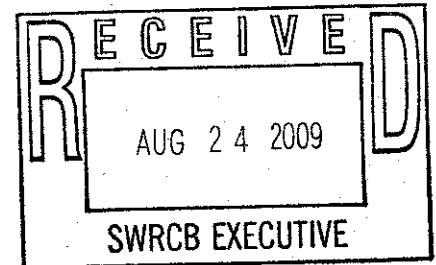


Ms. Jeanine Townsend,

Please accept the attached comment letter for the Cal Am CDO Hearing Workshop, September 2, 2009. Charlotte Hodde, Water Program Manager for the Planning and Conservation League, plans to offer oral comments.

Jonas Minton
Water Policy Advisor
Planning and Conservation League/PCLF
1107 9th Street, Suite 360
Sacramento, CA. 95814
cell (916) 719-4049



**Comments to The State Water Resources Control Board regarding a
Draft Cease and Desist Order against California American Water for
the Unauthorized Diversion and Use of Water from the
Carmel River in Monterey County**

**Submitted by the Planning and Conservation League
August 25, 2009**

The Planning and Conservation League has been an intervener in this Cease and Desist Order proceeding since its inception and participated in the State Water Board's public hearing held on April 1, 2008 in Monterey and seven days of evidentiary proceedings held in Sacramento on June 19 and 20; July 23, 24, and 25; and August 7 and 8, 2008. At the evidentiary hearings the Planning and Conservation League presented its case in chief and cross examined many of the witnesses.

The Planning and Conservation League notes that it has been fourteen years since the SWRCB issued Order 95-10. As the evidentiary record and the draft Cease and Desist Order clearly demonstrate, California American Water has continued and is continuing to violate Condition 2 of the Order.

Our testimony, which was not contested by CALAM, demonstrated that reasonable and feasible conservation and water supply alternatives are available to meet their customers' water needs while complying with Order 95-10.

The phased reductions in illegal diversions set forth in the Cease and Desist Order corresponds well with the time line for new water supply projects included in the California Public Utilities Commission's Draft Environmental Impact Report issued in December 2008 (after the close of the evidentiary hearings). This Cease and Desist Order need not result in any hardships to CALAM's existing water users.

We find that the draft Cease and Desist Order is necessary and barely sufficient to redress these violations. One particularly important provision is at section 19.2, "Any Monterey Peninsula Community that Wishes to Develop Water from a New Source for Growth Must First Apply Water from the New Source to Reduce its Share of the Water Being Illegally

Diverted by Cal-Am; Only after its Share of Illegal Diversions from the River is Ended may Water from the New Source be Used for Growth.”

This section is critically important to halt the existing practice of applying new or conserved water to new growth instead of reducing the illegal diversions. Absent this provisions that practice will continue.

It is worthwhile to note that the State Water Resources Control Board's action in considering a Cease and Desist Order has already driven the water interests in the Monterey area to identify projects to allow them to fully comply with Order 95-10.

However, those interests have not yet agreed on an implementation plan for the development of alternative. If the SWRCB backs off its enforcement, it risks ending this the cooperation, which is largely driven by the force of the Cease and Desist Order. Fourteen years of non-compliance has shown that issuing this Cease and Desist Order is an absolute requirement for the local parties to actually cooperate to achieve implementation of projects for alternative water supplies.