

Exhibit 17

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CLERK OF THE SUPERIOR COURT
Sherill L. Pedersen DEPUTY

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7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF MONTEREY
10 SALINAS BRANCH

12 MONTEREY PENINSULA WATER)
MANAGEMENT DISTRICT, CALIFORNIA-)
13 AMERICAN WATER COMPANY,)

14 Petitioners,)

15 vs)

16 STATE WATER RESOURCES CONTROL)
BOARD, and DOES 1 through 5, inclusive,)

17 Respondents.)

18 MONTEREY PENINSULA WATER)
MANAGEMENT DISTRICT, CALIFORNIA-)
19 AMERICAN WATER COMPANY,)

20 Petitioners,)

21 vs)

22 STATE WATER RESOURCES CONTROL)
BOARD, and DOES 1 through 5, inclusive,)

23 Respondents.)

26 //

27 (Proposed) Order
28 *Monterey Peninsula Water Management District, et al.*
vs State Water Resources Control Board, et al.
Cases NOS. M 33519; M 33520; and 105610

CASE NO.: M 33519

CASE NO.: M 33520

ORDER

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CASE NO.: 105610

SIERRA CLUB, INC., a California Non-Profit Corporation; CARMEL RIVER STEELHEAD ASSOCIATION, a California Non-Profit Corporation; and CALIFORNIA SPORTFISHING PROTECTION ALLIANCE, a California Non-Profit Corporation,

Petitioners,

vs

STATE WATER RESOURCES CONTROL BOARD, and STATE OF CALIFORNIA,

Respondent.

CALIFORNIA-AMERICAN WATER COMPANY (CAL-AM), an Investor Owned Public Utility, MONTEREY PENINSULA WATER MANAGEMENT DISTRICT, and DOES 1-300,

Real Parties In Interest.

The parties to these consolidated actions and their counsel of record are as follows:

Monterey Peninsula Water Management District,
represented by David Laredo

California-American Water Company,
represented by Daryl Landy, of Steefel, Levitt & Weiss

Sierra Club, Carmel River Steelhead Association and California Sportfishing Protection Alliance,
represented by Laurens Silver

California State Water Resources Control Board,
represented by Deputy Attorney General Ellyn S. Levinson

The parties to these actions, by and among counsel of record stipulate to the

(Proposed) Order
Monterey Peninsula Water Management District, et al.
vs State Water Resources Control Board, et al.
Cases NOS. M 33519; M 33520; and 105610

1 following in order to completely resolve each of the three above encaptioned actions
2 currently pending against the State Water Resources Control Board.

3 Pursuant to the stipulation of the parties and for **Good Cause Appearing,**

4 **IT IS HEREBY ORDERED** that:

5 1. The Monterey Peninsula Water Management District shall include in
6 the Carmel River Dam (alternatively known as New Los Padres Reservoir Project)
7 Supplemental EIR now being prepared in response to a previous Order of this Court, the
8 following:

- 9 a. An examination of the reconstructed historical flow record;
- 10 b. An evaluation of whether a release of stored water for flushing flows is
11 necessary to maintain ecological conditions favorable for steelhead in the River below
12 the proposed new dam, and if so, to also determine the appropriate magnitude of such
13 flows;
- 14 c. Using CVSIM, perform an evaluation of the effect of the proposed
15 Carmel River Dam on the Carmel River and its public trust resources in light of the
16 historical flow record resulting from (a) above, in light of any need for flows
17 resulting from (b) above, and in light of the change in the yield of the project
18 proposed by the project applicant;
- 19 d. A determination whether instream flows will keep steelhead and other
20 fish below the dam in good condition and provide adequate protection to other public
21 trust resources.

22 2. The State Water Resources Control Board shall modify Decision 1632
23 as follows:

- 24 a. The reference to RM 15 at page 28 of Decision 1632 will refer instead
25 to RM 17.2, in order to clarify the point of Board permit and license authority over
26 subterranean waters of the Carmel River;

27
28 (Proposed) Order
Monterey Peninsula Water Management District, et al.
vs State Water Resources Control Board, et al.
Cases NOS. M 33519; M 33520; and 105610

1 b. Delete paragraph 9.4 in its entirety and paragraph 9.5 in its entirety, at
2 pages 88, 89 and 90 of Decision 1632, and replace those paragraphs with this
3 language:

4 "Permit 7130 B shall not be revoked, but instead shall
5 remain valid subject to all of the conditions which apply to
6 Application 27614, as set forth in the order portion of this
7 Decision, except that the season of diversion under Permit 7130
8 B shall remain October 1st to May 31st.

9 "Notwithstanding any other provision of this Decision
10 No. 1632, direct diversions and diversions to storage for the
11 New Los Padres Project pursuant to Application 27614 shall be
12 allowed year-round, provided the project is operated in
13 accordance with the schedule set forth in Permit Tables A, B
14 and C for the period of time water is physically available over
15 and above fish flow requirements, and provided further that
16 until the reservoir project authorized by Permit 20808
17 (Application 27614) becomes fully operational, no water may be
18 diverted pursuant to Permit 20808 (Application 27614), either
19 by direct diversion or diversion to storage except between
20 November 1 and the following June 30; provided further that
21 until the project authorized by permit 20808 becomes fully
22 operational no water may be diverted pursuant to Permit 7130B
23 except between October 1 and the following May 31.

24 "The total quantity of water originating in the Carmel
25 River diverted to beneficial use by the California-American
26 Water Company and the Monterey Peninsula Water Management
27

28 (Proposed) Order
Monterey Peninsula Water Management District, et al.
vs State Water Resources Control Board, et al.
Cases NOS. M 33519; M 33520; and 105610

1 District (including direct diversion and redirection of previously
2 stored water, but not including diversions to storage) for
3 municipal, domestic, industrial and irrigation purposes of use,
4 including rights established by License 11866, Permit 7130B,
5 Application 30215, Application 27614, pre-1914 appropriative
6 rights and riparian rights, shall not exceed (a) 16,000 acre-feet
7 per annum, or (b) such lesser amount identified in the
8 Supplemental EIR on the Carmel River Dam as annual
9 beneficial use requirements associated with total project yield or
10 the California-American Water Company production limit. This
11 limit may be modified upon further order of the State Water
12 Resources Control Board."

13 c. Condition 5 of Decision 1632 at page 96 of the Decision, establishing a
14 construction start date of four years from the date of the Decision, shall be modified
15 to read instead four years from certification of the Carmel River Dam Supplemental
16 EIR.

17 d. Condition 6 of Decision 1632 at page 96 of the Decision shall be
18 modified to replace "Dec 31, 2003", with "Dec 31, 2005".

19 e. At page 113 of Decision 1632 the last paragraph of the Order reading:
20 "IT IS FURTHER ORDERED that Permit 7130 B is herewith revoked for want of
21 due diligence" is deleted in its entirety and no substitute language is to be inserted in
22 its place.

23 3. Neither the Monterey Peninsula Water Management District nor Cal-
24 Am can divert water pursuant to Decision 1632 or Permit 7130 B until application is made
25 by either and/or both parties to the State Water Resources Control Board for consideration
26 and approval of the contemplated diversion in light of project modifications resulting from
27

28 (Proposed) Order
Monterey Peninsula Water Management District, et al.
vs State Water Resources Control Board, et al.
Cases NOS. M 33519; M 33520; and 105610

1 this stipulation and the Order issued thereto. Upon said application by the District and/or
2 Cal-Am, the State Water Resources Control Board will conduct a public hearing pursuant to
3 California Administrative Code, Title 23, § 648 for the limited purposes of reviewing any
4 changes in the project as the project was permitted under Decision 1632, and Permit 7130 B,
5 reviewing the information in the supplemental EIR, reviewing whether public trust values are
6 adequately protected and determining whether the permits should be modified based on the
7 results of that review.

8 4. Order WR 95-10 shall be modified by the State Water Resources Control
9 Board by the following amendments to Conditions 4, 5, 6 and 13 only; all other provisions
10 of Order WR 95-10 are to remain in full force and effect.

11 a. That condition 4 be modified to read:

12 (C) "Cal-Am shall maximize production from the Seaside aquifer for
13 the purpose of serving existing connections, honoring existing commitments
14 (allocations), and to reduce diversions from the Carmel River to the greatest
15 practicable extent during periods of low flow. Cal-Am shall minimize
16 diversions from the Seaside aquifer whenever flow in the Carmel River
17 exceeds 40 CFS at the Highway One Bridge from November 1 to April 30.
18 The long-term yield of the basin shall be maintained by using the practical rate
19 of withdrawal method."

20 b. That Condition 5 be modified to read:

21 To the maximum extent feasible without inducing sea water intrusion or
22 unreasonably affecting the operation of other wells, Cal-Am shall satisfy the
23 water demands of its customers by extracting water from its most downstream
24 wells.

25 c. The first sentence of Condition 6 should be modified to read:

26 Cal-Am shall conduct a study of the feasibility benefits and estimated

27
28 (Proposed) Order
Monterey Peninsula Water Management District, et al.
vs State Water Resources Control Board, et al.
Cases NOS. M 33519; M 33520; and 105610

1 costs of supplying water to the areas now served by the Carmel Valley Filter
2 Plant from its more nearby wells downstream of the plant and shall also
3 conduct a similar study of utilizing the existing or expanded Begonia
4 Treatment Plant or other facilities located further down stream in lieu of the
5 Carmel Valley Filter Plant. This latter study shall be completed within 1 year
6 of the date of entry of this Order. Petitioners shall have an opportunity to
7 comment on the scope of the study. The study shall be under the direction of
8 the Division of Water Rights, and will be conducted by a consultant approved
9 by the Division. If the Chief, Division of Water Rights finds that the
10 measures identified in the studies are feasible, Cal-Am must implement
11 supplying water from the facilities identified by the Division according to a
12 schedule approved by the Division of Water Rights. (The remainder of
13 paragraph 6 remains the same.)

14 d. That condition 13 be modified as follows:

15 Subparagraph (a) will be amended to require that reports of the total
16 monthly amount being pumped from wells show the amount being pumped
17 from each well and show the location of each well.

18 Subparagraph (c) will be amended to require that quarterly reports be
19 submitted with respect to compliance with conditions 4, 5, 6, 7, 8 and 9.

20 Subparagraph (d) will be added to require Cal-Am to submit a quarterly
21 water budget 30 days after approval by the District.

22 5. Monterey Superior Court Case No. M 33519 entitled *Monterey*
23 *Peninsula Water Management District, et al. v. State Water Resources Control board*, shall
24 be dismissed with prejudice upon execution of this stipulation; each party to bear its own
25 attorney fees.

26 6. Monterey Superior Court Case No. M 33520 entitled *Monterey*

27
28 (Proposed) Order
Monterey Peninsula Water Management District, et al.
vs State Water Resources Control Board, et al.
Cases NOS. M 33519; M 33520; and 105610

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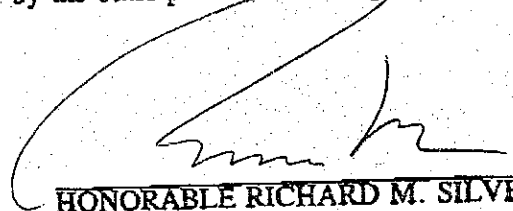
1 Peninsula Water Management District, California-American Water Company v. State Water
2 Resources Control Board, shall be dismissed with prejudice upon execution of this
3 stipulation; each party to bear its own attorney fees.

4 7. Monterey Superior Court Case No. 105610 entitled *Sierra Club, Inc.,*
5 *etc., et al. v. State Water Resources Control Board, and State of California,* shall be
6 dismissed with prejudice upon execution of this stipulation; each party to bear its own
7 attorney fees.

8 8. [REDACTED] the Superior Court [REDACTED] ^{et al. et al.} jurisdiction
9 pursuant to Code of Civil Procedures § 664.6 to enforce the terms of this stipulation, and to
10 review compliance by Cal-Am with the conditions of Order 95-10 that are the subject of this
11 Stipulation and Judgment. The Court also reserves jurisdiction to award costs and attorneys'
12 fees, consistent with existing law, to aggrieved parties who successfully petition this Court
13 for enforcement of the terms of this stipulation and judgment.

14 9. Petitioners *Sierra Club, et al.* shall be reimbursed for their costs of
15 preparation of the administrative record by the other parties to this stipulation.

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17 Dated: 6-3-98

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19 HONORABLE RICHARD M. SILVER
20 Judge of the Superior Court

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28 (Proposed) Order
Monterey Peninsula Water Management District, et al.
vs State Water Resources Control Board, et al.
Cases NOS. M 33519; M 33520; and 105610