

Petition for Reconsideration of Order WR 2016-0016 (July 19, 20016)

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2. WR 2016-0016 Attached

3. The SWRCB voted on the Order July 19, 2016

4. Continuing harm to public trust Resources on the Carmel River was acknowledged along with continuing supervision by the State Board. Although the order contained 27 dense pages, it remains unclear what compliance will entail or what the order does and does not require. The complex circumstances and history of regulation were explained but it appears that actors are free to interpret the language in almost any manner they might desire. A single additional sentence could serve to clarify and cure possible problems of commission or omission occasioned by this ambiguous order: "This order establishes a set of performance standards and does not constitute any sort of waiver for any requirement of existing California Law."

5.Harm: It appears to me that, as a beneficiary of the California Public Trust administered by this Board, my access to healthy public resources will be unnecessarily diminished by actions that will predictably follow this order as it is presently written. There is a clear and present danger that fisheries, flows and underflows of navigable waters and associated regional ecosystems will be needlessly damaged and several cities might become committed to implementing unreasonable technologies to assure future accessibility to public water.

6. We request a simple additional statement that the intent of this Order was to establish performance standards and not serve as an excuse or waiver of other elements of applicable law. We have tried to introduce relevant evidence at many forums related to the subject matter of this order but have often met with resistance from those who seem intent on excusing more damage to public resources than we might in the pursuit of private economic gains. We don't request more hearings or unnecessary process, but rather, simple actions defining reasonable limits for how public resources are conserved and managed.

7. Points and Authorities: I made a public comment at the Meeting during which this action was considered, and I also would like to acknowledge Marks v. Whitney in support of my standing as a Californian to articulate the issues suggested in this petition and Nat'l Audubon v. Superior Ct. of Alpine County for an explanation of the role of the California Public Trust in

any water rights decisions relating to the planning or allocation of California Waters. Article X, Section 2 of the California Constitution provides guidance on “Reasonable Use” and waste, and CEQA and NEPA establish more than enough back ground for the proposition that reasonable alternatives must be considered before any project is approved that will have significant or unavoidable environmental impacts. During the public consideration of this Order, physical and legal circumstances have vastly changed (Global Climate Change, California Drought have in turn forever changed the economics of conservation and insurance of water management infrastructure in Coastal Zones and Sustainable Ground Water Management Legislation has been enacted informing all actors that unlimited groundwater extraction is not permitted in this State). It is not clear if these changed circumstances have been adequately addressed and it should be noted that Monterey County is NOT connected to the State or Federal Water Projects and conditions which might apply in that case are not relevant here.

8. I am sending copies of this petition to the Board and California American Water Company as implied by the instructions to which I was referred.

9. We have attempted to raise all issues included in this petition at every effective forum and stage of public debate that we could think of for the last ten years.

I am respectfully petitioning for reconsideration of this order in light of the possibility that a single clarifying sentence might be added that might save a great deal of needless confusion and wasteful legal process.

Executed in Berkeley, California

August 15, 2016

Michael Warburton
Executive Director
The Public Trust Alliance