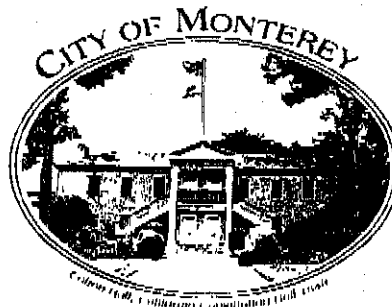


10/20/09 Bd Mtg  
Cal-AM  
Deadline: 9/30/09 by 12 noon



September 30, 2009

Mayor:  
CHUCK DEBILA SALA

Councilmembers:  
LIBBY DOWNNEY  
JEFF HAFERMAN  
NANCY SILVERIDGE  
FRANK SOLLECITO

City Manager:  
FRED MEURER

Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street  
Sacramento, CA 95814

Subject: Cal-Am CDO WR 2009-00XX / City of Monterey's Comment Letter

Ms. Townsend:

The City of Monterey requests that the State Water Resources Control Board ("Board") consider modifications to draft Order WR 2009-00XX dated September 16, 2009 ("Draft CDO III"). The proposed modifications are as follows:

1. Recognize existing conservation efforts and the minimum amount of water necessary for public health and safety.
2. Exempt specific public safety and public health projects from those projects that would be subject to the proposed Order.
3. Modify the CDO to recognize both existing water credits on properties and authorized jurisdictional allocations to properties.

The City of Monterey, as well as the other Monterey Peninsula jurisdictions, strongly support the need to identify and develop new water resources to offset the water currently being diverted from the Carmel River. To this end, the City of Monterey has consistently worked with neighboring jurisdictions, Cal-Am and the Monterey Peninsula Water Management District ("District") to identify and promote new water resources, regardless of production amounts. However, due to various political considerations, including a wary electorate and a strong no-growth contingent, no significant new sources of water have been developed in over 20 years along the Monterey Peninsula. The result of this lack of progress has been the failure to meet the specifics of Order 95-10. However, the California Public Utilities Commission (CPUC) is evaluating a DEIR that includes three (3) possible new water sources, each of which is capable of providing enough water to address Order 95-10 and the Seaside Basin Adjudication decisions. The City of Monterey strongly supports the Regional Plan alternative, and has been working diligently to see that this project come to fruition as soon as possible.

While the City works with the other agencies to identify and develop new water sources, the City and its residents have made significant sacrifices and have gone to great lengths to conserve water. "District" requirements related to conservation are among the most stringent. For the Monterey Peninsula, the average water consumption per day per resident is approximately 70 gallons, where the State average is approximately 300 gallons. To reach these numbers, the City has instilled strong water conservation ethics by installing low-flow or waterless fixtures throughout City buildings, drought-tolerant landscaping, drip irrigation and use of non-potable water for landscaping areas. Residents have made conservation an on-going practice, and are an example of how group efforts can obtain significant cumulative results.

While Peninsula residents recognize the need to conserve water and protect the environment, they expect and demand that their elected and appointed officials make reasonable and informed decisions. While the City of Monterey recognizes the need to reduce the amount of water being diverted from the Carmel River to achieve an environmental equilibrium, the

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proposed Draft CDO does not take into consideration the basic needs of the residents of the Peninsula, including the expansion of medical facilities (hospitals, medical offices and care facilities), and the necessary expansions of public safety facilities including fire and police stations and the associated staffing. Protecting the health of the Carmel River and its inhabitants is a goal all interested parties can agree on, but not if the protection efforts go so far as to endanger the health and safety of local residents.

It is the responsibility of the City of Monterey to ensure that our residents and visitors have a safe environment in which to live and work. Integral to this responsibility is to assist private health entities in the development of necessary health facilities to support our residents and visitors, including our expanding senior population, and to provide emergency services equal to or greater than the State standards for fire fighting and police services. If the "Draft CDO" is adopted as drafted, the City of Monterey will have no way to assist or support the upgrading of our current health and public safety facilities, and the ability of residents and visitors to have a safe and healthy environment would be in question.

Finally, the City of Monterey is a Charter City. The charter city provision of the State Constitution, commonly referred to as the "home-rule" provision, is based on the principle that a city, rather than the state, is in the best position to know what it needs and how to satisfy those needs. The home-rule provision allows charter cities to conduct their own business and control their own affairs. The courts have consistently classified municipal affairs as including land use and zoning decisions. Section #2 of the CDO restricts the City from exercising land use planning policies by prohibiting intensification of uses or changes in zoning that will result in increased water consumption even if the City has water credits available for distribution, or if a site has water credits based on previous development and uses. Section #2 of the CDO can therefore be considered an intrusion on this "home rule" provision.

In conclusion, the City of Monterey recognizes the need to reduce the amount of water being diverted from the Carmel River and supports reasonable efforts to reach the thresholds specified in Order 95-10. The protection and enhancement of the natural environment along the entire Monterey Peninsula is a primary policy of the City of Monterey, and we will continue to work with CalAm and the "District" to ensure this protection from a water perspective. But the City requests that any decisions made by the SWRCB be respectful of local authority and recognize that any adopted water moratoriums on service connections, changes in use or intensification of use adopted will penalize private property owners and the City, but will have a negligible impact on CalAm. The City of Monterey opposes the Cease and Desist Order.

Thank you for your consideration.

Sincerely,



Chuck Della Sala  
Mayor

c: City Council  
Plans & Public Works