



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## State Water Resources Control Board

MAY 11 2016

Mr. Ron Weitzman  
Water Plus  
23910 Fairfield Place  
Carmel, CA 93923

Dear Mr. Weitzman:

### QUESTIONS REGARDING STATE WATER BOARD ORDER WR 2009-0060 (CEASE AND DESIST ORDER)

This letter responds to your emails dated April 15 and May 1, 2016 to the State Water Resources Control Board (State Water Board), regarding Cease and Desist Order WR 2009 0060 (CDO) issued to California American Water Company (Cal-Am). You requested that the State Water Board clarify the consequences associated with failure to comply with the December 31, 2016 deadline in the CDO, and suggest that the State Water Board eliminate the CDO deadline.

As you know, Cal-Am filed an application with the State Water Board to revise the CDO under Water Code section 1832 on November 29, 2015. Cal-Am then filed a revised application on April 29, 2016. Cal-Am is requesting an extension of the CDO schedule until December 31, 2021, to allow for time to develop the Monterey Peninsula Water Supply Project and the Pure Water Monterey Project. The initial and revised applications and all communications received regarding them are available at:

[https://www.waterboards.ca.gov/waterrights/water\\_issues/projects/california\\_american\\_water\\_company/index.shtml](https://www.waterboards.ca.gov/waterrights/water_issues/projects/california_american_water_company/index.shtml).

Because this is a pending matter coming before the State Water Board, it is not possible to discuss the potential effects of changing the CDO, or of leaving it unchanged, outside of a public forum. The Cal-Am CDO itself is the best source for understanding its terms, including the deadline you inquired about. It is available on our website at:

[https://www.waterboards.ca.gov/waterrights/board\\_decisions/adopted\\_orders/orders/2009/wro2009\\_0060rev.pdf](https://www.waterboards.ca.gov/waterrights/board_decisions/adopted_orders/orders/2009/wro2009_0060rev.pdf).

Regarding your questions about the impact of any potential violation of a CDO, the following information may prove helpful. In general, state law provides for maximum penalties for violation of a CDO of up to \$1,000 per day of violation in most years, and up to \$10,000 per day of violation and \$2,500 per acre-foot of water diverted in certain drought years. (Wat. Code, § 1845.) Penalty amounts can vary based on consideration of all relevant circumstances. (*Id.*) The State Water Board is also authorized to enforce the terms of a CDO. (*Id.*)

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

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Administrative or judicial hearings are available to alleged violators of a CDO prior to additional enforcement actions regarding CDO compliance. (*Id.*, Wat. Code § 1055.) The State Water Board does not determine whether any enforcement penalties would be recoverable from ratepayers. It is our understanding that the California Public Utilities Commission would determine whether such recovery is warranted.

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The State Water Board's experience has been that the best solutions to complex water supply and public trust issues result from engagement of a wide range of interested parties, and we welcome your input and involvement in the decision whether or not to amend the CDO, and under what terms. By mid-May, the State Water Board will release an anticipated schedule for any additional comments and for deliberations at a public meeting this summer.

If you have any procedural questions, please call Mr. John O'Hagan of the Division of Water Rights at (916) 341-5368 or [John.O'Hagan@waterboards.ca.gov](mailto:John.O'Hagan@waterboards.ca.gov).

State Water Resources Control Board  
Division of Water Rights  
Attn: John O'Hagan  
P.O. Box 2000  
Sacramento, CA 95812-2000

Sincerely,

  
Thomas Howard  
Executive Director

cc: See next page.

Mr. Ron Weitzman

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