

December 2, 2016

Dr. Jean-Pierre Wolff  
Board Chair  
Central Coast Regional Water Quality Control Board  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401

Dear Chairman Wolff,

I am writing to provide background information regarding the proposed Pacific Grove Local Water Project (PGLWP) that will come before you at the December 8, 2016 board meeting as agenda item #8 - Waste Discharge Requirements and Water Reclamation Requirements for the City of Pacific Grove Local Water Project, Order No. R3-2016-0044.

On November 17, 2015 the SWRCB approved \$7.7M to fund the PGLWP but in so doing placed a condition on the financing (see SWRCB Res. 2015-0070, pp. 2-4 attached). This financing condition affirmed both Section 19.2 and Condition 2 of SWRCB Water Right Order 2009-0060 (Cal-Am Cease and Desist Order). They also affirmed the importance of quantifying any project goal or promise to offset (reduce) past potable use. The video of their November 17, 2015 discussion, regarding this project, can be found here:

[https://youtu.be/m5Eg4DJaiYs?list=UUMkV9rMDcivK-OkN9WbB\\_lg](https://youtu.be/m5Eg4DJaiYs?list=UUMkV9rMDcivK-OkN9WbB_lg)

For the record, the City of Pacific Grove had attempted to immediately reuse the “saved” potable water that the proposed wastewater scalping plant would “free up”, even while the Cal-Am Cease and Desist Order is in effect (see links below).

<http://www.montereyherald.com/article/NF/20151030/NEWS/151039970>  
<http://www.montereyherald.com/article/NF/20151119/NEWS/151119754>  
[http://www.waterboards.ca.gov/board\\_info/agendas/2015/nov/comments111715\\_item7/docs/luke\\_coletti.pdf](http://www.waterboards.ca.gov/board_info/agendas/2015/nov/comments111715_item7/docs/luke_coletti.pdf)

Further, on July 19, 2016 the SWRCB attached an additional condition to the project when they amended WRO 2009-0060 (see Condition 8d. of SWRCB WRO 2016-0016, pp. 5-6 attached). Mr. Kukol’s staff report mentions this condition as well (link below).

[http://www.waterboards.ca.gov/centralcoast/board\\_info/agendas/2016/december/item8/item8\\_stfrpt.pdf](http://www.waterboards.ca.gov/centralcoast/board_info/agendas/2016/december/item8/item8_stfrpt.pdf)

Therefore, like the SWRCB has done, I ask you and the board to discuss this item and to use your discretionary powers to make certain the much-espoused benefits of recycled water use, namely the promise to offset (reduce) past potable use, is actually realized.

Luke Coletti  
Pacific Grove, CA

**STATE WATER RESOURCES CONTROL BOARD  
RESOLUTION NO. 2015-0070**

APPROVING WATER RECYCLING FUNDING PROGRAM (WRFP) AND CLEAN WATER  
STATE REVOLVING FUND (CWSRF) FINANCING FOR THE CITY OF PACIFIC GROVE  
LOCAL WATER PROJECT (PROJECT)

WHEREAS:

1. The State Water Resources Control Board (State Water Board), on February 17, 2015, amended the "*Policy for Implementing the Clean Water State Revolving Fund*" (Policy);
2. The City of Pacific Grove (City) applied for a CWSRF Loan and WRFP Grant for a total of \$7.7 million for the construction of a new satellite recycled water treatment plant;
3. The Project is listed on the Project List;
4. The City of Pacific Grove (City) is the lead agency under the California Environmental Quality Act (CEQA), and has prepared an Environmental Impact Report (EIR) for the Project;
5. Adequate public participation was provided through the CEQA review process. The EIR was circulated through the State Clearinghouse (SCH) (No. 2014021058) from September 16, 2014 through October 30, 2014 for public review and commenting;
6. The City certified the EIR, adopted a Mitigation Monitoring and Reporting Program (MMRP), and approved the Project on November 19, 2014;
7. The City filed a Notice of Determination (NOD) for the EIR with the Monterey County Clerk and Governor's Office of Planning and Research (OPR) on November 20, 2014 and November 24, 2014, respectively;
8. The City prepared a Supplemental EIR for the Project and distributed it to the public and circulated it through SCH for review from July 8, 2015 through August 6, 2015;
9. The City adopted the Supplemental EIR and approved the project on October 7, 2015 and filed an NOD with the Monterey County Clerk and OPR on October 8, 2015 and October 9, 2015, respectively;
10. State Water Board initiated consultation with the State Historic Preservation Officer (SHPO) on February 4, 2015. On March 11, 2015, the SHPO responded with a conditional concurrence. SHPO concurred with a finding of "No Adverse Effects to Historic Properties" with the condition that a qualified archaeological monitor and a Native American monitor be present for all ground-disturbing activities in the Project area;
11. The City's environmental documents provided an adequate disclosure of the environmental relationships of all water quality aspects of the Project. Mitigation measures and design measures incorporated into the Project will avoid or substantially reduce other potentially significant environmental impacts. The Project will not result in any significant adverse water quality impacts; and

12. Section 19.2 of [State Water Board Order WR 2009-0060](#) states that cities on the Monterey Peninsula that receive water from Cal-Am must first apply any new water developed to offsetting diversions from the Carmel River prior to using the water for growth.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves up to \$5,285,000 CWSRF construction financing and \$2,415,000 for Prop 13 Water Recycling Funding Program grant for the City's Project.
2. Condition this approval, as determined by the environmental review, with the following:
  - a. The City shall comply with the applicable mitigation measures of the November 2014 MMRP;
  - b. Per the March 11, 2015 concurrence letter from Carol Roland-Nawi of the SHPO to Madeleine Flandreau of the State Water Board, the City shall ensure that qualified archeological and Native American monitors are present during all earth-moving and ground disturbing activities in the Project area;
  - c. The City shall obtain a Coastal Development Permit from the California Coastal Commission, submit a copy to the State Water Board and comply with all required measures therein;
3. Condition this approval, as determined by the City's credit review, with the following:
  - a. The City shall pledge revenues of the Sewer Enterprise Fund for repayment of the proposed CWSRF financing agreement. This pledged revenue fund (source) shall be subject to lien and pledge as security for the Obligation;
  - b. The proposed financing agreement shall be issued on parity with the Capital One Public Funding LLC Wastewater Loan Agreement dated April 1, 2013. Parity debt requires debt service coverage of 1.20 times the total annual debt service;
  - c. The City shall establish rates and charges sufficient to generate net revenues of the Sewer Enterprise Fund equal to at least 1.20 times the total annual debt service;
  - d. The City shall establish a restricted reserve fund, held in the Sewer Enterprise Fund, equal to one year's debt service prior to the construction completion date of the project. The restricted reserve fund shall be maintained for the full term of the Finance Agreement and shall be subject to lien and pledge as security for the Obligation; and
  - e. The City shall submit a revised Pledged Revenue Fund/Source Resolution pledging the Net Revenues of the Sewer Enterprise Fund and the Sewer Enterprise Fund prior to a financing agreement being executed.

4. Condition this approval, as determined by the City's technical review, with the following:

a. The City must submit a Waste Discharge Permit approved by the Central Coastal Regional Water Quality Control Board with the Final Budget Approval package. The financing agreement will not be finalized and no funds will be disbursed for construction until the adopted Waste Discharge Permit is submitted to the Division of Financial Assistance.

b. The City shall apply recycled water produced by the Project to service of existing uses and shall use the ensuing demand reductions to offset deliveries from Cal-Am until such time as the City receives consent from the State Water Board's Executive Director to apply the Project's recycled water and associated demand reductions to new service connections or to increased use at existing service addresses resulting from a change in zoning or use.

### CERTIFICATION


The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on November 17, 2015.

AYE: Chair Felicia Marcus  
Vice Chair Frances Spivy-Weber  
Board Member Tam M. Doduc  
Board Member Steven Moore  
Board Member Dorene D'Adamo

NAY: None

ABSENT: None

ABSTAIN: None

  
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Jeanine Townsend  
Clerk to the Board

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

**ORDER WR 2016-0016**

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In the Matter Of Application of

**California American Water Company**

To Amend State Water Board Order 2009-0060

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SOURCE: Carmel River

COUNTY: Monterey County

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**ORDER AMENDING IN PART REQUIREMENTS OF  
STATE WATER BOARD ORDER WR 2009-0060**

BY THE BOARD:

**1.0 OVERVIEW**

For decades, California-American Water Company (Cal-Am) has been unlawfully diverting water from the Carmel River to provide municipal water to a large area of the Monterey Peninsula. State Water Resources Control Board (State Water Board) [Order WR 2009-0060](#) (hereafter, WR 2009-0060) is a cease and desist order that, among other requirements, established a compliance timeline for cessation of Cal-Am's unlawful diversions from the Carmel River by December 31, 2016. This timeline was based on evidence gathered at hearing that indicated that a regional desalination plant would be built, enabling the area's municipal water needs to be met by new water supplies. It is now clear that no desalination plant will be in operation by the end of this year. In light of this recognition, Cal-Am has proposed modifying the compliance schedule to accommodate the anticipated pace for approval and implementation of several proposed projects (1) a different desalination plant, the Monterey Peninsula Water Supply Project; (2) a water recycling project, entitled Pure Water Monterey; and (3) the expansion of the facilities for an existing groundwater storage project entitled Aquifer Storage and Recovery (ASR). These projects are undergoing review by permitting agencies.

Since the adoption of WR 2009-0060 in 2009, Cal-Am's diversions from the Carmel River have consistently been well below the annual diversion levels set by WR 2009-0060, but still remain thousands of acre-feet per annum above the amount available under Cal-Am's lawful water rights. (See Table 1, p. 2.) The reductions in Carmel River diversions have resulted from a number of factors, including conservation and efficiency measures and implementation of local supply projects, combined with a moratorium on increased water use within Cal-Am's service area. To address the impacts of its diversions, Cal-Am has also applied significant resources to fishery conservation and habitat improvement programs.

8. In addition to the reporting required elsewhere in this order or required under WRO 2009-0060 ordering paragraph 6, except as specified, Cal-Am shall provide and post on its website the following information in quarterly reports:

a. Monthly summaries of the total quantity of water produced from the Carmel River, and other separate sources of water used by Cal-Am within the service area.

b. Monthly summaries of the total quantity of ASR project water diverted from the river under water right Permits 20808A and 20808C and stored in the Seaside Groundwater Basin, including the separate accounting of the amounts pumped in excess of 600 afa. The monthly reporting shall also state the quantity of ASR water recovered from aquifer storage and beneficially used, and the current balance of ASR water remaining in storage in the Seaside Groundwater basin. This paragraph supersedes WRO 2009-0060, ordering paragraph 6.(b).

c. Monthly summaries of the quantity of water being supplied by the Malpas Water Company to Cal-Am and to Malpas customers supplied using Cal-Am facilities. The reporting shall identify the amount of water used at Cal-Am's existing meter connections and within the Cal-Am service area, and the amounts used at new service connections served by Malpas Water Company. The monthly reports shall specify the quantity of water used to reduce diversions from the river during the reporting period.

d. Monthly summaries of the quantity of water produced by the City of Pacific Grove, and the quantity of water used to reduce diversions from the river during the reporting period. Cal-Am shall not deliver water produced by the City of Pacific Grove unless such use is consistent with [Resolution 2015-0070](#), paragraph 4.

e. For the final quarter of each water year, the report shall include the quantification and basis of any credits earned and of any amount being carried over for future years.

f. An accounting of the progress towards completion of the Water Supply Project MPWSP Desalination Plant and Pure Water Monterey Project that identifies all progressive steps completed during the previous 12 months and the upcoming 12 month's anticipated progress, and discussion of potential setbacks that may be beyond the Applicant's control.

10. Each report submitted by Cal-Am shall be certified under penalty of perjury and shall include the following declaration: "I declare under penalty of perjury, under the laws of the State of California, that all statements contained in this report and any accompanying documents are true and correct, with full knowledge that all statements made in this report are subject to investigation and that any false or dishonest statement may be grounds for prosecution."

11. Cal-Am shall file quarterly reports of its diversions under Paragraph 5 (small project implementation) of State Water Board Order WR 2009-0060. This section corrects an error in State Water Board Order WR 2009-0060 ordering paragraph 7, which incorrectly identified the relevant paragraph as State Water Board Order WR 2009-0060 ordering paragraph 3.

12. The Deputy Director for Water Rights is authorized to modify the timing and the content of the reporting required by all of the provisions of this Order to more effectively carry out the intent of this Order.

13. Cal-Am shall comply with all requirements of State Water Board Order 95-10, except as provided in State Water Board Order WR 2009-0060, ordering paragraph 9, or except as inconsistent with this Order.