

From: Luke Coletti [<mailto:lcoletti@gmail.com>] **On Behalf Of** Luke Coletti

Sent: Saturday, June 24, 2017 10:59 AM

To: Brodeur, Mark@City of Pacific Grove; Eric Sabolsice; O'Hagan, John@Waterboards

Cc: rudyfischer@earthlink.net; cgarfield@cityofpacificgrove.org; bpeake@cityofpacificgrove.org; bkampe@cityofpacificgrove.org; kencun17@icloud.com; huit@comcast.net; nsmith@cityofpacificgrove.org; citymanager@cityofpacificgrove.org; cityclerk@cityofpacificgrove.org

Subject: Possible Sub-Metering of Cal-Am Water for Pacific Grove Accessory Dwelling Units.

Mr Brodeur,

Last week the council discussed accessory dwelling units and affordable housing within Pacific Grove, which the state has recently encouraged/mandated (see links below).

<http://www.cityofpacificgrove.org/sites/default/files/city-council/2017/6-21-2017/city-council-6-21-2017-11b-adu-ord-1st-read.pdf>

<http://www.montereyherald.com/government-and-politics/20170622/pacific-grove-relaxes-regulations-on-in-law-units>

I support attempts to provide affordable housing. However, during public comment I mentioned that accessory dwelling units (ADU) would require a separate water meter. As you know, there is a state ordered moratorium on new water meters for new uses. The August 5, 2016 letter that you and the city manager received from Cal-Am (attached) explains this moratorium.

The city's proposed ordinance mentions the following regarding water supply:

Water. A completed Monterey Peninsula Water Management District residential water release form and water permit application, showing the existing and proposed fixture units. If sufficient fixture units are not available on the site to serve the **accessory dwelling second** unit, the applicant shall request the project be placed on the Pacific Grove water waiting list.

The city's proposed ordinance makes no mention of requiring a new water meter. However, the ordinance does require a water permit from the water district, who should be the "front line" in enforcing the moratorium on new meters. Alas, the district only further confuses the moratorium with their rules regarding "sub-metering". The district permits sub-metering (a second "downstream" meter connected to an existing on-site water meter - see link below). Further, it has been mentioned the water district would allow sub-meters to service these new accessory dwelling units until such time as Cal-Am is legally able to set a new water meter.

http://www.mpwmd.net/wdd/forms/SubmeteringApplication_20150602.pdf

I believe the use of sub-meters to service accessory dwelling units would represent an end run around the state ordered cease and desist order and its moratorium on new meters to serve new uses. Clearly a new accessory dwelling unit represents a new use and is an

intensification of water use. Incidentally, any existing illegal ADU should be considered a "new use" too since a new water meter would be required to bring it into compliance.

Even more importantly, the city's new ADU policy is being implemented via a change in local zoning (PGMC Chap 23) and Condition 2 of WRO 2009-0060 specifically prohibits any increased use of unlawful water from the Carmel River that is prompted by a change in zoning or use.

The August 5, 2016 letter you received from Cal-Am mentions:

"When evaluating projects that may require new water connections or may result in increased water use at existing connections, we request that you consult with Cal-Am as early as possible so that we can avoid confusion for property owners and/or property proponents, allowing them to make informed decisions early in the decision process."

Therefore, I would ask that you contact Eric Sabolsice at Cal-Am and clarify how these new accessory dwelling units would obtain water and how they might end up violating the CDO.

Thank you for your consideration,

Luke Coletti
Pacific Grove



Eric J. Sabolsice
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August 5, 2016

Mark Brodeur
 Director of Community and Economic Development
 City of Pacific Grove Planning Division
 300 Forest Avenue, 2nd Floor
 Pacific Grove, CA 93950

Re: Carmel River Cease and Desist Order, Moratorium on New Water Service or Increased Water Service Due to Change in Zoning or Use

Dear Mr. Brodeur:

As you know, California American Water is operating under a Cease and Desist Order (the "CDO"¹), which was issued by the State Water Resources Control Board ("State Water Board") in October of 2009. Among other things, the CDO prohibits California American Water from supplying water from the Carmel River for new water service connections or for any increases in use at existing connections if the increase results from a change in zoning or use. To implement these prohibitions, California American Water was required to file an application with the California Public Utilities Commission ("CPUC") to institute the Moratorium on New or Expanded Water Service Connections (the "Moratorium"²) in our main Monterey district service territory. The Moratorium decision from the CPUC requires California American Water to deny requests for new service connections and prohibit any increased use of water at existing service addresses resulting from a change in zoning or use.

On July 19, 2016, the State Water Board issued Order WR 2016-0016 (the "Amended Order"³), amending certain provisions of the CDO and extending the CDO's deadline to reduce unauthorized Carmel River diversions to December 31, 2021. At that Board meeting, California American Water President Rob MacLean and numerous members of the community expressed concerns about application of the CDO's prohibitions to situations involving an intensification of use. Numerous speakers also requested that the

¹ A copy of the CDO can be found at http://www.waterboards.ca.gov/waterrights/board_decisions/adopted_orders/orders/2009/wro2009_0060.pdf.

² A copy of the Moratorium can be found at: [http://www.amwater.com/files/Rate%20Schedule%20Monterey%20Main%20\(01-01-15\).pdf](http://www.amwater.com/files/Rate%20Schedule%20Monterey%20Main%20(01-01-15).pdf) (see Revised C.P.U.C. Sheet 6509-W, Special Condition 22).

³ A copy of the Amended Order can be found at: http://www.swrcb.ca.gov/waterrights/board_decisions/adopted_orders/orders/2016/wro2016_0016.pdf.

State Water Board provide more flexibility to local jurisdictions in making land use decisions. Ultimately, in adopting the Amended Order, the State Water Board left the CDO provisions relating to the Moratorium unchanged, but requested that Staff meet with stakeholders over the next several months to discuss a possible solution to address community concerns. Thus, although the Moratorium remains in place, California American Water will work with State Water Board Staff, the Monterey Peninsula Water Management District, and other stakeholders to clarify provisions concerning changes in zoning or use, and intensification of use, and we will keep you apprised of any substantive or procedural changes that may arise through such discussions.

In the meantime, as an agency with jurisdiction to issue permits for new construction and/or changes in zoning or use, California American Water requests your continued cooperation and assistance in making property owners and project proponents aware of the CDO, the Moratorium, and the fact that projects may ultimately be prohibited based on the restrictions these orders include. When evaluating projects that may require new water connections or may result in increased water use at existing connections, we request that you consult with California American Water as early as possible so that we can avoid confusion for property owners and/or project proponents, allowing them to make informed decisions early in the approval process. Please keep us informed about proposed water demands for new and redevelopment projects so that we may evaluate the project's needs on a case by case basis, work with the State Water Board if necessary, and inform the project owners and developers about our ability to serve the project in the future.

If you have any questions about the CDO, the Moratorium or this request, please feel free to reach me at (831) 646-3291 or eric.sabolsice@amwater.com. You may also wish to contact Dave Stoldt at the Monterey Peninsula Water Management District for more information.

Sincerely,

Eric Sabolsice
 Director of Operations
 California American Water Coastal Division

cc: David Stoldt, General Manager
 Monterey Peninsula Water Management District

Ben Harvey, City Manager
 City of Pacific Grove