-1

The consultants tried to put the best light for Mr. Eastwood on by comparing conditions when there is lots of water flowing in the river. That is usually only for a few months in the winter. All their analyses are too gross to see what I have seen for over 40 years of rescuing steelhead from the dewatered lower Carmel River. In the last 10 years the habitat in the lower river has improved to be similar to 60 years ago with gravel and cobble under Highway 1 with deep pools and pockets with overhanging willows. The problem is the water is pumped away too soon. The river shrinks to a little creek connecting the deeper pockets and pools. The major pumping takes place at Rancho Cañada and above. There are seeps from bank storage that help keep the lower river alive and functioning with small flows. When you cut out 50 gpm from the Eastwood project the yoy can't escape to the lagoon and if fish rescuers can't get there quick enough the pool and every creature in them die, including listed Steelhead and Red Legged Frogs.

DD-2

The EIR says don't worry, there are agencies and Cal-Am to mitigate for any “small effects of the Eastwood project's 27,892,845.6 gallons of water removed every year from river flow. Now it is true that State Water Resources Control Board (SWRCB) order 95-10 and order WR 2009 – 0060 require Monterey Peninsula Water Management District (MPWMD) to mitigate all the effects identified in the 1990 allocation EIR and if they don't, Cal-Am must do the mitigation. There are a few serious problems. 1990 was a long time ago. The Carmel River Steelhead

DD-3

were not yet listed by the endangered species act (ESA). The necessary mitigations were not well developed and as it has turned out, MPWMD and or Cal-Am only did some of the mitigation and even the ones that they did do have not worked well. The steelhead population despite mitigation efforts and possibly because of some of them has collapsed. During the last 10 years the steelhead population has taken a steep downward track of 5% per year loss, with zero migration or spawning in 2013. The over extraction of water and no mitigations of critical problems has pushed steelhead in the Carmel, if nothing changes, to extinction.

DD-3

There is a serious problem that the agencies seem to have ignored. No one is supposed to be involved with the "Take" of listed species without ESA permits. No one is supposed to be able to buy the right to do something that allows or encourages "Take" for the payment of money. Neither MPWMD nor Cal-Am has permits from section 10, 9 or 7 to allow them to "Take" steelhead. They also do not have in place or in process a Habitat Conservation Plan which is required. There was an illegal settlement agreement over 10 years ago to allow Cal-Am to continue to operate in a manner that takes steelhead as long as they set aside rate payers money intended to provide mitigation. The SWRCB, MPWMD, Cal-Am, NOAA and CDFW are open to a section 11 suit from the public for their failures and actions that have led to the collapse and possible extinction of the wild Carmel River Steelhead. I have enclosed a graph of the result of failed mitigation, policies and lack of action that is leading to the demise of the listed Carmel River steelhead population.

DD-4

It clearly states in the EIR that the Eastwood project plans no mitigation for the environmental damage and "Take" of yoy steelhead. The EIR admits to a 2% to 4% increase in draw down in the deeply impacted reach of the production involving Cañada #2 and pearse wells. This is in an area with many other wells and frequently is the first area that stops the flow in the Carmel. 2% to 4% increased draw down appears significant to me. For the river to flow again, most if not all of that deficit needs to be refilled to have sustained flow, i.e. habitat downstream in the fall not to mention the stress or death of riparian vegetation. The cone of depression as illustrated in 4.2-6 can and does drop below 70 feet in many years. The 2% - 4% increase in draw down means earlier cessation of flows downstream.

DD-5

The EIR states steelhead in general migrate to the sea as 2-year old fish. The Carmel fish mostly migrate to the sea as 1-year olds. (Sinder Enviro Services Branch no. 8 3-3)

DD-6

The EIR states MPWMD assess locations and conditions where migration may be blocked or impaired. I do not believe they have ever altered or mitigated a critical riffle. For years there

DD-7

has been a major critical riffle that blocked adult passage located at the top part of the large bend below Cañada #2. It is not shown in 4.1-3. Many redds have been found in the last 7 years below this riffle. Carmel River Steelhead Association (CRSA) with the help of Dr. Stacy Li (retired NOAA fisheries biologist), analyzed the riffle for passage using Thompson critical riffle analysis for fish passage in California and found it to require 125 cufs for passage. This riffle was not identified on 4.1-3 even though it takes more than twice the flow of listed riffles and is significantly wider.

DD-7

In 2007 there were 10 steelhead redds below this critical riffle. Frank Emerson and I were checking on these late spawned redds. Even though they were in the middle of what was left of the river, they looked like they might be de-watered. We knew that the unsafe San Clemente Dam was scheduled to be drained in a week or so. We called and pleaded the case for these redds to MPWMD, CDFG and Santa Rosa NOAA fisheries these keepers of nature said their permits for letting water out of San Clemente Dam would not allow it. They are the ones that write the permits. They let those redds dry out and die and then they released a few hundred acre feet over the dead redds. How's that for management and mitigation? Oh yes, the critical riffle caused more than 50 more redd to be built below it in later years.

DD-8

Balance Hydrologics (BH) stated that they prepared an addendum to its original technical memorandum clarifying the nature and quality of steelhead habitat in the lower Carmel River BH (2014b) (summarizes?) of HDR's findings "NMFS (2005, 2002) described the reach as primarily a migration corridor with little LWD and mostly sand and of very low quality downstream of RM5." This is totally wrong today. The riverbed has scoured down 3 feet. Cobble and gravel extend below Highway 1 almost to the lagoon. There are deep pools and runs shaded and protected by large overhanging willows, willow sweeps and LWD. These people who wrote the EIR need to get out and actually look and walk the lower riverbed. CRSA has counted over 100 redds in the lower reaches – some less than a mile from the Highway 1 bridge. The habitat, when it has water, even a small amount is excellent. CRSA has over 40 years of experience trying to salvage stranded yoy, smolts and rarely kelts. Over the years under differing hydraulic conditions we have monitored the decline in flow and the small critical riffles that can prevent yoy from reaching the lagoon. Small yoy can dart downstream in very little water even in less flow (49 gal per minute) than the project is said to deny them. The EIR needs to recognize this is an annual event and realize this project will make it worse as well as that it will cause more "Take" and there is no mitigation planned or effective.

DD-9

DD-10

The EIR and BH claim that they use constraints to downstream migration, smolt out migration and juvenile rearing based on criteria used by MPWMD to evaluate potential impacts associated with the ASR project. These calculations are orders of magnitude away from the stranding and "Take" of yoy. The lowest ASR criteria involves 5 cfs which is 2,244 gpm and almost never blocks yoy downstream migration.

DD-11

Table 4.1-2 is of no real use to the yoy migration problem it uses 1-10 cfs as constraining flows.

Section 4.1-30

The EIR assumes that all additional effects of proposed license 13868A will be completely mitigated by MPWMD and or Cal-Am. The EIR fails to recognize that the mitigation now provided fails to maintain the steelhead population in good condition. The mitigation fails to recognize the constraints of the ESA (Endangered Species Act). There is a huge amount of "Take" and other ESA violations. The cumulative impacts that this project will worsen have caused a failed migration and spawning in 2013-2014. The Carmel River was the only steelhead stream that failed to connect to the ocean in this ESU or anywhere else in Northern California.

DD-12

DD-13

DD-14

Section 4.2-4

BH decided independent of any direct research or observation that the "Commonly accepted methodologies and criteria for evaluating potential impacts to fish passage at critical riffles" should be just fine. "HDR further concluded that absent additional information regarding the conditions during the reported migrations at flows (0.1 cfs) BH assessment of potential effects on downstream migrations is appropriate". 0.1 cfs is 45 gpm almost 10 full flow garden hoses and much less water than the project will remove from the river, yet with a narrow streambed and no critical riffles the 1 to 3 inch yoy can use it to get to the fresh water refugia of the lagoon.

DD-15

The project plans to sell 85.6 af/y the possible maxims new house using .25 af/y is 340 houses. If they all had one garden hose working one spring morning the demand from Cal-Am would be 1,700 gallons per minute or more. That is a good sized creek full of water. If the official maximum instantaneous diversion of 0.37 csf is used the amount of flow reduction would be 166.1 gpm which is enough to get some despiate kelts or smolts as well as yoy downstream to the lagoon if any critical riffle has been fixed (mitigated). The way this water is to be produced and used makes it not possible to control the rates of diversion. As I understand it, Cal-Am will meet the demand from the Eastwood connections whether or not it is 49 gpm or 1,700 gpm. There appears to be no way to control the amount or time of use. Therefore, any conceivable

DD-16

amount or time of use could and should be considered. It also appears the hard to account for Eastwood water would be loaned to Cal-Am to use as legal water before it is even sold.

DD-17

The statement in the EIR "juvenile steelhead rarely occur in the lower most river downstream of Schulte Road (RM 6.7)". This is not true.

DD-18

Every year yoy migrate to the lagoon in the spring or summer depending on the rain year and pumping rate. The lagoon is the only fresh water with a good food supply in the lower river.

BH admits contrary to previous claims in the EIR, "In the spring fish spawned in the lower watershed can distribute throughout the lower reaches. However, they are generally lost (or rescued) when flow in these areas drops or disappears altogether." This is an unmitigated problem that the Eastwood project would make worse and expand the level of "Take".

DD-19

J&S (2006) says the project could decrease the flow and wetland habitat by .16 cfs or 72 gallons per minute. That much water can support habitat and migration for 1 to 3 inch yoy steelhead.

DD-20

Section 4.23.2

Stream Flow Protection Standards

The EIR reports that Public Resources Code (10001) CDFW (2008) flow recommendation to the State Water Resources Control Board that the Carmel River is identified in Environmental Services Branch report No 83-34lpp as the highest priority out of 21 California Rivers needing minimum in stream flows. According to the report DFG identified 21 streams for which minimum flow levels need to be established in order to assure the continued viability of stream related fish and wildlife resources. Over a 20 year period DFG investigated the in stream flow needs of these listed streams and watercourses. The investigation included field studies, data analysis and consultations with local, state and federal agencies and interested individuals and organizations. As a result of the investigation, DFG prepared in stream flow recommendations for the listed streams. The top of the non-alphabetical list is Carmel River, Monterey County. "The Carmel River in Monterey County supports one of the largest, self-sustaining populations of Steelhead Rainbow Trout *oncorhynchus mykiss* South of San Francisco Bay." DFG selected the Carmel River as a priority stream in flow recommendations to the State Water Resources Control Board: "Maintain a minimum perennial flow of 50 cubic feet per second (cfs) from San Clemente Dam to Highway 1."

DD-21

DFG, "The decline in steelhead abundance has primarily been attributed to degradation or loss of in stream habitat due to the effects of water diversions from the river to the Monterey Peninsula."

DD-21

The EIR claims DFG did not include any specific recommendations for minimum flows according to season. Yes, they did maintain minimum perennial = (lasting indefinitely long time, enduring.)

DD-22

The EIR is flawed, in that it did not include the Environmental Services Branch Administrative Report No 83-3 of 49 pages. They also failed to include SWRCB flows attached to all new diversion from table 13 which include stopping diversion when less than 5 cfs are reaching the lagoon to avoid "Take". I also did not see any mention of NOAA requirements to avoid "Take" and recommended minimum flows for ASR.

DD-23

The EIR did include talk of 4-2-29 a vague undocumented "technical analyses by MPWMD with preliminary results indicate that actual in stream flow required to protect stream-related fish and wildlife resources are anticipated to be lower than those initially estimated by NOAA and CDFW." Really, is there some form of science here? Who is the official who will adopt new standards?

DD-24

The listed (ESA) Carmel River Steelhead have suffered so much "Take" of habitat and individual fish that the cumulative effect of actions and lack of actions by NOAA, SWRCB, Cal-Am, MPWMD and the Eastwood project may cause the extinction of the last wild ocean run Carmel River Steelhead.

DD-25

Thresholds of Significance

- The project will degrade water quality and quantity needed for yoy steelhead to survive and migrate to the lagoon.
- The project would substantially reduce limited habitat values in the lower river during the annual spring to summer dewatering along with the cumulative effects of the allowed illegal over-pumping which appears to be forcing the listed steelhead to extinction.
- Critical riffles that block migration for yoy change with reducing flows and there are no efforts by MPWMD or Cal-Am to correct, mitigate, or even monitor them.

DD-26

DD-27

DD-28

Impacts and Mitigation

The EIR admits the project could potentially affect biological resources. Their analysis uses old (no longer?) accurate observations and analysis of riverbed conditions and assumptions of mitigation that is not done for critical riffles with the major one not even included in the EIR. The EIR does not investigate or understand the minimal flow needed for yoy or real architecture of creek sized channels that develop with reduced flow. It is also necessary to understand what small obstacles could be critical riffles in a small creek sized flow. The smallest contribution of flow from upstream added to the bank storage seeps can keep a small habitat zone functional for many weeks after surface flow has stopped near Cañada #2 well-head. Project flow reductions of 1,700 gpm, 166.1 gpm, 72 gpm or the admitted in the EIR of 58.3 gpm are very significant to the small creek that appears below Rancho Cañada most every year and sometimes lasts for months.

DD-29

The real extra diversions of the Eastwood project depends on the usage in time and amount by the new hook-ups. As I see it, there is no way to know on a daily basis of what additional usage there will be and there is no way to stop excess daily demand. With these realities the EIR is flawed in that despite limits set by SWRCB there is no way to measure or enforce daily limits that would protect listed steelhead using small flows in the lower river.

DD-30

4-1-38

BH mentioned 0.1 cfs conditions "While Balance (2014b) did not directly assess juvenile migration in its addendum, HDR determined that the potential effects to downstream migration associated with the proposed project (Balance, 2014a) were also likely overstated as well (HDR 2014b). As a result, HDR concluded that the proposed project would not adversely affect flow and associated depth condition characterizing juvenile migration within the project study area (H DB2014b)." Is there any science or observation here?

DD-31

The paragraph stated, "The analysis contained in the EIR and supporting technical reports relied on commonly accepted methodologies and criteria for evaluating potential impacts to fish passage at critical riffles. HDR reviewed material prepared by Balance (2014a, 2014b) and determined that the criteria used by Balance is consistent with the "lab work" defined by CDFW (CDFW 2013) and other resource agencies." This looks like dry (????) and using large river flow to try and cover-up their lack of understanding of creek like flows or some other motive fog out the issue of successful migration with creek sized flow – this is gobbledygook.

DD-32

The EIR claims less than significance and no mitigation is needed. Based on flawed analysis of impacts and "Take" of yoy. All the attempt at "book" analysis was based on normal river flows in rivers with water for larger fish. They should have considered creek flows for small to very small yoy fish.

DD-33

4.2.4

Thresholds of Significance

Substantially decrease the amount of stream flow such that there would be a potential for impacts to other public trust resources. Yes, the "Take" of listed steelhead and their habitat both public trust resources.

DD-34

Table 4.2-11

Shows June 10%, July 10.8%, August 10.8% as highest demand periods. The well extraction notes are 65, 67 and 67 gpm which is a lot of water for a small creek

DD-35

Tables 4-2-13, 4.2-14 and 4.2-15 give maximum and minimum estimates based on Eastwood and Cal-Am percentages and water years. The problem is the actual new pumping well be when and whatever the new homes want to use. Now, much of Carmel's housing is not occupied much of the time due to second-home owners. Anyone who builds a house on a lot of record is probably going to put in a new yard and live there so they will be using more than the average. On a day by day basis there is no way to control it.

DD-36

4-2-39

Yost Associates, 2013 say, "During lower flow periods (May-Oct), the pumping associated with the proposed project could slightly increase the percentage of time flows would be less than 5cfs (or equal to zero cfs). This could cause portions of the river downstream of project pumping to dry slightly faster than they would without the project." And this would "Take" steelhead.

DD-37

The EIR tries to hide the real effects by using averages and percentages, but fish do not live on averages and percentages, they live in real time or die in real time. "Take."

Table 4.2-12

Assumes that the 3 wells will divide up the pumping is not the way it works. Cal-Am is required to start pumping at the lowest well first, Cañada #2, and when that well cannot meet demand

DD-38

they can start using others just upstream. In the spring when yoy are trying to migrate, Cañada # 2 where the river usually stops first will be pumping all the project water.

DD-38

4.2- 41

BH aerial photo and USGS gauge readings are incomplete and cannot act as a measure of small but significant flows in the lower most reaches with a small narrow creek-like flow still supporting steelhead habitat. This time of year the project can be removing 67 – 166 gpm or more.

DD-39

The Eastwood project reduces stream flow into the lagoon by 27,892,845.6 gallons or more each year.

DD-40

The EIR at table 4.2-19 states, "This stream flow analysis indicates that the project would have a relatively insignificant effect on stream flow, particularly during the summer period when the surface flows are at their lowest." This is an EIR statistical lie they have taken averages and chosen periods after the rive was pumped dry. They are talking about smolts and the flow that constrains them are over 10 cfs or 4,488 gpm which has nothing to do with yoy steelhead.

DD-41

The EIR states 4.2 – 49 "The project would have a less than significant effect on river and lagoon function. No mitigation necessary." They say this because they say the water that is lost by irrigation the gross is the same amount we let them take out up river and the part that goes back into the ground is what we are leaving in the ground See, it adds up and is balanced. It does not work that way. The 5-mile upstream point of diversion (POD) is in the area of the worst draw down of the aquifer. The fact that it is taken out so far upstream deprives all the lower river of flow down to the old POD. The lagoon does not get as much surface water either. The fact that the water removed from the old PDO does not cause as much effect on the lagoon as the upstream new POD is related to the lagoon hydraulics. The old POD is in the lowest basin closest to the lagoon. There are very few wells extracting water nearby. The water table is only a few feet below the surface and there is a constant seep of ground water supplying the area. The MPWMD has described a sub-surface flow of 2 cfs or more that supply the lagoon and seep through the sandbar to the ocean. The cone of depression from the old POD is rapidly replaced by surrounding sub-surface down stream flows making the effects on the river and lagoon very hard or impossible to measure. Not so, the up river new POD.

DD-42

The 46.2 AF/year so called, "dedicated to in stream use water", is a deception. This is water that is intended to be left at the old POD for in stream use. Not only is this water not flowing on

DD-43

the surface for in stream uses, it is at the bottom of a deep well only available for bacteria and other microbes. If it was pumped into the surface flow at critical times it could be an environmental plus.

DD-43

5.5 Irreversible Environmental Changes

By moving the POD 5 miles up stream every year the river would be robbed of 27,892,845.6 gallons of water or more. The in stream flow would be reduced especially in the spring and summer by 166.1 gpm, 77.6 gpm or 58.3 gpm. This is a significant ongoing reduction of habitat every year that is not mitigated. These small but significant flows can be a major part of the habitat or at times, all of the habitat yoy steelhead have to use as the river is pumped dry. This loss of flow at critical times each year is "Take" of wetland habitat and "Take" of listed steelhead and Red Legged Frogs. By reducing the number of surviving yoy steelhead you reduce the number of returning wild adult steelhead.

DD-44

Chapter 5 CEQ Consideration

- a) Significant environment effects, less river flow, less wetland habitat, less access to the refugia of the lagoon, "Take" of frogs and steelhead.
- b) Significant effects which cannot be avoided same as above. The loss of 27,892,845.6 gallons lost to the flow of the last 5 miles of river forever.
- c) Significant irreversible environmental changes see a) and b) above.

DD-45

Cumulative Effects

Los Padres and San Clemente Dams

- These dams were never properly operated for safe passage of fish. Even after the listing of Carmel River Steelhead, the dam never had required fish screens on their outlet works. There still is no safe downstream passage. The Los Padre's up stream passage is inadequate in size and only works marginally with low flows. Spawning gravel is trapped behind both dams and little to none still exists below both dams. There is ongoing "Take" going on at both dams including the "Old" Carmel dam below San Clemente Dam.

DD-46

MPWMD Water Allocation Program

In response to a suit by the Mayor of Carmel, Clint Eastwood, an EIR was adopted with mitigations in 1990. The mitigation plan involved a number of actions and projects designed to help the river and its environment. Some were done and have helped, some were never done or never built. The fish rescue and rearing facility has some partial success, but many failures. It was designed to hold 60,000 steelhead but never has. The many failures of this project make

DD-47

a mockery of mitigation. Poor design, poor management and very poor outcome, the plan was to salvage all the trapped steelhead, keep them alive and healthy and when they are ready to go to sea, release them to go on their way. Poor management, poor feeding, poor planning and inability to accept help has led to poor results. Too many fish died, too many were dumped up stream and none of the fish were held in the facility long enough to develop into healthy large smolts that could survive in the ocean. One of the worst failings was the mindless practice of releasing all the fish into the recently wetted dry riverbed thinking all fish need is water. A recently flooded dry riverbed has virtually no food production for many weeks to months. The proof of the failings of the steelhead rearing is lack of returning adults. If healthy wild born smolts are released in good condition between 10 – 25% should return as adults. If they release an average of 10,000, there should be 1,000 to 2,500 returning adults.

DD-47

State Water Board

The State Water Board is a huge part of the Carmel River's problem. They received a formal complaint in 1987 from the CRSA and the Sierra Club pointing out Cal-Am trespass on the waters of the people of California. Also, it pointed out the environmental damage caused by this trespass. They waited until 1995 to have a two-week hearing. They ordered Cal-Am to immediately find a legal source of water with a follow-up on monthly reports of their progress. They also ordered Cal-Am to mitigate for the damage their illegal water diversions were causing. They still allowed Cal-Am to profit from their trespass, a critical mistake. Cal-Am should have been required to deliver the illegal water at cost; no profit. Then it might not have taken over 27 years to start a desal plant. Another huge failure of SWRCB was they did not upgrade mitigations when the Carmel River Steelhead were listed on the endangered species list. They also failed to act when the State DFG and the environmental Services Branch listed the Carmel River as the most important of 20 rivers in the state to have a minimum perennial flow requirement. They also failed terribly in their enforcement of any mitigations plan or any audit or oversight. This lack of audit or oversight involves the real diversion of Table 13 and Cal-Am. Their actions and inaction have been involved with "Take" of listed steelhead on the Carmel River.

DD-48

Wetlands

The EIR states the effects of the proposed project would be insignificant because the private and public wells dry up the river so fast. They claim the past, present and foreseeable future projects would not cause cumulative adverse effects. Now 1,000 gpm or 166 gpm or 77 gpm is not a river, but every year for days or even weeks the lower 5 miles especially below Rancho Cañada sustains wetland habitat and surface flow that would not be there with this additional

DD-49

extraction. I think the EIR is trying to say the study area is a desert most of the summer so just because flow could be maintained for a few weeks why not make it a desert for a longer time? Before the river is pumped dry the pre-project flows provide wetland habitat.

DD-49

Hydrology and Water Quality

The EIR claims no significant effect. Tell that to the toad tadpoles, Red Legged Frog tadpoles and the thousands of baby steelhead that get trapped and die. The Carmel River Steelhead Association has been rescuing this 5-mile reach for 40+ years. The 50 -200 gallons a minute flow lost to the Eastwood project can shorten the rescue time by days to weeks.

DD-50

The idea that there is a net benefit by leaving 46.2 AF in the bottom of the old POD well is silly. The EIR already calculated that amount of water was re-percolating into the ground from irrigation and the fact the project water goes away and adds to the draw down in the most impacted area of the river, as well as reducing significantly in spring and early summer the surface flow and sub-surface percolation by 85.6 AF. That is a lot of water the 5-mile of habitat does not get the use of.

DD-51

The idea that the project will help the environment by moving the cone of depression from pumping 85.6 AF 5 miles upstream is bad; it only hurts. The ground water levels near the lagoon are very high and there is significant 2 CFS percolation down from the hills to the lagoon and out to sea. Table 4-2-18 does not show anything about stream flow in the 5 miles of effected river. Water demand patterns (Cal-Am) are not normal and are products of the drought.

DD-52

5-23 Hydrology and Water Quality

They agree there is an effect on groundwater and surface water resources. Their analysis using old and flawed data and assumptions claim no significant environmental effect.

It is interesting to note that BYH, "noted that peak municipal demand would occur during the summer", (but also the spring) "when stream flow is at its lowest and the project affected reach is typically dry", (for a significant period of time each year the 166 – 77 gallons per minute that is there now will be the majority of the habitat and flow, but lost when the project is operating. BH goes on to explain, "Under the cumulative project scenario, it is anticipated that stream flows may be higher during typical low flow periods due to the reduction in ground water pumping and the related effects to surface water resources." What this means to me is that the project extraction would be available to surface flows for a greater period of time and the project's damage would be even more significant to the environment. Leaving 46.2 AF/YR at the bottom

DD-53

of a well has no measureable effect on surface flow, but if that same 46.2AF/YR were pumped to the surface and fed into the river at the right time it could have a great value as in stream use.

DD-54

The difference in peak demand for documented agricultural uses and the undocumentable estimate, which in fact could be much larger as project water, is not an environmental improvement because of the 5 miles of impacted river. The proposed net effect to the lagoon by moving the cone of depression 5 miles up stream is insignificant because of the already high water table in the lagoon and the 2 csf of seepage input from the surrounding hills and surface run-off from streets.

DD-55

DD-56

The project would increase the ground water withdraws in the most heavily impacted area of the Carmel Valley, which is a negative for the environment.

DD-57

The EIR treats the Carmel River environment as one big thing, where some of the time there is a big river with lots of water and their relatively small extraction and all its negative aspects are small and insignificant. When you look at the real environment, sometimes and places there is lots of water and a big river, but sometimes, and more often, there are lots times and places where a little water is the only water and their project causes big problems for what is left of the environment.

DD-58

Significant Unavoidable Impacts

"The proposed project would not result in any significant and unavoidable impacts, all impacts would be less-than-significant." Not true – the "Take" of one steelhead is significant – this project will "Take" many hundreds each year.

DD-59

Alternatives

The alternative that was not examined in the EIR is to supply via pipeline, water from the Eastwood Odello property to Cal-Am's lowest well supply line. This eliminates the new damage to river flows for 5 miles.

DD-60

Conclusion

The Carmel River is in desperate shape. It has been greatly abused and relocating the POD up stream is piling it on. The EIR has been an exercise in trying to obscure the real problem of "Take" of yoy steelhead. If the "experts" had been told to find out the real problems and find a way to mitigate rather than just distract and confuse, the document could be more useful. From my understanding of 40 years of working salvaging stranded yoy steelhead; I would recommend that Mr. Eastwood use his golf course well at Rancho Cañada to provide supplemental water to

DD-61

DD-62

the river when needed. A relatively small amount of well water for a few weeks could avoid much if not all the annual "Take" of yoy steelhead in the lower river. The MPWMD, Cal-Am, DFW and NOAA could be encouraged by Mr. Eastwood to cooperate with CRSA on developing a plan to support the lower river and the lagoon with well water from his wells and California State Park's wells

Attached are two documents in support of my arguments.

Attachment # 1

Is an e-mail from Dr. John Williams, Hydrologist and salmon expert that lived most of his youth near the Carmel River. He worked professionally on the Carmel River Lagoon Restoration Plan in the 1980's.

Attachment # 2

Is a trend line graph assembled with data points from MPWMD that show the rapid collapse of the Carmel River Steelhead population. It also indicates the failure of any mitigation that was to protect the steelhead population from extinction.

Sincerely, 

Roy L. Thomas, DDS
25635 Carmel Rancho Blvd, Suite 5-A
Carmel, CA 93923

From: roythomas <iiwinos@aol.com>
To: Hopeful255 <Hopeful255@aol.com>
Subject: Fwd: Eastwood diversion
Date: Sun, Nov 30, 2014 12:31 pm

I need to copy this and attach it to my EIR response

Attachment

—Original Message—

From: John Williams <jgwill@frontiernet.net>
To: liwinos <iiwinos@aol.com>
Sent: Tue, Nov 25, 2014 9:51 pm
Subject: re Eastwood diversion

1

Dear Roy,

You have asked me about the effects of a 50 to 100 gallon per minute diversion on juvenile steelhead migration in the lower Carmel River.

At the outset, it might help to give an example that can be visualized of how much 50 to 100 gallons per minute is in a stream. Translated into the units usually used for streams, 50 to 100 gpm is 0.11 to 0.22 cubic feet per second. This is roughly the summer low flow of mid-sized coastal stream south of the Carmel River, such as Rock or Bixby creeks, both of which support mixed populations of resident and migratory *Oncorhynchus mykiss*, the resident form being steelhead. For these streams, this amount of water is obviously important.

Of course, the channels of these streams are quite different from that of the lower Carmel River. However, the difference may be more apparent than real. Since I moved away from the area some years ago, I have not spent time on the river, so I am not familiar with the current state of the channel in the lower river. In the recent past, however, the channel was generally wide and sandy, say from the "near Carmel" USGS gage to the lagoon. (Years earlier, the sand extended farther upstream.) Spread over the width of the channel, 0.22 cfs would not mean much. However, I remember that, at least in many years, a small meandering sub-channel would form in the sandy bed of the river as the spring flows declined. I never measured any of these sub-channels, or the velocity of the water in them, but from memory they were perhaps two feet wide and up to three or four inches deep. Assuming an average velocity of 0.33 feet per second, 100 gpm would fill such a channel; Assuming 0.5 ft per second, 100 gmp would fill two thirds of it.

The biological question, however, is whether such a sub-channel would facilitate the downstream migration of juvenile steelhead to the lagoon. I have no data bearing directly on this point, although by comparison to the channels of coastal creeks, my opinion is that it would. The sub-channels connected larger scour pools along the margins of the larger channel, so juveniles would have had only to dash, as it were, from one scour pool to the next.

Best Regards,
 John

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 John G Williams
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 (mail to PO Box 214)
 Petrolia, CA 95558-0214
 707 629 3264
 jgwill@frontiernet.net

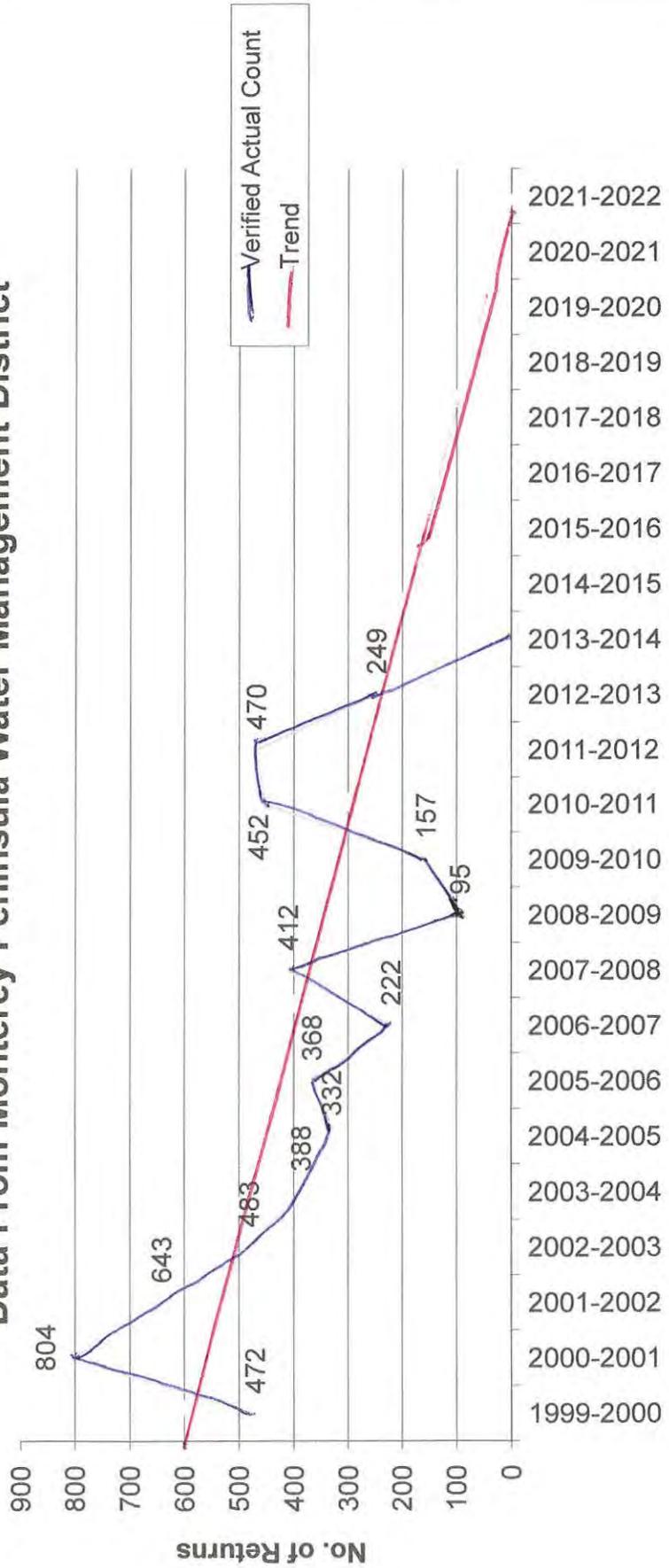
DD-
64

DD
-65

DD-
66

Attachment #2

Adult Steelhead Returns Over San Clamonte Dam Data From Monterey Peninsula Water Management District



LETTER DD. ROY THOMAS RESPONSE

DD-1 This comment provides a general overview of the commenter's concerns related to the proposed project. This comment suggests that the loss of river flow during the spring and early summer months will impact young of the year (YOY) steelhead migrating to the lagoon. This comment and similar comments are repeated throughout the commenter's letter. The following response has been prepared to provide a comprehensive technical response to potential impacts associated with the proposed project related to YOY movements. Where similar statements are made elsewhere in the commenter's letter, appropriate cross-references are provided to this response.

The comments contained in this comment related to YOY are similar to those identified in the following comments: DD-2, DD-10, DD-11, DD-15, DD-20, DD-28, DD-33, DD-41, DD-45, DD-65, and DD-66. In addition to general concerns related to YOY, the commenter also suggests that the de-watering of the river during the spring and early summer months would adversely affect steelhead habitat and could potentially result in "take" of a listed species. For a more detailed response to concerns related to "take" please refer to Response DD-37 and DD-59.

The Draft EIR included a detailed evaluation of the project's potential effects to biological resources, including fisheries, and determined that the project's limited effects would be less-than-significant for the purposes of CEQA. The analysis in the Draft EIR appropriately described and evaluated the project's potential effects based on detailed technical analysis performed by Balance and HDR. The EIR and associated supporting technical documents constitute substantial evidence consisting of succinct descriptions of the steelhead life stages potentially occurring within the affected river reach, the habitats that support those life stages, and the attributes of the habitat that could be affected by the proposed project, including changes in flow magnitude and timing, under both the environmental baseline and the proposed project. The characterizations of steelhead life history and habitat requirements referenced in the following discussion are based on those reported in the literature (Shapovalov and Taft 1954; Chapman and Bjornn 1969; Mundie 1969; Bustard and Narver 1975; Reiser and Bjornn 1979; Bratovich and Kelly 1988). As described in the Draft EIR, the project's potential effects would be limited and would not substantially affect surface water flows such that there would be a significant impact (see Draft EIR pg. 4.1-29 through 4.1-38; see also Draft EIR pg. 4.1-40 and 4.1-41). Specifically, the Draft EIR concluded that "the reductions in flow resulting from the proposed project would not be large enough to prevent or interfere with steelhead or their various life stages or habitat requirements, particularly their migration, in a manner that would substantially reduce their numbers or restrict their range."

The commenter suggests that the project would significantly affect YOY migration to the lagoon during the spring and early summer months, which the commenter characterizes as the most critical time of year for YOY migration to the lagoon. While the commenter only provides anecdotal observations to support this assertion, HDR has reviewed this comment (as well as other similar comments contained in this letter) and prepared a detailed technical memorandum that further clarifies and amplifies the existing analysis contained in the Draft

EIR. HDR prepared this information in response to comments received on the Draft EIR. The following technical response is a summary of that technical memorandum, which is included as **Appendix I**. Please also refer to Response DD-5, DD-7, DD-9, DD-20, DD-41 and DD-66 for additional information. These responses specifically address commenter's concerns related to drawdown, critical riffles, habitat quality in the lower reaches of the Carmel River, and the methodology for evaluating project related effects. Where appropriate, revisions to the Draft EIR have been incorporated into **Chapter 3.0, Revisions to the Draft EIR**, to clarify and amplify the existing analysis consistent with the technical response provided below.

The commenter is concerned that the proposed project would reduce surface water flow such that YOY steelhead would be prevented from reaching refugia, including the lagoon, during the dry period when flow routinely recedes and the lowermost reaches of the Carmel River become intermittent or dry. However, relative to the existing conditions, the proposed project would not significantly reduce surface water flows such that YOY movement during the late spring or summer would be significantly affected or otherwise impeded (HDR, 2015). As described in the Draft EIR, the maximum pumping associated with the proposed project would be approximately 0.16 cfs and would occur in July/August when the downstream reaches of the Carmel River are typically dry. A 0.16 cfs reduction in surface flow would not significantly, or measurably, affect movement of YOY during the late spring or summer (HDR, 2015). Specifically, when downstream reaches are dry, reduction in flow of 0.16 cfs would not affect migration to the lagoon. Additionally, when flows are greater than 5 cfs, which occurs almost all of the time when flow is not zero during the summer-fall period, a reduction in flow of 0.16 cfs also would not measurably affect migration to the lagoon. The proposed project could potentially reduce the number of hours (in an extreme case, days) annually that surface flows between pools occur when flows in the Carmel River are equal to or less than 0.16 cfs (i.e., when surface flows are equal to the amount of maximum pumping associated with the proposed project); however, these flows are generally infrequent and often preceded by a month or more of zero-flow or dry conditions.⁵ As a result, the proposed project could result in these flows drying slightly sooner, but the proposed project would not substantially affect streamflow conditions such that there would be a significant impact to YOY dispersal (ibid.).

⁵ Moreover, the commenter's suggestion that flows as low as 0.16 cfs can support YOY steelhead movement is not substantiated by evidence. It is important to note that under current baseline conditions (approximately the last 30 years), there is an average of 1.4 days per year when Carmel River flow at the USGS gage is less than 0.16 cfs (the maximum expected sustained diversion rate of the project) but greater than zero. Only 2 years in the last 30 have more than 3 days with flows between 0 and 0.16 cfs--1985 and 1986, with 5 and 10 days respectively. These short very-low-flow conditions are followed by a month or more of zero-flow or dry conditions within the stream. The Draft EIR appropriately concluded that this small change relative to existing constraints is not significant. While the commenter contends that USGS gage data is less accurate at low flows, streamflow declines rapidly at low flows, showing no evidence of asymptotic decline that would suggest a long-duration baseflow below the level of detection at the gage (Balance, personal communication, June 5, 2015). Balance also has reviewed photographic evidence and field observations of the stream being completely dry within the project affected reach during the mid-to-late summer. As a result, the use of USGS gaging record is considered appropriate for the purposes of evaluating potential impacts associated with the proposed project (ibid.).

As described below, YOY movement is a dispersal typically resulting from increased density as fish grow and their habitat requirements change. Because rivers within the range of the SCCC steelhead DPS tend to exhibit naturally reduced flow during the summer and fall, these rivers (including the Carmel River) typically exhibit drying in stream reaches between pools during these times. As drying occurs between pools, most, if not all, YOY end up in pools, where the most suitable (and sometimes the only) habitat conditions occur. When this occurs, YOY movement has essentially ended and the minor reduction in surface water flows associated with the proposed project would not significantly affect YOY movement. Additionally, the threshold flow for juvenile migration, which starts once flow and temperature conditions begin to improve beginning in the fall, is well above 0.16 cfs, and the potential reduction in surface water flows associated with the proposed project would not significantly affect juvenile movement (see Draft EIR pg. 4.1-30). In other words, YOY movement in the fall occurs when flows are substantially greater than 0.16 cfs. Therefore, the potential reductions in flows between pools, which could result from implementing the proposed project, could result in flows between pools drying sooner than under pre-project conditions. These changes would be limited to a short duration (few hours to a couple of days) and would not significantly affect YOY movements or behavior such that a significant adverse effect would occur (HDR, 2015).

As discussed in HDR (2015), the commenter's assertions related to YOY movement suggest that YOY steelhead are actively pursuing (migrating) toward the lagoon and that the proposed project would interrupt this continuous flow. However, YOY movement is not necessarily defined for biological populations (Dingle 1996) and is more likely a response to various conditions that can have substantially different results (HDR, 2015). As described in **Appendix I**, YOY steelhead are considered YOY from emergence (usually March) through December. Early in its life, a YOY steelhead will disperse to shallow, coarse-bottomed areas of the stream (typically as a group). As these fish grow, they become more territorial and dispersal occurs more as individuals move to unoccupied areas of shallow, flowing water. As these shallow habitats disappear based on seasonal fluctuation of surface water flows, fish perish or may disperse to deeper areas, if available. According to HDR (2015), these movements should not be characterized as migration, but rather as dispersal movements (Shapovalov and Taft 1954; Chapman and Bjornn 1969; Mundie 1969; Bustard and Narver 1975; Reiser and Bjornn 1979; Tschaplinski and Hartman 1982, Bratovich and Kelly 1988, Dingle 1996). YOY migration occurs when young steelhead purposefully pursue a different location to accommodate changes in life history, not in response to changes in surface flows, as suggested by the commenter. Purposeful movement typically begins during the late fall when YOY move downstream in preparation for smolting and ultimately to enter the ocean. YOY movement prior to this event is generally due to responses that "force" fish to move (e.g., territoriality, increased density, change in habitat conditions, etc.) (HDR, 2015). Contrary to the commenter's assertion, minor changes in surface flow associated with the proposed project would not significantly affect YOY movement during the spring and summer periods.

The commenter suggests that the proposed project would prevent YOY from "migrating to the only fresh water refuge in the lower river, the lagoon" during the spring and early summer months. As described above, YOY do not typically migrate to the lagoon during

this period. YOY disperse to low velocity areas and eventually to available pools, upstream or downstream, of the redds (steelhead nests) from which they emerged. Subsequent movement (prior to the purposeful movement described in the preceding paragraph) occurs in response to other variables, which can result in some YOY reaching the lagoon. Specifically, YOY occupy pools as flows recede under baseline conditions and do not move from the pools except in response to density or other conditions within the pool, and only then would move to another pool (HDR, 2015). Recently emerged steelhead typically disperse to low velocity areas with cover from larger fish. Dispersal may be up or downstream from the redd. As fish become larger they tend to move to pools and as these pools become crowded fish can be displaced. As described above, displacement is contingent upon a variety of different factors, such as density, food availability and cover. The urge for these YOY to move from the pool for these YOY during the spring/summer is not due to a need to migrate downstream to the ocean (HDR, 2015). For this reason, fish would not be expected to move from the pools within the affected reach, once dispersal has occurred.

Pool conditions that encourage downstream dispersal occur as flows recede, which likely increases fish density, decreases food availability, increases food requirements and increases in temperature. Furthermore, it is likely that when such conditions occur, conditions between pools are shallow and slow. The commenter suggests that as flow decreases to as low as 0.16 cfs, a subchannel is formed that would allow YOY to move from pool to pool (a channel 3 inches deep and 3 ft wide). Based on behavior reported for YOY steelhead (Shapovalov and Taft 1954; Chapman and Bjornn 1969; Mundie 1969; Bustard and Narver 1975; Reiser and Bjornn 1979; Bratovich and Kelly 1988), YOY steelhead are more likely to remain in an area with more suitable morphology. That is, they would remain in a pool several feet deeper rather than moving into a small, shallow channel exiting the pool.⁶

If fish move under these conditions, it is likely that such movement would be only for a very low number of fish and movement would likely occur to another pool with similar conditions. According to HDR, moving from pool to pool all the way to the lagoon does not likely occur under existing baseline conditions (HDR, 2015). YOY dispersal may result in some fish entering the lagoon, but there does not appear to be an urge for YOY to move downstream other than in response to the factors described above. Ultimately, the risk of leaving the pool becomes greater than remaining in the pool as flows decline, food availability decreases, food requirements increase, or temperatures increase. Currently, the fish in the Carmel River are rescued and moved to a rearing facility when such conditions

⁶ As addressed elsewhere in this Final EIR, it is important to note that potential changes in streamflow associated with the proposed project do not indicate a significant effect on existing fish rescues. While modeling indicates that in certain years pools could lose connectivity hours or days sooner than under other circumstances, it does not indicate that this change results in a shorter rescue period, as the rescue initiation period depends on the overall hydrology in the basin, combined with monitoring. (Pers. Comm. With Ken Urqhart, Senior Fisheries Biologist at MPWMD.)

occur (annually), which is likely because carrying capacity conditions in the lagoon are limiting during these periods.⁷

In summary, YOY fish are displaced if conditions within short distances are already occupied, and conditions forcing movement occur throughout the areas accessible to the fish, including the lagoon. In other words, the carrying capacity of the stream changes in terms of numbers and densities of fish supported as fish grow and habitat availability shrinks – both natural, ongoing processes in steelhead streams. Once in a pool, it is unlikely that a YOY steelhead would seek to leave the pool unless conditions in the pool decline, at which time connectivity between pools also would most likely have disappeared. For these reasons, the commenter’s assertions regarding YOY are not technically accurate or supported by evidence. As a result, the Draft EIR correctly concluded that impacts would be less-than-significant. The potential reduction in surface water flows would not substantially affect steelhead such that a significant impact would occur under CEQA (HDR, 2015).

DD-2 Please refer to Response DD-1 above for a detailed technical response to this comment as it relates to the proposed project’s potential effects on YOY; please also refer to **Appendix I** for a detailed technical response to comments related to YOY. A detailed response to the commenter’s concerns about the proposed project’s effects on the quality and character of habitat located in the lower reaches of the Carmel River is provided in Response DD-9; please refer to that response for further discussion. As discussed in Response DD-9, the Draft EIR accurately describes the nature of habitat located in the Project Affected Reach. Moreover, the commenter refers to conditions at and just upstream of Highway 1, which is already affected by existing pumping under License 13868. As a result, the change in POD farther upstream would not negatively affect the river near Highway 1.

DD-3 MPWMD and Cal-Am are responsible for implementing on-going management actions to minimize the effects of groundwater withdrawals on the Carmel River system. Applicable measures include irrigation, vegetation maintenance, stream bank reconstruction, steelhead rescues, and associated monitoring. MPWMD actions are detailed in annual monitoring reports which describe the various measures implemented during the prior year. In addition to measures implemented by MPWMD and Cal-Am, groundwater production is generally concentrated in the lower 10 miles of the Carmel River to increase the duration and volume of surface water flows in the upper reaches of the river. This has resulted in improved habitat for fisheries, as well as a general improvement in other habitat characteristics (e.g., riparian habitat). MPWMD is also responsible for implementing on-going monitoring in connection with their ASR Project to address potential effects to critical riffles.

In addition to measures implemented by MPWMD and Cal-Am, the State Water Board Division of Water Rights has included several conditions in draft License 13868A and

⁷ Carrying capacity is related to pool conditions, not all fish survive (most do not). The project may affect timing of the eventual outcome of a natural process controlling fish numbers dictated by carrying capacity. Anadromy is a mechanism that compensates for low carrying capacity.

License 13868B.⁸ Applicable conditions include, but are not limited to, requirements to maintain separate records of water use and to conduct additional irrigation of the riparian corridor if irrigation is not performed by the MPWMD, Cal-Am or the County of Monterey, and certain limitations on pumping. Adherence with applicable conditions described in the draft licenses, in addition to existing measures implemented as part of the MPWMD Mitigation Program and applicable ASR mitigation measures would ensure that the proposed project's potential effects to biological resources would be minimized (see for instance Draft EIR pg. 4.1-26). While these measures are intended to minimize potential adverse environmental effects associated with municipal pumping, these measures are not necessary to minimize potential effects associated with the proposed project to a less-than-significant level under CEQA. The Draft EIR identified that these measures would further minimize potential impacts and these measures were identified for the purposes of disclosing that additional programs are being implemented by MPWMD and Cal-Am to address impacts due to municipal pumping. These measures represent additional safeguards to further minimize project impacts. As described elsewhere, the proposed project would not result in any additional pumping beyond the historic levels associated with License 13868. The project's potential impacts are limited to the proposed change in POD, which would result in localized impacts farther upstream. The extent of these impacts would be limited and no mitigation is necessary to reduce the project's impacts to a less-than-significant level. All impacts would be less-than-significant.

The Draft EIR correctly stated that there are existing measures to address potential impacts and that these measures will continue to be implemented by MPWMD or Cal-Am as part of existing operations. The Draft EIR also correctly stated that MPWMD is responsible for implementing measures to reduce potential impacts to the Carmel River system. Finally, the Draft EIR also stated that the State Water Board Division of Water Rights included several specific conditions in the draft licenses to ensure that impacts would be minimized. The Draft EIR appropriately concluded that there are adequate measures in place to ensure that the project's limited impacts would be minimized.

Commenter's claims related to the potential extinction of steelhead in the Carmel River are not supported by substantial evidence. The Carmel River is part of a larger Distinct Population Segment (DPS) and even larger Evolutionary Significant Unit (ESU). Extinction of Carmel River steelhead would require extinction of the entire ESU, including in streams completely unaffected by the propose project. The ESU is not currently identified by NMFS as at risk of extinction (i.e., endangered). Furthermore, the risk of extirpation of steelhead from the Carmel River is extremely low and would not change with implementation of the proposed project. The Carmel River supports one of the largest steelhead populations in the DPS and likely south of San Francisco Bay. This population has experienced and survived severe droughts when the river was not connected to the ocean for several consecutive years, and, as the commenter states, conditions are improving in the lower river, which has not

⁸ Copies of the Draft Licenses are available for review on the State Water Board Division of Water Rights website: http://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/petitions/2013.shtml

been considered to provide spawning and rearing habitat until recently. In addition, overall conditions within the watershed are improving as a whole with removal of the San Clemente Dam, improved passage at Los Padres Dam, and improved lagoon management (see discussion in **Chapter 5.0, CEQA Considerations**).

DD-4 Comment noted. This comment is not specific to the proposed project or the Draft EIR. As a result, a detailed response to this comment is not appropriate under CEQA. Please refer to Response DD-37 and DD-59 for a “take” associated with the proposed project.

DD-5 As described in the Draft EIR (see Draft EIR pg. 4.2-35 and 4.2-36; see also 4.2-45 through 4.2-47), the incremental increase in drawdown associated with increased pumping under License 13868A would be insignificant in comparison to existing Cal-Am pumping. This increase would result in a maximum additional drawdown of 0.31 foot after 100-days of sustained pumping at the maximum recorded rate of pumping associated with that well. As described in the Draft EIR, the modeling of potential drawdown associated with the project is conservative and likely overestimates the extent of project impacts because: “1) the analysis assumed 100 days of sustained pumping at a rate equal to the highest pumping rate of record for that well (for the period 2008-2012), which is unlikely based on a municipal demand pattern; and 2) the total increased drawdown associated with the proposed project was assessed for each of the proposed POD whereas actual pumping would likely be distributed among two or all three of the proposed PODs (i.e., all pumping from one well would be unlikely).”⁹ The Draft EIR accurately evaluated the project’s potential effects based on detailed technical analysis prepared by West Yost & Associates, which was peer-reviewed by Balance. The Draft EIR appropriately determined that impacts would be less-than-significant. The commenter does not provide any supporting evidence to support their assertion that project impacts would be significant. As a result, a more detailed response is not possible.

The commenter notes that the proposed project could result in the earlier cessation of surface water flows downstream from the proposed PODs. The Draft EIR stated that the proposed project could affect the duration and volume of surface flows in the Project Affected Reach due to increased groundwater pumping (see Draft EIR pg. 4.2-43). For instance, Table 4.2-19, which shows the effects of the proposed project in terms of constraints to downstream migration, outmigration, and juvenile rearing, indicates that the proposed project could result in portions of the Project Affected Reach drying sooner than they would under baseline conditions. The Draft EIR determined that this could result in pools drying a few hours or days sooner than under normal conditions. Balance concluded that these effects would be minimal and would not substantially affect river function (see Draft EIR pg. 4.2-47 and 4.2-48). The Draft EIR determined that the limited effects of the proposed project on streamflow duration and volume would not adversely affect fisheries or

⁹ The Individual Well Alternative, including the proposed Eastwood/Cañada Well, would result in comparable impacts, although all pumping would occur at a single POD (some limited and interim use would occur at the three Cal-Am PODs).

other biological resources. The analysis and determination of significance in the Draft EIR is supported by substantial evidence in the form of detailed technical analysis prepared by technical resource experts that evaluated the effects of the proposed project on surface water and groundwater resources, as well as biological resources.

The information depicted in Figure 4.2-6 depicts historical groundwater depth based on actual well data obtained from MPWMD and Cal-Am. This data shows the depth to water over an approximately 20-year period. This information represents actual water depth..

DD-6 Minor changes have been incorporated into the Final EIR to acknowledge that steelhead migrate at an age of 1 year as opposed to 2 years, in response to this comment. Please refer to **Chapter 3.0, Revisions to the Draft EIR**. It is important to note that the age of fish at migration does not affect the analysis in the Draft EIR or underlying technical analyses, which used criteria that are based on size not age.

DD-7 Figure 4.1-3 shows the general location of riffles monitored and assessed by MPWMD, and includes a location just downstream of the location described by the commenter (riffle B). Figure 4.1-4 identifies riffles evaluated by Balance. As shown on Figure 4.1-4, the Draft ER evaluated potential impacts to the critical riffle referenced in this comment and determined that the proposed project would not significantly impact passage flows at that location.

The commenter also provides additional information that a separate analysis found passage flow requirements of 125 cfs at that location, approximately twice the amount of minimum passage flow Balance calculated for that riffle (see Appendix C-1, Table 4). However, the associated change in depth resulting from a 0.16 cfs flow reduction would be even less at 125 cfs than at 60 cfs. As a result, the Draft EIR and supporting technical analyses may have overestimated potential impacts associated with the proposed project.

DD-8 This comment consists of generalized statements and observations based on the commenter's prior interactions with regulatory agencies in 2007 in connection with steelhead redds stranded in the critical riffle discussed in Comment DD-7. This comment does not raise a specific environmental issue related to the proposed project or Draft EIR. Comment is acknowledged. No further response is necessary.

DD-9 The commenter misunderstands the purpose and intent of Balance's technical addendum (2014b), which was prepared to clarify Balance's findings related to adult steelhead passage impacts, not to clarify "the nature and quality of steelhead habitat in the lower Carmel River." Furthermore, the analysis of effects in that memorandum was intended to address only flow-related conditions. Biological considerations were evaluated separately by HDR. Balance conducted a field reconnaissance of the project reach and acknowledged the presence of gravel and cobbles, stating that, in general "the bed of the lower Carmel River is dominated by sand and fine-gravel deposits, though some larger gravel and cobble deposits are also present." The field assessment concentrated on the reach of the river between the Odello property and the proposed new PODs, where project impacts would be located. The reach below State Route 1 (as referenced by the commenter) is not located within the assessment reach. Moreover, HDR also recognized that conditions in the lower reaches of

Carmel River (downstream of RM 6.7) have improved. Information presented in the EIR clearly states that the habitat conditions in the lower Carmel River have improved in the recent past and states that substrate has coarsened and steelhead spawning has been observed in recent years. As such, the habitat is suitable for spawning, which does not necessarily mean that the quality of habitat is “high;” rather it indicates that conditions have improved.

The comment also suggests that the existing habitat, when it has water (even a small amount) is excellent. The Draft EIR clearly recognized that a “small amount of water” provides useable habitat in that habitat is considered to be suitable for rearing when flow is 1 cfs or greater. The Draft EIR considered the occurrence of zero flow in the context of evaluating the effect of the proposed project on rearing habitat availability and concludes that during most summers, zero flow conditions occur within the affected reach under existing conditions. Nearly every year, juvenile steelhead are rescued from the affected and upstream reaches of the Carmel River because every year flows recede to levels that reduce or eliminate rearing habitat. NMFS (2002) estimates the unimpaired summer flow in the lower Carmel River to be 0.4 cfs or less 50 percent of the time, which would result in rescues being conducted most years. The project would not increase the number of years rescues would occur.

The commenter also specifically references bed and habitat conditions “below Highway 1 almost to the lagoon” and “less than a mile from the Highway 1 bridge.” The analysis contained in the Draft EIR is specific to the approximately five-mile reach between the existing POD and proposed furthest upstream Cal-Am POD, where impacts to streamflow would be affected. Because the reach just upstream and downstream of Highway 1 is already being influenced by the existing diversion, including pumping under License 13868, and the amount of water being diverted would not change post-project, the referenced habitat conditions would not be affected by the proposed project. The Draft EIR accurately describes the nature of habitat within the Project Affected Reach based on existing documentation prepared by the MPWMD as part of on-going monitoring, site visits conducted by the EIR consultant and technical sub-consultants, and detailed technical analysis conducted in support of the EIR.

DD-10 Please refer to Response DD-1 for a detailed discussion of potential project-related effects to YOY. As discussed in Response DD-1, the proposed project’s pumping would not significantly affect YOY. Please refer to Response DD-37 and DD-59 for a detailed response to potential concerns related to “take.” As described in those responses, the proposed project would not result in “take.”

DD-11 CEQA Guidelines Sec. 15144 and Sec. 15151 require that an EIR contain a reasonable good-faith effort to evaluate and disclose potential impacts associated with the implementation of a proposed project. The Draft EIR evaluated potential effects due to increased groundwater pumping associated with the proposed project based on detailed technical analyses prepared by Balance and HDR. The Draft EIR evaluated potential constraints to the various life stages of steelhead, including the project’s potential to increase the number of days of constraints to fall/winter downstream migration, spring smolt outmigration, and summer

juvenile rearing. In addition to evaluating potential impacts to streamflow due to the proposed project, Balance also conducted a riffle passage analysis to determine potential impacts on fish passage flows and depth due to the proposed project.

The approach and methodology used to evaluate potential impacts associated with the proposed project was reasonable and appropriate for the purposes of CEQA. The Draft EIR and underlying supporting technical analyses relied on a commonly accepted methodology for evaluating the potential impacts of water supply projects on fishery resources located in the Carmel River. This approach consisted of a detailed evaluation of specific flow criteria, including a flow criterion of 1 cfs for juvenile rearing habitat. In addition, technical analysis prepared by West Yost and Associates (**Appendix G**) also evaluated the project's potential effects related to change in duration at a zero-flow threshold, similar to the ultra-low flow that the commenter references, and determined that the project's effects would not be significant. The analysis in the Draft EIR appropriately concluded that the project would have an insignificant effect on streamflows, particularly during the summer period when surface flows are at their lowest. Please refer to Response DD-1 for additional information regarding the project's potential impacts related to YOY, including YOY dispersal. Please also refer to **Appendix I** for additional information regarding YOY.

DD-12 The Draft EIR appropriately described a variety of measures implemented by MPWMD and Cal-Am to reduce the adverse effects of groundwater pumping on the riparian corridor, as well as other biological resources. In addition, the Draft EIR also stated that the draft licenses include various conditions that would further ensure that the project's less-than-significant potential impacts would be minimized. As described in the Draft EIR (see Draft EIR pg. 4.1-41), the proposed project would not significantly affect Carmel River steelhead population or its designated critical habitat. Potential impacts were identified as less-than-significant. The Draft EIR identified that additional measures and programs are being implemented by Cal-Am and MPWMD, and that the draft licenses included conditions to further ensure that the project's impacts would be minimized. No mitigation is needed to reduce the project's impacts. The implementation of these measures, as well as other existing measures implemented by MPWMD and Cal-Am, would ensure that impacts would be further minimized. As described in the Draft EIR, the overall effects of the proposed project would be limited. Please refer to Response DD-3; see also Response DD-1 for more information related to potential impacts to steelhead.

DD-13 This comment is a generalized statement that is not specific to the Draft EIR or the analysis contained therein. As a result, a detailed response to this comment is not appropriate. For more discussion related to the question of "take" please see responses DD-37 and DD-59.

DD-14 As discussed in the Draft EIR, the purpose of the cumulative impact analysis is to identify and summarize the environmental effects of the proposed project in conjunction with the effects of existing, approved, and anticipated developments in the project area. CEQA Guidelines Sec. 15130 requires that an EIR evaluate the cumulative effects of a proposed project when the project's incremental effect is "cumulatively considerable." A "cumulatively considerable" effect means that the incremental effects of an individual project are

significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects (CEQA Guidelines Sec. 15065(a)(3)). A cumulative effect is defined as an impact which is created as a result of the contribution of the project evaluated in the EIR together with other projects causing related impacts (CEQA Guidelines Sec. 15355). When the combined cumulative effect associated with the project's incremental effects and the effects of other projects is not significant, the EIR shall briefly indicate why the cumulative effect is not significant (CEQA Guidelines Sec. 15130(a)(2)).

The Draft EIR (see Draft EIR pg. 5-12 through 5-24) includes a detailed evaluation of potential cumulative effects consistent with the requirements of CEQA. As discussed in the Draft EIR, there are a number of anticipated future projects that would reduce the extent of groundwater pumping in the Carmel River watershed and would have beneficial impacts to biological resources and hydrology and water quality. As a result, the effects of the proposed project, when combined with past, present, and reasonably foreseeable future projects, would not be cumulatively considerable. The Draft EIR appropriately evaluates potential cumulative effects consistent with the requirements of CEQA Guidelines Sec. 15130.

DD-15 The evaluation of potential impacts to critical riffles was based on specific fish passage criteria developed by CDFW. These criteria are specific to migratory life stages, which for steelhead are adult immigration and juvenile/smolt emigration (considered fish 4 inches and greater in length). Flows meeting the criteria would provide passage for smaller fish. The issue is the timing of when the passage is needed. The commenter states that smaller YOY require conditions to allow passage to freshwater refugia (definition not provided), which is interpreted herein when refuge is needed (receding flow) as pools. However, once in a pool YOY are unlikely to try and leave the "refugia." Please refer to Response DD-1 for further discussion regarding potential impacts related to YOY.

DD-16 The Draft EIR states that pumping at the maximum sustained rate of diversion under proposed License 13868A would result in greater reductions in surface flows than the baseline, but also states that this rate would not be consistent with a municipal demand pattern (see Draft EIR pg. 4.2-36, footnote 23). As described in the Draft EIR, maximum sustained pumping at a rate of 0.37 cfs (166 gpm) for 117 days would equal 85.6 af/year and no water would be available for the remainder of the year under License 13868A. This level of pumping is not reasonable under a municipal demand pattern because it would result in no available supplies for approximately eight (8) months a year. The Draft EIR appropriately describes the nature of potential project related impacts consistent with estimated minimum and maximum pumping under a municipal demand pattern. Additionally, under the CDFW/NMFS protest dismissal agreements, the maximum rate of diversion would be 0.16 cfs. Moreover, as described in the draft license conditions, the Licensee will be required to provide appropriate monitoring and reporting of project water use. As part of its plan to comply with these license requirements, the Licensee will itemize Subscriber use, Cal-Am interim use, and irrigation water use, for each month during the reporting year. As municipal users enter into agreements and receive permits from the MPWMD or other applicable agencies, such as the County of Monterey, the amounts of water that will be used for each of

these categories of use will change, but the total diversions under the License never will be allowed to exceed the overall License limits.

DD-17 This comment does not raise a specific environmental issue related to the Draft EIR that would warrant a response under CEQA.

DD-18 The Draft EIR states that juvenile steelhead rearing is seasonally distributed along the Carmel River and that juvenile steelhead rarely occurs in the lowermost river (downstream of Schulte Road, [RM 6.7]) year round, with the exception of perennial rearing in the Carmel Lagoon. Population surveys conducted by MPWMD and the fact that the reach downstream of Schulte Road typically dries during the summer-fall period of all but wet years support this statement. The Draft EIR clearly distinguishes between the lower reaches of the river and the lagoon and clearly identifies that the “lagoon provides over summer rearing and generally supports enhanced growth, which increases the potential survival of steelhead when they migrate into the ocean and then return as adult spawners” (see Draft EIR, pg. 4.1-35). Please refer to Response DD-1 for further discussion regarding potential impacts related to YOY; see also **Appendix I** for further discussion.

DD-19 Please refer to Response DD-37 and DD-59 for a discussion of potential impacts associated with concerns regarding “take.”

DD-20 The comment incorrectly states that J&S (2006) stated that the project could decrease wetland habitat by 0.16 cfs. J&S (2006) did not evaluate the proposed project. The reference cited by the commenter was an evaluation of potential impacts associated the implementation of MPWMD’s ASR Project, which identified criteria to evaluate potential constraints to fisheries. The Draft EIR did, however, acknowledge existing constraints in the lower Carmel River.

The commenter suggests that a reduction in 0.16 cfs would affect migration for 1 to 3 inch YOY. Please refer to Response DD-1 for a detailed discussion of potential impacts related to YOY and the suitability of 0.16 cfs flows to support habitat and migration. Please also refer to **Appendix I**. As discussed in Response DD-1, the proposed project would not significantly affect movement of YOY. Under current baseline conditions (approximately the last 30 years), there are an average of 1.4 days per year when Carmel River flow at the USGS gage is less than 0.16 cfs (the maximum expected sustained diversion rate of the project) but greater than zero. Only 2 years in the last 30 years had more than 3 days of flows between 0 and 0.16 cfs--1985 and 1986, with 5 and 10 days respectively. These short very-low-flow conditions all were followed by a month or more of zero-flow or dry conditions within the stream. The EIR correctly concluded that this small change relative to existing constraints is not significant.

Habitat persistence is addressed in the EIR. Conditions supporting juvenile rearing need to be persistent through the rearing period to be considered rearing habitat. As described by Balance (2014), zero-flow conditions occur within the affected reach during juvenile rearing period in most years, which means that juvenile rearing is not supported within the reach during most years. According to HDR (HDR, 2015), the proposed project would not

decrease juvenile rearing habitat. Please refer to Response DD-1 for further discussion of potential impacts to YOY; please also refer to **Appendix I** for additional information.

DD-21 Comment noted. The comment provides information related to Streamflow Protection Standards and states that CDFW identified the Carmel River as a priority stream and recommended that a minimum perennial flow of 50 cfs be maintained from San Clemente Dam to Highway 1. The Draft EIR includes a detailed discussion of Streamflow Protection Standards, and shows a recommendation of 50 cfs or 25-50 cfs for different proposals to increase populations (see Draft EIR pg. 4.2-29). It is important to note that the recommendations related to Streamflow Protection Standards were developed in the context of the construction of a large dam, which would essentially eliminate all spawning and rearing habitat available at the time the report was prepared. The recommended flows were intended to be released from storage to enhance unimpaired flow conditions during the dry season using stored runoff. The declines in flow that CDFW is addressing are related to significantly larger legal and illegal diversions.

DD-22 The Draft EIR accurately described the nature of CDFW Streamflow Protection Standards and identified specific instream flow recommendations for the Carmel River, including those referenced by the commenter (see Draft EIR pg. 4.2-29 and 4.2-30). The Draft EIR accurately states that the CDFW did not include specific minimum instream flow recommendations by specific season or months of the year, which is the typical method used by CDFW to identify instream flow requirements for other rivers. The Draft EIR is factually accurate, and the commenter's concerns are unfounded. Please refer to Response DD-21 for more information regarding CDFW Streamflow Protection Standards.

DD-23 The comment suggests that the Draft EIR is flawed because it: 1) did not include the Environmental Services Branch Administrative Report No. 833-3, 2) did not include SWRCB flows attached to all new diversions from Table 13, which include stopping diversions when less than 5 cfs are reaching the lagoon, and 3) did not mention NOAA requirements to avoid "take" and recommended minimum flows for ASR. Please refer to Response DD-37 and DD-59 for a discussion of "take."

The referenced reports were considered during the course of preparing the Draft EIR and underlying technical analyses. These reports identify optimum flow conditions, which do not occur under baseline flow conditions. Moreover, the flow recommendations identified by NOAA (2002) were developed within the context of large off-stream storage projects that could affect surface water flows. The proposed project does not consist of a large off-stream storage project. Additionally, the Environmental Service Branch Administrative Report, which was prepared by CDFW, was authored by Mr. William Snider, who was responsible for preparing the technical analyses performed by HDR that evaluated the proposed project's impacts to fisheries.

Contrary to the comment's assertion, the referenced material was reviewed in connection with preparation of the Draft EIR. The information contained in these reports does not contain any specific CEQA thresholds or identify specific standards for the purposes of identifying the environmental baseline. In addition, the referenced reports are not specific to

the Project Affected Reach. Detailed technical analyses were specifically prepared for the purposes of the Draft EIR to identify baseline conditions, evaluate potential impacts relative to changes in surface water flows, and describe how those impacts would affect the various life stages of steelhead within the Project Affected Reach. The references identified by the commenter have limited relevance for the purposes of determining impacts associated with the proposed project. Nevertheless, there is no evidence contained in the NMFS report or other referenced material to suggest that the reduction of surface flows by approximately 0.16 cfs in connection with the proposed project would result in a significant impact to steelhead within the Project Affected Reach. Finally, the commenter's comments regarding new diversions under Table 13 are not accurate. Table 13 of water-rights Decision 1631 is specific to established water use – not new diversions. Moreover, conditions or terms agreed to by some Table 13 applicants are specific to those permits and are not relevant to the proposed project, which consists of a change petition to an existing water-right.

DD-24 This comment references certain statements in the Draft EIR related to current on-going efforts by MPWMD to evaluate instream flow requirements necessary to protect stream-related fish and wildlife resources and requests further clarification. The Draft EIR states that MPWMD is currently in the process of re-evaluating instream flow requirements for the Carmel River and preliminary results have indicated that actual inflow stream requirements may be less than originally recommended (HDR, 2014). This information was included for informational purposes. Minor revisions have been incorporated into the Final EIR as described in **Chapter 3.0, Revisions to the Draft EIR**, in response to this comment to appropriately reference applicable sources of communication.

DD-25 This comment is not supported by any specific evidence and does not directly relate to the analysis contained in the Draft EIR. As a result, a response to this comment is not possible under CEQA. Please refer to Response DD-3 for a discussion of potential impacts related to the steelhead population.

DD-26 This comment consists of a generalized statement that it is not supported by factual evidence. As a result, a specific response to this comment is not possible. Please note, however, that the Draft EIR evaluated potential impacts associated with the proposed project in terms of water quality and reduced surface flows. The Draft EIR determined that all potential effects associated with the proposed project would be less-than-significant.

Please refer to Response DD-1 for further discussion regarding potential impacts related to YOY; see also **Appendix I** for further discussion. See also Responses DD-2, DD-6, DD-10, and DD-41.

DD-27 The comment suggests that the project would substantially reduce habitat values in the lower river and that the cumulative effects of “illegal” pumping are adversely affecting fisheries. This comment consists of a generalized statement that it is not supported by factual evidence. As a result, a detailed response to this comment is not possible. While a specific response is not possible, please note that the Draft EIR included a detailed evaluation of the project's potential impacts, including its potential cumulative impacts to fisheries based on technical analysis prepared by resource experts. It was determined that the proposed project

would not result in a significant impact to fisheries. All impacts associated with the proposed project would be less-than-significant.

According to HDR, habitat conditions currently decline during spring and summer period under existing conditions. Potential impacts associated with the proposed project would not significantly, or measurably, reduce rearing habitat availability. As discussed in the Draft EIR, the effect of the diversion would be to reduce the number of days that surface flow occurs by less than 2 days per year, but would not reduce habitat persistence, reduce the ability for fish to escape the dewatering reach, nor incur additional loss of juvenile steelhead.

More detailed responses related to specific comments related to fisheries are provided in Responses B-2, B-5, DD-1, DD-2, DD-3, DD-13, DD-5, DD-6, DD-7, DD-9, DD-10, DD-14, DD-31, DD-34, DD-35, DD-41, and DD-56.

DD-28 This comment does not pertain to Draft EIR or the analysis contained therein and therefore a detailed response is not appropriate under CEQA. This comment is specific to MPWMD and Cal-Am efforts to address critical riffles. As described in Response DD-12, MPWMD and Cal-Am are responsible for implementing various measures to address the potential effects of municipal pumping; this information was identified in the Draft EIR to disclose that additional measures are implemented by various entities to address impacts associated with municipal pumping. The implementation of these measures is not necessary for the purposes of mitigating the limited effects associated with the proposed project; all impacts would be less-than-significant. For more information regarding potential impacts to YOY, please to Response DD-1; see also **Appendix I**.

DD-29 Please refer to Response DD-2, DD-7, and DD-9. As discussed in those responses, the Draft EIR accurately described the nature and quality of habitat in the lower reach of the Carmel River and also evaluated potential effects to the critical riffle referenced in this comment. Moreover, the Draft EIR evaluated the potential riffle described in this comment; please refer to Response DD-7.

The commenter references a “small creek that appears below Rancho Canada” most every year. It is important to note that: 1) Odello property is just downstream of Rancho Cañada (the existing well is approximately 0.5 miles downstream), 2) the observed small stream along the Odello property is present despite existing pumping from the Odello well, and 3) post-project pumping is estimated to be equal to or less than pre-project pumping during the months of May through October, presumably when the “small creek” was observed. Moving the point of diversion farther upstream, away from this reach of flow, would not negatively impact flows within that lower reach.

DD-30 Please refer to Response DD-16. As described in that response, the proposed project will be required to comply with specific conditions/terms, including requirements that water shall not be diverted under the proposed project until such time that the right holder has provided a method for measuring diversions and documenting that diversions do not exceed the licensed water right. As described in Response DD-16, reporting will include annual reporting of the monthly amounts of water use. This will include an itemized accounting of

Subscriber use, Cal-Am interim use, and irrigation water-use for each month during the reporting year. This will ensure that the total diversions under License 13868A do not exceed the overall limits contained in License 13868A. The Draft EIR appropriately evaluates potential impacts associated with the proposed project consistent with the requirements of CEQA, including analysis of municipal use patterns.

DD-31 This comment references specific statements related to the project's potential effects to critical riffles and suggests that these statements are not supported by substantial evidence. The specific references provided by the commenter have been taken out of context and therefore provide an inaccurate description of the analysis in the Draft EIR.

As described in the Draft EIR, Balance prepared an evaluation of potential critical riffles located within the Project Affected Reach. As part of that evaluation, Balance evaluated the effects of potential changes in flow duration and volume in terms of specific fish passage criteria for adults and smolt. The results of their analysis are presented in Table 4.1-3. As described in the Draft EIR (see Draft EIR pg. 4.1-33 through 4.1-38), public comments received on the Notice of Preparation (NOP) also referenced critical riffles monitored by MPWMD as part of the ASR Mitigation Monitoring and Reporting Program. The text cited by the commenter is in reference to subsequent analysis conducted by Balance and HDR related to the criteria used by MPWMD to evaluate potential effects to critical riffles associated with the ASR program. Based on a review of MPWMD riffles and those criteria, Balance concluded that their original analysis of critical riffles for adult migration in the Project Affected Reach may have overstated potential impacts.

The referenced conclusion was objectively based on the effect of the maximum potential diversion on the criteria for fish passage (in this case depth of flow over the riffle) and the timing of the potential effect. Based on the technical analysis conducted by Balance, a 0.16 cfs reduction in flows results in decreases in water depth at the riffles modeled ranging from no detectable change to a maximum of 0.02 feet. Furthermore, the maximum estimated pumping rate of 0.16 cfs would not occur during the juvenile or adult migration periods. The conclusion that a maximum decrease in depth of much less than one hundredth of an inch would not adversely affect fish passage at critical riffles is appropriate (HDR, 2015). Further, the fact that the decrease in depth would be less than 0.02 ft. during the defined migration periods since the maximum diversion rate does not occur during these periods further substantiates the appropriateness of the conclusion.

DD-32 The comment does not provide any evidence or technical analysis to support the commenter's claim that the Draft EIR and underlying technical analyses are inadequate. As a result, a detailed response to this comment is not possible under CEQA. It is worth noting, however, that both Balance and HDR have extensive direct and relevant project experience working on projects on the Carmel River and are considered experts within their respective fields. Moreover, the method (CDFW 2013) used to identify fish passage flow required at critical riffles applies to all stream regardless of size. The method identifies the depth and maximum velocity for passage based on the size of the target fish or life stage. The cross sectional area of the riffle that must meet the criteria is based on percentage of the cross section, which applies to all stream sizes. It does not include any criteria that would change

due to the size of the stream. Moreover, the commenter repeatedly refers to creek-sized flow, but fails to present evidence of the location, extent, and duration of such flow within the Carmel River. The Carmel River is a large river, and (based on the USGS record and Balance's aerial photograph analysis) very-low-flow conditions are unlikely to be longitudinally continuous for long durations within the Project Affected Reach under baseline conditions. The Draft EIR appropriately relied on detailed technical analysis that evaluated the specific effects of the proposed project due to potential changes in streamflow volume and duration.

DD-33 The analysis in the Draft EIR is specific to the hydrologic and ecological conditions of the Carmel River. The Carmel River is a large river, and analysis of normal conditions within the river is appropriate. Even so, the Draft EIR considered flow thresholds as low as 1 cfs (Balance, 2014a) and zero-flow conditions (WYA, 2014). The Draft EIR and supporting technical analyses relied on stream gage data obtained from the United States Geological Survey (USGS), monitoring data collected by MPWMD, and other supporting documentation. The Draft EIR appropriately evaluated potential project impacts based on conditions specific to the Carmel River and evaluated potential impacts related to fisheries based on specific fish passage criteria recommended by CDFW, as well as other criteria used to evaluate the effects of water supply projects located on the Carmel River. Please refer to Response DD-1 for more information regarding YOY; see also Appendix I for additional detail.

DD-34 The Draft EIR states that the project could potentially affect public trust resources, including river function and lagoon function, due to reduced surface flows. The Draft EIR (see Draft EIR pg. 4.2-47 through 4.2-49) determined that these effects would be less-than-significant because 1) the proposed project would not involve a net increase in the volume of water use beyond the consumptive use associated with the existing water-right license, and 2) the potential changes in streamflow between the proposed POD and existing PODs would be relatively minor in comparison with the type of flows necessary to maintain the geomorphic character and hydrologic function of the Carmel River, and are therefore not significant for the purposes of this threshold of significance. Further, the Draft EIR states that net inflows to the Carmel Lagoon would be unaffected by the project. As a result, impacts would be less-than-significant. The Draft EIR clearly evaluates potential impacts to other public trust resources, including those referenced by the commenter (i.e., biological resources), in **Section 4.1, Biological Resources**. As a result, the Draft EIR appropriately evaluates potential impacts to both fisheries and their associated habitat. Please refer to **Section 4.1, Biological Resources**, for a detailed evaluation of potential impacts to fisheries and their associated habitat. Please also see the responses to comments DD-37 and DD-59, concerning "take."

DD-35 The Draft EIR provided a quantitative estimate of the potential distribution of the water right under post-project conditions based on actual water use data. The commenter provides no quantitative evidence to dispute this data. As described in the Draft EIR (see for instance Table 4-1 on Draft EIR pg. 4-4; see also Table 4.2-11 on Draft EIR pg. 4.2-35), estimated monthly pumping under a municipal demand pattern, which was estimated based on actual pumping records associated with Cal-Am wells, would result in a net reduction in

groundwater pumping during the same period as compared to existing pre-project pumping under License 13868. As a result, actual basin-wide pumping would be less than pre-project pumping under License 13868. It is also worth noting that the Carmel River is a large river, not a small creek, although the surface flow does reduce significantly at times.

DD-36 As described in Response DD-35, the Draft EIR included estimates of potential municipal demand based on actual pumping records obtained from Cal-Am. The Commenter provides no evidence that the new users' water use will be higher, and the assumptions it is based on are not supported or persuasive. The information contained in the Draft EIR represents a reasonable good faith effort to identify potential monthly municipal demand based on actual pumping records. This is considered reasonable and appropriate for the purposes of evaluating the effects of the proposed project.

DD-37 The Draft EIR evaluated the effect of the proposed project on frequency, magnitude, and duration of occurrence of threshold habitat conditions for target life stages of steelhead within the affected area relative to existing conditions. It is appropriate to compare these parameters as percent changes. The commenter states that this method does not allow a determination of whether the proposed would affect steelhead. Contrary to the commenter's assertion, this approach clearly describes changes (impacts) of the proposed project to steelhead habitat, and thus steelhead. The proposed project would impact steelhead by decreasing frequency, magnitude and duration of habitat availability. However, this impact is so small that it does not rise to the level of significance under CEQA. The commenter provides no direct evidence that this approach is not accurate nor does the commenter provide evidence of what would constitute an "accurate depiction." Nevertheless, as described in HDR (2015), the proposed project would not result in the loss of steelhead. Steelhead abundance and production currently supported under the existing conditions would not change with implementation of the proposed project. In addition, both the current license and the draft licenses include standard conditions confirming that "take" of listed species would not be authorized. The proposed project would not significantly increase impacts beyond those associated with existing operations.

DD-38 As described in the Draft EIR, the analysis contained in the Draft EIR estimated potential impacts associated with increased pumping at the proposed PODs on an individual basis (i.e., the analysis assumed that all pumping would occur at an individual POD). The results shown in Table 4.2-12 shows the potential impacts associated with all project pumping occurring at each of the wells. The analysis does not indicate that pumping will be evenly distributed among the wells

DD-39 The analysis contained in the Draft EIR was based on currently available information obtained from USGS stream gage, review of aerial photographs, and observations noted in the field. The commenter provides no evidence to suggests that the flow conditions at the USGS gage are not representative of flow conditions within the Project Affected Reach (i.e., between the existing and proposed PODs). The commenter references small but significant flows in the lower-most reaches, but does not describe where, when, or for how long these conditions occur, or include water quality information. As a result, a detailed response to this comment is not possible.

According to Balance (personal communication, June 5, 2015), there is no evidence of sustained “small but significant flows” within the project affected reach, and Balance previously concluded that the conditions at the USGS gage were generally consistent with the whole of the project affected reach. Moreover, even if such conditions did exist, HDR determined that the significance of small, short duration wetted reaches between pools would not be altered by the proposed project. If the conditions are such that the stream would remain wetted with sufficient flow to provide habitat for steelhead, those conditions would remain unchanged with the proposed project. The more common issue that the stream would dry between pools followed by pools drying would not be changed but for the earlier timing of hours to a few days. This is not significant (HDR, personal communication, June 8, 2015).

Therefore, the analysis in the Draft EIR does not require amendment.

DD-40 The proposed project would not reduce the amount of streamflow reaching the lagoon. As described in the Draft EIR, the proposed project would not increase groundwater pumping beyond levels associated with the existing license. The proposed project would change the POD, but would not result in additional extraction of water from the aquifer, and would not result in reductions in streamflow to the Lagoon (Balance, 2014a).

DD-41 The comments suggests that the information in Table 4.2-19 represents a “statistical lie” that takes averages and deliberately chosen periods after the river has been pumped dry. The information presented in Table 4.2-19 represents the pre-project, post-project, and changes in the numbers of days of constraints to specific steelhead life-cycle stages due to the proposed project. Table 4.2-19 identifies potential impacts due to changes in streamflow over a variety of different conditions and includes extremely wet, wet, above normal, normal, below normal, dry, and critically dry periods. This approach is consistent with the methodology used to evaluate impacts due to changes in streamflow in connection with other water supply projects on the Carmel River, including MPWMD’s ASR Project. Table 4.2-19 accurately describes the potential effects of the proposed project over various different types of conditions to determine how the project would affect fisheries under different conditions. The fact that the Carmel River is dry within the Project Affected Reach during much of the summer period is an existing condition and appropriate for use in the EIR analysis. The EIR’s use of this information is accurate, not a result of statistical manipulation.

While Table 4.2-19 was specifically developed for the purposes of describing the effects of the project in terms of specific life-cycle stages of steelhead, “this analysis is also relevant to the evaluation of the project’s potential hydrologic effects (i.e., identify the effects on streamflow due to changes in POD)” (see Draft EIR pg. 4.2-42). The potential impacts related to fisheries are not relevant to the specific resources (e.g., streamflow, river functions, etc.) that are being evaluated in this section of the Draft EIR. Nevertheless, the Draft EIR evaluated potential impacts to fisheries, including summer rearing habitat, based on a threshold of 1cfs for summer rearing habitat. The project’s potential effects to fisheries are more thoroughly addressed within the context of the biological resource evaluation contained in **Section 4.1, Biological Resources**, of the Draft EIR. The Draft EIR

appropriately evaluated potential impacts to fisheries, including impacts to the varying life stages of steelhead.

DD-42 The Draft EIR acknowledged that flows would be reduced in the Project Affected Reach, provided a quantitative analysis of the change in flow duration associated with this relocation, and concluded that this change is not significant. It is also worth noting that the project will primarily use a new point of diversion, 2 miles upstream, further reducing the significance of any impact to flows. The commenter's claims that the "lagoon [will not] get as much surface water either" is not support by substantial evidence. Streamflow in the Carmel River (and/or existing sub-surface flow to the Lagoon) is already being impacted by existing pumping in connection with existing License 13868. "[T]he proposed project would only involve changes in POD; because the net volume of water that is being pumped now is already accounted for in the water balance for the lagoon under existing conditions, no impact to inflows to the lagoon would result from the proposed project" (Balance, 2014a). As a result, the Draft EIR correctly concluded that potential impacts to existing river and lagoon function would be less-than-significant.

DD-43 Reserving the 46.2 AF/YR portion of the water right to instream uses limits potential project impacts to surface/subsurface flow to the lowermost portion of the Carmel River and the lagoon. The sub-surface support of the surface waters can benefit fish, wildlife and riparian vegetation, as permitted under Water Code Section 1707. The comment suggests that it would be more beneficial if water pumped under License 13868B would be pumped into the surface flow at critical times. This comment is noted, however, it does not raise an environmental issue related to the analysis contained in the Draft EIR, or suggest a mitigation measure that would lessen a significant impact. Therefore, a detailed response is not appropriate.

DD-44 Please refer to Response DD-1 for further discussion regarding potential impacts related to YOY; see also **Appendix I** for further discussion. As discussed in Response DD-1, the proposed project's pumping would not significantly affect YOY. Please refer to Response DD-37 and DD-59 for a more detailed response to potential concerns related to "take." As described in those responses, the proposed project would not result in "take." Please also refer to Response DD-9 and DD-27 for a discussion of potential habitat impacts; as described therein, the proposed project would not significantly affect existing habitat. See also Response DD-39 for a discussion of potential impacts to "small, but significant flows." It is also worth noting that the main point of diversion for the project will be 2 miles upstream of the current point of diversion, rather than 5 miles upstream.

DD-45 The comment does not specifically address the Draft EIR, other than to claim that the project would result in significant unavoidable impacts related to reduced surface flows, riparian habitat, and loss of access to the lagoon. The commenter does not, however, provide any specific evidence to support this claim. As a result, a specific response to this comment is not possible.

Please refer to Responses B-2, B-6, DD-9, DD-15, DD-27, DD-37, DD-44, and DD-59 for specific responses to issues associated with the project's potential impacts to surface water

flows, riparian habitat, and other aquatic resources... Please refer to Response DD-1 for a specific responses related potential impacts to YOY; see also **Appendix I** for a detailed technical response prepared by HDR.

DD-46 This comment is not specific to the Draft EIR or the analysis contained therein. As a result, a detailed response to this comment is not appropriate under CEQA.

DD-47 This comment expresses opinion regarding the efficacy of the MPWMD Water Allocation Program's mitigation measures. This comment is not specific to the Draft EIR or the analysis contained therein. As a result, a detailed response to this comment is not appropriate under CEQA. The Draft EIR does, however, identify that MPWMD and Cal-Am are responsible for implementing a variety of measures to address potential impacts to the riparian corridor and related biological resources in connection with municipal pumping. These programs would continue to be implemented as part of on-going management efforts by MPWMD and Cal-Am. The Draft EIR correctly identifies that the continued implementation of these measures would further minimize the project's potential impacts, but these measures are not needed for the purposes of reducing the project's impacts to a less-than-significant level.

DD-48 This comment is not specific to the Draft EIR or the analysis contained therein. As a result, a detailed response to this comment is not warranted under CEQA.

DD-49 A detailed response related to the project's potential cumulative effects is provided in Response DD-14; please see that response for more detail. As described in Response DD-14, the Draft EIR (see Draft EIR pg. 5-12 through 5-24) includes a detailed evaluation of potential cumulative effects. As described in the Draft EIR, there are a number of anticipated future projects that would reduce the extent of groundwater pumping in the Carmel River watershed and would have beneficial impacts to biological resources, including wetlands. Moreover, there are a number of anticipated future projects that are intended to improve the quality and distribution of wetlands within the Carmel River watershed. As a result, the Draft EIR correctly concluded that the reasonably foreseeable future projects identified in the Draft EIR would result in beneficial impacts to biological resources, including wetlands. As a result, the cumulative effects of the proposed project, when combined with past, present, and reasonably foreseeable future projects, would not be cumulatively considerable. The Draft EIR appropriately evaluates potential cumulative effects consistent with the requirements of CEQA Guidelines Sec. 15130.

DD-50 This comment suggests that the cumulative effects of the project would affect hydrology and water quality. Specifically, the commenter suggests that the proposed project would affect steelhead rescue operations and could shorten the rescue time by days to weeks. A detailed response related to the project's potential cumulative effects is provided in Response DD-14 and Response DD-49. As described in those responses, there are several anticipated future projects that would reduce the extent of groundwater pumping in the Carmel River watershed. As a result, there would be a net beneficial cumulative effect on hydrology and water quality by increasing the volume and duration of surface water flows by reducing groundwater pumping, removing impediments to fish migration (i.e., San Clemente Dam),

restoring historical wetland habitat, and improving overall lagoon function. The Draft EIR correctly concluded that reduced pumping associated with the reasonably foreseeable future projects would result in net beneficial effects on hydrology and water quality. The cumulative effects of the proposed project, when combined with past, present, and reasonably foreseeable future projects, would not be cumulatively considerable. The Draft EIR appropriately evaluated potential cumulative effects consistent with the requirements of CEQA Guidelines Sec. 15130.

While the commenter's claims related to potential project-related effects are provided within the context of the cumulative impact analysis (i.e., **Chapter 5.0, CEQA Considerations**), it is important to note that the commenter's assertion that the proposed project could shorten rescue time by days to weeks is not substantiated by evidence. Rescues occur when MPWMD and partners determine that the river flows are receding or the river is drying. The timing of the rescue can vary from early spring to summer (personal communication, Kevan Urquhart, May 29, 2015). The point at which the rescue begins will not be changed by the project nor will the time available for rescuing be affected, only the start date could be affected and only by a few days (personal communication, Keenan Smith, June 5, 2015). Rescues occur over more than a few days and appear to be systematically scheduled (i.e., every Wednesday and Saturday), so the potential change in timing of the river drying to where pools are isolated by only a few days would easily be accounted in minor changes in scheduling, if any (HDR, personal communication, June 8, 2015). According to Balance, during the last thirty years (existing conditions when the stream has been impacted by the current pumping regime) there were no years when the project would have caused flow to cease within the Project Affected Reach when the River would not have otherwise dried (personal communication, Scott Brown, 1/30/2015). In the worst case scenario, the date of rescue efforts might shift by a matter of hours to a few days, but the overall time available for rescues would not be significantly affected.

DD-51 This comment reiterates prior comments. Please refer to Responses DD-5, DD-9, DD-15, DD-27, DD-43, DD-49

DD-52 Table 4.2-18 was not intended to assess in-stream flow conditions between PODs. This table is merely a comparison of existing agricultural pumping versus municipal pumping. The purpose of the analysis referenced by the commenter was intended to describe basin-wide impacts of the change in temporal distribution of the pumping, as shown in Table 4.2-18, and thus estimate the impact in areas of the stream already impacted by the existing pumping. Based on the results of that analysis, Balance concluded that reach-wide streamflows are expected to be the same or higher during May through October and slightly less from November through April, under the proposed project.

The comment further suggests that water demand patterns are not normal and are the product of the drought conditions. The municipal demand patterns identified in Table 4.2-18 are based on actual Cal-Am pumping records from 1998-2007, a period that includes a range of year-types. The analysis used the maximum pumping rate for each month over that period of analysis, and as such would include abnormally high pumping that might occur

during drought periods for any particular month. Please refer to Responses DD-5, DD-35, and DD-36 for additional information concerning municipal demand.

DD-53 This comment is unclear. The commenter references potential cumulative effects associated with the proposed project, while also appearing to suggest that the project would independently impact groundwater and surface water resources. The commenter does not provide any evidence to support their assertion that potential impacts to groundwater and surface water resources would be significant, other than to suggest that the analysis relies on flawed data. Potential impacts related to groundwater and surface water resources are addressed in **Section 4.2, Hydrology and Water Quality**, and are based on the results of detailed technical analyses prepared in support of the proposed project, as well as detailed monitoring and reporting documentation prepared by MPWMD. The analysis contained in the Draft EIR is based on currently available information. Due to the unclear nature of this comment, a further response is not possible. A detailed response related to the project's potential cumulative effects is provided in Response DD-14; please see that response for more detail.

DD-54 The comment reiterates previous comments. Please refer to Response DD-43 and Response DD-51.

DD-55 The Draft EIR does not claim an environmental improvement within the 5-mile assessment reach. The Draft EIR acknowledged the project's impacts on surface flows within this reach, and concluded that the impact is less-than-significant. The Draft EIR correctly identified that the proposed project could potentially reduce surface water flows between the proposed PODs and existing POD which could result in a change in volume and duration of surface flows. The limited effects of the proposed project were determined to be less-than-significant based on detailed technical analysis conducted as part of the CEQA review process.

DD-56 As described in Response DD-14, DD-50, DD-51, and DD-53, the cumulative effect of the proposed project, when combined with past, present, and reasonably foreseeable future projects, would be beneficial in terms of environmental conditions along the Carmel River and would result in an increase in both volume and duration of surface water flows due to reduced groundwater pumping. The cumulative effects of these projects would potentially increase surface water flows to the Carmel River lagoon.

While the commenter's claims related to potential project-related effects are provided within the context of the cumulative impact analysis contained in **Chapter 5.0, CEQA Considerations**, it is important to note that the Draft EIR acknowledged that the project would shift groundwater withdrawal to a location already impacted by existing groundwater pumping, analyzed the incremental drawdown resulting from the proposed project, and concluded that the additional drawdown would be less-than-significant.

DD-57 As described in Response DD-14, DD-50, DD-51, and DD-53, the cumulative effect of the proposed project, when combined with past, present, and reasonably foreseeable future projects, would represent net beneficial effects on environmental conditions along the

Carmel River and would result in increases in volume and duration of surface water flows due to reduced groundwater pumping.

While the comment is provided within the context of the cumulative impact section, it is worth noting the Draft EIR also evaluated the individual effects associated with increased groundwater pumping within the Project Affected Reach (see Responses B-1, B-5, DD-1, DD-2, DD-5, DD-6, DD-7, DD-9, DD-10, DD-14, DD-31, DD-34, DD-25, DD-41, and DD-56). As described in the Draft EIR (see Draft EIR pg. 4.2-46), the incremental increase in pumping associated with the proposed project would be insignificant in comparison to existing groundwater pumping from the existing PODs. The proposed project could result in a maximum increase in drawdown by approximately 0.31 feet. As described in the Draft EIR, this is considered a conservative estimate because the drawdown analysis assumed 100 days of sustained pumping at the highest rate of recorded pumping at each of the proposed PODs, which overestimates the project's actual effect, because actual pumping for municipal purposes would not occur at such a sustained rate (or at the highest recorded rate). As a result, the Draft EIR appropriately concluded that these effects would be less-than-significant.

DD-58 As described in Response DD-33, the analysis contained in the Draft EIR is specific to the hydrologic and ecological conditions of the Carmel River, in particular the approximately five-mile Project Affected Reach. The Draft EIR and supporting technical analyses relied on stream gage data obtained from the USGS, monitoring data collected by MPWMD, and other resource documentation, as well as observations made in the field and local knowledge of the region and site conditions. The Draft EIR appropriately evaluated potential project impacts based on conditions specific to the Carmel River and the Project Affected Reach.

DD-59 The Commenter's references to "take" here and throughout the comment letter appear to refer to the term as used in the federal Endangered Species Act, where it means to: "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt" to do any of these things. (16 U.S.C. § 1532(19).) "Harm" in this definition means an act which actually kills or injures wildlife, and "may include significant habitat modification or degradation." (50 C.F.R. § 17.3 [italics added].) The Endangered Species Act generally prohibits take of listed species, except that it allows for permission to allow take incidental to other activities under certain circumstances (16 USC § 1538(a)). The California Endangered Species Act provides similar protections and exceptions (see Fish and Game Code, § 2050 et seq.). CEQA does not require that any impact to listed species, or that the take of a single listed species be considered necessarily significant, as the commenter suggests. Instead, CEQA's mandatory findings of significance require a certain level of impact to the listed species. (CEQA Guidelines Sec. 15065) The Commenter provides no evidence demonstrating that the "take" of one individual would be significant under these circumstances. Regardless, under the circumstances at issue here, extensive analysis supports the Draft EIR's conclusion no take is expected to occur, and the Commenter provides no evidence to the contrary. Steelhead abundance and production currently supported under the existing conditions would not change with implementation of the proposed project. Commenter provides no support for the statement that the project would take many hundreds of steelhead. Permit

conditions require that the permittee receive incidental take authorization should this analysis prove to be incorrect. Please also refer to Response DD-37.

- DD-60** The Draft EIR evaluated a range of feasible project alternatives, including an “Existing POD Alternative” that consisted of using the existing POD and constructing an associated pipeline to interconnect with existing Cal-Am infrastructure in the vicinity of the existing POD (see Draft EIR pg. 6-12 through 6-18). As described in the Draft EIR, the construction of physical improvements associated with the rehabilitation of the existing well and pipeline, particularly given that the pipeline would necessarily cross the riparian corridor, would result in physical impacts to the environment beyond those associated with the proposed project.
- DD-61** The Draft EIR fully discloses the extent of potential impact associated with the proposed project based on detailed technical analysis prepared in support of the environmental review process. The analysis contained in the Draft EIR described the extent of potential impacts and determined that these effects would be less-than-significant. The analysis in the Draft EIR represents a good faith effort to disclose the potential impacts associated with the project consistent with the requirements of CEQA Guidelines Sec. 15144 and CEQA Guidelines Sec. 15151.
- DD-62** This comment does not relate to the analysis contained in the Draft EIR or any of the environmental issues evaluated therein, and does not relate to a mitigation measure for a significant impact associated with the proposed project. As a result, a response is not appropriate.
- DD-63** This comment does not relate to the analysis contained in the Draft EIR or any of the environmental issues evaluated therein, and does not relate to a mitigation measure to reduce a significant impact associated with the proposed project. As a result, a response is not appropriate.
- DD-64** This comment does not relate to the analysis of the project contained in the Draft EIR or any of the environmental issues evaluated therein. In addition, this comment is not specific to the Carmel River or related resources. As a result, a response is not appropriate.
- DD-65** Please refer to Response DD-1 regarding YOY movements and behavior; please also refer to supporting technical documentation contained in **Appendix I**. The commenter does not provide any substantial evidence demonstrating that the “small channel” exists for a long enough period of time to facilitate YOY steelhead movement downstream to the lagoon. West Yost and Associates (2013) identified that the proposed project would increase the duration of zero-flow within the Carmel River by less than an average of 7 days per year, with 4.5 of those days occurring in August or later. As described in Response DD-1, YOY do not generally purposefully move to the lagoon during the spring/summer period as suggested in this comment. Please refer to Response DD-1 for a more detailed response; see also Response DD-66 below.
- DD-66** It is highly unlikely that the “subchannel” as described would be used for migration of juvenile steelhead during the period of concern (June through September) and even more

pertinent, it is highly unlikely that the project would substantially affect the YOY's ability to migrate (HDR, 2015). Steelhead life history suggests that steelhead would not volitionally move from a selected site unless forced by other fish or by receding conditions. Essentially all fish escaping reduced habitat availability due to density or declining habitat conditions when flow is 100 gpm in the suggested channel would either end up in a pool or perish as flow continues to recede. The urge to move from a pool to a shallow channel connecting downstream is absent in the YOY life stage incentive to move. This urge would be extremely low (HDR, 2015). The likelihood to move from pool to pool to the lagoon within the few days that the Project would cause the channel depth to decline relative to existing conditions would be extremely low. The Draft EIR appropriately describes and evaluates potential impacts to steelhead and the impacts described by the commenter are unlikely to occur.

DD-67 The commenter previously submitted similar documentation in response to the Notice of Preparation. This information was reviewed as part of preparation of the Draft EIR and is specific to adult returns over San Clemente Dam. This graph, like the prior submittals, does not consider that more and possibly a higher percentage of fish spawn downstream of San Clemente Dam due to improved conditions. Moreover, the implied trend identified in the comment is overly simplistic and does not account for the extent of downstream spawning, errors in counts, or the natural variation in population. In addition, a review of similar data from 1954 through 2011 indicates multiple periods where the estimated steelhead population at San Clemente Dam has fluctuated.



EDMUND G. BROWN JR.
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT



KEN ALEX
DIRECTOR

*MJM/MSM
A030497B*

December 17, 2014

Mitchell Moody
State Water Resources Control Board
1001 I Street
Sacramento, CA 95812-2000

Subject: Eastwood/Odello Water Right Change Petition
SCH#: 2014031008

Dear Mitchell Moody:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. The review period closed on December 15, 2014, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse

2014 DEC 13 4:11:20

EE-1

**Document Details Report
State Clearinghouse Data Base**

SCH# 2014031008
Project Title Eastwood/Odello Water Right Change Petition
Lead Agency State Water Resources Control Board

Type EIR Draft EIR

Description The proposed project would split existing License 13868 into two new licenses and result in changes to the authorized POD, POU, and purposes of use of the new licenses. License 13868 would be revoked and Licenses 13868A and 13868B would be issued. License 13868A would maintain the existing PODs, POU, and purpose of use and include new authorized PODs, POU, and purposes of use. With the changes, the right holder would receive additional authorization to divert water from three existing Cal-Am wells (Canada #2, Cypress and Pearse) in order to provide potable water for municipal purposes to existing lots of records within the parts of Cal-Am's service area that are within the Carmel River watershed or the City of Carmel-by-the-Sea. License 13868B would be dedicated to instream uses within the Carmel River. The project would not increase the maximum authorized annual diversion rate or the maximum authorized instantaneous diversion rate beyond the existing authorized rates in License 13868.

Lead Agency Contact

Name Mitchell Moody
Agency State Water Resources Control Board
Phone 916 341 5383 **Fax**
email
Address 1001 I Street
City Sacramento **State** CA **Zip** 95812-2000

Project Location

County Monterey
City Carmel-by-the-Sea
Region
Lat / Long 36.534157° N / -121.912458° W
Cross Streets Nearest: SR 1 / Rio Road and Carmel Valley Road / Via Mallorca
Parcel No. 243-071-004, 243-071-003, 015-162-047, 169-431-008, 169-211-034
Township **Range** **Section** **Base**

Proximity to:

Highways Hwy 1
Airports No
Railways
Waterways Carmel River
Schools No
Land Use

Project Issues Air Quality; Other Issues; Biological Resources; Geologic/Seismic; Soil Erosion/Compaction/Grading; Forest Land/Fire Hazard; Minerals; Water Quality; Landuse; Population/Housing Balance; Housing; Traffic/Circulation; Aesthetic/Visual; Agricultural Land; Archaeologic-Historic; Drainage/Absorption; Flood Plain/Flooding; Noise; Public Services; Recreation/Parks; Solid Waste; Vegetation; Water Supply; Wetland/Riparian; Wildlife; Growth Inducing; Cumulative Effects

Reviewing Agencies Resources Agency; California Coastal Commission; Department of Conservation; Department of Fish and Wildlife, Region 4; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Office of Emergency Services, California; California Highway Patrol; Caltrans, District 5; Air Resources Board; State Water Resources Control Board, Division of Drinking Water; Regional Water Quality Control Board, Region 3; Native American Heritage Commission; State Lands Commission

Document Details Report
State Clearinghouse Data Base

Date Received 10/30/2014

Start of Review 10/31/2014

End of Review 12/15/2014

LETTER EE. STATE CLEARINGHOUSE RESPONSE

EE-1 Comment acknowledged. No response is necessary.

A030497B MSM

Mark and Bernadette Smith
27299 Prado del Sol
Carmel, CA 93923

RECEIVED
2014 DEC 10 11:05 AM
STATE WATER RESOURCES CONTROL BOARD

December 12, 2014

Mr. Mitchell Moody
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

Dear Mr. Moody:

Reference is made to the Notice of Availability of Draft Environmental Impact Report on the Eastwood Odello Water Right Change Petition Project (License 13868, Application 30497B) Sch No. 2014031008 (the "Draft EIR")

I am writing to comment on the Draft EIR. My comments and opposition are specifically targeted at the change in extraction points for this water transfer. There are three proposed extractions points (wells): Pearse, Cypress and Canada. One of these wells, the Pearse, sits in the middle of our quiet residential neighborhood, Prado Del Sol. This is an inappropriate location for a well for which increased use is contemplated. The Pearse well is located less than 100 feet from several homes in the neighborhood; it hums incessantly when running, which it has done more and more of the time. In addition, when it breaks down, which has been fairly often, it requires heavy equipment to drive up and down our private street, damaging the road, increasing traffic congestion, and causing unreasonable noise and air pollution (pounding and diesel smoke of repair trucks and equipment). It is inappropriate to increase the use of the Pearse well.

FF-1

I believe that the Pearse well should be deleted as an extraction point and the water be extracted from the other two wells which, as I understand it, are out in the open away from homes. My neighbors agree that the Pearse well should be run as little as possible in order to avoid noise and air pollution, as well as traffic congesting from repair trucks. At the very least the use of the Pearse well should not be increased.

Let me say that Cal-Am has worked with our neighborhood and attempted to make the Pearse well quieter. However, the more it runs, the more noise, smoke and traffic it generates and this seriously affects our neighborhood. My point is simply that if there are other locations to extract this water, use those, not a well in the middle of a residential neighborhood.

Sincerely,

Mark Smith

LETTER FF. MARK AND BERNADETTE SMITH

FF-1 This comment expresses opposition to the use of the Pearce well and is similar to comments in Letter E. Please refer to Response E-1 for a detailed response to this comment.

A030497B

MSM

Clarke and Sandi Herbert
27232 Prado del Sol
Carmel, CA 93923

December 12, 2014

Mr. Mitchell Moody
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812

Dear Mr. Moody:

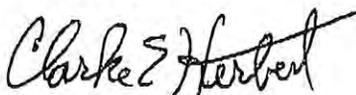
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I believe that the Pearse well should be deleted as an extraction point and the water be extracted from the other two wells which, as I understand it, are out in the open away from homes. My neighbors agree that the Pearse well should be run as little as possible in order to avoid noise and air pollution, as well as traffic congesting from repair trucks. At the very least the use of the Pearse well should not be increased.

Let me say that Cal-Am has worked with our neighborhood and attempted to make the Pearse well quieter. However, the more it runs, the more noise, smoke and traffic it generates and this seriously affects our neighborhood. My point is simply that if there are other locations to extract this water, use those, not a well in the middle of a residential neighborhood.

Sincerely,



Clarke Herbert

GG-1

LETTER GG. CLARKE AND SANDI HERBERT

GG-1 This comment expresses opposition to the use of the Pearce well and is similar to comments in Letter E. Please refer to Response E-1 for a detailed response to this comment.

3.0 REVISIONS TO THE DRAFT EIR

3.1 INTRODUCTION

The following section provides revisions to the text of the Draft EIR, in amendment form, pursuant to CEQA Guidelines Section 15088(d). The revisions are listed by page number. All additions to the text are presented in underline, and all deletions are shown in ~~strike-out~~. These revisions are made to the text in response to comments offered during public circulation of the Draft EIR and to provide minor corrections as needed. While these changes contain important clarifications or amplifications, they are not significant modifications to the text or the conclusions of the Draft EIR.

3.2 REVISIONS TO THE DRAFT EIR

Page 1-2, 1st full paragraph, is revised as follows:

In addition to the changes to the existing license, the project would also involve the adoption of a new rule by the Monterey Peninsula Water Management District (MPWMD or District). The new rule, which would be similar to District Rule 23.5 and Rule 23.6, would allow MPWMD to issue water use permits to property owners within the parts of Cal-Am's service area that are within the Carmel River watershed or the City of Carmel-by-the-Sea, and that have entered into subscription agreements with the licensee.¹⁰ In addition, MPWMD Rules 20, 21, and 22 require written District approval to amend an existing Water Distribution System (WDS). This would entail a separate permit process and public hearing for the Cal-Am WDS, similar to the recent Cal-Am/Cypress Amendment, when Cal-Am received water right from property owners in the Seaside Groundwater Basin. For more information concerning the project, including specifics for each of the proposed new licenses, please refer to **Chapter 3, Project Description**.

Page 2-2, 2nd bullet, is revised as follows:

- **Individual Well Alternative:** Consistent with the Proposed Project, this alternative would split License 13868 into two new licenses and result in changes to the authorized PODs, POU and purposes of use. Unlike the Proposed Project, this alternative would involve the construction of an individual well ~~(or rehabilitation of an existing well)~~ as the new authorized POD for diversion of water for municipal use under License 13868A. This well would be located in the general vicinity of the existing Cal-Am Cañada #2 well, as more thoroughly described below within the context of the

¹⁰ MPWMD has established rules that allow MPWMD to issue water use permits for properties that are beneficiaries and/or recipients of water from certain specified recycled water and/or alternative water supply projects. MPWMD Rule 23.5 specifies the District's procedures for processing applications for, and issuing, water use permits for allocations of water entitlements based on the Pebble Beach Company's Recycled Water Project. MPWMD Rule 23.6 specifies the District's procedures for processing applications for, and issuing, water use permits for allocations of water entitlements based on the Sand City Desalination Facility. The proposed project includes proposed new MPWMD Rule 23.7, which would specify new District procedures for processing applications for, and issuing, water use permits for allocations of water entitlements based on proposed water right License 13868A.

CDFW/NMFS Protest Dismissal Agreements. This alternative would also require the construction of other infrastructure improvements (i.e., pipeline) to connect with Cal-Am's existing water distribution system. All other aspects of this alternative would be the same as the proposed project. The following information below provides additional specificity regarding the nature of this alternative, based on the terms of the CDFW and NMFS Protest-Dismissal Agreements.

- **CDFW and NMFS Protest-Dismissal Agreements (Eastwood/Cañada Individual Well):** On December 8, 2014 and March 12, 2015, respectively, CDFW and NMFS entered into protest dismissal agreements with the Licensee, which include the specific location of a new well that would be used to pump water for municipal purposes. Implementation of these agreements would result in changes to License 13868 to include the new authorized POU and the new purposes of use, consistent with the proposed project. The terms of the CDFW/NMFS Protest-Dismissal Agreements were used to further refine the Individual Well Alternative to include additional specificity regarding the location of a new well, which would be located in the area previously depicted in Figure 6-1 in the Draft EIR. Accordingly, the Individual Well Alternative was revised to clarify and amplify the existing analysis and include additional specificity regarding the proposed new well, referred to as the Eastwood/Cañada well, which would serve as the primary new authorized POD under this alternative. This well would be located near the existing Cañada #2 well, as shown in Figure 6-1a. The proposed location of this well is consistent with the geographic area associated with Individual Well Alternative; the construction and operation of this well would result in impacts consistent with the scope of environmental effects described therein. This new well would be the primary POD for pumping under proposed License 13868A for municipal purposes and would be constructed within one year from the issuance of the proposed licenses. The three existing Cal-Am PODs would still be included as authorized PODs in proposed License 13868A under this alternative, but they would be used only under the following circumstances: a) during the first year after license issuance before the new well is constructed, b) during routine well maintenance, or c) due to an emergency outage. Water diverted under proposed License 13868A would be used for municipal purposes with a maximum amount of diversion of 85.6 af/yr and a rate of diversion equal to 0.16 cfs; proposed License 13868B would dedicate approximately 46.2 af/yr to instream beneficial uses. Proposed License 13868A would allow the rate of diversion to exceed 0.16 cfs at times, provided the rate of diversion does not exceed 0.37 cfs.

Page 2-3, 2.4 Environmentally Superior Alternative, 3rd paragraph, is revised as follows:

The various alternatives evaluated in this EIR would result in the construction of physical improvements and related infrastructure, which would result in additional direct environmental effects beyond those associated with the proposed project. As a result, the Alternative Place of Use alternative could be environmentally superior to the other alternatives analyzed in this EIR. This alternative would not result in the physical construction of infrastructure improvements and therefore would not result in any additional environmental impacts beyond those associated with the project. ~~Whereas, the~~ The Individual Well Alternative, which would include the well location identified in the CDFW and NMFS Protest-Dismissal Agreements (Eastwood/Cañada Individual Well), and Existing POD alternative would both result in the construction of physical improvements and related infrastructure, which could result in greater direct effects than the proposed project. While the Alternative Place of Use alternative would be superior in the sense that it would

result in less adverse effects than the other alternatives, it would not lessen or otherwise avoid the adverse, albeit less-than-significant, impacts associated with the project.

Page 2-3 through page 2-4, Environmentally Superior Alternative, last partial paragraph, is revised as follows:

While both the Alternative Place of Use alternative and Existing POD Alternative would be considered superior in some regards, the Individual Well Alternative, which would include the well location identified in the CDFW and NMFS Protest-Dismissal Agreements (Eastwood/Cañada Individual Well), is herein identified as the environmentally superior alternative. This alternative is identified as the environmentally superior alternative on the basis that this alternative would involve limited (less-than-significant) construction related effects (i.e., construction of new well or rehabilitation of existing well) as compared to the other alternatives. The Individual Well Alternative also includes the construction (or rehabilitation) of a well that is located farther downstream of the proposed PODs, and therefore would result in a smaller affected reach of the Carmel River than the affected reach under the proposed project, although as explained in **Chapter 6, Alternatives**, the relative impacts between this alternative and the proposed project in this regard are nominal and under each scenario would result in a less than significant impact.

Page 3-3, 2nd full paragraph, is revised as follows:

MPWMD has also established rules that allow MPWMD to issue water use permits for properties that are beneficiaries and/or recipients of water from certain specified recycled water and/or alternative water supply projects. For example, MPWMD Rule 23.5 specifies the District's procedures for processing applications for, and issuing, water use permits for allocations of water entitlements based on the Pebble Beach Company's Recycled Water Project. MPWMD Rule 23.6 specifies the District's procedures for processing applications for, and issuing, water use permits for allocations of water entitlements based on the Sand City Desalination Facility. The proposed project includes proposed new MPWMD Rule 23.7, which would specify new District procedures for processing applications for, and issuing, water use permits for allocations of water entitlements based on proposed License 13868A. In addition, MPWMD Rules 20, 21, and 22 require written District approval to amend an existing Water Distribution System (WDS). This would entail a separate permit process and public hearing for the Cal-Am WDS, similar to the recent Cal-Am/Cypress Amendment, when Cal-Am received water right from property owners in the Seaside Groundwater Basin.

Page 3-21, Section 3.9.3, MPWMD New Rule, is revised as follows:

In addition to the changes to the existing license, the proposed project includes proposed new MPWMD Rule 23.7 which would specify new District procedure similar to District Rule 23.5 for processing applications for, and issuing, water use permits for allocations of water entitlements based on proposed License 13868A. The proposed Rule 23.7 would allow MPWMD to issue water use permits to owners of existing lots of record within the parts of Cal-Am's service area that are within the Carmel River watershed or the City of Carmel-by-the-Sea, and that have entered into subscription agreements with the licensee. In addition, MPWMD Rules 20, 21, and 22 require written District approval to amend an existing Water Distribution System (WDS). This would entail a separate permit process and public hearing for the Cal-Am WDS to receive water provided under License 13868A.

Page 4.1-14, third full paragraph, is revised as follows:

The quality of riparian habitat within the Carmel River watershed also varies. According to MPWMD, the furthest upstream portions of the Carmel River (the nine-mile reach upstream of Los Padres Reservoir) are the least impacted by human influences and remain naturally sustainable (MPWMD, 2004). Between Los Padres Dam and the Narrows,¹¹ a distance of approximately 15 miles, riparian areas appear to be in reasonably good condition, although channel degradation (incision into sediment deposits) immediately downstream of Los Padres Dam and San Clemente Dam has left the root structures of many streamside trees exposed to scour and erosion. Between the Narrows and the Pacific Ocean, a distance of approximately 10 miles, much of the riparian-wetland area is functionally impaired due to groundwater extraction and development adjacent to the stream banks (CRWC, 2005). To minimize potential upstream impacts to biological resources due to groundwater withdrawals, the majority of groundwater extraction occurs within the lower 10 miles of the Carmel River, which includes the five-mile project study area. To offset potential impacts due to groundwater withdrawals, MPWMD implements a variety of measures (e.g., irrigation, vegetation maintenance, stream bank reconstruction, etc.) as part of the Mitigation Program. In addition, MPWMD also implements annual ~~CRLF~~ and steelhead rescues, habitat enhancement activities, and monitoring to minimize potential effects due to groundwater withdrawals. Cal-Am is responsible for implementing CRLF rescues as authorized by the U.S. Fish and Wildlife Service.

Page 4.1-22, 1st sentence of first partial paragraph, is revised as follows:

...In general, steelhead migrate to the sea as ~~one two~~ year old fish, spend two years in the ocean, and then return to fresh water to spawn. Peak spawning for steelhead occurs from December through April in small streams and tributaries (HDR, 2014a).

Page 4.1-35, last full paragraph, is revised as follows:

Current groundwater pumping of approximately 5 cfs in the Rancho Cañada area several miles upstream of the lagoon leads to an annual cycle – with pre-winter groundwater depressions extending west to above Rio Road, followed by rapid wintertime recovery. If pumping at the current PODs for License 13868 is causing similar depressions, the primary source of summer freshwater flow into the lagoon currently is being reduced by ~~this existing pumping under License 13868~~. Because the proposed project has the potential to reduce or eliminate pumping at the current PODs for License 13868, the proposed project ~~could potentially would~~ ~~slightly~~ increase surface flow immediately upstream of the lagoon during pre-winter conditions, potentially improving steelhead habitat in the lagoon (HDR, 2014a). The extent and volume of potential increased flows would be limited due to the attenuating effects of withdrawing water from the aquifer as opposed to directly from the river. However, the net volume of water that is being pumped now is already accounted for in the water balance for the lagoon under existing conditions, and therefore no negative impact to lagoon inflows would result from the proposed project (Balance, 2014a; see also WYA, 2013).

¹¹ Narrows refers to the portion of the Carmel River upstream of the alluvial valley.

Page 4.1-41, 1st full paragraph, is revised as follows:

As discussed above, HDR Inc. evaluated the potential effects of the project on steelhead riverine and lagoon habitat, juvenile rearing, adult spawning, and migration. The evaluation concluded that the reductions in flow resulting from the proposed project would not be large enough to prevent or interfere with steelhead or their various life stages or habitat requirements, particularly their migration, in a manner that would substantially reduce their numbers or restrict their range. The evaluation also concluded that riverine habitat availability and utility, assessed in terms of LWD, substrate, channel morphology, and flow, was of very low quality within the evaluation area. Also, because the project has the potential to reduce or eliminate pumping at the current PODs for License 13868, the proposed project would not affect lagoon inflows and it could slightly increase surface flow immediately upstream of the lagoon during pre-winter conditions, potentially improving steelhead habitat in the lagoon (HDR, 2014a).

Page 4.1-41, 2nd full paragraph, is revised as follows:

Therefore, because of: 1) the location of the project and the habitat quality in the potentially affected reach of the Carmel River, 2) the timing of potential impacts relative to steelhead life-stage periodicity in the potentially affected reach, and 3) the very small changes in surface flow in the project affected reach that would occur due to the proposed project, the proposed project would not significantly affect Carmel River steelhead population or its designated critical habitat (HDR, 2014a; HDR 2014b; Balance 2014a; Balance 2014b). The proposed project would not result in the loss of steelhead. Steelhead abundance and production currently supported under the existing conditions would not change with implementation of the proposed project.

Page 4.2-29, last paragraph beginning on page 4.2-29 and continuing onto 4.2-30, is revised as follows:

The recommended instream flow requirements identified by CDFW in 1983 did not include any specific recommendations for minimum instream flow according to season. In 2002, NMFS issued a report, which identified recommended instream flows to protect stream-related fish and wildlife resources (i.e., steelhead). MPWMD recently indicated that it is studying instream flow requirements and that preliminary results indicate that actual minimum instream flow requirements to protect stream-related fish and wildlife resources are anticipated to be lower than those initially estimated by NOAA and CDFW (HDR, William Snider, personal communication, 2014).¹²

¹² While CDFW has identified recommended instream flow standards for the Carmel River, no official standards have been adopted and more-recent technical analyses indicate that actual instream flow requirements may be less (HDR, 2014). The analysis contained in this EIR is based on most recent technical analysis that considers project-specific impacts as it relates to the project affected reach. This EIR includes an evaluation of the proposed project's potential impacts based on the results of site-specific technical reports.

Page 5-3, Table 5-1 is revised as follows:

**Table 5-1
Vacant/Undeveloped Parcels
Unincorporated Monterey County & City of Carmel-by-the-Sea**

Jurisdiction	Place of Use (acres)	Vacant Residential Lots	Vacant/Underutilized Commercial (unit)	Public Facility	Industrial	Other
Monterey County	16,595	492	239 acres	N/A	0	N/A
Carmel-by-the-Sea	526	58 56*	78 82 residential dwelling units; commercial unknown**	Public Restroom(s)	0	N/A

Notes:

*Single-family residential. Total number of potential units is estimated to be ~~74~~ 70 dwelling units. This assumes minor subdivisions of seven (7) existing lots of record. As described elsewhere in this EIR, License 13868A would not be used for the purposes of any new commercial or residential subdivision. It is estimated that the project could serve up to 53 dwelling units on existing vacant residential lots in the City of Carmel-by-the-Sea. Twenty-seven of these lots are located outside of the watershed.

** While not quantified in the 2007-2014 Housing Element, additional mixed-use dwelling units could be developed through the conversion of space in commercial buildings to residential uses (e.g., upper floor offices converted to dwelling units). As described elsewhere in this EIR, municipal water use under License 13868A would not be used for the purposes of new subdivisions, including any subdivisions that may occur in connection with the conversion of commercial tenant space to residential use.

Source: County of Monterey, 2008 General Plan EIR; Table 3-8, pg. 3-16
City of Carmel-by-the-Sea, 2007-2014 Housing Element; Table 2-5, pg. 2-8

Page 5-3, 1st full paragraph, is revised as follows:

...The City estimates that up to 18.5 af/yr (assuming a residential demand of 0.25 af/yr) would be necessary to serve its existing ~~58~~ 56 residential lots of record (Marc Wiener, May 2014). According to the 2007-2014 Housing Element, development on existing vacant residential lots could accommodate up to 74 dwelling units assuming minor subdivisions of seven (7) of the 58 existing vacant residential lots. Proposed License 13868A would not include water use to support the development of new subdivisions. Therefore, the projected residential demand could be less than 18.5 af/yr. The estimated water demand excludes potential commercial or public facility demands as well as additional demands in connection with the development of mixed use or other opportunity sites in the City of Carmel-by-the-Sea. According to the City of Carmel-by-the-Sea's 2007-2014 Housing Element, there are opportunities for an additional ~~78~~ 82 dwelling units within existing commercial areas and an additional 12 dwelling units in the R-4 zone.

Page 6-3, Section 6.4, is revised as follows:

The following section discusses the alternatives evaluated in this EIR and the comparative environmental effects of each. The alternatives considered in this analysis are as follows:

- No Project
- Individual Well Alternative
- Existing POD Alternative
- Alternative Place of Use

Page 6-4, Table 6-1, is revised as follows:

Impact	No Project Alternative	Individual Well Alternative, Including CDFW/NMFS Agreement*	Existing POD Alternative	Alternative Place of Use
Aesthetics	<	>	>	=
Agricultural/Forest Resources	=	=	=	=
Air Quality	<	>	>	=
Biological Resources	<	</>	>	=
Cultural Resources	<	>	>	=
Geotechnical	<	>	>	=
Hazards & Hazardous Materials	<	>	>	=
Hydrology & Water Quality	>	</>	<	=
Land Use & Planning	<	=	=	=
Noise	<	>	>	=
Public Services & Utilities	<	>	>	=
Traffic	<	>	>	=

Note:

1. The No Project Alternative would avoid all of the proposed project's potential secondary effects due to growth inducement. This table indicates that this alternative would result in fewer impacts than the proposed project in terms of the project's secondary effects. All other alternatives evaluated in this EIR would result in similar secondary effects; however, direct effects would vary according to the nature of proposed infrastructure improvements proposed as part of each alternative. As a result, the comparison of impacts for each of the other alternatives is specific to the direct effects of the alternative.

* The Individual Well Alternative would result in the construction of a new well ~~(or rehabilitation of an existing well)~~ and would therefore result in additional, albeit temporary, construction related impacts that could potentially affect biological resources and hydrology. As a result, potential impacts would be greater in regards to specific resource considerations. However, this alternative would also reduce the extent of direct impacts associated with the proposed project by locating the proposed POD farther downstream from the proposed PODs, which would minimize the extent of direct impacts associated with the proposed project, although it is important to note that these differences would be nominal and would not change the overall significance determination (i.e., less-than-significant) contained in this EIR.

> Impact greater than proposed project

= Impact comparable to proposed project

< Impact less than proposed project

Page 6-6, Section 6.4.2, Individual Well Alternative, is revised as follows:

Description

This alternative would result in changes to License 13868 to include changes to the authorized POU, and purposes of use consistent with the proposed project. This alternative would split existing License 13868 into two new licenses: License 13868A and 13868B. Unlike the proposed project, this alternative would involve the construction of an individual well ~~(or rehabilitation of an existing well)~~ as the new well, referred to as the

Eastwood/Cañada well, as a new authorized PODs. This well would be located approximately 100 feet northeast of Cal-Am's existing Cañada #2 well, as shown in Figure 6-1a, which is consistent with the general area depicted in Figure 6-1 in the Draft EIR. This well would be located in the general the vicinity of the existing Cañada #2 well. It is anticipated that this well could be located in the general areas shown in Figure 6-1, although the final location of the well would depend on site-specific factors (e.g., site suitability, proximity to existing wells, etc.). This would have an estimated production capacity of approximately 200 gpm (Figure 6-1). This well would be the new POD for proposed License 13868A.

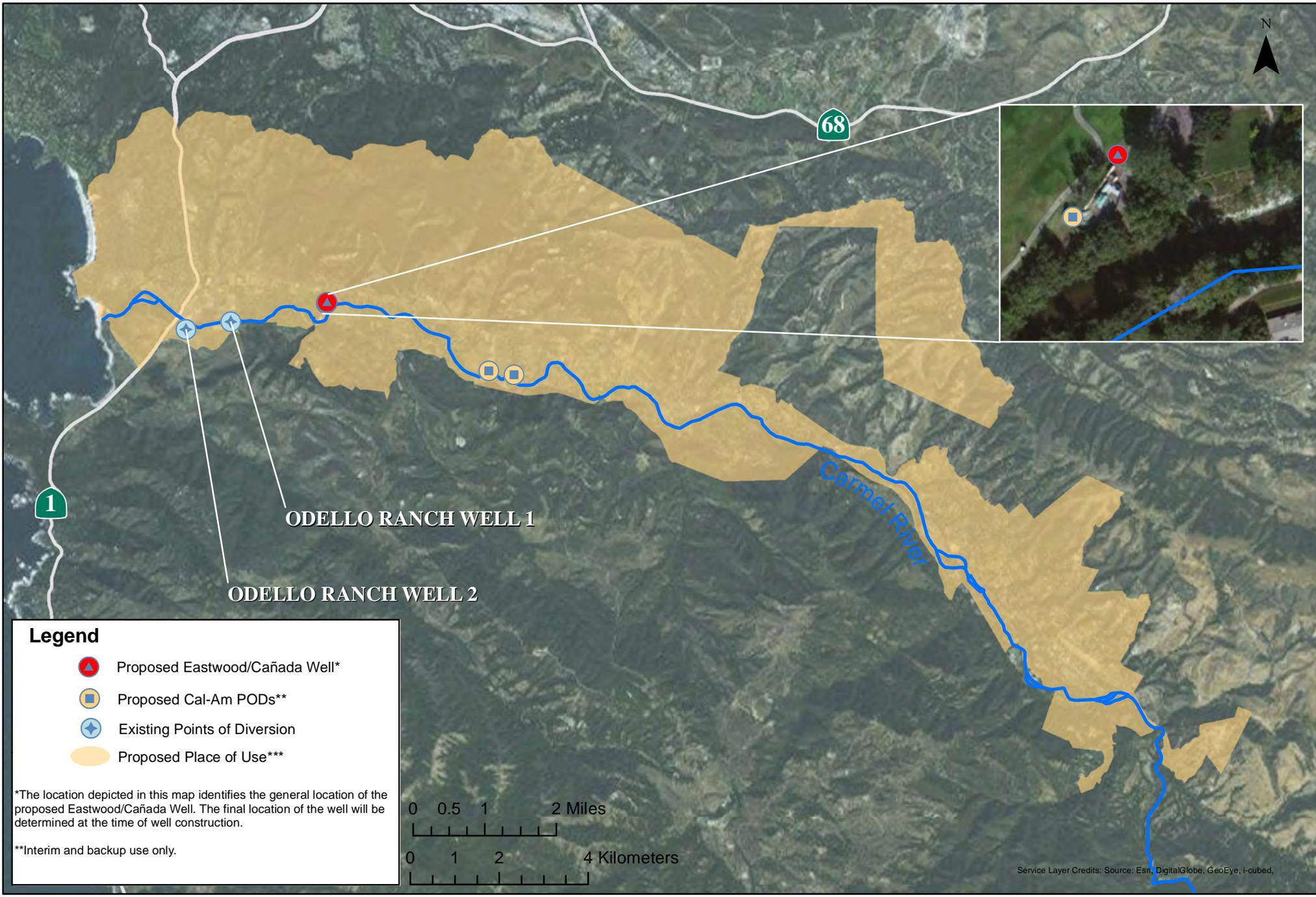
This well would be the primary POD for pumping for municipal purposes under proposed License 13868A and would be constructed within one year from the issuance of the proposed licenses. All diversions for municipal use would occur from this POD; no other additional PODs are proposed as part of this alternative (except as a back-up POD during times when the new well may need to be serviced). The three existing Cal-Am PODs would be included as additional authorized PODs under this alternative, but would be used only under the following circumstances: a) during the first year after license issuance before the new well is constructed, b) during routine well maintenance, or c) due to an emergency outage.¹³ Diversion of water under proposed License 13868A would be limited to a rate of 0.16 cfs and a maximum annual limit of 85.6 afy. However, the equivalent of the continuous flow allowance (0.16 cfs) may be diverted in a shorter time provided that the maximum rate of diversion does not exceed 0.37 cfs. In addition, any diversions through any of the three Cal-Am PODs would be further limited to a maximum rate of 0.16 cfs (averaged over a 24-hour period) from June 1 through November 30 of each year. CDFW notification would be required prior to the use of the three Cal-Am PODs. The existing POD, the Eastwood/Odello well (also referred to as Odello #2), would be used only for irrigation purposes under this alternative. This alternative would require the construction of an individual well and related improvements (i.e., pipeline) (or rehabilitation of an existing well) located approximately ~~one-mile~~ two-miles upstream from the existing PODs. This location would represent the furthest downstream POD for municipal diversion.

Page 6-9 is revised as follows:

Biological Resources

The construction and operation of an individual well and associated conveyance infrastructure would result in potential biological effects. This alternative would result in ground-disturbing activities, which could potentially affect special-status species known to occur or that have the potential to occur within proximity of the proposed well location. The proposed new well would, however, be located in a previously disturbed area. While the extent of potential effects would be contingent upon project-specific detail and site-specific surveys, a variety of special-status species are known to occur within the vicinity of the proposed project and this alternative (please refer to **Section 4.1, Biological Resources**, for more information). As a result, this alternative could potentially affect existing biological resources known to occur in the vicinity of the project, but, given the existing disturbed/developed nature of the site and proximity to existing Cal-Am distribution

¹³ Use of the proposed Cal-Am PODs would be on an interim or backup basis and would result in impacts comparable to those that would occur with the proposed project (i.e., localized biological and hydrology and water quality effects). Although some interim or backup use of these Cal-Am PODs could occur, this use would be infrequent and limited in duration. As a result, this alternative would reduce the extent of the Project Affected Reach by having almost all pumping occur farther downstream.



ODELLO RANCH WELL 1

ODELLO RANCH WELL 2

Legend

-  Proposed Eastwood/Cañada Well*
-  Proposed Cal-Am PODs**
-  Existing Points of Diversion
-  Proposed Place of Use***

*The location depicted in this map identifies the general location of the proposed Eastwood/Cañada Well. The final location of the well will be determined at the time of well construction.

**Interim and backup use only.

0 0.5 1 2 Miles

0 1 2 4 Kilometers

Service Layer Credits: Source: Esri, DigitalGlobe, GeoEye, i-cubed,



Title: **CDFW Protest-Dismissal (Eastwood/Cañada Individual Well) Alternative**

Date: 6/26/2015

Scale: 1 inch = 2 miles

Project: 2013-24



Monterey | Truckee | San Jose
Denise Duffy and Associates, Inc.
 Environmental Consultants Resource Planners
 947 Cass Street, Suite 5
 Monterey, CA 93940
 (831) 373-4341

Figure
6-1a

~~pipelines, it is not anticipated that this alternative would result in any significant adverse environmental impacts. All potential ground-disturbing activities would be temporary in nature and limited to a small, previously developed, site, and thereby warrant site-specific mitigation to ensure that temporary construction impacts would be avoided. Although construction activities would result in additional environmental effects beyond those associated with the proposed project, potential biological effects would be addressed through the implementation of site-specific mitigation measures. As a result, potential construction-related impacts would be less-than-significant.~~

In addition to the direct physical effects associated with construction of an individual well and associated infrastructure, this alternative would also result in additional biological effects associated with the operation of the proposed well. The type of impacts would be similar to those of the proposed project. Specifically, this alternative could result in localized impacts to biological resources including riparian vegetation and special status-species due to pumping at the proposed new POD. Pumping under this alternative could reduce surface flows in the mainstem of the Carmel River, which could affect fisheries and other special-status species. West Yost & Associates (2015) prepared a technical memorandum that describes the potential impacts associated with operation of the proposed Eastwood/Cañada well. The operation of the Eastwood/Cañada well could result in localized drawdowns of adjacent wells (West Yost, 2015). According to that memorandum, which is included as Appendix H, drawdowns associated with this well would be comparable to estimated drawdowns for the proposed project with project pumping at the Cañada #2 well. West Yost concluded that pumping from the proposed Eastwood/Cañada well “would cause almost immeasurable changes” in the amount of drawdowns as compared to use of the existing Cal-Am Cañada #2 well under the proposed project. This alternative would slightly increase the duration of surface flows as compared to the proposed project by moving the proposed POD further farther downstream from the three additional POD, which would be used on an interim and infrequent basis proposed as part of the proposed project. Nevertheless, operational effects associated with this alternative would be comparable, albeit slightly less, than the proposed project.

Cultural Resources

This alternative could potentially affect cultural resources due to the construction of a new well and associated infrastructure. Ground-disturbing activities could potentially affect buried or previously unknown archaeological resources, destroy a unique paleontological resource, disturb human remains, and/or otherwise affect existing cultural resources. This alternative would be located in an area of high archaeological sensitivity according to the County of Monterey (Monterey County, 2010). As a result, this alternative could potentially adversely affect cultural resources. As described above, the proposed project site is located in a previously disturbed area. Due to the disturbed nature of the site, potential impacts to cultural resources are not anticipated to be significant. The extent of these effects would, however, depend on site-specific and project-specific circumstances, including the results of a cultural resource survey. Due to the archaeological sensitivity of the area, it is anticipated that some construction phase mitigation would be required, including standard mitigation measures related to the discovery of previously unknown or buried archaeological resources. While this alternative could potentially affect cultural resources, it is anticipated that any potential construction-related effects could be reduced to a less than significant level through careful site design, standard construction phase mitigation measures, and site-specific mitigation as necessary (e.g., construction monitoring).

Page 6-10 is revised as follows:

Geology/Soils

The new well (and associated infrastructure) for this alternative would be located in a seismically active region. Therefore, proposed infrastructure could be exposed to seismically-induced hazards due to fault rupture, strong seismic ground shaking, and similar effects. Any new infrastructure constructed as part of this alternative would be required to comply with all applicable Monterey County requirements related to grading and construction of new wells. Applicable requirements would include construction of project improvements and associated grading/trenching to be conducted in accordance with the recommendations of a design-level geotechnical analysis. Compliance with existing Monterey County requirements would ensure that potential seismically induced hazards would be less-than-significant. Ground-disturbing activities associated with the construction of infrastructure as part of this alternative could result in temporary effects due localized erosion effects. Any potential construction related effects could be reduced to a less-than-significant level through the implementation of standard construction-phase Best Management Practices (BMP). In order to ensure that temporary construction-related effects would be substantially lessened to a less-than-significant level, this alternative would require the implementation of mitigation to ensure the successful implementation of BMPs during construction. This mitigation measure would consist of the preparation and submittal of detailed construction plans that would identify applicable construction BMPs related to erosion control. This plan would be submitted to the State Board prior to the commencement of construction. As a result, this alternative would result in a less-than-significant effect in terms of geology and soils.

Hazardous and Hazardous Materials

This alternative could result in potential temporary effects in connection with construction-related activities. The use of construction equipment could entail the transport and use of small amounts of potentially hazardous materials, such as diesel fuel, paint, and other material. The accidental release of potentially hazardous materials during construction could result in potential adverse environmental effects. The extent and nature of potential effects would ultimately depend on the nature of construction activities. It is anticipated that additional measures would be necessary during construction to ensure that all construction-related effects would be less-than-significant. As described above, the project site is located on a previously disturbed site. The implementation of standard construction-phase best management practices (BMPs) intended to address the inadvertent spill of hazardous materials during construction would ensure that potential impacts would be less-than-significant. In order to ensure that standard construction-phase BMPs would be implemented to substantially lessen potential temporary effects to a less-than-significant level, this alternative would require the implementation of mitigation, which would consist of the preparation and submittal of detailed construction plans to the State Board. These plans would be required to identify applicable construction BMPs, such as applicable spill control and prevention measures to address the accidental release of a potentially hazardous material during temporary construction related activities. This plan would be required to be submitted to the State Board prior to the commencement of construction. This alternative would require construction phase mitigation consisting of a Hazardous Materials Response Plan to ensure that potential impacts are minimized to a less-than-significant level. This mitigation measure would be in addition to standard construction phase BMP that would be implemented during construction.

Hydrology/Water Quality

This alternative could result in potential hydrology and water quality effects due to the construction and operation of a new well and associated infrastructure. Temporary construction-related effects could include

temporary water quality effects due to erosion and use of construction equipment. ~~Depending on the nature of construction activities and project-specific factors, mitigation measures may be necessary to ensure that temporary impacts are reduced to a less-than-significant level.~~ This alternative would be located in a 100-year flood hazard area and all site improvements would be required to comply with applicable requirements contained in the Monterey County Code related to the construction of improvements in areas located within the 100-year flood hazard area.

The operation of this alternative would result in potential environmental effects that are comparable to those associated with the proposed project, although impacts would be slightly different: 1) all groundwater pumping would occur from a single POD, whereas the proposed project would use three potential POD; 2) the location of the proposed well could potentially affect adjacent wells ~~depending on the final location of the well~~ (i.e., the well could affect drawdown of adjacent wells), ~~although Cal-Am has indicated that the size of the well necessary to serve municipal use under this alternative would be relatively small and would not significantly affect existing Cal-Am operated facilities in the vicinity;~~ and, 3) potential effects to streamflow in the mainstem of the Carmel River would be slightly reduced because this alternative would locate the authorized POD farther downstream than the POD for the proposed project. Use of the proposed Eastwood/Cañada well would result in localized impacts (i.e., drawdowns) from groundwater pumping comparable to those estimated for the proposed project. The operation of the Eastwood/Cañada well could result in localized drawdowns of adjacent wells (West Yost, 2015). Drawdowns associated with this well would be comparable to estimated drawdowns for the proposed project with project pumping at the Cañada #2 well (West Yost, 2015). West Yost concluded that pumping from the proposed Eastwood/Cañada well “would cause almost immeasurable changes” in the amount of drawdowns as compared to use of the existing Cal-Am Cañada #2 well under the proposed project.¹⁴ West Yost concluded that there could be a slight increase in drawdown at some of the adjacent production wells due to their proximity to the proposed new well, but the extent of such drawdown would be less than the maximum estimated drawdown of 0.31 foot for the proposed project. Moreover, West Yost also concluded that the Eastwood/Cañada well would also result in a slight decrease in drawdown at the Carmel River because the well would be located slightly further away from the Carmel River than the Cañada #2 well. This alternative would still, however, result in potential impacts similar to the proposed project in regards to surface water and groundwater resources. Please refer to **Section 4.2, Hydrology and Water Quality** for a detailed discussion of potential hydrology and water quality effects.

Page 6-21, Section 6.4.5, Environmentally Superior Alternative, third paragraph, is revised as follows:

As described above, the various alternatives evaluated in this EIR would result in the construction of physical improvements and related infrastructure, which would result in additional direct environmental effects beyond those associated with the proposed project. As a result, the Alternative Place of Use alternative could be environmentally superior to the other alternatives analyzed in this EIR. This alternative would not result in the physical construction of infrastructure improvements and therefore would not result in any additional

¹⁴ As described in Section 4.2, Hydrology and Water Quality, West Yost estimated potential drawdown effects associated with the proposed project based on 100-days of continuous pumping at the maximum recorded rate of pumping identified for that specific well. This approach may overstate the actual extent of project impacts because 100 days of sustained pumping at a rate equal to the highest pumping rate of record for that well (for the period 2008-2012) is unlikely to actually occur with the anticipated municipal demand pattern.

environmental impacts beyond those associated with the project. ~~Whereas, the Individual Well Alternative, including refinements described in the CDFW/NMFS Protest-Dismissal Agreement, and Existing POD alternative would both result in the construction of physical improvements and related infrastructure, which could result in greater direct effects than the proposed project. While the Alternative Place of Use alternative would be superior in the sense that it would result in less adverse effects than the other alternatives, it would not lessen or otherwise avoid the adverse, albeit less-than-significant, impacts associated with the project.~~

Page 6-22, Section 6.4.5, Environmentally Superior Alternative, first full paragraph, is revised as follows:

While both the Alternative Place of Use alternative and Existing POD Alternative would be considered superior in some regards, the Individual Well Alternative, including the refinements described in the CDFW/NMFS Protest-Dismissal Agreement, is herein identified as the environmentally superior alternative. This alternative is identified as the environmentally superior alternative on the basis that this alternative would involve limited (less-than-significant) construction related effects (i.e., construction of new well or rehabilitation of existing well) as compared to the other alternatives evaluated above. Moreover, as described above, this alternative would result in the construction (or rehabilitation) of a well that is located further downstream from the proposed PODs. As a result, this alternative would lessen the extent of potential impacts associated with the proposed project related to biological resources and hydrology by reducing the size of the project affected reach, although it would still result in limited impacts during construction.

As described above, the proposed project would not result in any significant adverse environmental effects. The proposed project would not directly result in the construction of any physical improvements and all potential localized environmental effects associated with the change in PODs under proposed License 13868A are less than significant. Thus, it should be noted that the relative difference between the effects of the Individual Well Alternative and the proposed project would be nominal and would be considered less-than-significant under each of the topical CEQA resource areas, although the Individual Well Alternative would require the implementation of mitigation to ensure that BMPs are implemented during construction to address temporary erosion related effects and potential impacts associated with the accidental release of a potential hazardous material (e.g., oils, solvents, etc.). Nonetheless, the environmentally superior alternative would be the Individual Well Alternative.

Page 7-6, is revised as follows:

HDR, Inc., 2014^a, Assessment of potential effects of Eastwood/Odello Water Rights Change in point of diversion on Carmel River steelhead (*Oncorhynchus mykiss*). Technical memorandum dated January 2014.

. 2014b. Carmel River steelhead evaluation addendum providing review of public comments submitted regarding Eastwood/Odello Water Rights Change Petition on Carmel River steelhead (*Oncorhynchus mykiss*). Technical memorandum dated May 3, 2014

. 2015. Carmel River Steelhead Evaluation Addendum providing review of comments submitted regarding Eastwood/Odello Water Rights Change Petition on Carmel River steelhead (*Oncorhynchus mykiss*) draft Environmental Impact Report. Technical memorandum dated February 12, 2015

Page 7-15, is revised as follows:

Urquhart, Kevan, Monterey Peninsula Water Management District, Senior Fisheries Biologist. 2015. Personal communication, May, 29, 2015

Ventana Wildlife Society. 2008. Avian Diversity and Riparian Focal Species Abundance on the Lower Carmel River, Monterey County, CA 1992-2007

West Yost Associates 2013. Groundwater and Surface Water Evaluation Report; Eastwood/Odello Water Right Change Petition Project. October 2013

. 2015. Eastwood/Odello Water Right Change Petition Project – Impacts of Proposed Pumping Location Change. January 2015