



Alan C. Lloyd, Ph.D.
Agency Secretary

State Water Resources Control Board

Division of Water Rights

1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
Mailing Address: P.O. Box 2000 ♦ Sacramento, California 95812-2000
FAX: 916.341.5400 ♦ www.waterrights.ca.gov



Arnold Schwarzenegger
Governor

NOTICE OF PETITION TO ADD POINTS OF DIVERSION AND PLACE OF STORAGE

PERMIT: 7130B (Application 11674B)

PETITION FILED: September 16, 2003

PERMIT: 20808 (Application 27614)

Notice is hereby given that the Monterey Peninsula Water Management District (MPWMD) (Petitioner) has filed a petition to add points of diversion and place of storage under Permit 7130B (Application 11674B) and 20808 (Application 27614). Approval of this petition would authorize the diversion of up to 7,300 acre-feet per annum (afa) from the Carmel River for the MPWMD aquifer storage and recovery (ASR) project. The California American Water Company (Cal-Am) owns San Clemente Dam, 32 wells, and additional diversion facilities that the petitioner will use for this project. The petitioner also requests the addition of San Clemente Dam as a point of diversion and the construction of new diversion and water treatment facilities. The State Water Resources Control Board (State Water Board) will determine whether the permits should be amended and whether further conditions are needed in the permits to protect the environment, the public interest, and downstream water users. This notice provides a description of the existing project and the proposed change and also describes the procedure and time frame for submittal of protests against the petition. The Division of Water Rights (Division) will not accept protests that are directed against the underlying water rights, rather than the changes proposed by the petition. This notice may be viewed at the Division website at www.waterrights.ca.gov. Any correspondence directed to the Petitioner should be mailed to:

Monterey Peninsula Water Management District
c/o Andrew Bell
P.O. Box 85
Monterey, CA 93942

MPWMD holds Permits 7130B and 20808. Permit 7130 was issued in 1948. The Permit was split, with Permit 7130B assigned to MPWMD on May 2, 1984. Permit 20808 was issued on October 25, 1995. The permits authorize collection to storage of 24,000 acre-feet (af) in a reservoir on the Carmel River and direct diversion of 42 cubic feet per second (cfs). The reservoir project has not been built and no water has been put to beneficial use. A Final Action by the MPWMD Board of Directors denied the November 12, 1996 application submitted by Cal-Am to construct the Carmel River Dam and Reservoir (aka New Los Padres Dam and Reservoir Project).

On October 22, 2001, MPWMD filed change petitions under Permits 7130B and 20808 to allow direct diversion from the Carmel River via San Clemente Dam and 32 Cal-Am wells. The petitions were noticed on July 22, 2002 and protests were received. This notice is exclusively related to the proposed ASR project. Any protests should only address the ASR project.

The petitions seek to change the place of storage of up to 7,300 af from the Carmel River Reservoir to the Seaside Groundwater Basin. Since 1996, MPWMD has conducted studies, including hydrogeologic testing and construction of pilot and full-scale test injection wells, to evaluate the feasibility of an ASR project.

Diversions from the Carmel River and the Carmel Valley Aquifer have had a significant adverse effect on the natural resources of Carmel River. In 1997, steelhead in the Carmel River were listed as a federally threatened species. Pumping from the Seaside Groundwater Basin has also lowered the water level in the Basin. Pursuant to Decision 1632 and Order WR 95-10, Cal-Am is required to cease its unauthorized diversions from the Carmel River. The MPWMD ASR project is intended to divert excess winter flows from the Carmel River to storage in the Seaside Groundwater Basin to reduce the level of unauthorized diversion. Under the ASR project, a portion of the stored water would be used for municipal uses during dry periods and the remaining portion of the injected water would remain in the Basin for groundwater recharge.

Specifically, the first phase of the project involves the diversion of up to 2,022 af of water from December 1 to May 31 of the following year using existing Cal-Am wells in subaquifers AQ 3 and AQ 4 during high flows. Maximum extraction from the groundwater basin would be 1,690 afa. The water would be treated at the Cal-Am Begonia Iron Removal Plant before the water is transported through the existing Segunda pipeline to the Seaside portion of the Cal-Am network for municipal uses. A new booster pump would be constructed at Cal-Am's Hilby Avenue pump site. In addition, a new conveyance pipeline (16-inch, 6,800 feet long) pipeline would be constructed to the existing Santa Margarita test well. A second injection well would be constructed at the Santa Margarita test well site, allowing injection into the Santa Margarita aquifer.

The second phase involves the diversion of up to 3,234 af of water and maximum groundwater basin extraction would be 4,057afa (combined extraction rate for Phases 1 and 2). MPWMD proposes to install a new 400 horsepower (hp) pump at the existing Cal-Am Rey Oaks pumping station, construct a second dual well site (four ASR wells total) located north and east of the existing site, and install a new transmission pipeline along General Jim Moore Boulevard to the new well site.

The third phase involves the diversion of up to 7,300 af of water and maximum extraction would be 6,085 afa. MPWMD proposes to construct a seven million gallon per day conventional treatment plant near Cal-Am's existing Segunda Tank and associated pressure reducing station, 1,600 hp pump station, 150,000-gallon storage tank, raw water pipeline, and treated water pipeline. MPWMD also proposes to construct a 4,000-foot tunnel from the Segunda Tank site intersecting the existing Cal-Am easement on the north side of the hill. In addition, MPWMD proposes to construct three new diversion wells downstream of Carmel River Mile 5.5 and a new dual ASR well site located northeast of the existing Santa Margarita test well site. MPWMD has not yet identified the well sites. Consequently, MPWMD will have to file a petition for change with the State Water Board prior to installing the new wells.

Cal-Am owns and operates the diversion facilities listed in the MPWMD water right permits. Cal-Am must operate the facilities in compliance with Order WR 95-10, Order WR 98-04, WRO 2002-0002. Cal-Am must operate its wells sequentially beginning with the downstream wells. Pursuant to a settlement agreement with NMFS (WRO 2002-0002) Cal-Am must cease diversions at San Clemente Dam during low flow periods. Cal-Am extracts water from AQ3, AQ4, and the Seaside Groundwater Basin to serve upper valley customers. Cal-Am may divert up to 0.5 cfs to serve Carmel Valley Village using wells in AQ1. These conditions do not apply to diversions under MPWMD's Permits 7130B and 20808, once Cal-Am ceases its illegal diversions. Low flow periods are defined as times when stream flow at the Don Juan Bridge gage is less than 20 cfs for five consecutive days.

Summary of Petition

Permit 7130B Information:

County: Monterey.
 Permittee: MPWMD.
 Source: Carmel River tributary to Pacific Ocean.
 Point of
 Diversion: New Los Padres Dam in NE ¼ of SE ¼ of Section 5, T18S, R3E, MDB&M.
 Point of
 Rediversion: San Clemente Dam and 32 wells owned by Cal-Am situated in Carmel subaquifers AQ 1 through AQ 4 (see attached).
 Purpose of
 Use: domestic, industrial, municipal.
 Amount and
 Season: 15,970 afa to be collected from October 1 of each year to May 31 of the succeeding year. The total quantity of water originating in the Carmel River diverted to beneficial use by Cal-Am and MPWMD under all basis of right shall not exceed 16,000 af.
 Place of
 Use: 110,000 acres within the boundaries of the MPWMD

Permit 20808 Information:

County: Monterey.
 Permittee: MPWMD.
 Source: Carmel River and Carmel River Subterranean Stream tributary to Pacific Ocean.
 Point of
 Diversion: New Los Padres Dam in the NE ¼ of SE ¼ of Section 5, T18S, R3E, MDB&M.
 Point of
 Rediversion: San Clemente Dam, in NW ¼ of SW ¼ of Section 24, T17S, R2E, MDB&M.
 Points of
 Diversion and
 Rediversion: 32 wells situated in Carmel subaquifers AQ 1 through AQ 4.

Purpose of

Use: municipal, irrigation, fish and wildlife enhancement.

Amount and

Season: 42 cfs by direct diversion and 24,000 af by collection to storage from November 1 of each year through June 30 of the succeeding year. Direct diversion and diversion to storage is allowed year-round only when all operating conditions for the New Los Padres Reservoir fishery maintenance program are being met. The total quantity of water originating in the Carmel River diverted to beneficial use by Cal-Am and MPWMD under all basis of right shall not exceed 16,000 af.

Place of Use: 110,000 acres within the boundaries of the MPWMD

Petition to Change Under Permit 7130B and 20808:

For purposes of operating this project, the petitioner seeks to change permit conditions 2, 7, and 17, as well as, remove permit conditions 8, 18, 20-30, 32-38, 41-43, 45, and 48-53 from Permits 7130B and 20808 (see attached). Copies of Permit 7130B and 20808 are available upon request.

Description of Changes:

Proposed Amount of Redistributed Storage: 7,300 afa, at a maximum rate of diversion to offstream storage of 20 cfs.

Proposed Season: December 1 through May 31 of the following year.

Proposed Place of Storage: Seaside Groundwater Basin as shown on map filed with the State Water Board.

Proposed Points of Diversion to Offstream Storage: Thirty-two existing wells and San Clemente Dam (see attached)

Environmental Information

MPWMD is the California Environmental Quality Act (CEQA) lead agency on the project and is preparing an Environmental Impact Report (EIR) according to CEQA. The EIR will include a detailed analysis for the first phase of the project and a programmatic evaluation of the second and third phases of the project. If approved by the MPWMD Board, a separate project-level EIR will be prepared for Phase 2 and Phase 3. The EIR will evaluate a no project alternative as well as alternative water sources, pipeline locations, and well sites.

MPWMD has indicated that it is willing to accept the instream flow requirements included in the "Instream Flow Needs for Steelhead in the Carmel River, Bypass Flow Recommendations for Water Supply Projects using Carmel River Waters" (National Marine Fisheries Service, Southwest Region, Santa Rosa Field Office, June 3, 2002).

At this point in the project planning process, MPWMD has identified the following issues as likely concerns of the community and agencies:

- impacts to federal and state protected species, including (but not limited to) Carmel River steelhead, California red-legged frog, California tiger salamander, California black legless lizard, and numerous plant species associated with maritime chaparral;
- impacts to sensitive habitats, including riparian areas, oak woodland, and maritime chaparral;
- impacts to cultural resources;
- impacts to surface water hydrology, quantity and quality in the Carmel River;
- impacts to groundwater quantity and quality in the Seaside Groundwater Basin;
- impacts related to geologic and soil conditions, including seismic events and slope stability;
- impacts to local and regional air quality from construction activities and operation of project facilities;
- changes in land use patterns and creation of incompatible land use conditions;
- changes in local views and natural landscapes;
- increases in local noise conditions associated with construction activities and operation of project facilities;
- increases in public health and safety risks associated with construction activities and storage and use of hazardous materials;
- impacts to existing infrastructure and utility systems, including water supply distribution and roadways;
- cumulative effects; and
- growth inducing effects.

If you are not filing a protest, but wish to submit information not covered in the lead agency's environmental document that indicates that the project may cause a significant effect on the environment, please send this information immediately to Steven Herrera; State Water Resources Control Board, Division of Water Rights; P.O. Box 2000; Sacramento, CA 95812-2000. This information will be reviewed in accordance with CEQA.

PROTEST SUBMITTAL INFORMATION

Protest Requirements

A person may file a protest based on any of the following factors:

- Interference with prior water rights.
- Adverse environmental impact.
- Not in the public interest.
- Contrary to law.
- Not within the jurisdiction of the State Water Board.

All protests must clearly describe the objections to approval of the petition and the factual basis for those objections. There must be a clear link between the proposed change and the objection to its approval. If the objection is based on interference with prior water rights, the protest must describe specifically what injury would result if the petition is approved. In addition, the party claiming interference with prior rights must provide specific information describing the basis of the prior right, the date the use began, the quantity of water used, the purpose of use and the place of use. Please note that any water right permit issued by the State Water Board is subject to vested water rights and will include conditions to protect such rights.

If the protest is based on an allegation that the proposed change would not be within the State Water Board's jurisdiction, would not best conserve the public interest or public trust uses, would have an adverse environmental impact, or would be contrary to law, the protest must be accompanied by a statement of facts supporting the allegation.

For example, public interest protests should clearly indicate how the proposed change will affect the public; environmental protests should identify specific impacts and provide supporting recitals on the effect of the proposed change on plants, animals, fish, erosion, pollution, aesthetics, etc.; public trust protests must identify the navigable waters and public trust values that would be affected by the proposed change and how the change will impact public trust values.

All protests should include a description of any measures that could be taken to resolve the protest. The protest also must indicate the manner in which the protestant served upon the petitioner a duplicate copy of the protest.

If sufficient information is not submitted, the State Water Board may reject the protest or request that the protestant submit additional information. Protests of a general nature (not project specific) or protests that are inconsistent with constitutional or legislated state policy will not be accepted. A request for information or a request that studies be conducted does not constitute a protest.

Procedure for Submitting Protests

Protests should be submitted on standard protest forms available from the Division of Water Rights' website at www.waterrights.ca.gov/forms/ or upon request from the Division of Water Rights. A pamphlet that provides additional information relating to water rights and the procedure for filing protests is also available on the website or by mail. Any requests or the submittal of the completed protest form should be directed to the contact person, as listed at the end of this notice. **A copy of the completed protest form must also be mailed to the petitioner.**

Protest Submittal Deadline

Protests submitted in response to this notice must be received by the Division by 3:00 p.m. on the **30th** day after the date of this notice (the close of the protest period). Protests may be submitted by any of the following methods:

1. Mailed to Division of Water Rights; P.O. Box 2000, Sacramento, CA 95812-2000
2. Faxed to the Division at (916) 341-5400
3. E-mailed to the person listed below under the heading "Contact Person"
4. Hand-delivered to the Division office located at 1001 "I" Street, 14th Floor, Sacramento, CA

If you choose to fax or e-mail the protest due to the constraints of the noticing period, the fax or e-mail must be followed by timely delivery of an original signed copy, either personally or by mail, to the Division of Water Rights in order for the protest to be accepted. The State Water Board will respond to all protests within 60 days of the final day to file a protest. **Protests not submitted by the close of the protest period will be subject to rejection.**

For good cause, the State Water Board may grant an extension of time to file a protest. It is the protestant's responsibility to contact the person listed below as "Contact Person" to request the extension prior to the end of the protest period.

Resolution of Protests

The applicant will have 30 days to respond to a protest once it is accepted by the Division of Water Rights. The protestant and the petitioner are expected to make a good faith effort to resolve the protest within 180 days from the close of the protest period.

This is a "major" petition for change (the subject diversion is 3 cubic feet per second or more by direct diversion or 200 acre-feet or more per year by storage) as defined by section 1704.4 of the Water Code. Therefore, any protest issues not resolved by the petitioner or by provisions of section 1703.6 of the Water Code will be decided by the Chief, Division of Water Rights, following a hearing.

CONTACT PERSON

To obtain additional information regarding this project, or to obtain copies of protest forms, or general information pamphlets, please contact Megan Sheely by telephone at (916) 341-5438 or by electronic mail at msheely@waterboards.ca.gov. Information and protest forms are also available at the Division's website: www.waterrights.ca.gov/forms/.

Date of Notice: **April 15, 2005**