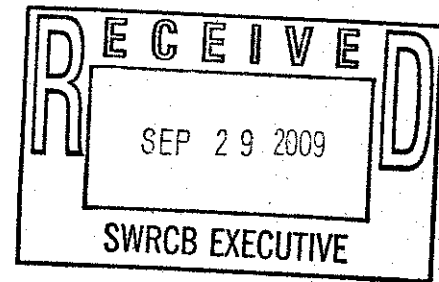




September 29, 2009

Ms. Jeanine Townsend
Clerk of the Board
State Water Resources Control Board
1001 I Street
Sacramento, California 95814



RE: September 16, 2009 Draft Cease and Desist Order Against California
American Water Company

Dear Members of the Board:

The City of Sand City requests that the draft cease and desist order (CDO) within the Cal-Am water system not be issued. We believe Cal-Am is working diligently to solve the regional water problem as evidenced by its cooperation with the Regional Water Project and its planning of the Coastal Water Project. One of those projects will ultimately be approved by the California Public Utilities Commission for implementation next year. Cal-Am has also been working cooperatively with the City of Sand City on its "small water project", a project type that is recommended in the draft CDO.

Should the draft CDO be adopted, the City respectfully request the following language changes on page 65 for clarification purposes. The first paragraph should be revised to clarify that water from the Sand City desal plant will be used for all types of service connections within the City as currently sanctioned by the State Water Resources Control Board, the California Coastal Commission, the Monterey Peninsula Water Management District and the adjudication of the Seaside Groundwater basin. Under that paragraph, the new language requested would be, in part: "Sand City Desalination Plant: Once the Sand City Desalination Plant becomes operational, 94 af shall be subtracted from the base. In addition, based on actual production from the plant, any other water that is produced and not served to **new connections** within the City of Sand City shall be subtracted from the based amount for each water year." (Bold type indicates proposed new language. The existing draft language indicates "persons residing within". The City's requested change clarifies that water service connections within Sand City serve all land use types, not just residential users.)

Additionally, within the third paragraph of page 65, item 3b is requested to be amended as follows: "No relief shall be granted unless within 18 months of the adoption of this order, Cal-Am has imposed a moratorium on new service connections, **exclusive of those within the City of Sand City**, pursuant to Public Utility Code Section 2708....." (Bold type indicates proposed new language.)

City Hall
1 Sylvan Park,
Sand City, CA
93955

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(831) 394-3054

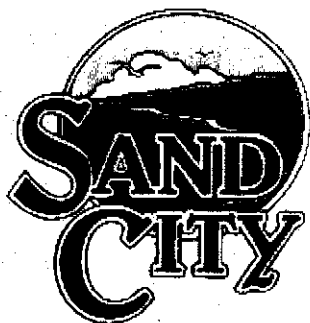
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May 31, 1960



The City of Sand City has received exclusive rights to the brackish water aquifer within the Seaside groundwater basin as a result of the basin adjudication in 2006 [*California American Water Company v. City of Seaside, et al* (Superior Court Monterey County, 2006, No. M66343)]. These rights were granted by the court, recognizing the unique nature of our desalination plant and the necessity to use brackish water for its operation and to serve municipal redevelopment purposes.

The California Constitution authorizes Sand City to create a municipal water system to distribute water produced from the brackish water aquifer within Sand City. (California Constitution Article XI, Section 9.) In lieu of creating an independent distribution system, Sand City has entered into an agreement with California American Water to operate the City's desalination plant and use the water produced by the plant in the manner described in Section 16.3 of the September 16, 2009 draft CDO.

As our City Administrator explained during public testimony last summer, investment by the City in the Sand City desalination plant will supply additional water to Sand City customers for the purposes of eliminating blight within a redevelopment project area. As a fortuitous side benefit, it is also able to assist in the reduction of water extractions from the Carmel River aquifer. The city has permit approval from all required agencies (with unanimous approval from the Coastal Commission) to use the water, provided it only serve new connections within Sand City. Based on existing entitlements, and assurances from the Executive Director of your Board, we have invested \$12 million on the project to date and it is currently going through its testing phase prior to full operation.

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Sincerely,

David K. Pendergrass, Mayor
City of Sand City

c: Council members
City Attorney