

Anthony L. Lombardo  
Jeffery R. Gilles

Dennis C. Beougher  
Patrick S.M. Casey  
J. Kenneth Gorman  
Amy Purchase Reid  
Jason Retterer  
Paul Rovetta  
Bradley W. Sullivan  
James W. Sullivan  
Kelly McCarthy Sutherland

Of Counsel  
E. Soren Diaz  
Virginia A. Hines

Lombardo  
& Gilles  
LIMITED LIABILITY PARTNERSHIP

318 Cayuga Street  
P. O. Box 2119  
Salinas, CA 93902-2119  
831-754-2444 (SALINAS)  
888-757-2444 (TOLL FREE)  
831-754-2011 (FAX)  
www.lomgil.com

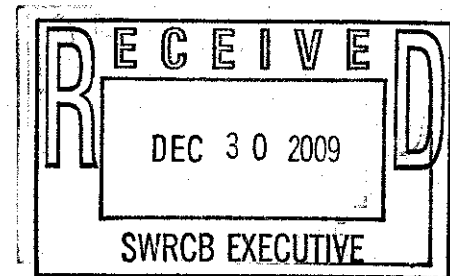
530 San Benito St., Suite 202  
Hollister, CA 95023  
831-630-9444  
831-630-5935 (FAX)

File No. 00197.001

December 30, 2009

VIA E-MAIL

Ms. Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
P. O. Box 100  
Sacramento, CA 95812-0100



Re: **Quail Lodge Comments on Order Denying Reconsideration**

Dear Ms. Townsend:

On behalf of Quail Lodge, the owner and operator of the Quail Lodge Resort, we respectfully submit the following written comments on the draft "Order Denying Reconsideration of Cease and Desist Order 2009-006" that the State Water Resources Control Board is scheduled to consider on January 5, 2010:

1. Contrary to staff's representations in Section 5.0, Quail Lodge submitted comments on the draft CDO that explained and documented the basis for its vested water entitlements and the adverse effect of Order WR 2009-0060 on these entitlements. These comments were submitted to the SWRCB on September 30, 2009. Accordingly, the Petition is not defective and no affidavit explaining why this information and documentation could not have been produced is required. This information is part of the evidentiary record.
2. As it relates to the 33 AFA water allocation for Quail Meadows, Section 5.1 of the draft Order states that the Petition "fails to state what the source is for the water used and saved" as part of the golf course irrigation retrofit, "how it was obtained" or "whether anyone has a legal right to the water supplied to the golf course." To clarify, at the time Quail Lodge applied for the Quail Meadows annexation, the source of the golf course irrigation was a privately maintained water well and distribution system that was supplying the golf course with 318.55 AFA of water. The well was located within the Carmel alluvial aquifer. Quail Lodge agreed to reduce its diversion of water from this well by 65 AFA to 253.55 AFA to obtain the 33 AFA water allocation for Quail Meadows resulting in a permanent net water savings of 32 AFA. Like PBC's water reclamation plant, this significant investment resulted in a net water savings. Quail Meadows also received an additional water allocation of up to 20 AFA, based on future demonstrated reductions in golf course pumping, pursuant to MPWMD Ordinance 83, which MPWMD adopted in 1996.

Ms. Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
December 30, 2009  
Page 2

In addition, as part of the SWRCB's process leading up to Decision 1632, Quail Lodge and MPWMD entered into a stipulation in which the MPWMD recognized Quail Lodge's priority right to 253.55 AFA for use at Quail Lodge. This number is reflected in Table 13 of Decision 1632. Moreover, as set forth in various MPWMD exhibits that were submitted as part of the proceedings on the CDO, "MPWMD recognizes water entitlements to...Quail Meadows" (Exhibit MPWMD SP-12, p. 14) and notes that approximately 3 AFA of water remains for use at Quail Meadows (Exhibit MPWMD SP-7).

3. Section 5.4.1 of the draft Order disingenuously and incorrectly states that "Order WR 2009-0060 does not deprive petitioners of water credits." However, the CDO clearly prohibits Cal-Am from providing new service connections or allowing an increase in water use at an existing service connection without providing any exception for connections that rely on MPWMD water credits or allocations. This moratorium on service connections remains in effect until such time as Cal-Am substitutes its excess Carmel River diversion for an alternative water source. Moreover, the draft Order states that MPWMD water credits are not a valid basis for Cal Am to divert water from the Carmel River. Draft Order, p. 12. Accordingly, the CDO effectively prevents Cal-Am from diverting water to new connections or to increase water use at existing service connections based on a MPWMD-approved water credit.

In addition, in Section 5.4.3, the draft Order goes out its way to justify the CDO's exemption from the new service connection moratorium for "PBC entitlement based service connections" and its failure to recognize other valid water credit based connections. The draft Order states that the CDO carved out an exception for PBC connections based on SWRCB assurances that the SWRCB would not use its enforcement discretion to penalize Cal-Am for illegal diversions to satisfy PBC water entitlements. The draft Order then suggests that had Quail Lodge provided evidence of similar assurances relative to its water credit, such assurances could provide a basis for a similar exemption for other MPWMD water credit holders.

For the last 14 years, the SWRCB never exercised its enforcement discretion to order Cal-Am to stop servicing new connections based on other, non-PBC, MPWMD approved water credits, nor did it compel MPWMD's to stop issuing water credits pursuant to Rule 25.5. Accordingly, Quail Lodge, its predecessors, and other similarly situated property owners implemented and invested in significant water savings projects to obtain these water credits.

Quail Lodge detrimentally relied on the SWRCB's inaction and the regulatory assurances provided by Rule 25.5 and subsequent approvals by MPWMD that its water allocation and water credits would be available for future use by Quail Meadows and Quail Lodge by undertaking work and incurring significant costs to establish these water entitlements. As explained by Mr. Little in the attached declaration, Quail Lodge spent approximately \$800,000.00 retrofitting its irrigation system for the golf course to obtain a 33 AFA water allocation for Quail Meadows.

Ms. Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
December 30, 2009  
Page 3

Based on this significant investment, Quail Lodge properly and reasonably assumed that this water allocation would permanently be available to serve future build-out of Quail Meadows. In the absence of any assurance or guarantee that this water allocation would be available, Quail Lodge would not have pursued the extensive retrofit. Quail Lodge would also not have voluntarily reduced the number of restaurant seats from 501 to 334 (with its corresponding loss of revenues) or permanently removed and re-landscaped the lodge and clubhouse without the assurance of water credits.

Quail respectfully requests that the SWRCB reconsider the new connection moratorium set forth in Condition No. 2 to expressly exclude future connections at the Quail properties that are based upon previously approved water allocations and water credits.

Sincerely,

**Lombardo & Gilles, LLP**



Jason S. Retterer

JSR:ncs

Enclosure

cc: Mr. Lawson Little

1 ANTHONY L. LOMBARDO, Esq. #104650  
2 JASON S. RETTERER, Esq. #194651  
3 LOMBARDO & GILLES, LLP  
4 318 Cayuga Street  
5 Salinas, California 93901  
6 Telephone: 831.754.2444  
7 Facsimile: 831.754.2011  
8 Attorneys for Petitioner, Quail Lodge, Inc.

9 STATE OF CALIFORNIA  
10 BEFORE THE STATE WATER RESOURCES CONTROL BOARD

11 IN THE MATTER OF CALIFORNIA  
12 AMERICAN WATER COMPANY  
13 CEASE & DESIST ORDER WR 2009-  
14 0060

LAWSON LITTLE DECLARATION IN  
SUPPORT OF QUAIL LODGE PETITION  
FOR RECONSIDERATION

15 I, Lawson Little, declare as follows:

16 1. I am President of Quail Lodge, Inc. ("Quail"), which owns and operates Quail  
17 Lodge Resort and Golf Club, located at 8205 Valley Greens Drive, Carmel, CA 93923. Quail  
18 consists of a lodge, dining facilities, health and recreational facilities and an 18-hole golf course  
19 and club house. Quail is also the developer of the Quail Meadows Subdivision located adjacent  
20 to Quail properties. Quail properties and Quail Meadows are located within the jurisdictional  
21 boundaries of the Monterey Peninsula Water Management District ("MPWMD") and currently  
22 receive water from the California-American Water Company ("Cal-Am").

23 2. Over the last 30 years or so, Quail has undertaken costly water conservations  
24 measures in exchange for the regulatory assurances that a permanent water credit would be  
25 available for future uses at Quail Lodge and Quail Meadows.

26 3. On October 9, 1989, MPWMD conditionally approved the annexation of Quail  
27 Meadows into the Cal-Am service and established a water allocation of 33 AFA for the  
28 subdivision. The approval was based on the retrofitting of the irrigation systems at the golf  
course to demonstrate a permanent annual water savings of 65 acre feet from the agreed upon

1 historical base water use amount of 318.55 AFA to 253.55 AFA. In addition, MPWMD adopted  
2 Ordinance 83 in May, 1996, which allows up to an additional 20 AFA (18.6 AFA of metered  
3 sales) to Quail Meadows, based on an equal reduction in non-Cal-Am water production for  
4 irrigation of the golf course and country club facilities. Exhibit A. Because of the required equal  
5 reduction in water use in order to release the additional allocation, there would continue to be a  
6 net water savings to the Carmel River.

7 4. In 1990, Quail spent approximately \$800,000 to retrofit the irrigation system to  
8 achieve the required 65 AFA water savings. The retrofit work included the installation of a Toro  
9 8000 irrigation system, which consisted of the replacement of 1,300 sprinkler heads, lateral lines,  
10 and a computerized satellite control system.

11 5. Since 1990, most of Quail Meadows has been built-out, except for ten (10)  
12 residential lots and a 40 room hotel and seminar center. Accordingly, Quail Meadows has  
13 consumed approximately 30 AFA of its 33 AFA allocation, leaving an unused allocation of  
14 approximately three (3) AFA for future build-out of Quail Meadows.

15 6. In 2003 and 2004, Quail completed a \$28 million renovation of the hotel and golf  
16 clubhouse, which included several water conservation or savings projects to secure a water credit  
17 for future use at Quail Lodge. Quail permanently reduced the size and number of seats at hotel  
18 restaurant from 501 to 334 to secure a water credit in accordance with MPWMD Rule 25.5. Due  
19 to the reduction in the size and number of seats at the restaurant, Quail can no longer  
20 accommodate larger groups and patrons thereby decreasing overall restaurant and group event  
21 revenues. Quail also replaced a significant amount of the landscaped areas, including  
22 approximately 55,000 square feet of lawn and plant areas around the Lodge and Club House  
23 facility with hardscape and drought tolerant plants to secure a water credit in accordance with  
24 MPWMD Rule 25.5.

25 7. In exchange for MPWMD's approval of a 3.345 AFA water credit for the  
26 reduction in restaurant seats and 5.230 AFA for the re-landscaping, the MPWMD required Quail  
27  
28

1 to record a Deed Restriction on the property, which permanently limits the number of restaurant  
2 seats to 334 and limits the allowable landscaped areas.

3 8. Quail would not have voluntarily incurred the significant cost and expense to  
4 retrofit to its irrigation system, a reduction in the number of restaurant seats and corresponding  
5 loss in revenues, or a reduction in the amount and type of landscaped areas without the regulatory  
6 assurances that a water allocation and water credit would be available for a future use at the  
7 Quail Lodge property. Collectively, Quail has spent well over \$1 million to secure the water  
8 allocation and water credits referenced above.

9 9. Quail would also not have recorded a Deed Restriction, which forever limits the  
10 restaurant size and landscaped areas, without the assurance of a water credit.

11 I declare under penalty of perjury under the laws of the State of California that the  
12 foregoing is true and correct and that I could and would competently testify thereto if called as a  
13 witness in this matter.

14 Dated: December 29, 2009

QUAIL LODGE, INC.

15 By:   
16 Lawson Little

17 Its: President

18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## Ordinance No. 83

### AN ORDINANCE OF THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT AUTHORIZING FUTURE CONVERSION OF NON-CAL-AM PRODUCTION TO CAL-AM PRODUCTION WITHIN THE MONTEREY PENINSULA WATER RESOURCES SYSTEM: QUAIL MEADOWS SUBDIVISION

#### FINDINGS

1. The Quail Meadows Subdivision, described more particularly in Attachment "A", was approved by Resolution 89-469 of the Monterey County Board of Supervisors on August 29, 1989.
2. On October 9, 1989, the Monterey Peninsula Water Management District (hereinafter MPWMD or "District"), adopted Findings of Approval and Conditions of Approval of the Annexation of Quail Meadows (AP# 157-121-17) into the California-American Water Company (hereinafter "Cal-Am") Service Territory. This approval was based on the applicant's retrofitting the irrigation systems at the Carmel Valley Golf and Country Club Golf Course to demonstrate a permanent annual savings of at least 65 acre-feet (AF), as well as other conditions. The agreed-upon base amount (historical use) for the golf course was stipulated to be 318.55 AF/year. With the 65 AF savings, the new agreed-upon production limit for golf course irrigation was 253.55 AF/year. The estimated water production needed for the proposed subdivision was 35 AF/year (equivalent to 32.9 AF/year metered sales). The combined Cal-Am and non-Cal-Am water production to serve the golf course and Subdivision is 288.55 AF/year.
3. On August 20, 1992, as part of the water rights permit process for the New Los Padres Dam and Reservoir before the State Water Resources Control Board (SWRCB), a stipulation between Quail Lodge and MPWMD (MPWMD Water Rights Exhibit # 257) included formal recognition by MPWMD of the right to pump no more than 254 AF/year by Quail Lodge.
4. MPWMD Ordinance No. 70, adopted on June 21, 1993, established the Cal-Am production limit as 17,619 AF per year. The production limit for the non-Cal-Am water users within the Monterey Peninsula Water Resources System (hereinafter MPWRS or "Resources System") was established at 3,054 AF/year. The combined total production from the Cal-Am and non-Cal-Am systems within the MPWRS was limited to 20,673 AF/year.

EXHIBIT A

5. MPWMD Ordinance No. 70 (Appendix "A" dated June 7, 1993) included a provision to dedicate 35 AF of the 17,619 AF Cal-Am production (32.9 AF/year of metered Cal-Am sales) to specifically serve the Quail Meadows Subdivision.
6. MPWMD Ordinance No. 81, adopted on November 20, 1995, amended the production limits contained in Ordinance No. 70 based on an agreement by non-Cal-Am water users (Michael Berube/Mills College Subdivision) to permanently reduce annual water extraction from the MPWRS by 8.29 AF in exchange for an entitlement of 2.15 AF of service by Cal-Am, resulting in a conservation savings of 6.14 AF for the MPWRS. Ordinance No. 81 revised the annual production limit for the non-Cal-am system from 3,054 AF/year to 3,045.71 AF/year. The 2.15 AF Cal-Am entitlement indirectly resulted in a new production limit of 17,621.15 AF/year for the Cal-Am system, though this was not stated specifically in Ordinance No. 81. The result of these changes is a new a total production limit of 20,666.86 AF/year for the MPWRS. This Ordinance formalizes these changes.
7. At the time of Quail Meadows Subdivision approval in 1989, the total annual water use for the Subdivision was estimated at 32.9 AF metered sales (equivalent to 35 AF/year Cal-Am production as part of Ordinance No. 70).
8. After adoption of Ordinance 70, the representatives for the Quail Meadows Subdivision expressed the concern that the annual water demand of the Subdivision may exceed 32.9 AF metered sales. This Ordinance dedicates up to an additional 20 AF of Cal-Am water production annually to the Quail Meadows Subdivision, based on an equal reduction in non-Cal-Am water production for irrigation of the golf course and associated facilities of the Carmel Valley Golf and Country Club (hereinafter "Quail Lodge Property"). Assuming a 7% conveyance loss, the 20 AF annual Cal-Am production is equivalent to 18.6 AF/year of metered sales delivered to the Quail Meadows Subdivision through the Cal-Am distribution system.
9. A permanent reduction in non-Cal-Am water use will result from a deed restriction (sample shown as Attachment "B") placed on the Quail Lodge Property, described more particularly in Attachment "C", to permanently reduce production from the non-Cal-Am wells on the Quail Lodge Property that extract water from the MPWRS. Annual water production from non-Cal-Am wells on the Quail Lodge Golf Course property will be permanently reduced by up to 20.0 AF. In exchange for this reduction, Cal-Am will be authorized to produce an equivalent amount not to exceed 20.0 AF annual production (18.6 AF/year metered sales) to serve the parcels within the Quail Meadows Subdivision.



10. Presently, no more than a total of 253.55 AF/year can be produced from non-Cal-Am wells on the Quail Lodge Property that extract water from the MPWRS. This Ordinance provides that the future production of all non-Cal-Am wells (existing and future) on the Quail Lodge Property that extract water from the MPWRS will not exceed 233.55 AF/year upon complete conversion of the 20 AF from non-Cal-Am to Cal-Am production. The existing amount of Cal-Am water production dedicated to the Quail Meadows Subdivision (35 AF/year, equivalent to 32.9 AF/year metered sales) will increase by up to 20 AF to 55 AF/year production (51.15 AF/year metered sales) under the terms of this Ordinance. Thus, the total maximum production amount for the combined non-Cal-Am and Cal-Am systems needed to serve the Quail Lodge Property and the Quail Meadows Subdivision will remain at 288.55 AF/year as follows:

**Water Production Associated with Quail Meadows Conversion**

PRODUCTION	CAL-AM SYSTEM	NON-CAL-AM	TOTAL
EXISTING	35 AF	253.55 AF	288.55 AF
FUTURE	55 AF (max)	233.55 AF (min)	288.55 AF

11. Upon full conversion, this Ordinance sets an annual limit of 233.55 AF of production from the existing and future non Cal-Am wells that extract water from the MPWRS on the Quail Lodge Property. This Ordinance sets a maximum production amount of 288.55 for the combined non-Cal-Am and Cal-Am production needed to serve the Quail Lodge Property and Quail Meadows Subdivision.
12. This Ordinance reduces the annual production limit for non Cal-Am water users within the MPWRS in five separate four acre-foot (4 AF) increments from 3,045.71 acre-feet to 3,025.71 acre-feet, and increases the Cal-Am component in the same five increments from 17,621.15 AF/year to 17,641.15 AF/year.
13. A permit for a Water Distribution System from MPWMD is required prior to distribution of water from the Quail Meadows Subdivision to the Quail Lodge Property (or other property) or vice versa. Such action is not contemplated as part of this project.

NOW THEREFORE, be it ordained as follows:

**ORDINANCE**

**Section One: Statement of Purpose**

The purpose of this Ordinance is to (1) authorize the General Manager of the District to administratively direct Cal-Am to provide water service to the Quail Meadows Subdivision in five separate 4 AF (3.72 AF metered sales) increments, based on an equal amount of reduction in water production from non-Cal-Am wells extracting water from the MPWRS on the Quail Lodge Property; and (2) modify the annual production limits for the Cal-Am and non-Cal-Am components of the MPWRS to be consistent with this and previous District Board action.

**Section Two: Water Production Limits**

(a) This Ordinance sets an initial annual production limit of 253.55 AF of water from the non-Cal-Am wells that extract water from the MPWRS on the Quail Properties. The annual production limit set forth herein may be administratively reduced to no less than 233.55 acre-feet, and shall occur in five separate increments of 4 AF each, as follows:

**Water Production Limits for Quail Meadows Conversion**

INCREMENT	CAL-AM	NON-CAL-AM	TOTAL
EXISTING	35 AF	253.55 AF	288.55 AF
INCREMENT 1	39	249.55	288.55
INCREMENT 2	43	245.55	288.55
INCREMENT 3	47	241.55	288.55
INCREMENT 4	51	237.55	288.55
INCREMENT 5	55	233.55	288.55

(b) The Cal-Am amounts in the tables shown in this Ordinance refer to annual production. Since a 7% conveyance loss is assumed, the Cal-Am metered sales associated with each increment is 93% of the increment shown (0.93 times the amount).

(c) The applicant shall submit a written application and a \$250 filing fee to the District's General Manager; the fee assumes work needed to process the application will not exceed a total of eight staff hours. Such application shall be in a form prescribed by the General Manager. Upon receipt of said application, the General Manager shall authorize Cal-Am to expand service to the parcels within the Quail Meadows Subdivision upon compliance with subsections 1 through 4 below. In order for such authorization to be granted, the applicant must submit a complete application. A complete application shall consist of:

1. A complete application form as prescribed by the General Manager;
2. A letter from the SWRCB approving an assignment of water rights from the applicant to Cal-Am;
3. Demonstration to the satisfaction of MPWMD that the increment of water savings has already been achieved, or how specifically future savings will be achieved within 12 months following the application. Such demonstration can be in the form of permanent reduced irrigation of turf, specific physical improvements to the irrigation system or other demonstrable technology that can be reasonably assumed to result in a measurable savings; and
4. A deed restriction suitable for recording which provides for the permanent reduction of water production from the non-Cal-Am wells (existing and future) on the Quail Lodge Property within the MPWRS for the increment under consideration, up to a total reduction of 20.0 AF annually, compared to the base amount of 253.55 AF/year. Said deed restriction shall not be recorded nor become effective until such time as the General Manager approves the application. If it is unclear whether a well drilled in the future is within the MPWRS, a determination shall be made by MPWMD staff, based on current maps of the MPWRS, well logs, production data and other relevant information.

(d) A fee for permit processing will be charged to the applicant for the MPWMD staff analysis required, if such analysis exceeds a total of eight hours. The additional hours of work will be charged at the prevailing hourly rate (presently \$30 per hour).

(e) Each incremental reduction shall become effective 10 days after written approval of the application by the District's General Manager. Upon approval, the General Manager shall direct Cal-Am to modify its then-current production limit to enable water service to the Quail Meadows Subdivision.

(f) The applicant has the right to appeal the General Manager's decision to approve or disapprove the application to the District Board under the District's Rules and Regulations.

(g) For each 4 AF of Cal-Am water production (3.72 AF metered sales) authorized by the General Manager pursuant to Section Two (a-e), the annual production limit of 3,045.71 AF for non-Cal-Am water users within the MPWRS shall be reduced by 4 acre-feet. The maximum reduction to the non-Cal-Am component achieved by this Ordinance shall result in no less than 3,025.71 AF annual production. This Ordinance modifies the production limits for the MPWRS as set forth in MPWMD Ordinance Nos. 70 and 81 as follows:

**Total Production Limits within MPWRS with Quail Meadows Conversion**

INCREMENT	CAL-AM	NON-CAL-AM	MPWRS
EXISTING	17,621.15 AF	3,045.71 AF	20,666.86 AF
INCREMENT 1	17,625.15	3,041.71	20,666.86
INCREMENT 2	17,629.15	3,037.71	20,666.86
INCREMENT 3	17,633.15	3,033.71	20,666.86
INCREMENT 4	17,637.15	3,029.71	20,666.86
INCREMENT 5	17,641.15	3,025.71	20,666.86

(h) The above table assumes there will be no change to the existing production limits of 17,621.15 AF for the Cal-Am system and 3,045.71 AF for the non-Cal-Am system. Future modifications to the above table may be made if the production limits are changed based on other District action, such as construction of additional facilities to augment the water supply.

(i) Conversion of the five 4 AF increments, from non-Cal-Am to Cal-Am production as described in Section Two (a), must be implemented within 30 years of the adoption of this Ordinance, that is by April 2026.

**Section Three: Calculations of Cal-Am Water Demand**

Water demand (Cal-Am metered sales) for the Quail Meadows Subdivision will be calculated using Tables 1 and 2 of MPWMD Rule No. 24-D or then-current water demand factors at the time of application for additional water. Up to 55.0 AF Cal-Am production (equivalent to 51.15 AF metered sales) has been reserved for the Quail Meadows Subdivision as authorized by MPWMD Ordinance No. 70 (35 AF production) and this Ordinance (up to 20.00 AF production). As water connection permits for new and intensified water use within the Quail Meadows Subdivision are

approved by MPWMD, the annual water demand (metered sales) associated with each permit will be subtracted from the combined total dedicated to the Quail Meadows Subdivision at that time to determine the amount of Cal-Am water (metered sales) remaining and available to serve the Subdivision. Water connection permits for the Quail Meadows Subdivision will not be granted if water is not available to the Subdivision under the terms of this Ordinance.

Section Four: Water Production Monitoring and Enforcement

- (a) The applicant shall provide monthly reports of metered water production from all non-Cal-Am wells that extract water from the MPWRS on the Quail Lodge Golf Course. The determination of compliance with this Ordinance shall be based on annual water production in the period October 1 through September 30 consistent with reports requested by the SWRCB.
- (b) If non-Cal-Am production from wells that extract water from the MPWRS on the Quail Lodge Property exceeds the specified annual amount (increments or total), then no further connections to the Cal-Am system for parcels within the Quail Meadows Subdivision will be authorized until the production amount falls within the specified limit. The District can also seek additional remedies, injunctions, or relief as provided by law.
- (c) Any distribution of water from non-Cal-Am wells on the Quail Meadows Subdivision property to the Quail Lodge Property (or any other properties) or vice versa may not occur without approval for the creation of a Water Distribution System by MPWMD in accordance with its Rules and Regulations.

Section Five: Continuation of 1989 Annexation Requirements

All Conditions of Approval of the Annexation of Quail Meadows into the Cal-Am Service Territory (Exhibit "C" of the October 9, 1989 action by the District Board) shall apply to this Ordinance. These include:

- (a) The applicant shall continue to demonstrate an annual reduction in actual water use of at least 65 AF at the CVGCC Course [compared to the 1989 baseline level] through retrofitting of irrigation systems; and
- (b) The applicant shall install, maintain, and read suitable devices to measure all daily surface and groundwater diversions made from all production wells at the CVGCC Course. Applicant shall not interfere with the ingress or egress of the District, its employees or agents, as necessary to monitor, or read said measurement devices, provided that the District shall not unreasonably interfere with the enjoyment or use of the applicant's property, facilities or operations in carrying out its measurement activities. Applicant shall not injure, alter, remove, reset, adjust, manipulate, obstruct, or in any manner

interfere, tamper, or cause, direct, or suffer any person to do the above acts respecting any water measuring device installed pursuant to this condition; and

- (c) The applicant shall regularly read and record water production data from all wells upon the CVGCC Course. These data shall be reported, without charge, to the District each month; and
- (d) Water service to new residential development by reason of this annexation shall be consistent with all conditions and limitations placed by District upon other residential water users within District, including but not limited to purveyor rates, District charges, surcharges and use fees; and
- (e) The applicant shall pay to the District all customary and usual charges and fees, including connection charges relating to the extension of water service to all new construction in the annexed lands. Prior to the installation of each connection (water meter) to serve new development, payment of District connection charges shall be required in the same manner and extent as required from other water users with similar types of water use within the District; and
- (f) The applicant shall make arrangements which the District reasonably determines are satisfactory to provide for or to pay for the cost of all new water service facilities or increased water service capacity to serve the new development. These arrangements are a condition precedent to installing any connection (water meter) and are to be made prior to any service to the new development; and
- (g) During any water supply emergency declared by the District or during any other water shortage emergency, water service to new development shall be consistent with all District-imposed conditions and limitations placed on other water users with similar types of water use within the District, excepting, however, that the setting of new water service meters for this project shall be a secure entitlement to the applicant by reason of the reduced water consumption resulting from condition (a) above, and shall not be inhibited by any connection moratorium which may affect potential water users of the Cal-Am system.

Section Six: Effective Date

This Ordinance shall become effective at 12.01 a.m., on May 16, 1996.

Section Seven: Review and Sunset Provision for this Ordinance

- (a) The Monterey Peninsula Water Resources System production limits enacted by this Ordinance shall be reviewed at the time any new water supplies have been developed that augment the available supply from the MPWRS. Similar review of the MPWRS production limits enacted by this Ordinance shall be required at any time there may be a substantial and permanent reduction in the supply of water available for use from the MPWRS.
- (b) This Ordinance shall have no sunset provision.

Section Eight: Severability

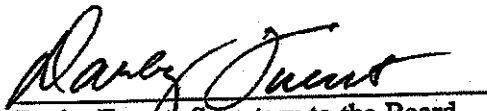
If any paragraph, sentence, clause or phrase of this Ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforcement of the remaining portions of this Ordinance, or any other provision of the Monterey Peninsula Water Management District Rules and Regulations. It is the District's express intent that each remaining portion would have been adopted irrespective of the fact that one or more paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

On motion of Director Karas, and second by Director Ely, the foregoing ordinance is adopted upon second reading this 15th day of April, 1996, by the following vote:

**AYES:** Directors Karas, Ely, Burkleo, Hughes, Ernst, Haddad and Pendergrass  
**NAYS:** None  
**ABSENT:** None

I, Darby Fuerst, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify that the foregoing is a full, true, and correct copy of an ordinance duly adopted this 15th day of April, 1996.

Witness my hand and seal of the Board of Directors this 25th day of April, 1996.

  
\_\_\_\_\_  
Darby Fuerst, Secretary to the Board