



State Water Resources Control Board



Linda S. Adams
Secretary for
Environmental Protection

Division of Water Rights
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Arnold Schwarzenegger
Governor

JAN 15 2008

In Reply Refer to:
JWC:A011674A

CERTIFIED MAIL

B. Kent Turner, President
California American Water
P. O. Box 951
Monterey, CA 93940

Dear Mr. Turner:

NOTICE OF DRAFT CEASE AND DESIST ORDER REGARDING THE CONTINUED UNAUTHORIZED DIVERSION OF WATER FROM THE CARMEL RIVER IN MONTEREY COUNTY

Enclosed is a draft Cease and Desist Order (CDO). This letter serves as notice to California American Water (Cal-Am) of the intent of the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) to proceed with this enforcement action. Therefore, this matter requires your immediate attention.

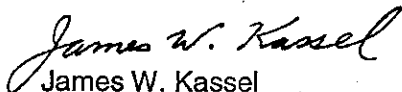
Division staff determined that in the twelve years since Order 95-10 was adopted, Cal-Am has not complied with Condition 2 of that Order. Condition 2 requires Cal-Am to terminate its unauthorized diversions from the Carmel River. Since 1995, Cal-Am has annually diverted approximately 7,150 acre-feet from the Carmel River in excess of the legitimate water right amount recognized by the State Water Board in Order 95-10. This continued unauthorized diversion of water in excess of existing water rights is a trespass under Water Code section 1052. Additionally, Cal-Am's continued illegal diversions are causing continued harm to public resources of the Carmel River.

Based on these findings, I approved the issuance of the enclosed draft CDO that requires Cal-Am to cease and desist from diverting and using water in excess of its legal rights, or comply with the constraints of the enclosed CDO within the specified time schedules. If Cal-Am disagrees with the facts or time schedules for the corrective actions set forth in the enclosed draft CDO, Cal-Am may request a hearing before the State Water Board no later than 20 days from the date of receipt of this notice.

Unless a written request for a hearing regarding the CDO signed by or on behalf of Cal-Am is delivered to or received by mail by the State Water Board within 20 days after the receipt of this letter, the State Water Board may adopt the CDO, based on the facts and information set forth in the enclosed draft CDO, without a hearing (Water Code, § 1834).

If there are any questions concerning this matter, please contact Ms. Yvonne West, Staff Counsel, Office of Enforcement, at (916) 341-5445.

Sincerely,



James W. Kassel
Assistant Deputy Director for Water Rights

Enclosure: Draft Cease and Desist Order

cc: See next page.

California Environmental Protection Agency

B. Kent Turner, President
California American Water

2

JAN 15 2008

cc: David A. Berger, General Manager
Monterey Peninsula Water Management District
P.O. Box 85
Monterey, CA 93940

Thomas Howard, Chief Deputy Director
State Water Resources Control Board

Victoria A. Whitney, Deputy Director for Water Rights
State Water Resources Control Board

Andy Sawyer, Assistant Chief Counsel
State Water Resources Control Board