

**EXHIBIT F**

**WATER LETTERS:**

MPWMD Letter dated June 29, 2011

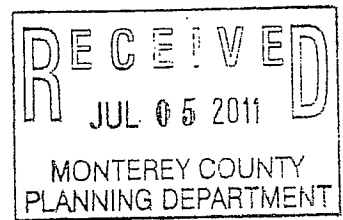
Stamp Letter dated August 16, 2011

Stamp Letter dated July 8, 2011

SWRCB Letter dated August 10, 2011

J. Zischke Letter dated August 25, 2011

SWRCB Letter dated August 30, 2011



June 29, 2011

Ms. Elizabeth Gonzales, Planner  
County of Monterey Resource Management Agency  
Planning Department  
168 W. Alisal Street, 2nd Floor  
Salinas, California 93901

**Subject: Villas De Carmelo Project, Hwy One & Valley Way, Carmel – Final Environmental Impact Report dated April 2009, County's File Number: PLN070497, State Clearinghouse #2002111038, APNs: 009-061-002, 003, and 005**

Dear Ms. Gonzales:

The Monterey Peninsula Water Management District (MPWMD or District) received the Notice of Availability for the Final Environmental Impact Report (FEIR) for Villas del Carmelo on June 20, 2011. Technically, California Environmental Quality Act (CEQA) Guidelines (Section 15088), Evaluation of and Response to Comments, was not properly followed. MPWMD should have had ten days to review the proposed response to its comments on the EIR. This is important because we have noticed that there are several inaccurate statements made in the responses to comments that may impact the Project.

Under RDEIR Section 4.14, Utilities and Service Systems, Page 4.14-13, Table 4.14-1, Water Demand Projections for Housing the Gym; the third footnote was revised as follows:

\*\*\*Per personal communication with MPWMD staff, the proposed project would not involve a new connection, thus there would be no inclusion of the project's estimated landscaping water demand included within the project's application in accordance with Rules and Regulations of the MPWMD. Additionally, separate water meters would be required for installation for each residential unit, the gym, and irrigation. The proposed project will require new connections (i.e. individual (or sub-water meters) for each new User pursuant to Rule 23 B-2 (a). MPWMD will not assess an additional outdoor water use for the proposed project because outdoor water use is recognized as a historical lawful use of water on the property.

This information is inaccurate and misleading. The comment submitted by MPWMD (F-5) has been taken out of context. MPWMD's comment (F-5) addressed two separate issues and requested clarification in the FEIR. Specifically, MPWMD stated: (1) The proposed project will require New Connections (i.e. individual water meters) for each new User pursuant to Rule 23 B-2 (a), and (2) MPWMD will not assess an additional outdoor water use for the proposed project because outdoor water use is recognized as a historical lawful use of water on the property.

Elizabeth Gonzales

Page 2 of 2

June 29, 2011

The FEIR indicates that the project will utilize sub-water meters and thus will not include New Connections. The use of sub-water meters are not allowed under District Rule 23-B-2-a. The rule requires each User<sup>1</sup> to install a separate water meter and the proposed project consists of a number of new Users. Separate water meters are required to encourage water efficiency through water pricing, to enable enforcement of water rationing, and to allow a water User to be accountable for their water use. Sub-metering is problematic in that billing occurs at the Master Meter and rates are set using individual customer information. Current rate design encourages low water use and penalizes high water use. Finally, sub-metering is not supported by California American Water. Based on information provided by the General Manager of California American Water at the May 16, 2011, MPWMD Board meeting, the Cease and Desist Order against California American Water may impact the setting of water meters for this project.

If you have any questions or would like to discuss our comments, please contact me or Gabriela Ayala at 658-5601.

Sincerely,



Stephanie Pintar  
Water Demand Manager

cc: Henrietta Stern, MPWMD Project Manager

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<sup>1</sup> User is defined as a customer or consumer of water delivered by a Water Distribution System. Each residence, commercial enterprise, or industrial enterprise is deemed a separate and distinct User.

LAW OFFICES OF  
MICHAEL W. STAMP

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Monterey, California 93940

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August 16, 2011

Via Email

Paul Getzelman, Chair, and Members of the Planning Commission  
County of Monterey  
168 W. Alisal Street, 2nd Floor  
Salinas, CA 93901

Subject: SWRCB Position on Proposed Villas de Carmelo Subdivision Project

Dear Chair Getzelman and Members of the Planning Commission:

This Office represents the Save Our Carmel Neighborhoods Coalition. The State Water Resources Control Board has provided us with its position with regard to Cal Am water for the proposed subdivision project called Villas de Carmelo.

The State's Position: Service of Water by Cal Am to the Villas de Carmelo Subdivision under the State's 2009 Cease and Desist Order Against Cal Am

The State Water Resources Control Board reviewed the proposed Villas de Carmelo project. The State's August 10, 2011 letter states in key part as follows:

[T]his site is upzoning to a high density residential. There will undoubtedly be an increase in water use at the site since 2005 when the hospital closed. Although the Monterey County Planning Department concluded that the baseline water use for the property could be based on historic use in 1988, the effective date of its Ordinance 3310, the State Water Board's Cease and Desist Order was issued in 2009 and is not restricted by the 1988 Ordinance. Therefore, if Cal-Am were to serve the new 46-unit residential condominiums with water from the Carmel River, Cal-Am would likely violate Condition 2 of the [Cease and Desist] order.

(Exhibit A, p. 2, underlining added for emphasis.) This is significant new information that was not evaluated in the environmental impact report. Because the project would likely violate the State's Cease and Desist Order, the project would have significant unevaluated and unmitigated impacts with regard to water.

Cal Am's water supply includes Carmel River water. The State's position is that Cal Am cannot legally provide Carmel River water to the project. Without a legal water supply, the project cannot be approved.

Paul Getzelman, Chair, and Members of the Planning Commission  
August 16, 2011  
Page 2

The State's position is consistent with the position stated in the Monterey Peninsula Water Management District letter of June 29, 2011, as well as comments made by Planning Commissioners, the Coastal Commission staff, and the public.

The County Should Deny the Project Due to the Lack of a Legal Water Supply

The Planning Commission is scheduled to hold its fourth public hearing on the proposed subdivision project on August 31.

The County and the public should not spend more time and effort on a project that has no water.

The Commission should deny the project based on the lack of a legal water supply, in addition to the other significant reasons identified by the public and by public agencies.

Very truly yours,

LAW OFFICES OF MICHAEL W. STAMP

  
Molly Erickson

Exhibits:

- A. August 10, 2011 letter from State Water Resources Control Board (2 pages)
- B. State Water Resources Control Board Cease and Desist Order WR 2009-0060 excerpts (pp. 1, 57 [Condition 2])

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July 8, 2011

Barbara Evoy, Deputy Director  
Division of Water Rights  
State Water Resources Control Board  
1001 I Street  
P.O. Box 2815  
Sacramento, CA 95812-2815

Subject: Villas De Carmelo, a proposed 46-condominium project in Carmel within  
the Cal Am Monterey Peninsula service area subject to WR 2009-0060.

Dear Ms. Evoy:

This Office represents the Save Our Carmel Neighborhoods Coalition, a neighborhood group. The Coalition seeks the opinion of the State Water Resources Control Board as to a proposed development project in light of the Board order WR 2009-0060, the Cease and Desist Order against Cal Am.

The County of Monterey is reviewing a proposed development project for 46 condominiums in unincorporated Carmel located within the California-American service boundary. The site was formerly a convalescent hospital. The hospital has been empty since 2005. One outbuilding on the site is used intermittently for therapy groups. The site reportedly has two Cal Am meters.

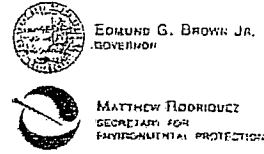
The "Villas de Carmelo" proposal is to (1) upzone the site from medium density residential to high density residential, and (2) convert the existing hospital into nine condominiums, and to build eight additional structures to house additional new condominiums. Each of the 46 residential condominiums would be required to have its own individual meter under Monterey Peninsula Water Management District rule 23.B.2(a). The outdoor irrigation and the gym would have separate meters. For further information, the County website for the project is [http://www.co.monterey.ca.us/planning/major/Villas%20De%20Carmelo/Villas\\_De\\_Carmelo.htm](http://www.co.monterey.ca.us/planning/major/Villas%20De%20Carmelo/Villas_De_Carmelo.htm).

A statement from the State on this important issue would be appreciated. If you have any questions, feel free to contact me or Michael Stamp.

Very truly yours,

LAW OFFICES OF MICHAEL W. STAMP

  
Molly Erickson



State Water Resources Control Board

AUG 10 2011

In Reply Refer to:  
MJQ:262.0(27-01)

Ms. Molly Erickson  
Law Offices of Michael W. Stamp  
479 Pacific Street, Suite 1  
Monterey, CA 93940

Dear Ms. Erickson:

VILLAS DE CARMELO: A PROPOSED 46-CONDOMINIUM PROJECT WITHIN THE CAL-AM SERVICE AREA SUBJECT TO ORDER WR.2009-0060 IN MONTEREY COUNTY.

This letter is in response to your July 8, 2011 letter regarding State Water Resources Control Board (State Water Board) Cease and Desist Order (Order) WR.2009-0060. More particularly, the Save Our Carmel Neighborhoods Coalition requests an opinion from the State Water Board as to whether or not a proposed development project, namely the Villas de Carmelo, may be served by California American Water (Cal-Am).

The Villas de Carmelo project located in Carmel, California proposes to redevelop the former Carmel Convalescent Hospital site and construct a 46-unit condominium, which will involve rezoning the site from medium density residential to high density residential. The question is whether or not Cal-Am may serve water to an existing connection and be in compliance with Condition 2 of the order. Condition 2 of the order states:

*"Cal-Am shall not divert water from the Carmel River for new service connections or for any increased use of water at existing service addresses resulting from a change in zoning or use. Cal-Am may supply water from the river for new service connections or for any increased use at existing service addresses resulting from a change in zoning or use after October 20, 2009, provided that any such service had obtained all necessary written approvals required for project construction and connection to Cal-Am's water system prior to that date."*

In addition, you will find a footnote attached to Condition 2 that reads:

*"Multiunit residential, commercial or industrial sites may currently be served by a single water meter. The installation of additional meters at an existing service will not be viewed as a new service connection provided that the additional metering does not result in an increase in water use. Metering each unit of a multiunit building tends to increase accountability in the use of water and the effectiveness of water conservation requirements."*

EXHIBIT A, p. 142

CHARLES R. HOPPIN, CHAIRMAN | THOMAS HOWARD, EXECUTIVE DIRECTOR

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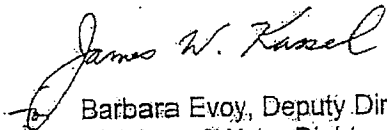
AUG 10 2011

Ms. Molly Erickson

- 2 -

According to your letter and the Monterey County Planning Commission records, each of the 46-unit condominiums will have its own individual water meter under the Monterey Peninsula Water Management District rule 23.B(a). Even though this promotes a greater accountability in the use of water and effectiveness of water conservation, this site is upzoning to a high density residential. There will undoubtedly be an increase in water use at the site since 2005 when the hospital closed. Although the Monterey County Planning Department concluded that the baseline water use for the property could be based on historic use in 1988, the effective date of its Ordinance 3310, the State Water Board's Cease and Desist Order was issued in 2009 and is not restricted by the 1988 Ordinance. Therefore, if Cal-Am were to serve the new 46-unit residential condominiums with water from the Carmel River, Cal-Am would likely violate Condition 2 of the order.

Sincerely,



Barbara Evoy, Deputy Director  
Division of Water Rights

cc: California American Water – Monterey  
c/o Craig E. Anthony  
511 Forest Lodge Road, Suite 100  
Pacific Grove, CA 93950

EXHIBIT A, p. 2 of 2



STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

ORDER WR 2009-0060

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In the Matter of the Unauthorized Diversion and Use of Water  
by the California American Water Company

Parties

**Water Rights Prosecution Team<sup>1</sup>**  
**California American Water Company**

Interested Parties

**Monterey Peninsula Water Management District, City of Carmel by the Sea,  
City of Seaside, Seaside Basin Watermaster, Pebble Beach Company,  
Monterey County Hospitality Association, City of Monterey, City of Sand City,  
Division of Ratepayers Advocates of the California Public Utilities Commission,  
Public Trust Alliance, Carmel River Steelhead Association,  
Ventana Chapter of the Sierra Club, California Sportfishing Protection Alliance,  
Planning and Conservation League, California Salmon and Steelhead Association,  
National Marine Fisheries Service**

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SOURCE: Carmel River

COUNTY: Monterey

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**CEASE AND DESIST ORDER**

BY THE BOARD:

**INTRODUCTION**

The California American Water Company (Cal-Am or CAW) diverts water from the Carmel River in Monterey County. The water is used to supply the residential, municipal, and commercial needs of the Monterey Peninsula area (peninsula) communities. In 1995 the State Water

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<sup>1</sup> The Water Rights Prosecution Team includes: (1) James Kassel, Assistant Deputy Director for Water Rights, (2) John O'Hagan, Manager, Water Rights Enforcement Section (3) Mark Stretars, Senior Water Resource Control Engineer, (4) John Collins, Environmental Scientist and (5) Staff Counsels Reed Sato, Yvonne West and Mayumi Okamoto. In addition, for purposes of complying with *ex parte* prohibitions, Kathy Mrowka, Senior Water Resource Control Engineer, is also treated as a member of the Prosecution Team.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT Cal-Am shall cease and desist from the unauthorized diversion of water from the Carmel River in accordance with the following schedule and conditions.<sup>46</sup>

1. Cal-Am shall diligently implement actions to terminate its unlawful diversions from the Carmel River and shall terminate all unlawful diversions from the river no later than December 31, 2016.
2. Cal-Am shall not divert water from the Carmel River for new service connections or for any increased use of water at existing service addresses resulting from a change in zoning or use. Cal-Am may supply water from the river for new service connections or for any increased use at existing service addresses resulting from a change in zoning or use after October 20, 2009, provided that any such service had obtained all necessary written approvals required for project construction and connection to Cal-Am's water system prior to that date.<sup>47</sup>
3. At a minimum, Cal-Am shall adjust its diversions from the Carmel River in accordance with the following:
  - a. Commencing on October 1, 2009,<sup>48</sup> Cal-Am shall not divert more water from the river than the base of 10,978 afa,<sup>49</sup> as adjusted by the following:
    - (1) Immediate Reduction: Commencing on October 1, 2009, Cal-Am shall reduce diversions from the river by 5 percent, or 549 afa.

<sup>46</sup> Attachment 1 to this order, "Table 1, Projected Reductions in Illegal Diversions from the Carmel River," shows the reductions in illegal diversions from the Carmel River that should result from conditions 1, 2 and 3 of this order.

<sup>47</sup> Multiunit residential, commercial or industrial sites may currently be served by a single water meter. The installation of additional meters at an existing service will not be viewed as a new service connection provided that the additional metering does not result in an increase in water use. Metering each unit of a multiunit building tends to increase accountability in the use of water and the effectiveness of water conservation requirements.

<sup>48</sup> Each water year runs from October 1 to September 30 of the following year.

<sup>49</sup> Cal-Am diverts 3,376 afa under legal rights and, on average, 7,602 afa without a basis of right (3,376 + 7,602 = 10,978 afa).

**Jacqueline M. Zischke, Attorney at Law**

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August 25, 2011

Via Email

Liz Gonzalez, Planner  
County of Monterey  
168 W. Alisal Street, 2<sup>nd</sup> Floor  
Salinas, CA 93901

Re: Villas de Carmelo Project

Dear Ms. Gonzalez,

This letter is to confirm with you my conversations with California American Water Company, the Monterey Peninsula Water Management District, and the State Water Resources Control Board regarding water service to the Villas de Carmelo project.

State Water Resources Control Board. As you know, the legal department with the State Water Resources Control Board had already confirmed that the use of either additional meters or sub-meters for the proposed condominium units does not raise any problems under the State's Cease and Desist Order for the Villas de Carmelo project. I followed up with the State's legal department in regards to the letter that was subsequently written by one of the State's staff to Mollie Erickson, and the State's legal department confirmed with me that this staff letter was not run through the legal department prior to being released, and that this staff letter does not constitute a determination by the State that water service to the proposed project would result in any violation of the Cease and Desist Order. The legal department is following up with its staff on this matter.

I should point out that Ms. Erickson's argument in her August 16, 2011 letter to the Planning Commission that the State staff's letter renders the County's environmental review inadequate, is completely misguided. Despite the fact that the State staff's letter is not determinative regarding any violation of the State's Cease and Desist Order, the County's EIR detailed the planned long term water supplies to address the unlawful diversions by California American Water Company; the EIR did not assert or rely on any unlawful water diversions as the long term water supply for the Villas de Carmelo project. Ms. Erickson confuses the State's regulatory authority under the Cease and Desist Order and the County's role under CEQA. There is no legal basis to delay the processing of the Villas de Carmelo project.

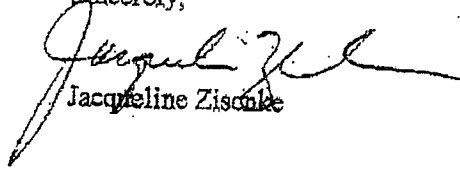
California American Water Company. I have followed up with Cal-Am and Cal-Am's manager, Craig Anthony continues to prefer that sub-meters be installed instead of additional meters for the Villas de Carmelo project since the buildings are multi-unit structures situated away from the street, and therefore are not conducive to installing separate meters.

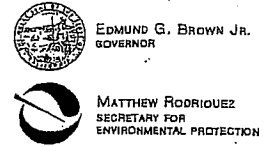
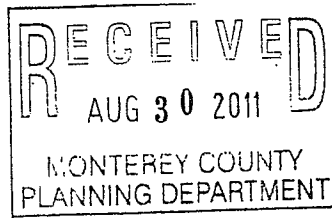
Monterey Peninsula Water Management District. The Monterey Peninsula Water Management District staff, Stephanie Pinter has indicated that if additional meters are installed, the District can issue permits for the Villas de Carmelo project. However, if sub-metering is sought, there is a variance that we will need to obtain approval from the Monterey Peninsula Water Management District Board that requires a showing of the unique circumstances that justify sub-metering.

I know County staff was also involved in some of these discussions, however, I wanted to briefly summarize these issues in an effort to sort through some of the confusion that has come about by the recent correspondence by the opponents to the project.

Thank you for your attention to this matter.

Sincerely,

  
Jacqueline Zischke



State Water Resources Control Board

#1

August 30, 2011.

ALL VIA EMAIL ONLY

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Dear Mr. Anthony and Mses. Gonzales, Erickson and Zischke:

Re: Villas De Carmelo, A Proposed 46-Condominium Project Within the Cal-Am Service Area  
Subject to Order WR 2009-0060 in Monterey County

This e-mail is to clarify the August 10, 2011 subject letter sent to Ms. Molly Erickson from James W. Kassel for Barbara Evoy, Deputy Director of Water Rights at the State Water Resources Control Board. The August 10, 2011 letter references Cease and Desist Order WR 2009-0060. Cease and Desist Order WR 2009-0060 prohibits certain new service connections within Cal-Am's service area on the Monterey Peninsula.

It is the State Water Board's intent to ensure that California American Water Company complies with the above-mentioned order. The August 10, 2011 letter however, does not represent a final determination by the State Water Board that the use of water for the proposed condominium project would be a violation of State Water Board Cease and Desist Order WR 2009-0060.

CHARLES R. HOPPIN, CHAIRMAN | THOMAS HOWARD, EXECUTIVE DIRECTOR

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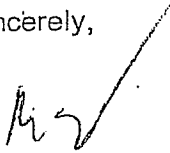
Mr. Anthony  
Miss Gonzales  
Miss Erickson  
Miss Zischke

- 2 -

August 30, 2011

Prior to reaching a final determination in this matter, the State Water Board would need to further evaluate actual historical water use data for the subject property and review all available water use information for any project proposed at the site.

Sincerely,



Barbara Evoy, Deputy Director  
Division of Water Rights  
State Water Resources Control Board