

ATTACHMENT 1

**PETITION FOR CHANGE
TO APPLICATION 27614B (PERMIT 20808B)**

**SEASIDE GROUNDWATER BASIN
PHASE 2 AQUIFER STORAGE AND RECOVERY PROJECT**

**LOCATIONS OF PRESENT POINTS OF
DIVERSION AND REDIVERSION**

The present points of diversion and rediversion are as listed in Amended Permit 20808B (Attachment 1, Exhibit A), Condition 2.

RECEIVED

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DEC - 6 2007

DIVISION OF WATER RIGHTS

MPWMD**PERMIT FOR DIVERSION AND USE OF WATER****AMENDED PERMIT 20808B**

Application 27614B of

Monterey Peninsula Water Management District
P.O. Box 85
Monterey, CA 93942-0085

filed on December 16, 1982, has been approved by the State Water Resources Control Board (State Water Board, SWRCB or Board) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source:

(1-32) Carmel River Subterranean Stream
(33-34) Carmel River

Tributary to:

Pacific Ocean
Pacific Ocean

within the County of Monterey

2. Location of points of diversion and redirection

| Points of Diversion and Redirection (By California Coordinate System of 1983 - Zone 4) | 40-acre subdivision of public land survey or projection thereof | Section (Projected) | Township | Range | Base and Meridian |
|---|---|---------------------|----------|-------|-------------------|
| (1) Reimers Well: North 2,086,120 feet and East 5,730,970 feet | NE $\frac{1}{4}$ of SW $\frac{1}{4}$ | 23 | 16S | 1E | MD |
| (2) Pryor Well: North 2,085,820 feet and East 5,731,520 feet | NE $\frac{1}{4}$ of SW $\frac{1}{4}$ | 23 | 16S | 1E | MD |
| (3) Scarlett Well: North 2,084,820 feet and East 5,739,770 feet | SW $\frac{1}{4}$ of SW $\frac{1}{4}$ | 9 | 16S | 2E | MD |
| (4) De Dampierre Well: North 2,068,820 feet and East 5,756,020 feet | NE $\frac{1}{4}$ of SW $\frac{1}{4}$ | 3 | 17S | 2E | MD |
| (5) Canada Well: North 2,092,010 feet and East 5,715,190 feet | NE $\frac{1}{4}$ of SW $\frac{1}{4}$ | 17 | 16S | 1 E | MD |

| | | | | | |
|---|-------------|----|-----|-----|----|
| (6) San Carlos Well: North 2,091,660 feet and East 5,717,990 feet | NE¼ of SE¼ | 17 | 165 | 1 E | MD |
| (7) Cypress Well: North 2,087,610 feet and East 5,724,640 feet | SW¼ of NW¼ | 22 | 16S | 1 E | MD |
| (8) Pearce Well: North 2,087,360 feet and East 5,726,140 feet | SE¼ of NW¼ | 22 | 16S | 1 E | MD |
| (9) Schulte Well: North 2,087,410 feet and East 5,729,240 feet | SE¼ of NW¼ | 23 | 16S | 1 E | MD |
| (10) Manor #2 Well: North 2,086,460 feet and East 5,731,340 feet | NE¼ of SW ¼ | 23 | 16S | 1 E | MD |
| (11) Begonia #2 Well: North 2,085,510 feet and East 5,734,740 feet | NW¼ of SW¼ | 24 | 16S | 1 E | MD |
| (12) Berwick #7 Well: North 2,084,460 feet and East 5,735,290 feet | SW¼ of SW¼ | 24 | 165 | 1 E | MD |
| (13) Berwick #8 Well: North 2,084,510 feet and East 5,736,090 feet | SE¼ of SW¼ | 24 | 16S | 1 E | MD |
| (14) Scarlett #6 Well: North 2,819,760 feet and East 5,005,540 feet | SW¼ of SW¼ | 19 | 16S | 2E | MD |
| (15) Scarlett #8 Well: North 2,084,510 feet and East 5,740,590 feet | SW¼ of SW¼ | 19 | 16S | 2E | MD |
| (16) Stanton Well: North 2,083,012 feet and East 5,742,337 feet | NW¼ of NE¼ | 30 | 16S | 2E | MD |
| (17) Los Laureles #5 Well: North 2,080,310 feet and East 5,748,590 feet | NW¼ of SE¼ | 29 | 16S | 2E | MD |
| (18) Los Laureles #6 Well: North 2,079,510 feet and East 5,749,440 feet | SE¼ of SE¼ | 29 | 16S | 2E | MD |
| (19) West Garzas #4 Well: North 2,075,260 feet and East 5,752,190 feet | NE¼ of SW¼ | 33 | 16S | 2E | MD |
| (20) Garzas Creek #3 Well: North 2,073,610 feet and East 5,753,040 feet | SW¼ of SE¼ | 33 | 16S | 2E | MD |
| (21) Panetta #2 Well: North 2,072,110 feet and East 5,754,740 feet | NW¼ of NW¼ | 3 | 17S | 2E | MD |
| (22) Panetta #1 Well: North 2,071,960 feet and East 5,754,640 feet | NW¼ of NW¼ | 3 | 17S | 2E | MD |

thousand five hundred seventy-four (21,574) acre-feet per annum by storage to be diverted from **January 1 to December 31 of each year**, with the exception that no water may be diverted pursuant to this permit, either by direct diversion or diversion to storage, outside the diversion season of **November 1 of each year to June 30 of the succeeding year**, until the New Los Padres Project authorized by this permit becomes fully operational.

In addition to the seasonal restriction stated above, direct diversion and diversion to storage shall be allowed year-round only during the periods of time water is physically available over and above fish flow requirements set forth in Permit Tables A, B and C.

The total amount of water to be taken from the source under this permit shall not exceed **26,574 acre-feet per water year of October 1 to September 30**.

The total quantity of water originating in the Carmel River diverted to beneficial use by the California-American Water Company and the Monterey Peninsula Water Management District (including direct diversion and rediversion of previously stored water, but not including diversions to storage) for municipal, domestic, industrial and irrigation purposes of use, including rights established by License 11866, Permit 7130B, Permit 20808A, Permit 20808B, Application 30215 and any permit or license issued pursuant thereto, pre-1914 appropriative rights and riparian rights, shall not exceed (a) **16,000 acre-feet per annum** or (b) such lesser amount identified in the Supplemental EIR on the Carmel River Dam as the annual beneficial use requirements associated with total project yield or the California-American Water Company production limit. The limit above may be modified upon further order of the State Water Board.

(000005E)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants.

(0000006)

7. Construction work shall begin within four years from certification of the Carmel River Dam Supplemental Environmental Impact Report.

(0000007)

8. Construction work shall be prosecuted with reasonable diligence and shall be completed by December 31, 2005.

(0000008)

9. Complete application of the water to the authorized use shall be made by December 1, 2020.

(0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Board until a license is issued.

(0000010)

11. Permittee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by said State Water Board, reasonable access to project works to determine compliance with the terms of this permit.

(0000011)

12. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of State Water Board in accordance with law and in the interest of the public

| | | | | | |
|---|------------|----|-----|----|----|
| (23) Robles #3 Well: North 2,067,110 feet and East 5,759,490 feet | NE¼ of NE¼ | 10 | 17S | 2E | MD |
| (24) Russell #4 Well: North 2,061,810 feet and East 5,764,040 feet | SW¼ of SE¼ | 14 | 17S | 2E | MD |
| (25) Russell #2 Well: North 2,061,410 feet and East 5,764,040 feet | SE¼ of SE¼ | 14 | 17S | 2E | MD |
| (26) A Well: North 2,091,070 feet and East 5,706,020 feet | SW¼ of SE¼ | 13 | 16S | 1W | MD |
| (27) B Well: North 2,091,970 feet and East 5,709,420 feet | NE¼ of SW¼ | 18 | 16S | 1E | MD |
| (28) C Well: North 2,087,220 feet and East 5,724,470 feet | SW¼ of NW¼ | 22 | 16S | 1E | MD |
| (29) D Well: North 2,087,370 feet and East 5,729,270 feet | SW¼ of NW¼ | 23 | 16S | 1E | MD |
| (30) E Well: North 2,084,920 feet and East 5,737,320 feet | SW¼ of SE¼ | 24 | 16S | 1E | MD |
| (31) F Well: North 2,072,120 feet and East 5,754,670 feet | NW¼ of NW¼ | 3 | 17S | 2E | MD |
| (32) G Well: North 2,070,270 feet and East 5,755,270 feet | SW¼ of NW¼ | 3 | 17S | 2E | MD |
| Point of Diversion Only (33) New Los Padres Dam: North 2,037,070 feet and | NE¼ of SE¼ | 5 | 18S | 3E | MD |
| Point of Rediversion Only (34) San Clemente Dam: North 2,053,010 feet and | NW¼ of SW¼ | 24 | 17S | 2E | MD |

| 3. Purpose of use | 4. Place of use | Section (Projected) | Township | Range | Base and Meridian | Acres |
|---|--|------------------------|----------|-------|----------------------|---------|
| Municipal Irrigation Fish and Wildlife Preservation and Enhancement | Within the boundaries of the Monterey Peninsula Water Management District | | | | | 110,000 |

The place of use is shown on map on file with the State Water Board dated September 12, 2003.

- The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **forty-two (42) cubic feet per second** by direct diversion and **twenty-one**

welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the State Water Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Board if, after notice to the permittee and an opportunity for hearing, the State Water Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the State Water Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

14. This permit does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050 - 2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531 - 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

15. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(0000015)

16. This permit shall not be construed as conferring upon permittee right of access to the point of diversion.

(0000022)

17. Permittee's rights under this permit are junior to the rights of persons diverting water for reasonable beneficial use under valid and properly exercised riparian, overlying, and pre- and post-1914 appropriative claims of right that have a priority which is superior to the priority of Application 27614B.

(050T001)

18. The priority of this permit shall be junior to any permit issued on the applications set forth in Table 13 of Decision 1632 or for the persons named in Table 13 of Decision 1632 for an amount of water not to exceed the quantity set forth in the column titled "*Quantity Reserved By SWRCB For Future Appropriations*". Applicants can request the State Water Board to modify the amounts in this column in accordance with the procedures in this condition.

Persons identified in Table 13 of Decision 1632 that have not filed an application to appropriate water must file an application by December 29, 1995 to benefit from this condition. To the extent such applicants and persons claim riparian, overlying, pre-1914 appropriative or other rights to use the water, they shall not be entitled to a post-1914 appropriative right for water in excess of established quantities of use as a result of this permit condition. Any priority obtained for a permit by virtue of this condition shall be void if the permittee and/or others divert more water under this permit and claimed underlying rights than is authorized on the face of the permit. However, the priority shall not be voided for the diversion of de minimis amounts that can be reasonably attributed to operational uncertainties.

Upon request by an applicant, a protestant, or the District, notification to the District and petitioner, and opportunity for comment, the SWRCB will review whether the amount set forth in the column entitled "*Quantity Reserved By SWRCB For Future Appropriations*" should be increased or decreased, at such time as an application is processed. However, no reconsideration will be provided for amounts based upon a stipulation between the District and an applicant, except in those instances where the stipulation is subsequently revised or a new stipulation is entered into by the District with respect to Table 13 quantities.

Request for review shall be submitted and accompanied by *prima facie* evidence of established quantities of use to the Chief, Division of Water Rights, on or before December 29, 1995. Requests for review submitted after this date shall not be considered. The criterion for review shall be whether the applicant had an established reasonable beneficial use of water and the amount of such use on or before November 22, 1994. Recorded water use shall be based either on records of meter readings or well production records. Only recorded water use for the period January 1, 1987 through November 22, 1994 shall be considered. Limited meter readings are available for the Carmel River Valley beginning in 1987. The Chief, Division of Water Rights, is delegated authority to modify the quantities identified in Table 13 of Decision 1632. This condition is not a restriction on exercise of valid riparian, pre-1914 appropriative, or post-1914 appropriative rights which are senior to the permit issued pursuant to Application 27614, or valid rights to diversion of percolating ground water.

(016T001) (0500700)

19. Permittee shall not divert water under this permit unless and until California American Water Company (Cal-Am) has obtained an alternative supply of water for its illegal diversions from the Carmel River. A contract with permittee to obtain water made available under this permit is one means by which Cal-Am can obtain a legal supply of water in lieu of its existing diversions.

(0360900)

20. The New Los Padres Dam is of such size as to be within the jurisdiction of the Department of Water Resources as to safety, and construction under this permit shall not be commenced until the Department has approved the plans and specifications for the dam.

(0360048)

21. Permittee shall consult with the Division of Water Rights and develop, in conformance with Water Code Section 10610, et seq., and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the State Water Board for approval within one year from the date of this permit or such further time as, for good cause shown, may be allowed by the Board. A progress report on the development of a water conservation program may be required by the Board at any time within this period.

All cost-effective measures identified in the water conservation program shall be implemented in accordance with the schedule for implementation found therein.

(000029B)

22. The permittee shall prepare an Erosion Control Plan. The plan shall be submitted to the Chief of the Division of Water Rights, State Water Board, for approval prior to project construction.

(0400500)

23. In accordance with Section 1601, 1603, and/or Section 6100 of the California Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted under this permit until permittee has entered into a stream alteration agreement with the California Department of Fish and Game (DFG) and/or the DFG has determined that measures to protect fishlife have been incorporated into the plans for the construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee.

(0000063)

24. Prior to construction, permittee shall develop and implement a program in consultation with the California Department of Fish and Game to monitor changes in channel capacity and growth of riparian vegetation downstream of the project. The program shall be submitted to the Chief, Division of Water Rights, for approval prior to initiation of construction activities. Changes shall be monitored for a period of 20 years from issuance of Permit after which time the program will be re-evaluated. Permittee shall submit the results of the monitoring program to the State Water Board and Department of Fish and Game annually with the Progress Report by Permittee.

If reduction in pre-project main stem channel capacity is confirmed, or changes in channel geometry increase the risk of bank erosion, and if inspection of sediment deposition indicates fishery habitat degradation, permittee in consultation with SWRCB, Department of Fish and Game and other responsible resource agencies, shall devise and implement measures to correct the adverse changes.

(0490500) (0110700)

25. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction permittee shall file a report pursuant to Water Code Section 13260 and shall comply with all waste discharge requirements imposed by the California Central Coast Regional Water Quality Control Board or by the State Water Board.

(0000100)

26. For protection of the downstream fishery, permittee shall install and operate a multilevel intake structure on the outlet works of the New Los Padres Dam. The structure shall be designed to provide temperature control and maximum reaeration of released water. The design of the intake

structure shall be approved by the Department of Fish and Game prior to project construction.

(0400500)

27. To mitigate for loss of mixed hardwood forest and coast live oak woodland, permittee shall acquire the rights to a minimum of 380 acres of property in the immediate project vicinity to be preserved as open space and wildlife habitat.
(0400500)
28. To mitigate for loss of valley oak woodland, permittee shall implement the Valley Oak Woodland Mitigation Plan as specified in the Monterey Peninsula Water Supply Project Final EIR/EIS (March 1994), Volume II, Attachment 9-B.
(0400500)
29. To mitigate for construction staging area impacts, permittee shall implement the Construction Staging Area Mitigation Plan as specified in the Monterey Peninsula Water Supply Project Final EIR/EIS (March 1994), Volume II, Attachment 9-E. Monitoring shall occur for a period of 20 years to ensure success in meeting pre-established success criteria. The results of the monitoring program shall be submitted to the Chief, Division of Water Rights. Any modification in the mitigation plan is subject to the review and approval of the Chief, Division of Water Rights, subject to appropriate conditions.
(0400700)
30. Prior to construction, permittee shall finalize the Riparian and Wetland Habitat Mitigation and Monitoring Plan for review and approval by resource agencies participating in the Interagency Vegetation Working Group and the Chief, Division of Water Rights. Permittee shall commence implementation of the final Plan within one year of construction completion.
(0490500) (0400700)
31. Prior to construction, permittee shall collect, clean, and place in cold storage seeds of the Douglas' Spine flower and the Lewis' Clarkia. Permittee shall apply the seeds to the construction staging area upon project completion along with the revegetation mix.
(0400500)
32. Permittee shall maintain in good working order all riparian irrigation systems owned or operated by permittee under its Water Allocation Program Environmental Impact Report, 5-Year Mitigation Program (November 1990) for use as needed during dry or critically dry water years, as defined in Table C, when no flow is to be maintained at the lagoon, or under conditions of critically low storage in New Los Padres Reservoir when no flow is required at the Narrows.
(0400500)
33. Permittee shall implement the Wildlife Habitat Monitoring Program outlined in the Monterey Peninsula Water Supply Project Final EIR/EIS, Volume III, Appendix 9-G until Application 27614B is licensed. Survey data and analysis of results shall be submitted annually to the Department of Fish and Game for review and comment. If, after review, Department of Fish and Game determines need for mitigation, permittee shall within one year of such a finding, submit to the State Water Board, Chief, Division of Water Rights, for review and approval a plan detailing specific measures which will be implemented. Upon approval by the Chief, Division of Water Rights, permittee shall implement the approved measures.
(0490500)
34. Prior to construction, permittee shall in consultation with Department of Fish and Game and the National Marine Fisheries Service finalize the Spawning Habitat Mitigation Plan outlined in the Monterey Peninsula Water Supply Project Final EIR/EIS (March 1994), Volume II, Appendix 8-B.

The plan shall be submitted to the State Water Board, Chief, Division of Water Rights, for review and approval. Upon approval, the permittee shall implement the plan.

(0400500)

35. During the final project design phase, and prior to solicitation of bids for construction, permittee shall, to the satisfaction of the Department of Fish and Game, the National Marine Fisheries Service and the State Water Board, Chief, Division of Water Rights, finalize the Steelhead Fisheries Mitigation Plan found in the Monterey Peninsula Water Supply Project Final EIR/EIS (March 1994), Volume II, Attachment 8-A. Said plan shall establish a numerical goal against which the success of the plan may be measured.
- (0400500)
36. Permittee shall at all times maintain minimum instream flow at the lagoon, the Narrows, and below New Los Padres Dam as specified in Table A and Table B of this permit. The flow shall depend on hydrologic year type, season, and reservoir storage conditions. Hydrologic year types shall be based on the Water Supply Index as specified in Table C of this permit. Permittee shall incorporate a daily time step in its hydrologic forecasting so that the Water Supply Index can be upgraded on a daily basis.
- (0400500)
37. Once the project authorized by this permit becomes operational, permittee shall assure that any water delivered to California American Water Company shall not result in surface water diversion to the San Clemente Filter plant in excess of 16 cfs in Normal or Better years, 5.6 cfs in Below Normal Years, and 3.5 cfs in Dry or Critically Dry years.
- (0060900)
38. Permittee shall continue to operate or install and properly maintain continuous flow measurement devices, satisfactory to the State Water Board, at the following locations in the Carmel River:
- a. Carmel River at the Highway 1 bridge.
 - b. Carmel River at the Don Juan bridge.
 - c. Carmel River at Sleepy Hollow.
 - d. Carmel River upstream and downstream of New Los Padres Reservoir at the fish screening facilities.
- (0560900)
39. Permittee shall submit annual reports to the State Water Board, Chief, Division of Water Rights and Department of Fish and Game stating the mean daily flows at the five specified monitoring locations throughout the year.
- (0090900)
40. Once an attraction event has occurred, as defined in Table A, and Carmel River flow has decreased to 200 cubic feet per second at the lagoon, permittee shall "ramp down" the flows at the lagoon to prevent fish stranding. Permittee shall operate the New Los Padres Reservoir in a manner which reduces the measured flow at the Highway 1 Bridge by 15 percent or less in any 24-hour period.
- (0400500)
41. Until the project authorized by this permit becomes fully operational, permittee shall continue to negotiate with California American Water Company and Department of Fish and Game to maintain, insofar as possible a minimum 5 cfs bypass flow below San Clemente Dam as measured at the Sleepy Hollow weir.
- (0400500)
42. To prevent stranding of spring and fall steelhead juveniles and smolts during critically dry

conditions, permittee shall continue to implement the fisheries measures outlined in the Water Allocation Mitigation Program as described in the Monterey Peninsula Water Supply Project Final EIR/EIS (March 1994), Volume III, Appendix 2-D.

(0400500)

43. Permittee shall, in consultation with Department of Fish and Game, design and construct upstream and downstream fish passage facilities for the New Los Padres Project. The design plans shall be submitted to the State Water Board, Chief, Division of Water Rights, prior to commencement of construction of fish passage facilities. The permittee shall fully fund the construction and continued operation of the upstream and downstream fish passage facilities. An annual Memorandum of Understanding (MOU) shall be executed between the permittee and Department of Fish and Game defining operation of the fish passage facilities. Permittee shall record and maintain records of numbers of adult and juvenile steelhead trapped and transported by the facilities. The MOU shall be submitted to the State Water Board, Chief, Division of Water Rights, annually.

(0400500) (0090700)
44. Permittee shall, in consultation with Department of Fish and Game and the National Marine Fisheries Service, develop a formal Remedial Action Plan to address problems which may occur with the fish passage facilities. Should the facilities prove unsuccessful, the State Water Board may, under its continuing jurisdiction, alter the project instream flow schedules (Tables A and B) to increase habitat below the dam.

(0400500)
45. Should the Carmel River steelhead become listed as threatened or endangered under either the State or Federal Endangered Species Acts prior to construction of the works authorized by this permit, permittee shall seek a formal biological opinion from the trustee agency and implement additional feasible mitigation measures identified in said opinion.

(0400500)
46. Prior to construction, permittee shall, in consultation with Department of Fish and Game, conduct additional investigations to further define the instream flow requirements in the reach immediately downstream of the New Los Padres Dam. Permittee shall prepare a final report of these investigations and submit the report to Department of Fish and Game and the State Water Board. Under its continuing authority, after notice and opportunity for hearing, the State Water Board may modify the fishery bypass flows in this permit, based upon the results of said investigations.

(0400500)
47. During the final project design phase, and prior to solicitation of bids for construction, permittee shall provide documentation to the State Water Board that sufficient long-term financial resources have been committed to fund all mitigation measures specified in this permit to assure their full and continuing implementation.

(0470500)
48. Permittee shall, in consultation with Department of Fish and Game conduct studies to determine the effectiveness of fish rescue operations specified in the Water Allocation Mitigation Program and the Steelhead Resource Mitigation Plan. The results shall be submitted to the State Water Board, Chief, Division of Water Rights for review and approval.

(0400500)
49. Permittee shall annually monitor the volume of the Carmel River Lagoon and actual sand transport into the lagoon. Annual reports shall be submitted to the California Department of

Parks and Recreation, Department of Fish and Game, and the State Water Board, Chief, Division of Water Rights for review. Such monitoring shall take place for a period of 20 years, after which the program shall be evaluated. If increased sediment transport is observed, the permittee shall, in consultation with the Department of Parks and Recreation and Department of Fish and Game, evaluate the significance of the impacts and initiate a program to prevent reduction in habitat value.

(0400500)

50. For the protection of historic properties, including both prehistoric/ethnohistoric archeological resources and traditional cultural properties, permittee shall adhere to the May 2, 1995 *"Programmatic Agreement Among the U.S. Army Corps of Engineers, San Francisco District, the California State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding Issuance of a Permit Under Section 404 of the Clean Water Act for the New Los Padres Dam and Reservoir Project."* Permittee shall continue to consult with the U.S. Army Corps of Engineers, the State Water Board, the State Historic Preservation Officer, the Advisory Council on Historic Preservation, and the Native Americans regarding cultural resources until all stipulations of the Programmatic Agreement and resultant Historic Properties Management Plan and any Historic Properties Treatment Plans have been completed to the satisfaction of all the parties. Any modifications to the Programmatic Agreement are subject to the approval of the Chief of the Division of Water Rights. The permittee shall also comply with the *"Procedure for the Protection of Historic and Cultural Properties"* (36 CFR 60) and the implementing regulations of the Advisory Council on Historic Preservation 36, CFR 800.

(0380500)

51. Permittee shall implement the mitigation measures regarding the archeological and traditional properties of importance to the Native Americans that result from the National Historic Preservation Act Section 106 process as set forth in the Historic Properties Management Plans and the Historic Properties Treatment Plans in the special permit term regarding the Programmatic Agreement.

(0380700)

52. Permittee shall submit an annual progress report regarding cultural resources to the State Water Board, Chief, Division of Water Rights, until such time that the cultural resource work has been completed or this permit is licensed.

(0380700)

53. The State Water Board reserves jurisdiction to require the permittee to implement such additional mitigation measures for protection of traditional cultural properties as may be necessary in the event the results of the National Historic Preservation Act Section 106 process do not meet with the satisfaction of the State Water Board.

(0380600)

54. For the protection of historic properties including both prehistoric/ethnohistoric archeological resources and traditional cultural properties of importance to the Native Americans, permittee shall include the Native Americans as participants in the National Historic Preservation Act Section 106 process as specified in the Programmatic Agreement and the Memorandum of Understanding which were executed by the Tribe, the Nation, the District, and the U.S. Army Corps of Engineers.

(0380300)

55. Any mitigation measures that result from the process outlined in the Programmatic Agreement and in the Memoranda of Understanding with the Esselen Tribe and Nation are subject to the approval of the State Water Board. If these measures are acceptable to the Chief, Division of

Water Rights, permittee shall be responsible for full implementation of these measures.

(0380500) (0490500)

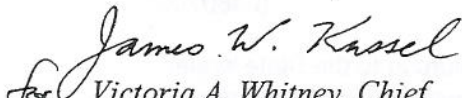
This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefore shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD


for Victoria A. Whitney, Chief
Division of Water Rights

Date: **NOV 30 2007**

| PERMIT TABLE A | | |
|--|---|---|
| MINIMUM INSTREAM FLOW REQUIREMENTS BELOW NEW LOS PADRES DAM | | |
| JANUARY-MARCH | APRIL-MAY | JUNE-DECEMBER |
| Normal or Better Years | Normal or Better Years | Normal or Better Years |
| Maintain 20 cfs below New Los Padres Dam for juvenile rearing until an attraction event occurs. Once an attraction event occurs, maintain 50 cfs below New Los Padres Dam for migration, spawning, and incubation purposes. | Maintain 40 cfs below New Los Padres Dam for smolt emigration. | Maintain 20 cfs below New Los Padres Dam for juvenile rearing. |
| Below Normal Years | Below Normal Years | Below Normal Years |
| Same flow requirements as Normal or Better Years. | Same flow requirements as Normal or Better Years. | Same flow requirements as Normal or Better Years. |
| Dry Years | Dry Years | Dry Years |
| Same flow requirements as Normal or Better Years except that once an attraction event occurs, maintain 35 cfs below New Los Padres Dam for migration, spawning, and incubation purposes. | Maintain 30 cfs below New Los Padres Dam for smolt emigration. | If usable storage in New Los Padres Reservoir is greater than 5,000 af, maintain 20 cfs below New Los Padres Dam for juvenile rearing. If usable storage in New Los Padres Reservoir is less than 5,000 af, maintain 10 cfs below New Los Padres Dam for juvenile rearing. |

| PERMIT TABLE A (continued) | | |
|---|--|--|
| MINIMUM INSTREAM FLOW REQUIREMENTS BELOW NEW LOS PADRES DAM | | |
| JANUARY-MARCH | APRIL-MAY | JUNE-DECEMBER |
| Critically Dry Years | Critically Dry Years | Critically Dry Years |
| Same flow requirements as Normal or Better Years except that once an attraction events occurs, maintain 20 cfs below New Los Padres Dam for migration, spawning, and incubation purposes. | Maintain 20 cfs below New Los Padres Dam for smolt emigration. | Maintain 10 cfs below New Los Padres Dam for juvenile rearing. |
| Critically Low Storage | Critically Low Storage | Critically Low Storage |
| Maintain 5 cfs below New Los Padres and San Clemente Dams. | Maintain 5 cfs below New Los Padres and San Clemente Dams. | Maintain 5 cfs below New Los Padres and San Clemente Dams. |

Note for Tables A, B and C:

1. Water Year classifications are based on the District Water Supply Index, computed from the reconstructed long-term record of unimpaired flow at the San Clemente Dam.
2. "Critically Low Storage" occurs whenever usable storage in New Los Padres Reservoir falls below 2,000 af and persists until usable storage exceeds 7,500 af.
3. An attraction event is defined as occurrence of 200 cfs at the Carmel River Lagoon.

| PERMIT TABLE B | | |
|--|---|---|
| MINIMUM INSTREAM FLOW REQUIREMENTS AT CARMEL RIVER NARROWS AND LAGOON | | |
| JANUARY-MARCH | APRIL-MAY | JUNE-DECEMBER |
| Normal or Better Years | Normal or Better Years | Normal or Better Years |
| <p>Maintain 5 cfs to the lagoon for juvenile rearing until an attraction event is projected.</p> <p>Whenever an attraction event is projected, maintain 200 cfs to the lagoon for the duration of the attraction event.</p> <p>Following an attraction event, provide migration flows of 200 to 60 cfs to the lagoon, depending on estimated natural recession rates.</p> <p>Following the migration period, maintain 40 cfs to the lagoon and 70 cfs at the Narrows for spawning.</p> | <p>Maintain 40 cfs to the lagoon for smolt emigration</p> | <p>Maintain 5 cfs to the lagoon for juvenile rearing.</p> |
| Below Normal Years | Below Normal Years | Below Normal Years |
| <p>Same flow requirements as Normal or Better Years.</p> | <p>Same flow requirements as Normal or Better Years.</p> | <p>Same flow requirements as Normal or Better Years.</p> |

| PERMIT TABLE B (continued) | | |
|--|---|---|
| MINIMUM INSTREAM FLOW REQUIREMENTS AT CARMEL RIVER NARROWS AND LAGOON | | |
| JANUARY-MARCH | APRIL-MAY | JUNE-DECEMBER |
| Dry Years | Dry Years | Dry Years |
| <p>Same flow requirements as Normal or Better Years except that:</p> <p>(1) Whenever an attraction event is projected, maintain either 200 cfs in January, 100 cfs in February, or 75 cfs in March to the lagoon for the duration of the attraction event</p> <p>(2) Following the migration period, maintain 40 cfs to the lagoon and 50 cfs at the Narrows for spawning.</p> | <p>Maintain 30 cfs to the lagoon for smolt emigration</p> | <p>Same flow requirements as Normal or Better Years except that:</p> <p>If usable storage in New Los Padres Reservoir is less than 5,000 AF, maintain 10 cfs at the Narrows for juvenile rearing. No flow is required at the lagoon.</p> |
| Critically Dry Years | Critically Dry Years | Critically Dry Years |
| <p>Same flow requirements as Normal or Better Years except that:</p> <p>(1) Whenever an attraction event is projected, maintain either 200 cfs in January, 100 cfs in February, or 75 cfs in March to the lagoon for the duration of the attraction event.</p> <p>(2) Following the migration period, maintain 20 cfs to the lagoon and 30 cfs at the Narrows for spawning.</p> | <p>Maintain 20 cfs to the lagoon for smolt emigration.</p> | <p>Maintain 10 cfs at the Narrows for juvenile rearing. No flow is required at the lagoon.</p> |

| PERMIT TABLE B (continued) | | |
|---|---|---|
| MINIMUM INSTREAM FLOW REQUIREMENTS AT CARMEL RIVER NARROWS AND LAGOON | | |
| JANUARY-MARCH | APRIL-MAY | JUNE-DECEMBER |
| Critically Low Storage | Critically Low Storage | Critically Low Storage |
| Maintain 5 cfs below New Los Padres and San Clemente Dams. No flow required at Narrows or lagoon. | Maintain 5 cfs below New Los Padres and San Clemente Dams. No flow required at Narrows or lagoon. | Maintain 5 cfs below New Los Padres and San Clemente Dams. No flow required at Narrows or lagoon. |

| PERMIT TABLE C | | | | |
|--|-------------------------|---------------------|---------------|-----------------------|
| WATER YEAR SUPPLY INDEX | | | | |
| CUMULATIVE UNIMPAIRED INFLOW AT SAN CLEMENTE DAM (AF) | | | | |
| | WATER YEAR CLASS | | | |
| | Normal or Better | Below Normal | Dry | Critically Dry |
| End Oct | > 200 | > 200-100 | > 100-1 | 0 |
| Oct-Nov | > 1,000 | 1,000-500 | 500-200 | < 200 |
| Oct-Dec | > 4,100 | 4,100-1,700 | 1,700-1,175 | < 1,175 |
| Oct-Jan | > 11,800 | 11,800-5,450 | 5,450-4,100 | < 4,100 |
| Oct-Feb | > 26,300 | 26,300-14,400 | 14,400-7,550 | < 7,550 |
| Oct-Mar | > 39,100 | 39,100-21,950 | 21,950-10,925 | < 10,925 |
| Oct-Apr | > 46,400 | 46,400-28,300 | 28,300-12,975 | < 12,975 |
| Oct-May | > 47,400 | 47,400-30,650 | 30,650-14,425 | < 14,425 |
| Oct-Jun | > 48,000 | 48,000-31,550 | 31,550-14,900 | < 14,900 |
| Oct-Jul | > 48,100 | 48,100-31,700 | 31,700-14,925 | < 14,925 |
| Oct-Aug | > 48,100 | 48,100-31,750 | 31,750-14,925 | < 14,925 |

NOTE: Classes derived from monthly unimpaired flows to San Clemente Dam for the period of 1902-1978. (MPWMD: 289, A-5, 23.)

**PETITION FOR CHANGE
TO APPLICATION 27614B (PERMIT 20808B)**

**SEASIDE GROUNDWATER BASIN
PHASE 2 AQUIFER STORAGE AND RECOVERY PROJECT**

**LOCATIONS OF PROPOSED ADDED POINT OF DIVERSION,
POINTS OF INJECTION AND RECOVERY, AND PLACE OF STORAGE
(See also Project Map, June 2008, for locations.)**

ADDED POINT OF DIVERSION

San Clemente Dam

Point of diversion is within the NW 1/4 of SW 1/4 of Section 24, MDB&M.

Coordinates (California Coordinate System of 1983, Zone 4):
2,053,010 feet North, 5,765,040 feet East

POINTS OF INJECTION AND RECOVERY

ASR #3 Well

Point of injection and recovery is within the SE 1/4 of the SE 1/4 of Projected Section 13, MDB&M..

Coordinates: 2,122,180 feet North, 5,735,150 feet East

ASR #4 Well

Point of injection and recovery is within the SE 1/4 of the SE 1/4 of Projected Section 13, MDB&M. .

Coordinates: 2,122,530 feet North, 5,735,250 feet East

PLACE OF STORAGE

Seaside Groundwater Basin

Location of the place of underground storage is shown in Figure 1, Sheet 2 of 2, Project Map, June 2008.

ATTACHMENT 3

**PETITION FOR CHANGE TO
APPLICATION 27614B (PERMIT 20808B)**

**SEASIDE GROUNDWATER BASIN
PHASE 2 AQUIFER STORAGE AND RECOVERY PROJECT**

PROPOSED AMENDMENTS TO PERMIT CONDITIONS

Conditions under this permit are proposed to be the same as those for Amended Permit 20808A (**Attachment 3, Exhibit A**), with the following exceptions:

In the sentence following the table containing Conditions 3 and 4:
Change date of maps to June 2008.

Condition 5: Change annual appropriation amount to 2,900 acre-feet per annum, and maximum instantaneous diversion rate to 8.0 cubic feet per second.

STATE WATER RESOURCES
CONTROL BOARD
2008 JUL -3 PM 2:24
DIV. OF WATER RIGHTS
SACRAMENTO

RECEIVED

DEC - 6 2007

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

MPWMD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER**AMENDED PERMIT 20808A**

Application 27614A of Monterey Peninsula Water Management District and California American Water
c/o Monterey Peninsula Water Management District
P.O. Box 85
Monterey, CA 93942-0085

filed on **December 16, 1982**, has been approved by the State Water Resources Control Board (State Water Board, Board or SWRCB) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittees are hereby authorized to divert and use water as follows:

1. Source of water

Source:
(1) Carmel River
(5-32) Carmel River Subterranean Stream

Tributary to:
Pacific Ocean
Pacific Ocean

within the County of **Monterey**.

2. Location of points of diversion, points of injection and points of recovery.

| Points of Diversion to Offstream Storage (By California Coordinate System of 1983-Zone 4) | 40-acre subdivision of public land survey or projection thereof | Section (Projected) | Township | Range | Base and Meridian |
|---|---|------------------------|----------|-------|----------------------|
| (1) San Clemente Dam: North 2,053,010 feet and East 5,765,040 feet | NW $\frac{1}{4}$ of SW $\frac{1}{4}$ | 24 | 17S | 2E | MD |
| (5) Canada Well: North 2,092,010 feet and East 5,715,190 feet | NE $\frac{1}{4}$ of SW $\frac{1}{4}$ | 17 | 16S | 1E | MD |
| (6) San Carlos Well: North 2,091,660 feet and East 5,717,990 feet | NE $\frac{1}{4}$ of SE $\frac{1}{4}$ | 17 | 16S | 1E | MD |
| (7) Cypress Well: North 2,087,610 feet and East 5,724,640 feet | SW $\frac{1}{4}$ of NW $\frac{1}{4}$ | 22 | 16S | 1E | MD |
| (8) Pearce Well: North 2,087,360 feet and East 5,726,140 feet | SE $\frac{1}{4}$ of NW $\frac{1}{4}$ | 22 | 16S | 1E | MD |
| (9) Schulte Well: North 2,087,410 feet and East 5,729,240 feet | SW $\frac{1}{4}$ of NW $\frac{1}{4}$ | 23 | 16S | 1E | MD |

| | | | | | |
|---|--------------|----|-----|----|----|
| (10) Manor #2 Well: North 2,086,460 feet and East 5,731,340 feet | NE¼ of SW¼ | 23 | 16S | 1E | MD |
| (11) Begonia #2 Well: North 2,085,510 feet and East 5,734,740 feet | NW¼ of SW¼ | 24 | 16S | 1E | MD |
| (12) Berwick #7 Well: North 2,084,460 feet and East 5,735,290 feet | SW¼ of SW¼ | 24 | 16S | 1E | MD |
| (13) Berwick #8 Well: North 2,084,510 feet and East 5,736,090 feet | SE¼ of SW¼ | 24 | 16S | 1E | MD |
| (15) Scarlett #8 Well: North 2,084,510 feet and East 5,740,590 feet | SW¼ of SW¼ | 19 | 16S | 2E | MD |
| (17) Los Laureles #5 Well: North 2,080,310 feet and East 5,748,590 feet | NW¼ of SE¼ | 29 | 16S | 2E | MD |
| (18) Los Laureles #6 Well: North 2,079,510 feet and East 5,749,440 feet | SE¼ of SE¼ | 29 | 16S | 2E | MD |
| (19) West Garzas #4 Well: North 2,075,260 feet and East 5,752,190 feet | NE¼ of SW¼ | 33 | 16S | 2E | MD |
| (20) Garzas Creek #3 Well: North 2,073,610 feet and East 5,753,040 feet | SW¼ of SE¼ | 33 | 16S | 2E | MD |
| (21) Panetta #2 Well: North 2,072,110 feet and East 5,754,740 feet | NW¼ of NW¼ | 3 | 17S | 2E | MD |
| (22) Panetta #1 Well: North 2,071,960 feet and East 5,754,640 feet | NW¼ of NW¼ | 3 | 17S | 2E | MD |
| (23) Robles #3 Well: North 2,067,110 feet and East 5,759,490 feet | NE¼ of NE¼ | 10 | 17S | 2E | MD |
| (24) Russell #4 Well: North 2,061,810 feet and East 5,764,040 feet | SW¼ of SE¼ | 14 | 17S | 2E | MD |
| (25) Russell #2 Well: North 2,061,410 feet and East 5,764,040 feet | SE¼ of SE¼ | 14 | 17S | 2E | MD |
| (26) A Well: North 2,091,070 feet and East 5,706,020 feet | SE ¼ of SE ¼ | 13 | 16S | 1W | MD |
| (27) B Well: North 2,091,970 feet and East 5,709,420 feet | NE ¼ of SW ¼ | 18 | 16S | 1E | MD |
| (28) C Well: North 2,087,220 feet and East 5,724,470 feet | SW ¼ of NW ¼ | 22 | 16S | 1E | MD |
| (29) D Well: North 2,087,370 feet and East 5,729,270 feet | SW ¼ of NW ¼ | 23 | 16S | 1E | MD |

| | | | | | |
|---|--------------|----|-----|----|----|
| (30) E Well: North 2,084,920 feet and East 5,737,320 feet | SW ¼ of SE ¼ | 24 | 16S | 1E | MD |
| (31) F Well: North 2,072,120 feet and East 5,754,670 feet | NW ¼ of NW ¼ | 3 | 17S | 2E | MD |
| (32) G Well: North 2,070,270 feet and East 5,755,270 feet | SW ¼ of NW ¼ | 3 | 17S | 2E | MD |

| Points of Injection and Recovery (By California Coordinate System of 1983-Zone 4) | 40-acre subdivision of public land survey or projection thereof | Section (Projected) | Township | Range | Base and Meridian |
|---|---|------------------------|----------|-------|----------------------|
| ASR-1 Injection & Recovery Well North 2,120,840 feet and East 5,734,970 feet | NE¼ of NE¼ | 23 | 15S | 1E | MD |
| ASR-2 Injection & Recovery Well North 2,121,080 feet and East 5,735,250 feet | SE¼ of SE¼ | 14 | 15S | 1E | MD |

| 3. Purpose of use | 4. Place of use | Section (Projected) | Township | Range | Base and Meridian | Acres |
|----------------------|---|------------------------|----------|-------|----------------------|---------|
| Municipal | Within the boundaries of Monterey Peninsula Water Management District | | | | | 110,000 |

The points of diversion and place of use are shown on maps dated September 12, 2003 and filed with the State Water Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **two thousand four hundred and twenty-six (2,426) acre-feet per annum** to be collected to underground storage in Seaside Groundwater Basin at a maximum instantaneous rate of **six and seven tenths (6.7) cubic feet per second** from **December 1** of each year to **May 31** of the succeeding year.

(000005H)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants.

(0000006)

7. Permittees' rights under this permit are junior to the rights of persons diverting water for reasonable beneficial use under valid and properly exercised riparian, overlying, and pre- and post-1914 appropriative claims of right which have a priority which is superior to the priority of Application 27614A.

(050T001)

8. Complete application of the water to the authorized use shall be made by December 1, 2020.

(0000009)

9. Progress reports shall be submitted promptly by Permittees when requested by the State Water Board until a license is issued.

(0000010)

10. Permittees shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by said State Water Board, reasonable access to project works to determine compliance with the terms of this permit.

(0000011)

11. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of Permittees without unreasonable draft on the source. Permittees may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the State Water Board also may be exercised by imposing further limitations on the diversion and use of water by the Permittees in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Board if, after notice to the Permittees and an opportunity for hearing, the State Water Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the State Water Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

13. This permit does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050 - 2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531 - 1544). If a "take" will result from any act authorized under this water right, the Permittees shall obtain authorization for an incidental take prior to construction or operation of the project. Permittees shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

14. Permittees shall maintain records of the amount of water diverted and used to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(0000015)

15. This permit shall not be construed as conferring upon the Permittees right of access to the points of diversion.

(0000022)

16. Permittees shall consult with the Division of Water Rights and, within one year from the date of this permit, shall submit to the State Water Board their Urban Water Management Plan as prepared and adopted in conformance with Section 10610, et seq. of the California Water Code, supplemented by any additional information that may be required by the Board.

All cost-effective measures identified in the Urban Water Management Plan and any supplements thereto shall be implemented in accordance with the schedule for implementation found therein.

(0000029A)

17. If it is determined after permit issuance that the as-built conditions of the project are not correctly represented by the map(s) prepared to accompany the application, Permittees shall, at their expense, have the subject map(s) updated or replaced with equivalent as-built maps(s). Said revision(s) or new map(s) shall be prepared by a civil engineer or land surveyor registered or licensed in the State of California and shall meet the requirements prescribed in section 715 and sections 717 through 723 of the California Code of Regulations, Title 23. Said revision(s) or map(s) shall be furnished upon request of the Chief, Division of Water Rights.

(0000030)

18. Permittees shall (1) install devices to measure the instantaneous rate and cumulative quantity of water diverted from the Carmel River and placed into underground storage and (2) install devices to measure the cumulative quantity of Carmel River water recovered from underground storage and placed to beneficial use. All measuring devices and the method of determining the quantity of water recovered from underground storage shall be approved by the State Water Board. All measuring devices shall be properly maintained.

(0060900) (0080900)

19. Permittees shall install, calibrate and maintain continuous flow measurement devices, satisfactory to the State Water Board, at the following locations in the Carmel River:

- a. Carmel River at the Highway 1 Bridge (River Mile (RM) 1.1)
- b. USGS Carmel River Near Carmel Gage (USGS 11143250; RM 3.2), maintained by USGS
- c. Carmel River at Sleepy Hollow Weir (RM 17.6)

If any measuring device is rendered inoperative for any reason, all diversions under this permit shall cease until such time as the device is restored to service.

In the event that the streamflow gage maintained by USGS is no longer available for streamflow measurements, Permittees (or successors-in-interest) are responsible for installing and maintaining an equivalent gage, satisfactory to the Chief, Division of Water Rights, as near as practicable to the present location of USGS near Carmel Gage. In the absence of such equivalent gage, all diversions must cease. These requirements shall remain in force as long as water is diverted by Permittees (or successors-in-interest) under any permit or license issued pursuant to Application 27614A.

(0060062BP) (0000204)

20. Within six months of the issuance of this permit, the Permittees shall submit a Compliance Plan for approval by the Chief of the Division of Water Rights that will demonstrate compliance with the flow bypass terms specified in this permit. The Compliance Plan shall include the following:
- a. A description of the gages and monitoring devices that have been or will be installed to measure streamflow and diversion to underground storage.
 - b. A time schedule for the installation of these facilities.
 - c. A description of the frequency of data collection and the methods for recording diversions, bypass flows and storage levels.
 - d. An operation and maintenance plan that will be used to maintain gages and monitoring devices in good condition.

The Permittees shall be responsible for all costs associated with developing the Compliance Plan, and installing and maintaining all monitoring facilities described in the Compliance Plan.

The monitoring data shall be maintained by the Permittees for ten years from the date of collection and made available to the Chief of the Division of Water Rights upon request. Any non-compliance with the terms of the permit shall be reported by the Permittees promptly to the Chief of the Division of Water Rights.

(0000070)

21. The priority of this permit shall be junior to any permit issued on the applications set forth in Table 13 of Decision 1632 or for the persons named in Table 13 of Decision 1632 for an amount of water not to exceed the quantity set forth in the column titled "*Quantity Reserved by SWRCB For Future Appropriations*", or as modified in accordance with the procedures set forth in Decision 1632, Permit Condition 10.

(0500800)

22. Permittees shall implement the Riparian Corridor Management Program outlined in the Monterey Peninsula Water Management District's November 1990 Water Allocation Mitigation Program until Application 27614A is licensed. Survey data and analysis of results shall be submitted annually to the California Department of Fish and Game for review and comment.

(0490500)

23. For the protection of fisheries, wildlife, and other instream uses in the Carmel River, diversions under this permit shall be subject to maintenance of minimum mean daily instream flows, as agreed upon by the Permittees and the California Department of Fish and Game and National Marine Fisheries Service and stated in the document entitled, "Proposed Changes to Current Permit Conditions". Minimum mean daily instream flows are specified in Table A, required Ramp-Down flows are specified in Table B, and water year types for use with Tables A and B are specified in Table C. No water shall be diverted under this permit if the instream flows determined using Tables A, B and C are or would be reduced by such diversion below the designated rates. To ensure compliance with these conditions, by September 30 of each year, Permittees shall file a report with the Chief, Division of Water Rights, California Department of Fish and Game and National Marine Fisheries Service containing the following information:
- a. Dates during the previous period of December 1 to May 31 of the succeeding year when water was diverted under this permit; and
 - b. Mean daily flows recorded at the three monitoring locations specified in Condition 20 during the same period.

Water year types defined in Table C, Carmel River Water Supply Index, may be amended from time to time to include the most recent available hydrologic data. For the purpose of amending water year types in Table C, Permittees shall submit to the Chief, Division of Water Rights, a request to approve revisions to criteria to define normal or better, below normal, dry and critically dry year types.

(0400500)

This permit is issued and Permittees take it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefore shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD

James W. Kassel
for *Victoria A. Whitney, Chief*
Division of Water Rights

Date: **NOV 30 2007**

| TABLE A | | |
|---|---|--|
| MINIMUM MEAN DAILY INSTREAM FLOW REQUIREMENTS (see Condition 23) | | |
| Fall December 1- December 15 | Winter December 16-April 15 | Spring April 16-May 31 |
| <p><u>All Water Year Types</u>¹</p> <p>May divert with minimum bypass of 40 cfs at the Highway 1 gage.</p> | <p><u>Normal or Better and Below Normal Water Years</u>¹</p> <p>For Normal or Better and Below Normal Water Years, an Attraction Day is defined as: Estimated unimpaired flow² at the Highway 1 gage of 200 cfs or greater.</p> <p>Prior to First Attraction Day: Continue December 1-15 bypass flows.</p> <p>During Attraction Day(s): Bypass sufficient flow to maintain 200 cfs at the Highway 1 gage.</p> <p>Following Attraction Day(s): Ramp down bypass flows as indicated on Table B. Following the ramp-down period, bypass 90 cfs throughout the reach³ between the Sleepy Hollow Weir gage and the USGS Near Carmel gage, and 60 cfs throughout the reach³ between the USGS Near Carmel gage and the Highway 1 gage.</p> | <p><u>All Water Year Types</u>¹</p> <p>Bypass 80 cfs throughout the reach³ between Sleepy Hollow Weir gage and the Highway 1 gage.</p> |
| | <p><u>Dry and Critically Dry Water Years</u>¹</p> <p>For Dry and Critically Dry Water Years, an Attraction Day is defined as: Estimated unimpaired flow² at the Highway 1 gage of 200 cfs or greater in January, 100 cfs or greater in February, and 75 cfs or greater in March.</p> <p>Prior to First Attraction Day: Continue December 1-15 bypass flows.</p> <p>During Attraction Day(s): Bypass sufficient flow to maintain 150 cfs at the Highway 1 gage.</p> <p>Following Attraction Day(s): Ramp down bypass flows as indicated on Table B. Following the ramp-down period, bypass the same as for wet, normal, and below normal water years.</p> | |

¹ Water Year types are as specified in Table C.

² For purposes of Table A, "estimated unimpaired flow" shall be defined as the measured mean daily flow at the specified gage plus the mean daily diversion by California American Water from the Carmel River and underlying alluvial aquifer upstream of that gage during the preceding five days.

³ Maintaining the specified flow at both the upper and lower gage associated with the specified reach is sufficient evidence that the rate is maintained throughout the entire reach. In the case of bypass flow required throughout the reach between the Sleepy Hollow Weir and Highway 1 gages from April 16 to May 31, the required bypass flow must also be maintained at the USGS near Carmel gage.

Source: Table A is based on Table 9 in 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, page 32.

| TABLE B Carmel River Bypass Flows - "Ramp-Down" Flows | | | | |
|--|---|--|---|--|
| Minimum Mean Daily Instream Flows Following an Attraction Day or Days (All Values in Cubic Feet Per Second) | | | | |
| Between MPWMD Sleepy Hollow Gage and USGS Near Carmel Gage | | | Between USGS Near Carmel Gage and MPWMD Highway 1 Gage | |
| Days | Normal or Better and Below Normal Water Years | Dry and Critically Dry Water Years | Normal or Better and Below Normal Water Years | Dry and Critically Dry Water Years |
| 0 | 200 | 150 | 200 | 150 |
| 1 | 175 | 125 | 175 | 125 |
| 2 | 150 | 100 | 150 | 100 |
| 3 | 125 | 90 | 125 | 80 |
| 4 | 90 | 90 | 100 | 60 |
| 5 | 90 | 90 | 80 | 60 |
| 6 | 90 | 90 | 60 | 60 |

Source: *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, page 15.

Note: "Day 0" refers to an Attraction Day or Days. "Day 1" refers to the first day after an Attraction Day or Days. See Table A for the definition of an Attraction Day.

TABLE C
Carmel River Water Supply Index

| Cumulative Unimpaired Carmel River Flow at the Sleepy Hollow Weir Site in Acre-Feet | | | | |
|--|-------------------------|---------------------|-----------------|-----------------------|
| Water Year Type | | | | |
| Period | Normal or Better | Below Normal | Dry | Critically-Dry |
| Oct | > 300 | 300 - 100 | 99 - 1 | 0 |
| Oct - Nov | > 1,000 | 1,000 - 500 | 499 - 300 | < 300 |
| Oct - Dec | > 4,000 | 4,000 - 1,700 | 1,699 - 1,200 | < 1,200 |
| Oct - Jan | > 11,700 | 11,700 - 5,700 | 5,699 - 3,200 | < 3,200 |
| Oct - Feb | > 28,800 | 28,800 - 11,800 | 11,799 - 7,300 | < 7,300 |
| Oct - Mar | > 40,600 | 40,600 - 21,300 | 21,299 - 10,700 | < 10,700 |
| Oct - Apr | > 47,600 | 47,600 - 24,300 | 24,299 - 13,200 | < 13,200 |
| Oct - May | > 49,500 | 49,500 - 26,000 | 25,999 - 13,900 | < 13,900 |
| Oct - Jun | > 49,900 | 49,900 - 26,800 | 26,799 - 14,600 | < 14,600 |
| Oct - Jul | > 50,000 | 50,000 - 27,200 | 27,199 - 14,700 | < 14,700 |
| Oct - Aug | > 50,300 | 50,300 - 27,300 | 27,299 - 14,800 | < 14,800 |
| Oct - Sep | > 50,700 | 50,700 - 27,400 | 27,399 - 14,900 | < 14,900 |

| Expected Unimpaired Carmel River Flow at the Sleepy Hollow Weir Site in Acre-Feet | | | | |
|--|-------------------------|---------------------|------------|-----------------------|
| Assuming 75% Reliability | | | | |
| Water Year Type | | | | |
| Period | Normal or Better | Below Normal | Dry | Critically-Dry |
| Nov - Sep | 50,400 | 34,000 | 25,000 | 21,000 |
| Dec - Sep | 43,000 | 27,000 | 17,500 | 14,900 |
| Jan - Sep | 36,000 | 22,300 | 12,200 | 10,000 |
| Feb - Sep | 29,000 | 17,300 | 9,000 | 7,000 |
| Mar - Sep | 21,500 | 11,275 | 6,000 | 3,400 |
| Apr - Sep | 13,000 | 5,850 | 3,250 | 1,575 |
| May - Sep | 5,000 | 2,500 | 1,425 | 800 |
| Jun - Sep | 2,000 | 900 | 625 | 400 |
| Jul - Sep | 600 | 300 | 300 | 300 |
| Aug - Sep | 200 | 200 | 200 | 200 |
| Sep | 100 | 100 | 100 | 100 |

Notes:

1. "Cumulative" and "Expected" water year types are derived from the daily unimpaired flow record at the Sleepy Hollow Weir site simulated by the Monterey Peninsula Water Management District for Water Years 1902 through 1996.
2. Water Year types are based on selected exceedance frequencies. "Normal or Better" refers to flows that are equaled or exceeded 50% of the time. "Below Normal" refers to flows that are exceeded between 50% and 75% of the time. "Dry" refers to flows that are exceeded between 75% and 87.5% of the time. "Critically Dry" refers to flows that are exceeded 87.5% of the time.
3. The Water Supply Index shall incorporate a daily timestep so that it can be updated on a daily basis.

