SEASIDE GROUNDWATER BASIN WATERMASTER

SPECIAL BOARD MEETING AGENDA
WEDNESDAY, MARCH 18, 2009, 2:00 P.M.
MONTEREY REGIONAL WATER POLLUTION CONTROL AGENCY
BOARD ROOM, 5 HARRIS COURT, BUILDING "D"
"RYAN RANCH"
MONTEREY, CALIFORNIA

WATERMASTER BOARD:
City of Seaside – Mayor Ralph Rubio, Chair
Coastal Subarea Landowner – Director Paul Bruno, Vice Chair
Monterey Peninsula Water Management District – Director Judi Lehman, Secretary
City of Del Rey Oaks – Mayor Joseph Russell, Treasurer
California American Water – Director Craig Anthony
Laguna Seca Subarea Landowner – Director Bob Costa
City of Monterey –Mayor Chuck Della Sala
City of Sand City – Mayor David Pendergrass
Monterey County/Monterey County Water Resources Agency – Supervisor Dave Potter, District 5

I. CALL TO ORDER

II ROLL CALL

III. MINUTES;

The minutes of the Special Board meeting of January 21, 2009 and the Regular Board meeting of February 4, 2009 are attached to this agenda. The Board is requested to consider approving the minutes.

IV. REVIEW OF AGENDA

If there are any items that arose after the 72-hour posting deadline, a vote may be taken to add the item to the agenda pursuant to the requirements of Government Code Section 54954.2(b). (A 2/3-majority vote is required.)

V. PUBLIC COMMUNICATIONS

Oral communications is on each meeting agenda in order to provide members of the public an opportunity to address the Watermaster on matters within its jurisdiction. Matters not appearing on the agenda will not receive action at this meeting but may be referred to the Watermaster Administrator or may be set for a future meeting. Presentations will be limited to three minutes or as otherwise established by the Watermaster. In order that the speaker may be identified in the minutes of the meeting, it is helpful if speakers would use the microphone and state their names. Oral communications are now open.

VI. CONSENT CALENDAR

A. Consider Approval of Summary for Payments Made in February, 2009 totaling $153,715.70
B. Consider Financial Reports – Through February 28, 2009

VII. ORAL PRESENTATION

A. Informational Presentation by City of Seaside for In-Lieu Replenishment of Seaside Basin In Conjunction with Blackhorse and Bayonet Golf Courses, Recommended referral to Technical Advisory Committee and Budget and Finance Committee.

VIII. OLD BUSINESS

A. COMMITTEE REPORT

1. TECHNICAL ADVISORY COMMITTEE (TAC)

a) Receive Watermaster Technical Advisory Committee Findings and Conclusions Regarding the 10% Cutback Issues

b) Declaration of Replenishment Water Availability based on outcome of **a)** above

c) Consider Approving the Proposed Watermaster comments to the California Public Utilities Commission on the Draft Environmental Impact Report for the Monterey Coastal Water Project including efforts of the Monterey Regional Water Pollution Control Agency (MRWPCA) to convince the California Public Utilities Commission (CPUC) to get the Replenishment Project back to the First Phase of the Monterey Coastal Water Project's Draft Environmental Impact Report and Direct CEO to Submit the Comments to the PUC Prior to the April 1, 2009 Deadline

IX NEW BUSINESS

A. COMMITTEE REPORT

1. TECHNICAL ADVISORY COMMITTEE (TAC)

a) Consider Approving a Request for Service (RFS) with Mr. Martin Feeney to Prepare a Basis of Design Report for the New Monitoring Well to be installed later this Fiscal Year.

b) Consider Approving HydroMetrics Ground Water Modeling Goals and Objectives

B. OTHER NEW BUSINESS

1. Security National Guarantee Matters (Monterey Bay Shores Ecoresort)

a) Consider Board Member Request to Discuss and Take Appropriate Action Regarding the Recent Decision by the Monterey Peninsula Water Management District (MPWMD) to Deny California American Water's Application to Amend its Water Distribution System Permit to Serve the Monterey Bay Shores Ecoresort, Based on the Need to Prepare a Subsequent EIR on Water Supply Issues

b) Consider Letters dated February 5, 2009 and February 11, 2009 from the California Environmental Law Center re: Watermaster Letter of September 19, 2008 re: Security National Guarantee Water Connection Permits, and Responsive Letter from Security National Guaranty, dated February 17, 2009, and Take Action as Deemed Appropriate by the Board

2. Consider Approval of Revised Approach for Calculation of the Replenishment Assessment and Accounting of Carryover Credits per Joint Request of California American Water and City of Seaside

X INFORMATIONAL REPORTS (No Action Required)

- **A.** Timeline Schedule of Milestone Dates (Critical date monitoring)
- **B.** Technical Advisory Committee (TAC) minutes of February 11, 2009
- **C.** Water Production Report for First Quarter of Water Year 2009 (Oct. 1, 2008 through Dec. 31, 2008)

XI. DIRECTOR'S REPORTS

XII. EXECUTIVE OFFICER COMMENTS

XIII. NEXT REGULAR MEETING DATE –APRIL 1, 2009 (MRWPCA-Board Room) 2:00 P.M.

XIV. ADJOURNMENT

This agenda was forwarded via e-mail to the City Clerks of Seaside, Monterey, Sand City and Del Rey Oaks; the Clerk of the Monterey Board of Supervisors, the Clerk to the Monterey Peninsula Water Management District; the Clerk at the Monterey County Resources Agency and the California American Water Company for posting on March 12, 2009 per the Ralph M. Brown Act, Government Code Section 54954.2(a).

ITEM NO. III.

MINUTES

SPECIAL MEETING
Seaside Groundwater Basin Watermaster
January 21, 2009

DRAFT MINUTES

I. CALL TO ORDER

Chairman Rubio called the meeting to order at 2:04 p.m. in the Monterey Regional Water Pollution Control Agency Boardroom at 5 Harris Court, Building D, Monterey.

II. ROLL CALL

City of Seaside – Mayor Ralph Rubio, Chairman
Coastal Subarea Landowner – Director Paul Bruno, Vice Chair
Monterey Peninsula Water Management District ("MPWMD") – Director Judi Lehman, Secretary
City of Del Rey Oaks – Mayor Joseph Russell, Treasurer
Laguna Seca Subarea Landowner – Director Bob Costa
California American Water ("CAW") – Director Craig Anthony
City of Monterey – Councilmember Frank Sollecito
City of Sand City – Mayor David Pendergrass
Monterey County/Monterey County Water Resources Agency ("MCWRA") – Supervisor David Potter

Absent: None

III. APPROVAL OF MINUTES

Moved by Director Bruno, seconded by Mayor Russell, and carried, to approve the minutes of the Regular Board meeting held December 3, 2008. Supervisor Potter, Councilmember Sollecito, Director Costa, and Director Anthony all abstained due to not having attended the December 3rd meeting.

IV. REVIEW OF AGENDA

There were no changes to the agenda.

V. PUBLIC PARTICIPATION/ORAL COMMUNICATIONS

There were no questions or comments from the public.

VI. CONSENT CALENDAR

A. Consider Approval of Summary for Payments Made in December, 2008 totaling $137,099.57
B. Consider Year-End Financial Reports – Through December 31, 2008
C. Consider Approval of MPWMD RS No. 2009-03 for Database Hosting Work

Moved by Mayor Pendergrass, seconded by Councilmember Sollecito, and unanimously carried, to approve the consent calendar as presented.

VII. ORAL PRESENTATION – None.

VIII. OLD BUSINESS

A. The board received a presentation by Derrick Williams of HydroMetrics, LLC on the Seawater Intrusion Response Plan ("SIRP") recently approved in final form by the

Watermaster Technical Advisory Committee ("TAC"). Mr. Williams emphasized that the SIRP did not dictate what basin management practices to use if seawater intrusion did occur, but left that, and subsequently the cost, to the discretion of the Board acting within the parameters of the Basin Management Action Plan ("BMAP") referenced in the SIRP. Attorney Lloyd Lowery representing the Hidden Hills Rate Payers inquired whether Watermaster had any information currently to enable a determination whether basin groundwater gradients in the inland areas were sufficient to protect against seawater intrusion to which Mr. Williams responded that based on the information available from last year the gradient was determined to be insufficient to protect against the opportunity for seawater intrusion at the coast.

Moved by Supervisor Potter, seconded by Director Costa, and unanimously carried, to approve the Watermaster Seawater Intrusion Response Plan as presented as adequate for circulation.

IX. NEW BUSINESS

A. CEO Evans presented the draft Declaration regarding the Unavailability of Artificial Replenishment Water for Water Year 2009 listing producers' production limits inclusive of the 10% reduction called for as of January 1, 2009 in the Decision. Mayor Pendergrass took exception to the determination that no artificial replenishment water was available in the ensuing year stating that the City of Sand City had worked diligently to bring its desalination plant on-line projected for March 2009 and that the operation would produce 300 acre-feet of water for replenishment. Robert Jaques, Watermaster Technical Program Manager, stated that it was unknown what arrangements had been made between Sand City and CAW and whether CAW would be using any water produced from the plant to offset Carmel River production or Seaside Basin production. Chair Rubio stated his understanding that water produced from the plant would allow Sand City to not have to pump its annual 94 acre-foot allocation and would provide water for alternative uses beyond that up to the 300 acre-feet anticipated to be produced. Director Anthony stated that water produced from the Sand City plant would be used in Sand City and Seaside; CAW is currently in the process of putting in 5 pressure relief valves that will reduce the high pressures in Sand City and the lower portion of Seaside, important so CAW can operate the ASR system with MPWMD in the most efficient way. One third of Seaside and the Sand City area will be within the pressure reduction area so the water produced by the desalination plant cannot get out of Sand City or that portion of Seaside so the water will be used there. CAW manages the main system in a dynamic way – no wells have been on in Seaside since the beginning of the year and not scheduled to be on for several more months. The amount of water available to use in Seaside will be reduced by approximately 355 acre-feet. Mr. Anthony stated that his guiding goal is to stay under Watermaster limits and the limits of 95-10 and Sand City produced water would stay in the Sand City-Seaside area. He was unaware of any requirement to declare that this is CAW's intent. Every acre foot that the Sand City desalination plant supplies from a practical stand point is frankly an acre-foot that will not have to be sent in from the Carmel Valley. He was not sure of the ultimate acre-feet to be provided by the Sand City desalination plant. The plant is probably within a month or two of entering its 8-week trial; no signals had been received from the Department of Public Health on how long the permitting process would take. CAW and Sand City want the project on-line as quickly as possible. Chair Rubio stated that the Sand City plant aspect should be considered in the declaration of availability of water. Director Potter stated he felt the Sand City project would be coming on line in 2009 and language in the declaration should reflect that. Chair Rubio stated that the availability of water and whether Watermaster will purchase it or come into possession of it is at issue.

Lloyd Lowery, representing the Hidden Hills Ratepayers, stated he and his clients applaud Sand City for the aggressive and effective action taken to secure the additional water supply. He requested Watermaster consider carefully the fourth item under the Decision in determining whether a reduction of 10% would be required, that being if groundwater levels in the Santa Margarita and Paso Robles aquifers are at sufficient levels to ensure a positive off-shore gradient to prevent seawater intrusion. He believes, based on information put forth by Hydrometrics, consultants to Watermaster, that gradients are sufficient to prevent seawater intrusion at least for the next three years. He requested that the fourth condition be used in determining artificial replenishment water availability.

David Laredo, MPWMD, suggested staff make findings on each of the four items relating to determination of groundwater availability using the language of the Decision when possible.

Director Bruno stated that the issue of the positive gradient in the Laguna Seca corridor is complex in that the situation in that area is not necessarily an indication of conditions of the basin overall. Mr. Jaques stated that it was determined at TAC meetings in the past that until modeling of groundwater is done more extensively it is hard to determine groundwater conditions and flow. Groundwater modeling is budgeted for and is scheduled to proceed in the current fiscal year. Mayor Russell felt there is nothing prohibiting dealing with the basin in portions. Chair Rubio stated that the Judge's intentions would be helpful to know in this matter.

Moved by Director Potter, seconded by Director Sollecito, and unanimously carried to continue the item to the March 4, 2009 Board meeting to afford staff and the TAC an opportunity to find that the Watermaster declares in 2009 that artificial replenishment water is available and to provide the associated facts and findings, considering each of the four items in the Decision in determining any 10% reduction in production and using the language of the Decision when possible in developing any recommendation.

B. Moved by Councilmember Sollecito, seconded by Mayor Pendergrass, and unanimously carried, to approve the Report to the Court, as recommended by the TAC Committee, to answer the Court's questions posed at the December 12, 2008 court hearing on the Watermaster Annual 2008 Report to the Court.

C. Supervisor Potter abstained from the discussion and action on Professional Services Agreement and Request for Services (RFS) with Denise Duffy and Associates to perform CEQA work on the Seawater Intrusion Response Plan and the Basin Management Action Plan as his son does work for Denise Duffy and Associates; he also excused himself from the rest of the meeting. Mr. Jaques stated that if the initial CEQA compliance work indicates that additional work would be required in order to adopt either the SIRP or the BMAP, then subsequent RFS(s) would need to be issued to authorize the performance of the additional work.

It was moved by Director Anthony, seconded by Director Costa, and unanimously carried, to authorize Staff to execute the Professional Services Agreement and Request for Services No. 2009-01 with Denise Duffy and Associates for $19,753 to perform the initial California Environmental Quality Act compliance work on the Basin Management Action Plan and the Seawater Intrusion Response Plan.

D. Mr. Jaques stated that there are two parts to RFS 2009-02 with Hydrometrics LLC, the first being the scope of work to determine protective groundwater levels to keep seawater from reaching production wells. The second scope of work would develop the complex groundwater flow model and use it to run "what if" scenarios for recharge impact, and for anticipating the best strategy for redistribution of pumping in the event of seawater intrusion. Director Anthony felt that groundwater modeling would be the most significant Watermaster accomplishment for the year. The cost for groundwater modeling is budgeted for and funded in the current fiscal year.

It was moved by Director Bruno, seconded by Director Lehman, and unanimously carried, to authorize Staff to execute the Request for Services No. 2009-02 with Hydrometrics LLC for a not-to-exceed cost of $286,240 to perform groundwater modeling and to determine protective water levels.

X. INFORMATIONAL REPORTS (No Action Required)

A. Timeline Schedule of Milestone Dates (Critical date monitoring)
B. Technical Advisory Committee ("TAC") minutes of December 10, 2008
C. Court approval of request by Watermaster to allow APA to SPA in perpetuity
D. Assessments invoiced for FY 2009
E. California Public Utilities Commission to release Draft Environmental Impact Report for Cal-Am Coastal Water Project (CWP) on January 30, 2009 – The TAC is prepared to provide the Board a technical review of the document within the review period specified upon release.

XI. DIRECTORS' REPORTS

Director Bruno stated he would be unable to attend the MPWMD meeting scheduled for next week and had sent correspondence in support of MPWMD granting an application to amend Cal-Am's distribution permit to serve the Monterey Bay Shores Ecoresort. Watermaster at its October 23, 2008 meeting approved a letter of support for Cal-Am pumping water from sites elsewhere and delivering it to the Ecoresort site and found it in compliance with the Basin Adjudication and innovative in achieving the goal of protecting the Basin from seawater intrusion. Director Bruno encouraged Directors to attend the meeting in support of MPWMD granting the distribution permit.

XII. EXECUTIVE OFFICER COMMENTS

CEO Evans reported a schedule of public presentations of the PUC Draft EIR for the CWP can be found at http://www.cwp-eir.com/ceqa.html. Chair Rubio requested staff to send out an email notice of meetings to directors.

The next Watermaster TAC meeting is scheduled for Wednesday, February 11th at 1:30pm at the Seaside City Hall portable building conference room. Mr. Jaques noted that the Draft Basin Management Action Plan distributed before the meeting would be presented at the February 4th meeting for finalization by the Board.

XIII. NEXT MEETING DATE – Regular Meeting to be held on February 4, 2009 , at the Monterey Regional Water Pollution Control Agency (MRWPCA) Board meeting room at 5 Harris Court, Building "D" on Ryan Ranch in Monterey at 2:00 p.m.

XIV. There being no further business, Chairman Rubio adjourned the meeting at 3:23 p.m.

SPECIAL MEETING
Seaside Groundwater Basin Watermaster
February 4, 2009

DRAFT MINUTES

I. CALL TO ORDER

Chairman Rubio called the meeting to order at 2:00 p.m. in the Monterey Regional Water Pollution Control Agency Boardroom at 5 Harris Court, Building D, Monterey.

II. ROLL CALL

City of Seaside – Mayor Ralph Rubio, Chairman
Coastal Subarea Landowner – Director Paul Bruno, Vice Chair
Monterey Peninsula Water Management District ("MPWMD") – Director Judi Lehman, Secretary
City of Del Rey Oaks – Mayor Joseph Russell, Treasurer
Laguna Seca Subarea Landowner – Leonard McIntosh (Alternate)
California American Water ("CAW") – Director Craig Anthony
City of Monterey – Mayor Charles "Chuck" Della Sala
City of Sand City – Mayor David Pendergrass
Monterey County/Monterey County Water Resources Agency ("MCWRA") – Curtis Weeks (Alternate)

Absent: None

III. APPROVAL OF MINUTES

There were no minutes submitted for approval.

IV. REVIEW OF AGENDA

There were no changes to the agenda.

V. PUBLIC PARTICIPATION/ORAL COMMUNICATIONS

Attorney Russ McGlothlin, acting on behalf of Watermaster, reported that he had filed the Report to the Court answering the judge's questions posed at the December 12, 2008 hearing regarding the Watermaster 2008 Annual Report.

VI. CONSENT CALENDAR

A. Consider Approval of Summary for Payments Made in January 2009 totaling $12,325.00
B. Consider current year Financial Reports – Through January 31, 2009

Moved by Mayor Russell, seconded by Director Lehman, and unanimously carried, to approve the consent calendar as presented.

VII. ORAL PRESENTATION

A. Mr. McGlothlin announced that the California Public Utilities Commission ("CPUC") Draft Environmental Impact Report ("DEIR") for the California American Water proposed Coastal Water Project had been released on January 30, 2009. He noted the report being in more of a National Environmental Protection Act than a California Environmental Quality Act format

whereby components of alternative projects are compared to others without one being designated the lead project. The preferred approach of staff was the Regional Project requiring fewer infrastructures but requiring agreements that have as yet not been established. Staff found the most environmentally benign project would be the North Marina Project using vertical wells for recharge. Environmental issues of concern were greenhouse gas emissions, noise, and other temporary impact issues that were limited in scope. The document is very thorough and well written and should stand if any CEQA challenges are brought forth. There is a 60-day period for comments to be submitted, and public hearings are scheduled for March 2nd – 4th.

Mayor Russell requested that Watermaster meetings be coordinated to allow the Board to respond within the comment period. Mr. Jaques stated that the TAC would be reviewing the DEIR and generating comments and would coordinate its meetings with the Board's to accommodate the 60-day response period. Mr. Evans would be sending out an email to all on the dates of the hearings.

B. Mr. Keith Israel, General Manager for the Monterey Water Pollution Control Agency, presented to the Board a summary of the Monterey Peninsula Groundwater Replenishment Project ("GWRP") and its relation to the CPUC DEIR alternative projects. Although the GWRP did not make the first phase of the Regional Water Supply Program, MRWPCA would be supplying information and other supporting documents to the CPUC in an effort to remain viable for the first phase of the program. Director Lehman inquired as to the source of project start-up funding. Mr. Israel stated that potential customers such as CAW would be solicited to pay for those costs that would be incorporated into the price of the water. The 1,000 acre-feet from the Regional Water Augmentation Project component of the proposed first phase is the amount available beyond the 1,487 acre-feet, and possibly up to 1,727 acre-feet, approved by FORA for two golf courses and projected projects such as the City of Del Rey Oaks resort.

VIII. OLD BUSINESS

A. The board received a presentation by Derrick Williams of HydroMetrics LLC on the Basin Management Action Plan ("BMAP"), a draft of which was provided at the last regular meeting. Mr. Williams noted that the operation yield triennial reductions are required unless certain actions are met including the procurement by Watermaster of additional water or determining that groundwater levels are high enough to prevent seawater intrusion. The TAC will be presenting findings at the Board's March meeting and Mr. Williams suggested considering legal assistance in parsing legal language from the technical findings.

Moved by Mayor Russell, seconded by Director McIntosh, and unanimously carried, to approve the Watermaster Basin Management Action Plan as presented.

B. Mr. Jaques stated that it was found that due to Watermaster being an arm of the court its actions are exempted from CEQA requirements as per the California Code therefore the Seawater Intrusion Response Plan is complete and ready for approval by the Board.

Moved by Director Bruno, seconded by Mayor Russell, and unanimously carried, to approve the Watermaster Seawater Intrusion Response Plan as presented.

C. Mr. Jaques stated he had reviewed the invoice of $100,000 from MRWPCA for developing the planning documents for the GWRP and was satisfied that MRWPCA had completed preparation of all the documents that fulfill the commitments under the one-time Memorandum of Agreement ("MOA") with Watermaster. The TAC had examined the documents and was satisfied that they met all of the objectives of the MOA. Director Anthony inquired as to whether upon completion of the GWRP the $100,000 would be included in the cost of the water produced to which Mr. Israel stated that the reimbursed expenses would not be charged for again.

Moved by Mayor Pendergrass, seconded by Director Lehman, and unanimously carried, to approve payment to MRWPCA of the $100,000 in funding assistance in accordance with the Memorandum of Agreement entered into in April of 2008 and to direct staff to send a letter to MRWPCA stating that the Watermaster accepts the documents prepared by MRWPCA as fulfillment of MRWPCA's obligations under the MOA.

IX. NEW BUSINESS

There were no new business items.

X. INFORMATIONAL REPORTS (No Action Required)

A. Timeline Schedule of Milestone Dates (Critical date monitoring)
B. Technical Advisory Committee minutes of January 14, 2009
C. Water Production Report for First Quarter of Water Year 2009
D. Recommended Adjustments to Carryover Credit Record Keeping and Replenishment Assessment Calculation

Mr. Russ McGlothlin addressed the Board on item X.D. stating that City of Seaside and CAW drafted a memorandum and distributed it to legal counsels explaining the legal rationale for the approach recommended, and distributed Mr. Jaques' response to the draft memorandum outlining the current approach used by Watermaster in calculating the Replenishment Assessments. Mr. McGlothlin had received response from Graniterock Company stating they concur with the proposed approach; he had not heard back yet from others. He and Watermaster staff had met earlier and developed a process whereby Watermaster staff would also solicit feedback to the documents distributed from legal counsels and report further at the Watermaster March Board meeting. Mr. McGlothin had not received any indication of disagreement to the proposed approach, and felt the issue was legal interpretation of the language of the Decision and not a policy issue. He requested the Board consider at the March meeting an amendment to the Watermaster Rules and Regulations to allow for the recommended approach for calculating Replenishment Assessment. Chair Rubio so directed staff to solicit feedback from legal counsels for water interests on the matter.

XI. DIRECTORS' REPORTS

Director Bruno stated he had sent correspondence in support of MPWMD granting an application to amend the CAW distribution permit to serve the Monterey Bay Shores Ecoresort. He was unable to attend the MPWMD meeting on January 29, 2009 however had heard that a

motion was made to condition the permit to require SNG, the owner of the resort and an adjudicated party, to give to MPWMD any water produced in excess of that permitted for the resort. Director Bruno had concern with "takings" issues and was dismayed that MPWMD would act against SNG efforts to best use and redistribute production for the good of the Basin. He felt Watermaster should review the issue and come back with a strong stance. Mayor Pendergrass who attended the MPWMD meeting on January 29th as a member of the Board stated that the motion to establish the permit condition had failed, but he had stated for the record at the time that if the motion had passed, the issue would need to be brought before Watermaster. Mayor Russell agreed with Director Bruno's comments that the MPWMD actions seemed to counter the efforts of Watermaster and the Decision. Mayor Pendergrass felt that Judge Randall would most likely not look favorably on an attempt at denying a party its right to water.

XII. EXECUTIVE OFFICER COMMENTS

CEO Evans stated that a schedule of public hearings of the PUC Draft EIR for the CWP on March 2-4 would be emailed to directors and interested parties tomorrow.

The next Watermaster TAC meeting is scheduled for Wednesday, February 11th at 1:30pm at the Seaside City Hall portable building conference room.

XIII. NEXT MEETING DATE – Regular Meeting to be held on March 4, 2009 , at the Monterey Regional Water Pollution Control Agency (MRWPCA) Board meeting room at 5 Harris Court, Building "D" on Ryan Ranch in Monterey at 2:00 p.m.

XIV. There being no further business, Chairman Rubio adjourned the meeting at 3:09 p.m.

ITEM NO. VI.

CONSENT CALENDAR

ITEM VI.A.
3/18/2009

SEASIDE GROUNDWATER BASIN
WATERMASTER

TO: Board of Directors

FROM: Dewey D Evans, CEO

DATE: March 18, 2009

SUBJECT: Summary of Payments Authorized to be paid in February, 2009.

PURPOSE:

To advise the Board of payments authorized to be paid during the month of February, 2009

RECOMMENDATIONS:

Consider approving the payment of bills submitted and authorized to be paid during the month of February, 2009

COMMENTS and FISCAL IMPACT:

DDEvans Consulting (Professional Services Agreement—CEO) –January 29, 2009 through February 28; 2009 worked on Watermaster business a total of 62.25 hours at $100.00 per hour or **$6,225.00.** Prepared and distributed Board of Director's agenda packets for February 4, 2009 Regular Board meeting. Reviewed and discussed TAC meeting agendas with Bob Jaques and others as appropriate. Had series of meetings, telephone calls and e-mail correspondence with variety of individuals interested in what is happening with the Seaside Basin.. Coordinated setting up and attending various Watermaster related committee meetings. Coordinated preparation of Board meeting packet with many involved participants, paid bills, attended variety of meetings regarding Watermaster issues

Robert "Bob" Jaques (Technical Program Manager)—January 27, 2009 through February 26, 2009 worked a total of 68.50 hours at $100.00 per hour or **$6,850.00.** Prepared material, attended and transcribed minutes for February 11th TAC meeting. Prepared Board meeting agenda items and e-mailed to CEO, attended February 4, 2009 Board meeting. Reviewed and commented on HydroMetrics PowerPoint presentation for February 4, 2009 Board meeting. Attended RPOG meeting @ UCMBEST Center. Worked on BLM monitoring well right-of-way application and mailed to BLM Began work on preparing tabulation of comments from review of CAW CWP DEIR for March 11, 2009 TAC meeting agenda

MRWPCA--At the April 3, 2008 Watermaster Board meeting the Board approved providing **$100,000.00** in funding assistance to the Monterey Regional Water Pollution Control Agency's (MRWPCA) development of its Ground Water Replenishment Project (GWRP). The GWRP is intended to help replenish the Seaside Groundwater Basin. Upon completion of the GWRP the Board approved payment at their February 4, 2009 Regular Board meeting. That payment request has now been prepared and submitted for payment.

Martin Feeney, Consulting Hydrogeologist—Contract with Mr. Feeney was entered into in January, 2009 for $6,000.00 to provide assistance to the Watermaster with the selection of site for design and construction of new monitoring well. The first invoice for this service was issued on January 27, 2009 for **$2,250.00**, which covers 15 hours of chargeable time at $150.00 per hour. This time was spent in meetings, and field reconnaissance of possible monitoring well locations and review of geologic data.

HydroMetrics, LLC—Two invoices were submitted for payment during February. The first invoice for **$7,740.53** was submitted on February 9, 2009 and was a progress payment on the contract dated January 1, 2009 for $78,920.00 that covers professional consulting services to Watermaster for completing the Basin Management Action Plan ((BMAP) and the Seawater Intrusion Response Plan (SIRP) and preparing the 2009 Seawater Intrusion Analysis Report (SIAR). The second invoice for **$4,030.00** was submitted on February 9, 2009 and was the first billing under the contract dated February 4, 2009 for $286,240.00 to Develop Protective Groundwater Elevation Goals and Objectives, Protective Groundwater Elevations, Model Goals and Objectives, Groundwater Flow Model, Run Predictive Model Scenarios and prepare a comprehensive detailed report covering all of the above.

MPWMD—Contract with MPWMD entered into in January, 2008 for a sum not exceed $112,720.00 to perform certain tasks contained within the Watermaster's Monitoring and Management Plan for 2008 which included conducting ongoing data entry/database maintenance, site representation and selection, collect monthly water levels, quarterly water quality samples, prepare Basin Management and Action Plan, perform seawater intrusion analyses, prepare response plan, etc. during the entire year 2008. The invoice for the last quarter of the fiscal year covering October 1 through December 31, 2008 was submitted February 12, 2009 for **$24,132.17.**

RBF Consulting—Contract with RBF Consulting dated December 3, 2008 for $1,988.00 to provide professional services to prepare amendments to the database desired by the Watermaster. These software updates were completed and the an invoice for the $1,988.00 was submitted for payment. An additional amount of $500.00 was invoiced for hosting the Watermaster database for the month of December, 2008. The total amount of the invoice approved for payment was **$2,488.00.**

Total payments authorized to be paid during January totaled **$153,715.70**

ITEM VI.B.
3/18/2009

Seaside Groundwater Basin Watermaster

Budget vs. Actual Administrative Fund

Fiscal Year (January 1 - December 31, 2009)
Balance through February 28, 2009

	2009 Adopted Budget	Year to Date Revenue / Expenses
Available Balances & Assessments		
Dedicated Reserve	25,000.00	25,000.00
FY 2008 (Estimated Rollover)	24,241.00	24,241.00
FY 2009 Assessments	108,759.00	93,097.70
Available	**158,000.00**	**142,338.70**
Expenses		
Contract Staff	108,000.00	13,650.00
Legal Advisor	25,000.00	-
Total Expenses	**133,000.00**	**13,650.00**
Total Available	25,000.00	
Dedicated Reserve	25,000.00	25,000.00
Net Available	**-**	**103,688.70**

Seaside Groundwater Basin Watermaster

ITEM VI.B.

Budget vs. Actual Monitoring & Management - Operations Fund

3/18/2009

Fiscal Year (January 1 - December 31, 2009)

Balance through February 28, 2009

	2009 Adopted Budget	Contract Encumbrance	Year to Date Revenue/Expenses
Available Balances & Assessments			
Monitoring & Management - Ops Fund	$ 683,998.00	$ -	$ 636,118.14
FY 2008 Rollover	133,496.15	-	133,496.15
Total Available	**$ 817,494.15**	**$ -**	**$ 769,614.29**
Appropriations & Expenses			
GENERAL			
Technical Project Manager	$ 100,000.00	$ 100,000.00	$ 11,750.00
Contingency @ 20% (not including TPM)	45,273.00	$ 45,273.00	-
Total General	**$ 145,273.00**	**$ 145,273.00**	**$ 11,750.00**
CONSULTANTS (Hydrometrics)			
Program Administration	$ 35,000.00	$ 35,000.00	$ -
Production/Lvl/Qlty Monitoring	29,000.00	-	-
Basin Management (BMAP, Modeling)	305,000.00	294,200.00	6,590.00
Seawater Intrusion (Plan, Analysis)	37,000.00	35,960.00	5,180.53
Total Consultants	**$ 406,000.00**	**$ 365,160.00**	**$ 11,770.53**
MPWMD			
Production/Lvl/Qlty Monitoring	$ 99,670.00	91,000.00	$ 9,760.00
Basin Management	12,800.00	12,800.00	1,200.00
Seawater Intrusion	6,800.00	6,800.00	1,800.00
Direct Costs	-	5,840.00	9,797.17
Total MPWMD	**$ 119,270.00**	**$ 116,440.00**	**$ 22,557.17**
MCWRA			
Program Administration	$ -	$ -	$ -
Production/Lvl/Qlty Monitoring	2,645.00	2,645.00	-
Basin Management	4,600.00	4,600.00	-
Seawater Intrusion	6,210.00	6,210.00	-
Total MRWMD	**$ 13,455.00**	**$ 13,455.00**	**$ -**
Total Appropriations & Expenses	**$ 683,998.00**	**$ 640,328.00**	**$ 46,077.70**
Total Available	**133,496.15**		**723,536.59**

Seaside Groundwater Basin Watermaster
Budget vs. Actual Monitoring and Management - Capital Fund
Fiscal Year (January 1 - December 31, 2009)
Balance through February 28, 2009

ITEM VI.B.
3/18/2009

	2009 Adopted Budget	Contract Encumbrance	Year to Date Revenue / Expense
Available Balances and Assessments:			
Monitoring & Management Fund - Capital	$ 225,000.00		$ 209,250.00
Appropriations & Expenses:			
Professional Services			
Project Management	-	-	-
Subtotal	-	-	
Direct Costs			
Site Selection - Martin Feeney	6,000.00	6,000.00	2,250.00
Permitting - Denise Duffy	19,553.00	19,553.00	-
Well Drilling -	199,447.00	-	-
Subtotal	225,000.00	25,553.00	2,250.00
Total Appropriations and Expenses	$ 225,000.00	25,553.00	2,250.00
Total Available	**$ -**		**$ 207,000.00**

Seaside Groundwater Basin Watermaster

Budget vs. Actual Replenishment Fund

Fiscal Year (January 1 - December 31, 2009)
Balance through February 28, 2009

Assessments:	FY 2006 Adopted Budget WY 05/06	FY 2007 Adopted Budget WY 06/07	FY 2008 Adopted Budget WY 07/08	Total to Date	FY 2009 Adopted Budget WY 08/09	Projected Totals Through WY 2009
Replenishment Fund						
California American Water						
Exceeding Natural Safe Yield Considering Alternative Producers	2,106,652	2,594,166	5,352,939	$ 10,053,757	6,690,432	$ 16,744,189
Operating Yield Overproduction Replenishment	-	78,838	34,045	$ 112,883	41,648	$ 154,531
Total California American	2,106,652	2,673,004	5,386,984	$ 10,166,640	6,732,080	$ 16,898,720
CAW Credit Against Assessment	**(465,648)**		**(12,305,924)**	**$ (12,771,572)**	-	**$ (12,771,572)**
CAW Credit Balance			**(6,918,940)**	**(2,604,932)**	**(2,604,932)**	
CAW Unpaid Balance	**1,641,004**	**2,673,004**	-	**$ -**	**4,127,148**	**$ 4,127,148**
City of Seaside - Municipal						
Exceeding Natural Safe Yield Considering Alternative Producers	169,010	181,672	414,001	$ 764,683	487,920	$ 1,252,603
Operating Yield Overproduction	50,940	511	16,898	$ 68,349	69,085	$ 137,434
Total Municipal	219,950	182,183	430,899	$ 833,032	557,005	$ 1,390,037
City of Seaside - Golf Courses						
Exceeding Natural Safe Yield - Alternative Producer	-	-	131,705	$ 131,705	161,120	$ 292,825
Replenishment	-	-	131,705	$ 131,705	161,120	$ 292,825
Total Golf Courses	-	-	263,410	$ 263,410	322,240	$ 585,650
Total City of Seaside*	219,950	182,183	694,309	$ 1,096,442	879,245	1,975,687
City of Seaside Paid Assessments	**(219,950)**	**(182,183)**	-	**$ (402,133)**	-	**(402,133)**
City of Seaside Unpaid Balance	-	-	**694,309**	**$ 694,309**	**879,245**	**$ 1,573,554**
Total Assessments	1,641,004	2,673,004	694,309	$ (1,910,623)	5,006,393	3,095,770

***City of Seaside is currently contesting Watermaster's method of calculation of Replenishment Assessments and payments of assessments by City of Seaside will be held in abeyance by Watermaster until the issue is resolved.**

ITEM NO. VII.

ORAL PRESENTATION

ITEM VII.A.
3/18/2009

SEASIDE GROUNDWATER BASIN WATERMASTER

TO: Board of Directors

FROM: Dewey D Evans, CEO

DATE: March 18, 2009

SUBJECT: Informational Presentation by the City of Seaside for In-Lieu Replenishment of Seaside Basin In Conjunction with Blackhorse and Bayonet Golf Courses

PURPOSE:

To present a conceptual plan by the City of Seaside to the Board of Directors for the In-Lieu Replenishment of the Seaside Basin in Conjunction with Blackhorse and Bayonet Golf Courses

RECOMMENDATION:

Refer City of Seaside's conceptual plan for In-Lieu Replenishment of the Seaside Basin to the Technical Advisory Committee (TAC) and the Budget and Finance Committee

DISCUSSION:

Mr. Russ McGlothlin will make the presentation to the Board for the City of Seaside

ATTACHMENTS:

None

ITEM NO. VIII.

OLD BUSINESS

ITEM NO. VIII. A.

COMMITTEE REPORT

ITEMS NO. VIII.A.1.-a.)b.)c.)

TECHNICAL ADVISORY COMMITTEE (TAC)

ITEM VIII.A.1.a
3/18/09

SEASIDE GROUNDWATER BASIN
WATERMASTER

TO: Board of Directors

FROM: Robert S. Jaques, Technical Program Manager
FORMATTED AND APPROVED BY: Dewey D Evans, CEO

DATE: March 18, 2009

SUBJECT: Receive Findings and Conclusions Regarding the 10% Cutback Issues

- -

RECOMMENDATION:
It is recommended that the Board consider these findings and conclusions of the TAC in preparing its Declaration of Replenishment Water Availability under Agenda Item VIII.A.1.b on today's Agenda.

BACKGROUND:
The Board directed the TAC to review and discuss the sections of the Decision which pertain to the imposition of a 10% cutback in pumping production if certain conditions have not been met.

DISCUSSION:
At the Board's direction the TAC discussed these issues, and whether the 10% cutback should be imposed for the current Water Year. As a result of those discussions the TAC developed the attached paper which describes the TAC's Findings and Conclusions on these issues.

As the Conclusions section states, it is the TAC's consensus that none of the four conditions listed in the Decision have been met for the current Water Year, and it is therefore the TAC's conclusion that the 10% cutback must be imposed, as required under the Decision.

PAPER DESCRIBING THE TECHNICAL ADVISORY COMMITTEE'S FINDINGS AND CONCLUSIONS REGARDING THE SECTIONS OF THE AMENDED DECISION PERTAINING TO REDUCING THE OPERATING YIELD

(REVISED MARCH 12, 2009)

BACKGROUND

The Amended Decision filed February 9, 2007 states, in part, that beginning January 1, 2009 there shall be triennial 10% reductions in the Operating Yield of the Seaside Basin, unless certain conditions contained in Section III.B.2 of the Decision are met. Specifically, the language in Section III.B.2 states:

"Commencing with the fourth Water Year [starting January 1, 2009] and triennially thereafter the Operating Yield for both subareas [Coastal Subarea and Laguna Seca Subarea] will be decreased by ten percent (10%) until the Operating Yield is the equivalent of the Natural Safe Yield unless:

a. The Watermaster has secured and is adding an equivalent amount of Non-Native water to the Basin on an annual basis; or
b. The Watermaster has secured reclaimed water in an equivalent amount and has contracted with one or more of the Producers to utilize said water in lieu of their Production Allocation, with the Producer agreeing to forego their right to claim a Stored Water Credit for such forbearance; or
c. Any combination of a and b which results in the decrease in Production of Native Water required by this decision; or
d. The Watermaster has determined that Groundwater levels within the Santa Margarita and Paso Robles aquifers are at sufficient levels to ensure a positive offshore gradient to prevent seawater intrusion." (language in brackets added for clarity).

The Board has asked the TAC to provide its findings and conclusions regarding each of these four conditions, so the Board can determine whether or not to impose a reduction in pumping for Water Year 2008-2009.

This paper focuses on just the technical issues pertaining to this matter, but does include the TAC's thoughts and other information that the Board may wish to consider in making its decisions.

FINDINGS

The Decision contains a number of definitions that are pertinent to this discussion, including the following:

> "Non-Native Water" is defined as all water that would not otherwise add to the Groundwater supply through natural means or from return flows from surface applications other than intentional Spreading.
>
> "Subarea" is defined to be either the Laguna Seca Subarea or the Coastal Subarea.

"Water" is defined to be all forms of water.

"Spreading" is defined as a method of introducing Non-Native Water into the Seaside Basin whereby Water is placed in permeable impoundments and allowed to percolate into the Seaside Basin.

"Artificial Replenishment" is defined as the act of the Watermaster, directly or indirectly, engaging in or contracting for Non-Native Water to be added to the Groundwater supply of the Seaside Basin through Spreading or Direct Injection to offset the cumulative Over-Production from the Seaside Basin in any particular Water Year pursuant to Section III.L.3.j.iii. It shall also include programs in which Producers agree to refrain, in whole or in part, from exercising their right to produce their full Production Allocation where the intent is to cause the replenishment of the Seaside Basin through forbearance in lieu of the injection or spreading of Non-Native Water.

Each of the four sets of conditions described in Section III.B.2 were presented to and discussed by the TAC in the form of questions, with the answers to each question developed from currently available data or knowledge. The TAC's answers to each of the questions below are shown in ***boldface underlined italics***.

a. Question: Has the Watermaster secured and is adding an equivalent amount of Non-Native water to the Basin on an annual basis?
   Answer: There is only one current project that adds Non-Native water to the Seaside Basin. This is the MPWMD's Phase 1 ASR project, all water from which is dedicated to offset production from the Carmel River Basin and is thus not replenishment water for the Seaside Basin. ***Since the Watermaster is not currently adding any Non-Native water to the Basin, and there are no projects which are expected to become operational in Water Year 2008-2009 which will do so, the TAC finds that the answer to this Question is "no."***

b. Question: Has the Watermaster secured reclaimed water in an equivalent amount and has it contracted with one or more of the Producers to utilize said water in lieu of their Production Allocation, with the Producer agreeing to forego their right to claim a Stored Water Credit for such forbearance?
   Answer: Reclaimed water is not specifically defined in the Decision. The term reclaimed water is typically used to mean waste water which has been treated to a sufficiently high level such that it can be reused for some beneficial purpose, such as irrigation or groundwater replenishment. TAC members who participated in the adjudication hearings, and were therefore personally familiar with the testimony presented at those hearings, stated that in those hearings the term "reclaimed water" was used only in reference to reclaimed wastewater. ***Therefore, since no reclaimed water has been secured by the Watermaster for use in lieu of pumping from the Seaside Basin by any Producers, the TAC finds that the answer to this Question is "no."***

   The following information and thoughts are provided by the TAC to the Board for its consideration in conjunction with the Board's making its decision on this Question: The Board may find it appropriate to expand the definition of "reclaimed water" to include desalinated water, since the Sand City desalination plant will take water that

is typically unusable for any beneficial purpose due to its high salinity, and treat it (reclaim it) such that it can be used as a potable water supply source.

Using this interpretation, if there were a contract between the Watermaster and CAW (which is one of the Producers in the Basin, as defined in the Decision) in which CAW agreed to utilize desalinated water in lieu of a portion of their Production Allocation, and to forego their right to claim a Stored Water Credit for such forbearance, then the Board might find that the answer to this question is "yes," but only partially so, as discussed in the paragraphs below.

The TAC's Sand City representative said it is likely that the issuance of the permit from the California Department of Public Health (CDPH) will be the controlling factor in determining how soon the desalination plant will be able to begin delivering desalinated water to CAW's distribution system. It is projected by the City of Sand City and CAW (who will operate the plant under contract with Sand City) that the Sand City desalination plant will begin the two months of full-scale testing required by CDPH on or about April 1, 2009. If that testing is satisfactory to the CDPH, then the earliest the plant could begin delivering desalinated water to CAW's distribution system would be on or about June 1, 2009.

The Decision requires an initial reduction of 420 AFY for the period January 1, 2009 to September 30, 2009, increasing to a reduction of 560 AFY for the period October 1, 2009 to September 30, 2010. The full capacity of the Sand City desalination plant is reportedly 300 AFY. If the plant does not go into operation until June 2009 or later, it will not be able to produce 300 AF of water between the time it goes into operation and September 30, 2009. The amount it will be able to produce during that time period is currently unknown, pending completion of the two months of testing, but it will be substantially less than 300 AF.

CAW reported that 94 AF of the projected 300 AF of desalinated water the plant is expected to produce during a full 12 month period of operation will be used to meet existing water demands in Sand City. Ultimately, it is anticipated that the other 206 AF will be needed to serve planned growth in Sand City. However, in the meantime and on a temporary basis, this 206 AF could be available for CAW to use to serve its other existing customers. Under its agreement with Sand City, CAW cannot use any of this 206 AF to serve future customers that are located outside of Sand City.

Confirming the statements in the paragraph above from the CAW TAC representative, the Sand City TAC representative noted that for a significant length of time, the full 300 acre-feet of desalination plant capacity will not be usable by Sand City due to the economy and the length of time it takes to process development. He went on to say that Sand City has agreed, and it is required by the California Coastal Commission and MPWMD approvals of the desalination plant, that it will permanently "give up" the 94 acre feet it is now using as a permanent public benefit to the water sources used by CAW. That means that Sand City will only be able to use an additional 206 acre-feet of water to serve its future development, resulting in a maximum water use by Sand City of 300 acre-feet per year

CAW has indicated its goal is to operate its water production and distribution system in such a manner as to stay beneath the pumping limitations imposed on both the Seaside Basin and the Carmel River Basin via the Amended Decision (for the Seaside Basin) and SWRCB Order No. 95-10 (for the Carmel River Basin). MPWMD

representatives have reported that at some past meetings, and recently in discussions before the SWRCB hearing regarding the potential imposition of a Cease and Desist Order against CAW for withdrawing too much water from the Carmel River Basin, CAW said it would use the water produced from the Sand City desalination plant to reduce its pumping from the Carmel River Basin. In other meetings, such as Watermaster TAC meetings, CAW has indicated it would use the water produced from the Sand City desalination plant to reduce its pumping from the Seaside Basin. At the February 11, 2009 TAC meeting the CAW TAC representative stated that CAW cannot commit to reducing its pumping from the Seaside Basin by any specific amount, because it cannot control the water demands on its distribution system. Thus, it would not be possible for CAW to enter into a contract with the Watermaster to utilize reclaimed water in lieu of their Production Allocation or to agree to forego their right to claim a Stored Water Credit for such forbearance. Without such a contract in place it would be not possible to answer "yes" to this question.

There is at least one other issue pertaining to answering "yes" to this Question. Even if 100% of the Sand City desalination plant's production was used to reduce CAW's pumping from the Seaside Basin, even the full 300 AFY that the plant is expected to be able to produce would not allow CAW to reduce its pumping from the Seaside Basin by the 420 AF required to fulfill the first cutback required by the Decision for Water Year 2008-2009. In Water Year 2009-2010 the cutback would increase to 560 AFY, which would increase this shortfall.

Therefore, even if it were possible to have the required contract with CAW to fulfill this condition, at best it appears that this condition could only be partially satisfied by the Sand City desalination plant, and that it would still be necessary to find additional supplemental water supplies in order to achieve the 420 AFY and 560 AFY volumes required by the Decision and thereby avert having to impose the 10% pumping reduction required by the Decision.

c. Question: Are there any combinations of a and b which result in the decrease in Production of Native Water required by this decision?
Answer: ***Since the answers to both Questions a and b are "no," the TAC finds that the answer to this Question is also "no."***

The following information and thoughts are provided by the TAC to the Board for its consideration in conjunction with the Board's making its decision on this Question: As discussed under Question b above, CAW could reduce its production of Native Water from the Seaside Basin by using desalinated water from the Sand City desalination plant. It could also reduce its production of Native Water from the Seaside Basin by using more water from the Carmel River Basin. However, the Carmel River Basin is subject to pumping limits, and increasing the pumping from the Carmel River Basin would likely cause CAW to exceed those limits, so this is not a viable action.

The City of Seaside might be able to reduce pumping from its Golf Course wells by connecting to the Marina Coast Water District (MCWD) system and obtaining its golf course irrigation water from MCWD. The City of Seaside TAC representative said that the City had performed a preliminary evaluation of this concept and initially concluded that it was not in the best interest of the city to pursue this approach. This conclusion was due in part to the fact that the City's Golf Course wells are Alternative Producers, whereas the City's Municipal Wells are Standard Producers.

The City would like to reduce its exposure to being levied Replenishment Assessments on its Municipal Wells (Standard Producer) pumping. In order to be able to accomplish this it would have to first enter into an agreement with MCWD to obtain water to irrigate its golf courses, then convert its Golf Course Wells to Standard Producer status, and then transfer all or a portion of its Golf Course Well pumping allocation to its Municipal Well system, thus increasing the allocation for its Municipal Well system to an amount greater than the pumping level required to supply its customer demands.

The City may reevaluate the concept of seeking to obtain MCWD water to serve its golf courses in view of the significant adverse impacts its anticipates would occur if a 10% reduction was to be imposed on its Municipal Well system. The Seaside City Council is holding a workshop to further discuss this concept and other water issues on March 19, 2009 at 5:30 p.m. in the Seaside City Council Chambers.

d. Question: Has the Watermaster determined that Groundwater levels within the Santa Margarita and Paso Robles aquifers are at sufficient levels to ensure a positive offshore gradient to prevent seawater intrusion?
Answer: This topic was the subject of a brief discussion at the October 10, 2008 TAC meeting, in response to a request by the Laguna Seca Alternative Producers, through their attorney, that the Laguna Seca Subarea be exempted from the proposed 10% pumping reduction scheduled for January 1, 2009. The following excerpt from the agenda packet from that meeting provides some useful background information:

"Based on my preliminary consultations with those TAC members who are specialists in groundwater hydrogeology, and whom I was able to reach in the short time given to us to prepare this topic for today's agenda, here are some issues for TAC members to consider regarding this request:

- *It may be possible to make a case that the water levels in the Southern Coastal subarea are protective of seawater intrusion. However, it may be difficult to determine whether or not reducing pumping in the Laguna Seca area will help water levels in the Northern Coastal Subarea.*
- *The Laguna Seca Study by Yates and Feeney for MPWMD apparently states that the Laguna Seca Area is in overdraft.*
- *Hydrologic studies apparently have concluded that there is hydrologic connectivity in the aquifers between the Laguna Seca Area and the rest of the Seaside Basin. If this is correct, then it would appear that the Laguna Seca Area pumping has hydrologic influence on the Coastal area(s) of the Seaside Basin.*
- *If the Laguna Seca Area is already in a documented "overdraft" condition, should water levels alone be the determining factor in responding to this request? That is to say, the non-technical findings may be more important than the technical findings - such as "what is the intent of the Amended Decision", or "Does the Amended Decision attempt to prevent overdraft regardless of the threat of seawater intrusion". While these are not decisions for the TAC to make, they should at least be pointed out to the Board in any recommendations the TAC makes to the Board."*

In Chapter 2 of the recently completed Basin Management Action Plan there are groundwater elevation contour maps for both the Paso Robles (shallow) and the Santa Margarita (deep) aquifers which are referred to in Section III.B.2 of the Decision. Copies of these maps, which are Figures 5, 6, and 13 of the BMAP, are attached. It is clear from Figures 5 and 6 that groundwater levels in much of the Northern Coastal Subarea are significantly below sea level in both of these aquifers. Water levels in the other parts of the Basin are well above sea level, although there are cones of depression (still well above sea level) in both aquifers in the Laguna Seca Subarea. Figure 13 shows the Ghyben-Herzberg protective water levels for the existing production wells near the coast. Comparing Figures 5 and 6 with Figure 13 shows that the existing water levels in both aquifers in the Northern Coastal Subarea are well below the levels needed to protect the production wells in those locations against sea water intrusion. Water levels elsewhere in the Basin are above the levels needed to protect the other existing production wells from sea water intrusion.

The language in this Section of the Decision makes no mention of evaluating the water levels on an individual subarea basis for the purposes of determining whether or not a 10% reduction is to be imposed. The language in the first paragraph of Section III.B.2 simply states that the 10% cutback in production, if it is imposed, is to occur in both the Coastal and Laguna Seca Subareas.

The language in Section III.B.2.a refers to "the Basin" (as a whole) when discussing the importation of Non-Native water to help offset the overpumping. While the language in these Sections is not specific to the question of whether the 10% reduction is to apply to the Basin as a whole, or on an individual subarea basis, if none of the four sets of conditions described in Section III.B.2 are met, it was the conclusion of the TAC that the intent of the Decision is that the 10% reduction is to apply to the entire Basin, if none of the four sets of conditions is met for the entire Basin. ***Since none of the four sets of conditions have been met for the entire Basin, the TAC finds that the answer to this question is "no."***

The following information and thoughts are provided by the TAC to the Board for its consideration in conjunction with the Board's making its decision on this Question:

(1) If the intent of the Decision is that this condition must be met for the entire Basin, then it is clear that the answer to this question is "no."

(2) If the intent of the Decision is that the 10% cutback should occur only within the specific subarea(s) of the Basin where this condition is not met, then the answer to this question is "yes" for all subareas of the Basin except the Northern Coastal Subarea, where the answer is "no."

CONCLUSIONS

Determining whether or not the Watermaster is required to impose a pumping reduction is a complex matter. Meeting any one of the four sets of conditions contained in Section III.B.2 of the Decision would avert having to impose a pumping reduction. Based on the TAC's interpretation of the Decision, it is the TAC's conclusion that none of the four sets of conditions have been met. It is therefore the TAC's conclusion that a 10% Basin-wide pumping reduction must be imposed.

The attached table titled "Table Showing Breakdown of Pumping Cutback Amounts for Each Standard Producer" shows how much each Standard Producer would have to cut back its pumping, effective January 1, 2009 and October 1, 2009. Alternative Producers are not subject to the 10% cutback requirement, unless the Standard Producers have reduced their extractions to zero.

As discussed above it is the TAC's consensus that the conditions in the Decision apply to the Basin as a whole. However, if the Board chooses to interpret the Decision as applying the conditions to individual subareas, rather than to the Basin as a whole, then the Board could find that condition III.B.2.d has been met for all subareas of the Basin except the Northern Coastal Subarea. This would lead to imposing a 10% pumping reduction only in the Northern Coastal Subarea.

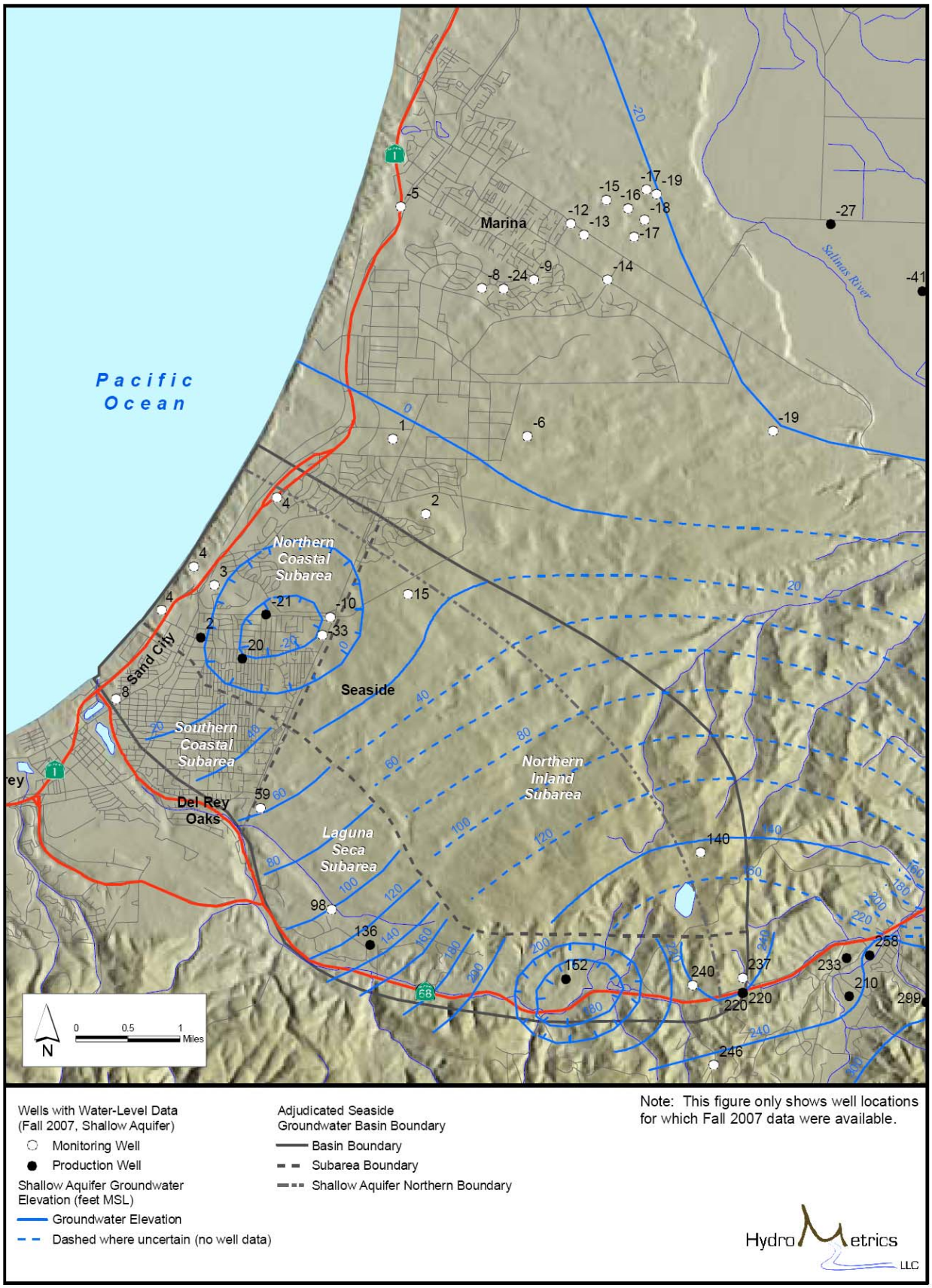

Figure 5: Groundwater Elevation Contours in the Shallow Aquifer (Correlated to the 400-Foot Aquifer in Salinas Valley) – Fall 2007

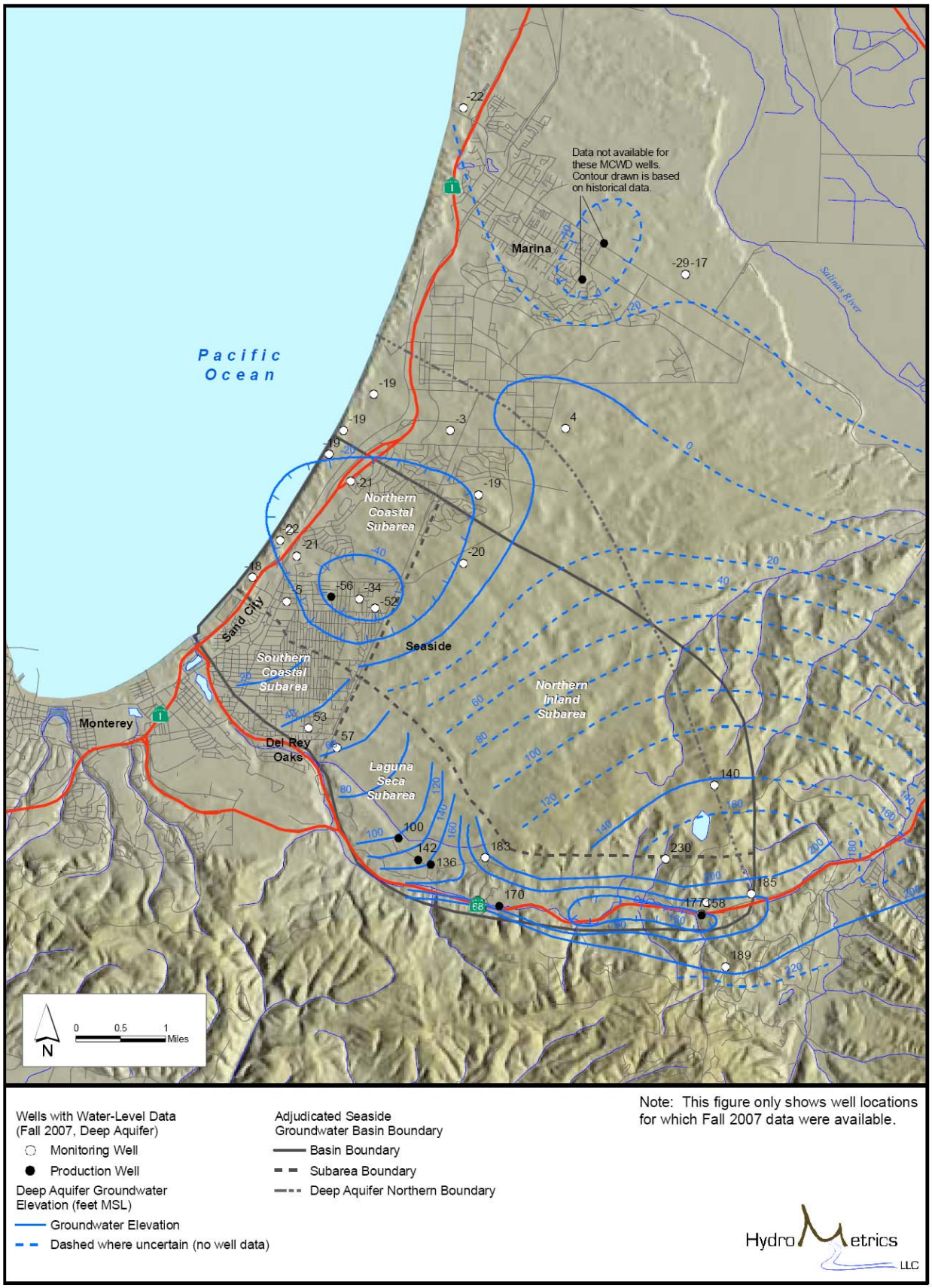

Figure 6: Groundwater Elevation Contours in the Deep Aquifer (Correlated to the Deeper Aquifer in the Salinas Valley) – Fall 2007

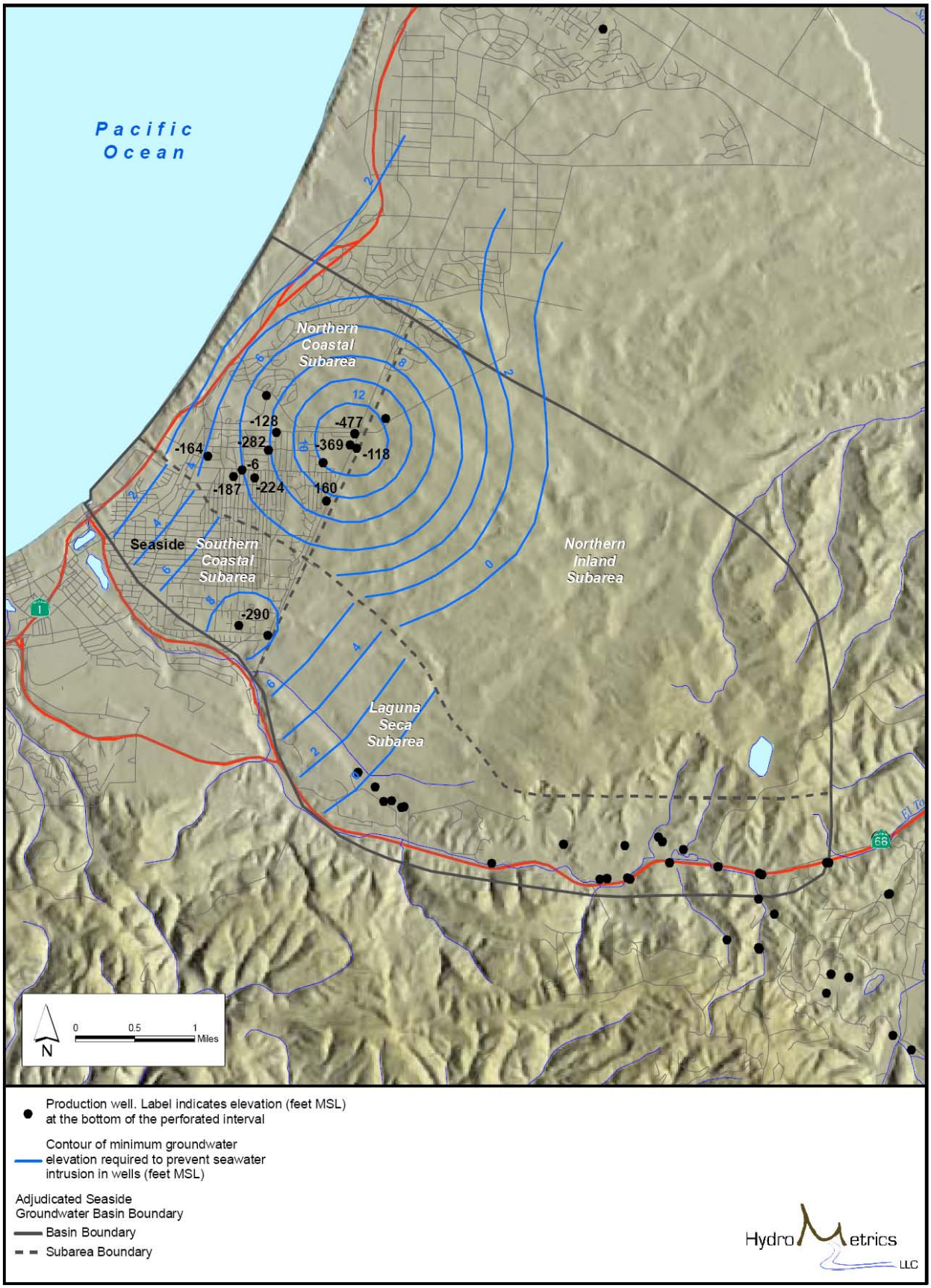

Figure 13: Ghyben-Herzberg Protective Groundwater Levels Based on Well Depths

Table Showing Breakdown of Pumping Cutback Amounts for Each Standard Producer

SEASIDE BASIN WATERMASTER PRODUCER ALLOCATIONS

Initial Basin-Wide Operating Yield[1]	**5600**	**Coastal Operating Yield[1]**	**4611**
Natural Safe Yield (NSY)[2]	**3000**	**Laguna Seca Operating Yield[1]**	**989**

ALTERNATIVE PRODUCER ALLOCATIONS

Coastal Subarea[3]	**Acre-Feet**	**Laguna Seca Subarea[3]**	**Acre-Feet**
Seaside (Golf)	540	Pasadera	251
SNG	149	Bishop	320
Calabrese	14	York School	32
Mission Memorial (Alderwood)	31	Laguna Seca County Park	41
Sand City	9		
Total[1]	**743**	**Total[1]**	**644**

STANDARD PRODUCER ALLOCATIONS

Coastal Operating Yield Available to Standard Producers (AFY)			**3,868**	**Laguna Seca Operating Yield Available to Standard Producers (AFY)**			**345**
Coastal Subarea	**Standard Producer Allocations**		**AFY Available to This Producer**	**Laguna Seca Subarea**	**Standard Producer Allocations**		**AFY Available to This Producer**
	Base Water Right %[4]	**Weighted %[5]**			**Base Water Right %[4]**	**Weighted %[5]**	
California American Water	77.55%	90.60%	3,504.2	California American Water	100.00%	100.00%	345.0
Seaside (Municipal)	6.36%	7.43%	287.4				
Granite Rock	0.60%	0.70%	27.1				
D.B.O. Development No. 27	1.09%	1.27%	49.3				
Total	**85.60%**	**100.00%**	**3,868.0**	**Total**	**100.00%**	**100.00%**	**345.0**

Standard Producers	**Total Base Water Rights Allocated to Each Standard Producer (AF) [6]**	**% of Total Base Water Rights Allocated to Each Standard Producer**	**Cutback Amount Required of Each Standard Producer on January 1, 2009 for Remainder of WY 2008-2009 (Total WY 2008-2009 cutback amount = 420 AF)**	**Cutback Amount Required of Each Standard Producer on October 1, 2009 for WY 2009-2010 (Total WY 2009-2010 cutback amount = 560 AF)**
California American Water	3,849.2	91.36%	383.7	511.6
Seaside (Municipal)	287.4	6.82%	28.7	38.2
Granite Rock	27.1	0.64%	2.7	3.6
D.B.O. Development No. 27	49.3	1.17%	4.9	6.6
Total	**4,213.0**	**100.00%**	**420.0**	**560.0**

Footnotes:
(1) From page 17 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.
(2) From page 14 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.
(3) From page 21 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.
(4) From Table 1 on page 19 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.
(5) Calculated from the Base Water Right percentages in the adjacent column.
(6) Total of both Coastal and Laguna Seca allocations.

NOTICE TO ALL SEASIDE GROUNDWATER PRODUCERS:

The Watermaster has declared for Water Year 2009 that **NO** Artificial Replenishment Water is available to offset Over-Production in excess of the Operating Yield for the Seaside Groundwater Basin. Pursuant to the Amended Decision entered in the Seaside Adjudication, **NO** production over the Operating Yield may occur during the 2009 Water Year. All producers are limited in production to the following quantities of water, inclusive of the 10% decrease in pumping:

Coastal Subarea Alternative Producers:

Seaside (Golf) .....540 acre-feet
SNG .....149 acre-feet
Cypress (Calabrese) .....14 acre-feet
Mission Memorial (Alderwood) ……. 31 acre-feet
Sand City .....9 acre-feet

Laguna Seca Subarea Alternative Producers:

Pasadera .....251 acre-feet
Bishop .....320 acre-feet
York School .....32 acre-feet
Laguna Seca County Park .....41 acre-feet

Coastal Subarea Standard Producers:

California American Water.....3190.9 acre-feet
Seaside (Municipal) ..... 261.7 acre-feet
Granite Rock .....24.7 acre-feet[1]
D.B.O. Development 27 .....44.9 acre-feet[1]

Laguna Seca Subarea Standard Producers:

California American Water ..... 270.8 acre-feet

[1]Includes base allocation only and does not account for any carryover credit amounts. Carryover credit accounting basis is to be addressed under item IX. B. 2 of today's agenda

ITEM VIII.A.1.c
3/18/09

SEASIDE GROUNDWATER BASIN
WATERMASTER

TO: Board of Directors

FROM: Robert S. Jaques, Technical Program Manager
FORMATTED AND APPROVED BY: Dewey D Evans, CEO

DATE: March 18, 2009

SUBJECT: Consider Approving the Proposed Watermaster Comments on the DEIR for the CAW CWP

- -

RECOMMENDATION:

It is recommended that the Board consider the comments contained in the attached tables to develop its formal written comments to be sent to the PUC prior to the April 1, 2009 comment submittal deadline.

BACKGROUND:

At its January 21, 2009 meeting the Board directed the TAC to review the Draft Environmental Impact Report (DEIR) which was prepared by the California Public Utilities Commission (PUC) for the California American Water Company's (CAW) Coastal Water Project (CWP). The Board asked that the TAC provide its comments and recommendations to the Board in time for the Board to review those comments and recommendations and to submit formal written comments on behalf of the Watermaster to the PUC prior to the April 1, 2009 end-of-public-comment period deadline.

DISCUSSION:

At the Board's direction members of the TAC reviewed the DEIR, and discussed their collective findings and opinions at the March 11, 2009 TAC meeting. As a result of those discussions the TAC developed the attached tables containing proposed comments to be made by the Watermaster and submitted to the PUC.

There are two tables attached. The first table contains the technical comments of the TAC, focused on those issues which the TAC found to be of direct concern to the Watermaster, or to directly affect the Seaside Basin.

The second table contains comments which pertain to policies or preferences which the Board may wish to express to the PUC.

TAC COMMENTS ON DEIR FOR THE CAW COASTAL WATER PROJECT

(Revised March 12, 2009)

Abbreviations Used in This Table:
CWP = Coastal Water Project
GWRP = Ground Water Replenishment Project
RUWAP = Regional Urban Water Augmentation Project
SGWB = Seaside Ground Water Basin
SBW = Seaside Basin Watermaster
WTP = Water Treatment Plant

DEIR PAGE NO.	PERTAINS TO PROJECT NOs.	COMMENTS
ES-3 (Table ES-1)	1,2,3,4	The 2 to 7 additional injection wells proposed for the SGWB will require approval by the SBW before they can be constructed
ES-7 & Fig. 3-22b	1,2	SBW approval and a storage agreement between CAW and the SBW should be added under the "Facility Permits" section of the CWP Schedule.
Exec. Summary	3,4	A Schedule should also be included for both Phases 1 and 2 of the Regional Project, so these can be evaluated alongside the CWP Schedule.
ES-13	4	As explained in Section ES.4.2.2 under the subheading titled "Surface Water," the Phase 4 Regional Project would use the same RUWAP pipeline for both tertiary recycled water and for advanced treated water. This could result in a degradation of quality of the advanced treated water, which would be used to replenish the SGWB, and therefore appears to be in conflict with the State Department of Public Health's Title-22 regulations pertaining to recycled water, as wells as its Ground Water Recharge Regulations. This apparent conflict should be formally resolved with concurrence from the Department of Public Health, and this aspect of this Project redesigned if necessary.

DEIR PAGE NO.	PERTAINS TO PROJECT NOs.	COMMENTS
ES-14	3,4	As described in Section ES 6.1, the Regional Project has numerous interagency institutional issues that would need to be worked out in order for implementation to proceed. Time is of the essence in developing a solution to the water problems which all of the 4 proposed Projects are intended to address. A firm time schedule to complete the development of these interagency agreements should be required from the Regional Project Sponsors, and this should be included in a Schedule for the Regional Project (both Phases 1 and 2). This Schedule should be included in the response to comments, so the public and the PUC can determine whether or not the proposed schedule is realistic.
ES-14	1	There are many things about which there is future uncertainty, and each of the 4 Projects has their own sets of uncertainties. The uncertainty regarding the Moss Landing desalination plant's issues with once-through cooling should be resolved now, if that is possible. If that is not possible, then the Project should include in its design the flexibility to adapt to changing requirements as best they can be anticipated. This uncertainty should not be used as an obstacle to implementing the Project, if it is otherwise the best choice.
ES-18	1,2	Impact 4.2-3 states that the storage of Carmel River or desalinated water in the ASR program would increase groundwater storage and water levels in the SGWB. The current MPWMD ASR program can only divert relatively small amounts of excess winter flows from the Carmel River on a seasonal basis, and as such is rainfall dependent and thus not a reliable means of raising the water level in the SGWB. Further, it does not increase storage in the SGWB, since all of the ASR water is subsequently pumped back out to reduce CAW's pumping from the Carmel River Basin. The CWP ASR wells that use desalination plant source water would increase the amount of water stored in the SGWB for use in reducing pumping from the SGWB, and therefore would increase the stored groundwater in the Basin, as well as reliably raising water levels through storage. This distinction should be made clear in the EIR.
ES-34	4	For Impact 6.1-13, as commented above for page ES-13, the issue of contamination resulting from the blending of tertiary treated wastewater with advanced treated wastewater should be resolved by the Project Sponsors for the GWRP component of the Regional Phase 2 Project before the EIR is certified, so that it does not receive an "SU" for this impact.

DEIR PAGE NO.	PERTAINS TO PROJECT NOs.	COMMENTS
1-7, 2-4 , and 2-5 (Table 2-1)	All	The Court Decision that created the SBW is a complex document. The "Quantity" numbers contained in Table 2-1 are accurate, except for those listed as being "CalAm's Eventual Allocations" for both the Coastal Subarea (which includes the Northern and Southern Subareas and the Northern Inland Subarea) and the Laguna Seca Subarea. Although the Decision does contain the ranges in values for the Natural Safe Yield of the Coastal and Laguna Seca Subareas as listed in Table 2-1, the Decision established a total-Basin Natural Safe Yield figure of 3,000 AFY, and did not break down this value between the two Subareas. Consequently, the SBW is interpreting the 10% mandatory reductions in pumping to be imposed triennially as being applied on the Basin as a whole, not separately by Subareas, against the 3,000 AFY value established in the Decision. Hence, Cal Am's "Eventual Allocation" if the 10% reductions were carried out until the total Standard Production allocations were reduced such that the 3,000 AFY Natural Safe Yield is not exceeded, would be 1,474 AFY for the Basin as a whole, with no distinction made between the two Subareas. The 1,474 AFY figure is arrived at by subtracting from 3,000 AFY the total of all of the Alternative Producer allocations, and then distributing the remaining amount between the Standard Producers in proportion to their share of their total base water rights. Prior to any reductions, the total base water right available to CalAm is 3,849 AFY and the total base water right available to all of the Standard Producers is 4,213 AFY. Thus, CalAm has 91.4% of the total base water rights allocated to Standard Producers. If a series of 10% reductions was imposed to the point that the 3,000 AFY Natural Safe Yield would not be exceeded, the total quantity the Standard Producers would be allowed to pump would be 1,613 AFY. CalAm would be entitled to 91.4% of this amount, or 1,474 AFY. Table 2-1 should be revised to clarify this.
1-13	3,4	In Subsection 1.8.3 reference is made to a Table 5.1-1, but there is no such table in the DEIR. The table reference appears to be for Table 5-2.

DEIR PAGE NO.	PERTAINS TO PROJECT NOs.	COMMENTS
2-1	All	The amount of water that will be needed to satisfy the Seaside Basin Adjudication Decision will be significantly more than the roughly 2,600 AFY of water that would be needed to enable producers to reduce their production down to the 3,000 AFY Natural Safe Yield established by the Decision. This is because the water levels in the Basin have dropped below levels high enough to protect the wells against sea water intrusion. The annual quantity of water that will be needed to replenish the Basin so as to bring the water levels up to protective levels, and the time period over which that quantity of water will be required, is being determined through studies currently being performed by the SBW's consultants. The results are expected to be available in late 2009. Until the Modeling work now being undertaken by the SBW is completed and results are available, it is not possible to estimate how much additional water should be provided each year for a specified number of years in order to restore protective ground water levels in the SGWB. Any amount in addition to the 2,600 AFY mentioned above would be helpful, and the larger the additional amount the sooner protective levels will be restored. The SBW recommends that any project which is implemented include at least 2,000 AFY of additional water supply to the SGWB (for a total of 4,600 AFY) for an initial period of at least 5 to 10 years, in order to help restore the SGWB. A more refined number and time frame will be available toward the end of 2009, when the Modeling work has been completed. The water demands that each of the Projects is designed to meet should include this additional amount of replenishment water. Therefore, the demand figures shown in several of the tables in Section 2 of the DEIR should be revised accordingly.
2-3	All	The boundary of the SGWB should be re-described to say that the northern boundary is a dynamic hydrologic divide, the location of which is dependent, among other things, on rainfall patterns and pumping rates in the Salinas Valley Basin and the SGWB. The current location of the boundary passes through the former Fort Ord south of the City of Marina. It should also be noted that the northern boundaries of the shallow and the deep aquifers in the SGWB are at different locations.
2-4	All	See comment above pertaining to pages 1-7, 2-4, and 2-5 regarding the CalAm 1,494 AFY figure on page 2-4. The Cal Am figure should be 1,474 AFY.
2-4	All	Footnote 6 at the bottom of this page should be revised to clarify that the 10% reductions apply to the Basin as a whole, not to the individual Subareas, and also that the reductions can be avoided if certain conditions, which are specified in Section III.B.2 of the Decision, are met.

DEIR PAGE NO.	PERTAINS TO PROJECT NOs.	COMMENTS
2-6 & 2-7 (Table 2-2)	All	See comment above pertaining to page 2-1 with regard to the amount of water that will be needed to restore the SGWB. The 1,000 AFY stated on pages 2-6 and 2-7 will not be sufficient in the initial years.
2-7 (Table 2-2)	All	See comment above pertaining to pages 1-7, 2-4, and 2-5 regarding the CalAm 1,494 AFY figure in Table 2-2. The Cal Am figure should be 1,474 AFY.
2-7 (Table 2-2)	All	Footnote "c" to Table 2-2 should state that the allocations are for the first three, not four, years, after which if certain conditions are not met, there will be 10% pumping reductions triennially.
2-7 (Table 2-2)	All	It is not clear where the figure of 272 AFY of needed replacement water for "Non-CalAm" production was derived. This should be clarified.
2-14 (Table 2-5)	All	Footnotes "f" and "g" in this Table are transposed.
2-14 (Table 2-5)	All	See comment above pertaining to pages 1-7, 2-4, and 2-5 regarding the CalAm 1,494 AFY figure in Table 2-5, and in footnote "c". The Cal Am figure should be 1,474 AFY.
3-4	1,2	See comment above pertaining to pages 1-7, 2-4, and 2-5 regarding the CalAm 1,494 AFY figure in Table 2-5, and in footnote "c". The Cal Am figure should be 1,474 AFY.
3-4 & 3-5	1,2	The volumes of water that are available from the Carmel River ASR project(s) are rainfall dependent, i.e. depend on there being excess flows in the Carmel River so that they can be diverted to the SGWB for ASR purposes, and thus should not be considered to be reliable sources of supply on an individual-year basis.
Figures 3-2.b and 3-4.d	All	Why is the ASR Well Siting Area limited to only the area shown in these Figures?
3-49 (Table 3-14)	1,2	Table 3-14 should include the SBW as an entity which must give its approval to those components of these Projects that impact the SGWB.

DEIR PAGE NO.	PERTAINS TO PROJECT NOs.	COMMENTS
4.1-23 (Table 4.1-5)	1,2	Table 4.1-5 should include the SBW as an entity which has applicable regulations regarding any activities or projects that impact the SGWB. Specifically, the SBW is charged with administering and enforcing the provisions of the Adjudication Decision, which includes implementing the physical solution described in the Decision to maximize the reasonable and beneficial use of water from the Basin, and in providing perpetual management of the Basin as a water supply for the Monterey Peninsula.
4.2-4 & Figure 4.2-2	1,2	The discussion regarding the northern boundary of the SGWB, and the location of this boundary as shown in Figure 4.2-2, should be corrected as noted in the comment above pertaining to page 2-3. Based on more recent hydrogeologic data than was available when the Kennedy/Jenks 2004 map shown in Figure 4.2-2 was prepared, this northern boundary is located differently than as shown in that figure. The recently completed Basin Management Action Plan, which is accessible on the SBW's website or from HydroMetrics, LLC shows the most recent plot of the location of the northern boundaries of the upper and lower aquifers in the SGWB.
4.2-6	1,2	The Purisima Formation is also found in the SGWB.
Figures 4.2-6 & 4.2-7	1,2	See comment above pertaining to page 4.2-4 and Figure 4.2-2 regarding the location of the flow divides. The updated information in the Basin Management Action Plan should be used to update these figures.
4.2-15	1,2	As noted in the comment above pertaining to pages 1-7, 2-4, and 2-5 (Figure 2-1), the Decision does contain a ranges in values for the Natural Safe Yield of the Coastal and Laguna Seca Subareas, but established a total-Basin Natural Safe Yield figure of 3,000 AFY. This 3,000 AFY Natural Safe Yield is used by the SBW in its management of the Basin.
4.2-18	1,2	The SGWB Model is in the process of being updated for the SBW by HydroMetrics, LLC, and will be used in the management of the SGWB. By late summer of 2009, the updated Model is expected to be ready to use for running various scenarios to provide information on how best to utilize water from the various Projects being considered in the DEIR to benefit the SGWB.
4.2-33	1,2	As noted in the comments pertaining to page 4.1-23 (Table 4.1-5), Table 4.2-4should include the SBW as an entity which has applicable authority regarding any activities or projects that impact the SGWB.
5-3	3,4	The City of Sand City's desalination plant is scheduled to be completed and to start up by June 2009.

DEIR PAGE NO.	PERTAINS TO PROJECT NOs.	COMMENTS
5-3	3	The demand figures referred to should be increased, as noted in the comment above pertaining to page 2-1, to account for the need to provide additional replenishment water to the SGWB for sufficient period of time to raise water levels to protective elevations.
5-6	3	The 12,500 AFY figure cited as replacement water to meet existing demands needs to be increased as noted in the comment above pertaining to page 5-3 regarding demand figures.
5-11 & 5-12	3	The RUWAP should be able to provide more recycled water than the 1,000 AFY stated on this page. Previous MRWPCA plans were for approximately 1,427 AFY to be provided to the former Fort Ord.
5-12	3	Subsection 5.1.6.3 discusses the Seaside Basin ASR project. All water from that project is dedicated to reducing water withdrawals from the Carmel River Basin, and thus does not provide long-term increased storage to the SGWB. This should be clarified in this Subsection.
5-34	4	The updated ground water Model discussed above in the comment pertaining to page 4.2-18 will provide refined information that will be helpful in siting the recharge areas for the GWRP, and in selecting the best means of accomplishing that recharge.
5-41	3,4	As noted in the comments pertaining to page 4.1-23 (Table 4.1-5), Table 5-6 should include the SBW as an entity which must grant approval regarding any activities or projects that impact the SGWB.
6.1-21	4	See comment above pertaining to page ES-13 regarding use of the RUWAP pipeline for both tertiary recycled water and advanced treated water.
6.2-5	4	The discussion regarding the GWRP on this page mentions a total of 5,785 AFY of water being provided to help replenish the SGWB. However, elsewhere in the DEIR the figure cited is 6,700 AFY. This should either be corrected or explained.
6.2-6	4	What facilities are being proposed as part of the GWRP in order to provide the "…alternate source of domestic water supply…" required under the Groundwater Recharge Reuse Project regulations that are cited on this page?
6.2-8	4	The discussion of the Replenishment project Injection wells states that "…they would potentially be screened in an area that does not produce water…" This does not make sense, since the purpose of the replenishment is to provide water that can be pumped (i.e. produced) to meet water demands.
6.2-9	4	See comment above pertaining to page 6.2-5, except on this page the figure 6,037 AFY rather than 6,700 AFY is cited.

DEIR PAGE NO.	PERTAINS TO PROJECT NOs.	COMMENTS
6.2-9 to 6.2-12	4	See comment above pertaining to page 5-34.
6.11-9	4	The subheading titled "Salinas Basin Groundwater Project" appears to refer to the Seaside Basin Groundwater Project.
6.12-3	4	See comment above pertaining to page 5-34. Use of the SBW's updated Modeling results to design the GWRP may be a condition of the SBW's approval of the GWRP.
6.13-13	4	Cultural resources in the two sites proposed for recharge of the SGWB by the GWRP should be evaluated now (i.e. as part of the DEIR), in order to determine if there will be environmental impacts. While the pipelines could be rerouted to avoid such impacts, it does not appear that either of the two proposed recharge sites could be relocated. If there are unavoidable cultural resource impacts in the proposed recharge sites, it might not be possible to implement the GWRP.
7-5	All	It is unreasonable for the DEIR to conclude that all of the Projects have components with significant unavoidable noise impacts. Neither the construction of the slant wells nor the ASR wells would cause such levels of impact, if reasonable measures to reduce noise, and to schedule the work during times of minimal impact, were required by the construction documents. These impacts should be reexamined and mitigation measures proposed to reduce these impacts to less than significant.
7-22	2	Section 7.5.2.3 states that the proposed location for the slant wells would be "…inland of the approximate 2050 beach bluff erosion zone…" Anyone familiar with beach erosion along the shoreline of central Monterey Bay knows that it is very difficult to accurately predict erosion rates, and that there is no solution in hand to stop, or perhaps even slow, the erosion rate that is occurring. The PUC should seek a solution to local water problems that has an infinite lifetime, not one that can already be predicted to fail in less than 40 years after it is constructed due to coastal erosion. This would be very poor planning, and would result in significant relocation costs when erosion reaches these wells. Graphic examples of erosion impacts include the bluffs at Stilwell Hall in the former Fort Ord, the seawalls being required to protect the Monterey Beach Hotel and the condominium project located in the Del Monte Beach area of Monterey. This Project should be redesigned such that the wells are further inland, or otherwise protected against failure from beach erosion for a much longer time than 40 years.

DEIR PAGE NO.	PERTAINS TO PROJECT NOs.	COMMENTS
7-57	3	Absent from the DEIR is a comparison of the Phase 1 Regional Project (Project 3) to the Moss Landing CWP (Project 1). Such a comparison should be included in order for the DEIR to truly compare all of the alternatives.

POSSIBLE BOARD POLICY AND PREFERENCE COMMENTS THAT COULD TO ADDED TO THE TAC COMMENTS IN THE TABLE ABOVE

ES-14	3,4	Section ES.5 mentions that the DEIR analyzes a Regional Phase 1 Project coupled with the GWRP component of the Regional Phase 2 Project. The SBW strongly urges that if the Regional Project is selected for implementation, it include the GWRP as part of the Phase 1 Project.
ES-34	4	For Impact 6.2-2, the GWRP component of the Regional Phase 2 Project was assigned a "B" since it will help to increase storage, ground water levels, and available water in the SGWB. This is a strong reason why the GWRP should be included in Phase 1 of the Regional Project, and not deferred to Phase 2.
1-4	All	Section 1.4.2 states that during the process of finalizing the EIR, the Administrative Law Judge will take into account, among other things, testimony and briefs from parties who have formally intervened in A.04-09-019. If the opportunity to do so still exists, the SBW intends to file the necessary documents to formally intervene in these proceedings, for the purposes of being allow to submit testimony and briefs if it so desires.
7-3	All	Time is of the essence in selecting the Project that will be implemented to help solve the water problems of this area. The PUC is strongly urged to reach its decision regarding which Project to implement based on the FEIR and its associated documents, rather than directing CAW to return to the Commission at a later date for approval.
7-55	1,2	The GWRP could be added to either Projects 1 or 2 to allow those projects to be reduced in scale, thus reducing their environmental impacts. The GWRP would provide significant benefit to the SGWB, and could help to reduce the impacts of these other projects.
7-59	2	Under the paragraph heading titled "Lack of Committed Consumers" the statement is made that "…the use of recycled water as a potable water source is currently rare in California…" The implication of this statement is that the process is essentially untried and therefore quite risky. Facts to the contrary are the well received and highly regarded Orange County Water District's groundwater replenishment project, which serves a much larger user base and delivers a much larger quantity of advanced treated water, using identical processes to those proposed for the GWRP. This misrepresentation suggests a bias on the part of PUC staff against including the GWRP in Phase 1 of the Regional Project.

ITEM. IX.

NEW BUSINESS

ITEM NO. IX. A.

COMMITTEE REPORT

ITEM NO. IX.A.1.-a) & b)

TECHNICAL ADVISORY COMMITTEE (TAC)

SEASIDE GROUNDWATER BASIN
WATERMASTER

TO: Board of Directors

FROM: Robert S. Jaques, Technical Program Manager
FORMATTED AND APPROVED BY: Dewey D Evans, CEO

DATE: March 18, 2009

SUBJECT: Consider Approving a Request for Service (RFS) with Martin Feeney to Prepare a Basis of Design Report for the New Monitoring Well to be Installed Later this Fiscal Year

- -

RECOMMENDATION:
It is recommended that the Board authorize Staff to execute this RFS under the existing Professional Services Agreement with Martin Feeney. The dollar amount of the RFS is $6,600, and is included in the approved FY 2009 Budget for this work item.

BACKGROUND:
One of items included in the Monitoring and Management Program (M&MP) scope of work and budget for FY 2009 is to install a new monitoring well in the inland area of the former Fort Ord, where no wells currently exist.

DISCUSSION:
Installing this new well will provide hydrogeologic information and ongoing water level and, if desired, water quality, data that will be helpful managing the Basin's groundwater resources.

Staff is currently pursuing permission to install this well on either the land parcel currently owned by the U.S. Department of the Interior Bureau of Land Management, or on a parcel that is scheduled to be transferred to Monterey Peninsula College. Both of these parcels are located roughly in the vicinity of the intersections of Parker Flats Road and Eucalyptus Road, near train-fire impact ranges in the former Fort Ord.

Attached is a proposed RFS for Martin Feeney to prepare a Basis of Design Report for construction of the new monitoring well. Mr. Feeney would be authorized to begin work on those portions of the Basis of Design Report that would be applicable to either site, and to finalize the Basis of Design Report with regard to site-specific issues once the site has been selected.

Staff is hopeful of having the well installed by the end of the summer of 2009, pending receipt of permission for the landowner.

SEASIDE BASIN WATERMASTER
REQUEST FOR SERVICE

DATE: 3/18/2009

RFS NO. 2009-02
(To be filled in by WATERMASTER)

TO: Martin Feeney
Martin Feeney
PROFESSIONAL

FROM: Robert Jaques
WATERMASTER

Services Needed and Purpose: Prepare Basis of Design Report for the construction of a monitoring well in the inland area of the former Fort Ord, as described in Attachment 1.

Completion Date: All work of this RFS shall be completed not later than May 31, 2009.

Method of Compensation: Time and Materials (As defined in Section V of Agreement.)

Total Price Authorized by this RFS: $ 6,600.00 (Cost is authorized only when evidenced by signature below.) (See Attachment 1 for derivation of Estimated Costs).

Total Price may not be exceeded without prior written authorization by WATERMASTER in accordance with Section V. COMPENSATION.

Requested by: _____ Date: _____.
WATERMASTER Technical Program Manager

Authorized by: _____ Date: _____.
WATERMASTER Chief Executive Officer

Agreed to by: _____ Date: _____.
PROFESSIONAL

ATTACHMENT 1

SCOPE OF WORK AND ESTIMATED COSTS

BACKGROUND

The Watermaster Board approved the Budget for the 2009 Management and Monitoring Program Scope of Work (hereinafter referred to as the "2009 M&MP Scope of Work") at its Special meeting of October 23, 2008. One of the activities included in the 2009 M&MP Scope of Work is to select a site for, and to design and construct, an additional monitoring well to fill a data gap in the existing monitoring well network.

The purpose of the new monitoring well is as follows:

- Allow for on-going collection of aquifer-specific water level data
- Allow for on-going collection of aquifer-specific water quality data
- Collect lithologic and geophysical data that will assist in better delineation of aquifer units and basin structure.

Under RFS No. 2009-01 PROFESSIONAL is assisting WATERMASTER with the selection of the site for the new monitoring well.

Under this RFS No. 2009-02 PROFESSIONAL will prepare a Basis-of-Design Report (BODR) for the new monitoring well.

WORK TO BE PERFORMED

PROFESSIONAL will perform the tasks listed below:

Task 1 – Review Hydrogeologic Setting for Candidate Well Sites. The selected site for the new monitoring well will be examined for both hydrogeologic and logistical/land acquisition criteria. The anticipated hydrogeologic conditions at the site, including the anticipated aquifer units and estimated depth to Monterey Shale, will be identified.

Task 2 – Develop Conceptual Well Designs. Based on the above, conceptual well designs will be developed to fulfill the new monitoring well's purposes. The well designs will consider anticipated sampling and monitoring methodology and aquifer zones to be completed. It is anticipated that the well's purposes can be achieved by use of either nested wells or a well cluster. The pros and cons of these alternative designs will be determined.

Task 3 – Prepare Basis of Design Document/Well Construction Guidelines. Task 1 and 2 will be incorporated into a Draft BODR. After technical review and concurrence with proposed design, the BODR will be finalized and a set of well construction guidelines will be prepared for use in soliciting prices from selected contractors.

ESTIMATED COSTS

Estimated Costs:

Task 1 – 10 hours
Task 2 – 10 hours
Task 3 – 24 hours

Total = 44 hours.

At PROFESSIONAL's hourly rate of $150, this would amount to $6,600. This serves as the basis for the Total Price set forth on page 1 of this RFS No. 2009-02.

ITEM IX.A.1.b
3/18/09

SEASIDE GROUNDWATER BASIN
WATERMASTER

TO: Board of Directors

FROM: Robert S. Jaques, Technical Program Manager
FORMATTED AND APPROVED BY: Dewey D Evans, CEO

DATE: March 18, 2009

SUBJECT: Consider Approving HydroMetrics Ground Water Modeling Goals and Objectives
- -

RECOMMENDATION:
It is recommended that the Board approve the attached Memorandum, or propose edits to it, so it can serve as the basis for developing the Model.

BACKGROUND:
HydroMetrics is the firm the Watermaster has hired to prepare the Basin Management Action Plan (BMAP), the Long-Term Seawater Intrusion Response Plan (SIRP), and the 2009 Seawater Intrusion Analysis Report (SIAR).

In the adopted 2009 Scope of Work for the Seaside Basin Management and Monitoring Program (M&MP), the Board included tasks to perform groundwater modeling of the Basin, and also to develop protective water levels. RFS No. 2009-02 with HydroMetrics was approved by the Board at its January 21, 2009 meeting, authorizing HydroMetics to perform this work

DISCUSSION:
HydroMetrics LLC held a Ground Water Modeling Workshop on February 19, 2009. Many TAC members attended, as well as representatives of other interested agencies.

Attached is a Technical Memorandum from HydroMetrics which describes the Goals and Objectives of the Model, based on the memo they prepared for discussion at the Workshop, as well as the discussion and input provided by the attendees at the Workshop. [Note: The PowerPoint slides referred to in Appendix B of the attachment are not included, but will be inserted when they are received.]

The TAC reviewed and approved the attached Memorandum at its March 11, 2009 meeting

This Technical Memorandum will serve as the basis for the development of the Model, which HydroMetrics will be working on over the next several months.

Hydro Metrics LLC
519 17th Street, Suite 500
Oakland, CA 94612

SEASIDE GROUNDWATER BASIN GROUNDWATER MODEL TECHNICAL MEMORANDUM # 1

To: Seaside Groundwater Basin Technical Advisory Committee

From: Derrik Williams and Georgina King

Date: March 12, 2009

Subject: Seaside Groundwater Basin Model Goals and Objectives

An initial activity in the Seaside Groundwater Basin modeling project is for the Technical Advisory Committee (TAC) to help define the goals and objectives of the groundwater modeling effort. Additionally, the TAC should have a basic understanding of groundwater modeling and provide direction on a number of model related activities.

A workshop took place on February 19th, 2009 at the Monterey Regional Water Pollution Control Agency Board Room (MRWPCA) to provide the TAC members, their consultants and other interested parties an opportunity to participate in providing early input and direction to the modeling effort. The workshop participants are listed in Appendix A. A PowerPoint presentation, included in Appendix B, was used during the workshop to lead the discussion.

This Technical Memorandum describes issues the TAC considered during the workshop and the recommended direction to be taken in developing the model.

1. IDENTIFY PURPOSE OF MODELING EFFORT

Establishing the goals and purpose of a groundwater model is one of the first steps to take in its development. The identified goals and objectives will dictate how the model will be constructed, its required level of simplification and the type of data that will be used as input.

Based on findings in the Amended Decision, the Seawater Intrusion Response Plan (SIRP), and the Basin Management Action Plan (BMAP), the model should address the following goals:

- Evaluate the effects of selected supplemental water projects on the Seaside Groundwater Basin,
- Evaluate selected management actions,
- Determine storage efficiency of recharged water,
- Verify Total Useable Stored Groundwater and Total Useable Storage Space, and
- Refine the water budget and basin safe yield.

From the above goals, workshop participants generated a list of objectives that the model needs to address for each model scenario run. These objectives include:

- Assist in determining where water should be recharged, how it would best be recharged and what would its fate be.
- Determine how much inflow and outflow occurs from the ocean.
- Evaluate groundwater level responses to any new water project described in the Coastal Water Project DEIR which would deliver water to the Seaside Groundwater Basin.
- Evaluate well interference or how drawdown from wells impact other wells.
- Evaluate impacts on hydrogeologic northern Seaside Groundwater Basin boundary.

In addition to the specific issues addressed in each model run, workshop participants stated that the model should be able to do the following:

- Assist with a proactive plan to manage seawater intrusion before it intrusion occurs.
- Assist in determining how to implement the Seawater Intrusion Response Plan (SIRP), including
  - How to change groundwater gradients, and
  - How to introduce supplemental supplies.
- Assist with determining offshore aquifer outcrop geometries and their influence on onshore aquifers.
- Include future development in the Basin, such as development projected in the Fort Ord Reuse Plan, and evaluate its influence on groundwater flows.
- Be inclusive enough to be able to run all potential scenarios without the need to construct an additional smaller, localized model for specific areas.

Transport modeling is used to simulate how and where dissolved chemicals such as salts move in an aquifer. Transport modeling will not be practical at this time due to a number of factors including the unknown distribution of chemical concentrations at the start of the model (i.e., initial condition of the seawater / freshwater interface), and the lack of data with which to calibrate the transport model. It is HydroMetrics LLC's opinion that the groundwater flow model will cost effectively provide the desired information, and that a transport model is not needed at this time.

2. CONCEPTUAL MODEL

The conceptual model is a simplified representation of the key features of the physical system and its hydrologic behavior. Conceptualization takes into consideration the overall goals of the model, resources for reaching the goals, and the available hydrogeologic data. The conceptual model is ultimately used to translate a complex system into a simplified numerical model.

Some anticipated changes to the previous conceptual model (Durbin, 2007), upon which the new model will be based, are:

- The Purisima and Santa Margarita Formations may be considered as a horizontal layer change and not one formation on top of the other. This means that they will be represented as one layer instead of two layers in the model. Aquifer properties such as hydraulic conductivity and storativity will vary spatially to characterize the different properties of each formation. Martin Feeney, who was the consultant to the Watermaster on construction of the sentinel wells and other projects, will be consulted during model conceptualization in order to ensure that his considerable knowledge of the Basin will be included in the modeling effort.
- Discretizing or increasing the number of layers in the Paso Robles Formation may be considered if enough data exist to justify the division. The reason for discretization would be to better evaluate the fate of water recharged in both spreading basins and injection wells.

3. MODEL STRUCTURE AND BOUNDARIES

The model structure and boundaries define the physical extents and internal grid structure of the model. We propose using the basic structure and boundaries of the model created by Tim Durbin (2007). That model structure will be refined as necessary, or as data dictate.

- Number of Model Layers – Tim Durbin modeled each major unit (Santa Margarita, Purisima, Paso Robles, Aromas, Salinas Valley clays). HydroMetrics LLC plans to use the same general units but will improve layer elevations and boundaries with recent drilling data (e.g. sentinel wells), and reinterpret each of the model's layers' bottom elevations, particularly the base of the model. If enough data exist, the possibility of adding more layers within the Paso Robles Formation will be explored.
- Model Area – The updated model will use some of the same model area as Tim Durbin (2007) used but with the following potential modifications:
  - Match the model to the adjudicated southern boundary (Figure 1),
  - Not extend the model out into the ocean as much as the Durbin model as this would add a lot of area to the model for which very little data are available, and

- Potentially shift the northern model boundary further south than the Durbin model.

If the model area has a reduced offshore area, the offshore aquifer outcrop will not be able to be modeled directly, however inferences can still be made about the degree of connection between the aquifers and the ocean. More information on how the ocean boundary will be handled is provided in the Boundary Condition bullet below.

Shifting the northern model boundary southwards will reduce the amount of unnecessary area that would be modeled outside of the Seaside Groundwater Basin. The model's northern boundary will be kept far enough north to be able to accommodate the fluctuating groundwater ridge that defines the hydrogeological northern boundary of the Seaside Groundwater Basin. Available groundwater level records will be reviewed to see if there are enough data to tie specific wells to a new boundary.

Stakeholders expressed concern that the model accurately simulate flow from the El Toro area. Given the location of the eastern boundary, the updated model will allow for explicit simulation of underflow from the El Toro area into the Seaside Groundwater Basin.

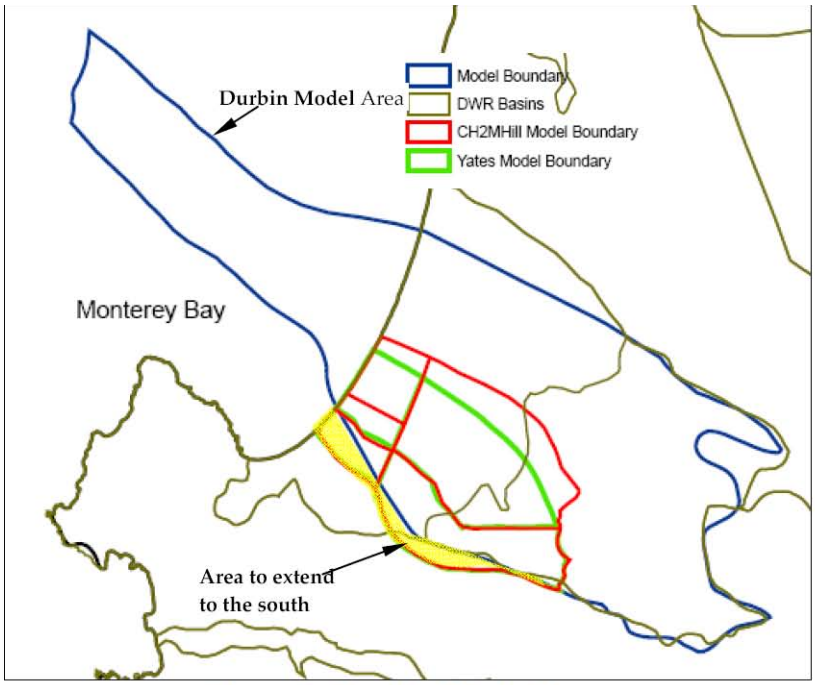

Figure 1: Durbin Model Area

- Cell Size – The cell size will be reasonable given the number of model layers and area. Areas where both current and planned wells are located will have a reduced cell size to provide better resolution in the results.
- Time Steps – Given the data available, and the goals and objectives of the model, monthly time steps will be used in the model.
- Boundary Conditions – The ocean will not be modeled but rather to simulate its effects on groundwater will be modeled using a general head boundary. HydroMetrics LLC will discuss this option with Martin Feeney to check on whether modeling the offshore aquifer outcrop is important. If it is found to be needed then the full Durbin model area will be used. Other boundary conditions used by Durbin will be the same as shown in Figure 2.

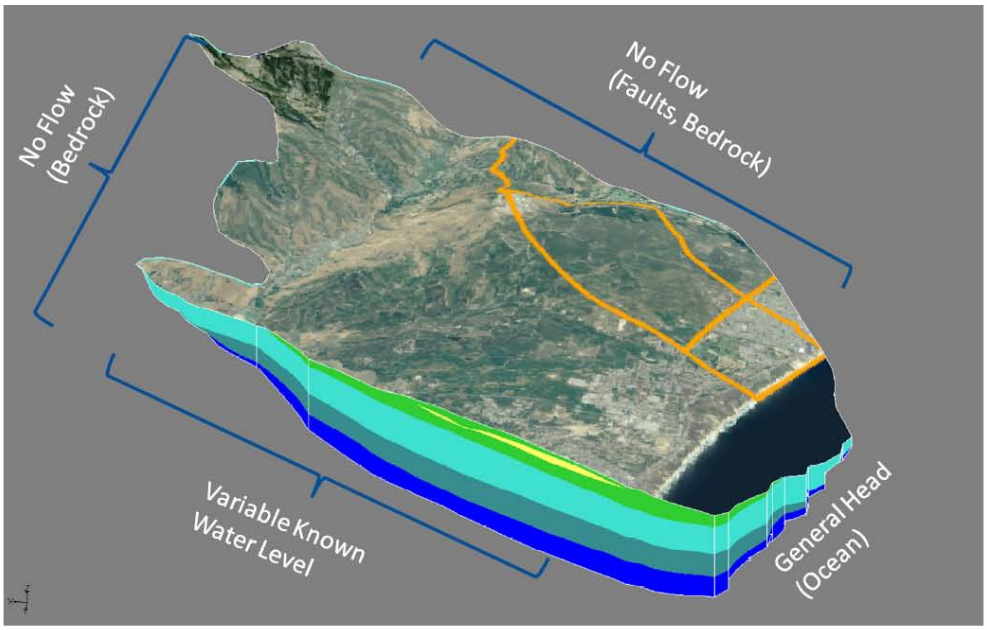

Figure 2: Durbin Model Boundary Conditions

- Initial Conditions (starting groundwater levels for the model) – Tim Durbin used 1956 groundwater levels for initial conditions. During the workshop Joe Oliver, of MPWMD, stated that MPWMD has historical monthly production data starting in 1987, with groundwater level data going back even further. Provided enough data (production and groundwater levels) exist spatially for 1987, 1987 will be used as the initial condition. The year 1987 represents the beginning of a dry period. The dry period was followed by a wetter period starting in 1992 and then more average conditions from 2000. Starting the model at 1987 will provide the model with wet, dry and average hydrological cycles.

4. Sources of Model Data

At the workshop, a presentation on groundwater modeling was given by Derrik Williams. After this presentation, all sources of data for the model were discussed. Workshop participants provided input on the types of data they had available.

The data needed for the modeling effort are included in the tables below together with a summary of the method of applying the data to the model and their sources.

RECHARGE TERMS

Recharge Term	Method	Source of Data
Deep percolation by precipitation	Change from a constant value used by Durbin to a spatially and temporally variable distribution across the model area. Use isohyetal maps (precipitation contour map) and long-term data from precipitation stations along with a soil moisture balance to estimate amount of deep percolation	Isohyetals = Monterey County General Plan (Rosenberg, 2001) and MCWRA Co-op precipitation stations = Monterey (1949 - Dec 2008), Salinas (1958 - present) CIMIS stations = Castroville (1982 - present) Land use = County, MPWMD, MCWRA, cities, FORA and AMBAG Stormwater = MPWMD, MCWD, Army, Schaaf & Wheeler (include storm water ponds and ocean outfalls) See Management Plans for future developments' handling of storm water for predictive model
Irrigation	Use actual or estimated rates for typical landscape irrigation, actual golf course irrigation, and agricultural irrigation (if it exists). Use land use data and crop type to distribute irrigation spatially.	Land use = County, MPWMD, MCWRA, cities, FORA, and AMBAG Volume data = Water agencies Regional Urban Water Reuse Plan (RUWAP) for irrigation efficiency
Return flow (including system losses and septic tanks)	Use historical data on system losses from water agencies. If no data available then apply an average of 10% system losses in areas with piped utilities.	Delivered water volumes = CAW, MCWD, City of Seaside Location of historical septic systems in Seaside, Laguna Seca and Laguna Seca campgrounds from water agencies and County Parks Delivered water volumes from water agencies Infiltration and Inflow (I&I) Studies on system losses from water agencies Historical data on system losses from water agencies

Recharge Term	Method	Source of Data
Stream flow	Yates et al. (2005) and Durbin (2007) concluded that stream flow contributes insignificantly to groundwater recharge, and is therefore not important to the water budget or the response of the groundwater basin to pumping. This conclusion will be reexamined.	USGS gage = El Toro Creek near Spreckels MPWMD gage = Arroyo Del Rey at Del Rey Oaks (since 2003)
Underflow from adjacent basins	Use Yates et al. (2005), HydroMetrics LLC (2009) and Geosyntec (2007) estimates and refine during model calibration	Yates (2005), HydroMetrics LLC (2009) Groundwater level data and aquifer parameters (see below)
Inflow from the ocean	Use Yates' estimates from BMAP and refine during model calibration	HydroMetrics LLC (2009)

DISCHARGE TERMS

Discharge Term	Method	Source of Data
Evaporation/ evapo-transpiration	Use land use to distribute ET based on cover and vegetation type	CIMIS Stations for ET = Castroville, Salinas South, Gonzales, Salinas North, and Carmel Land use = County, MPWMD, MCWRA, cities, FORA and AMBAG
Groundwater production	Monthly production data for each well	El Toro area data = MCWRA and MPWMD Durbin model compiled annual data from 1956-2002 for CAW, City of Seaside, County and private, and from 1993-2002 for MCWD MPWMD has monthly distribution factor for wells in the Basin based on historic data CAW, City of Seaside and MCWD have monthly data Seaside Watermaster database has monthly data for 2007-2008

Discharge Term	Method	Source of Data
Underflow to adjacent basins	Use Yates et al. (2005), HydroMetrics LLC (2009) and Geosyntec (2007) estimates and refine during model calibration	Yates (2005), HydroMetrics LLC (2009) Groundwater level data and aquifer parameters (see below)
Outflow to the ocean	Use Yates' estimates from BMAP and refine during model calibration	HydroMetrics LLC (2009)

AQUIFER PROPERTIES AND GROUNDWATER LEVELS

Term	Method	Source of Data
Aquifer parameters	Start with calibrated values generated in Durbin model, supplement with more recent aquifer testing. Further calibration will fine-tune the values to better match measured groundwater levels.	Durbin model MCWRA's IGSM model data is available in GIS format from MCWRA Yates et al. (2002 and 2005) El Toro report by GeoSyntec (2007)
Groundwater levels	Groundwater level data to be used for calibration	CH2M Hill compiled annual data for 1956-2004 Seaside Watermaster, MCWRA, CAW and MPWMD
Well locations and screen depths	Well locations will be used to assign wells to model cells and layers	Seaside Watermaster database Screen depths will be obtained from Durbin report and Seaside Watermaster database

AMBAG	Association of Monterey Bay Area Governments
CAW	California American Water Company
IGSM	Integrated Surface and Groundwater Model
FORA	Fort Ord Reuse Authority
MCWRA	Monterey County Water Resources Agency
MPWMD	Monterey Peninsula Water Management District
USGS	United States Geological Survey

Appendix C of this technical memorandum contains a table summarizing each water agency's responsibility for providing data for the model. Receiving the data within 30 days from issuance of this Technical Memorandum will ensure that the project remains on schedule. As data are received, the table will be updated and distributed to reflect when the data were submitted to HydroMetrics LLC.

5. MODEL CODE

During the workshop, the two model codes FEFLOW (finite-element) and MODFLOW (finite-difference) were discussed. See tables summarizing advantages and disadvantages of each of the models in Appendix B.

MODFLOW will be used as the model code for the Seaside Groundwater Basin groundwater flow model for the following reasons:

- It is industry standard and freely available ,
- It allows for evaluation of the groundwater budget for the entire Basin as well as for specified subareas – this is a major objective of the model, and
- It will calculate the amount of flow between subareas.

6. MODEL CALIBRATION

- Steady-State Calibration – No steady-state calibration will be carried out. The reasons for this are:
  - There is no need to limit the number of parameter types being calibrated. Newer calibration techniques using programs such as PEST easily handle many parameters simultaneously.
  - Steady-state calibration of transient models is relatively insensitive to many parameter values.
  - The parameters derived from Tim Durbin's 2007 model are sufficient as initial values. Additional steady-state calibration will likely not change these values.
- Transient Time Period – 1987 – 2008 will be used as the transient model period.
- Method of Calibration – Only groundwater levels will be calibrated. Streamflow calibration will not be included because recharge by streams is not significant and will not warrant inclusion in the model. HydroMetrics LLC will first use hand calibration followed by parameter estimation (PEST) techniques to improve the match between modeled and measured groundwater levels.
- Measure of Calibration: Qualitative methods to compare modeled vs. measured groundwater levels include hydrographs (Figure 3), contour maps and, XY plots (Figure 4). Quantitative methods will include

statistical measures such as relative error (standard deviation of residuals divided by the observed head range).

- Model Sensitivity – This is a method of quantifying the uncertainty in the calibrated model caused by uncertainty in the estimates of aquifer parameters, stresses, and boundary conditions. It is expected that the major stresses that will be sensitive will be groundwater production and recharge by precipitation. The effects of the northern model boundary type (i.e., general vs. constant head) can also be added as a parameter to check during the sensitivity analysis. The goal will be to have less than 10 percent relative error in the calibration results.

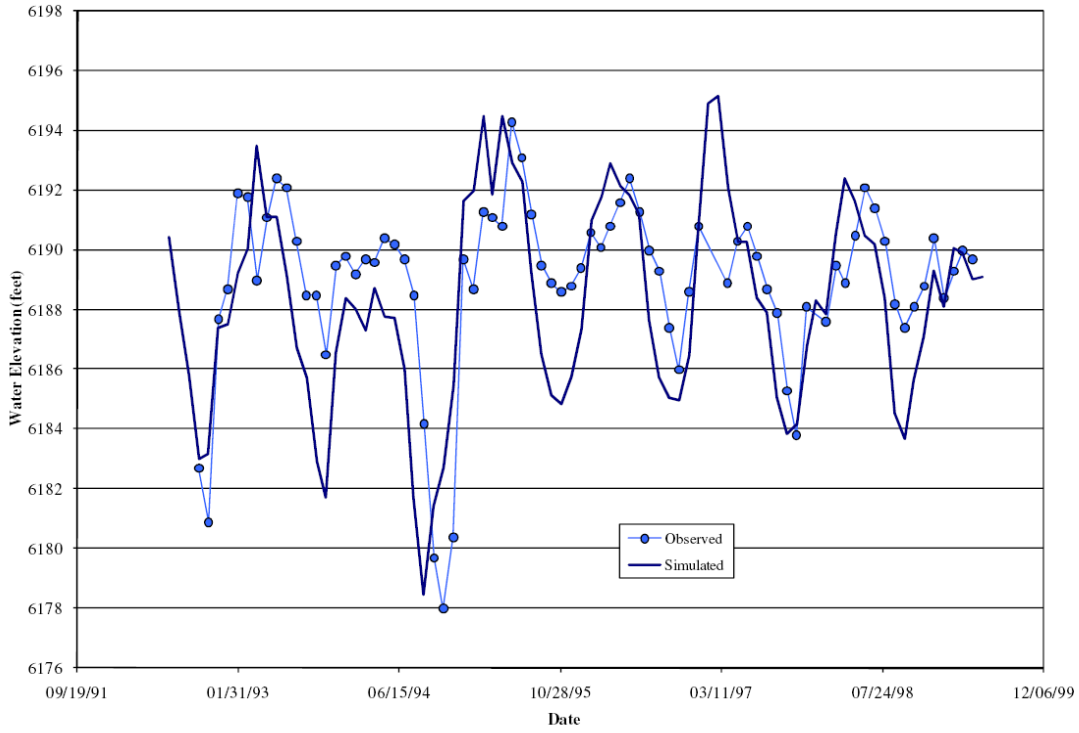

Figure 3: Example Calibration Hydrograph

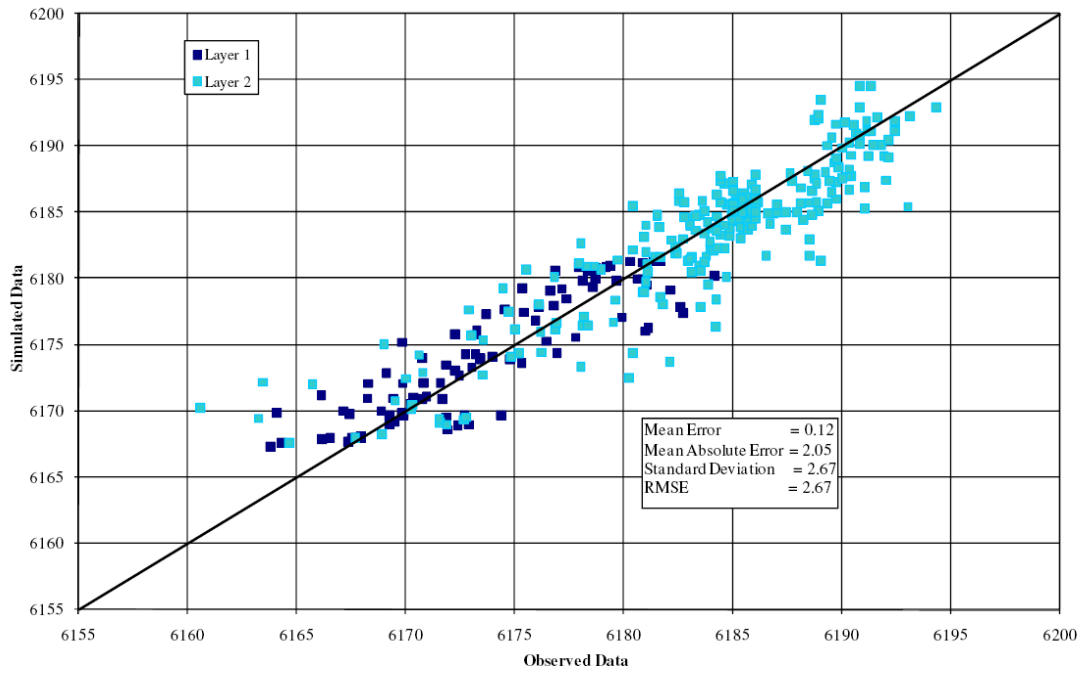

Figure 4: Example Calibration XY Plot

7. PREDICTIVE SCENARIOS

The predictive model period will be 20 years, from 2009 through 2028. Five model scenarios are part of the currently authorized modeling scope. A meeting to specifically decide on the model scenarios and will most likely occur in April or May 2009. A Technical Memorandum will be distributed ten days prior to the meeting and will provide suggested scenarios with basic assumptions. Included will be recommendations for the future hydrology and base conditions to apply to the predictive model. It is expected that predictive scenarios will be run in August 2009.

A predictive scenario is a "what if" condition that the model runs to predict impacts on the groundwater system. A scenario comprises a number of changes to the predictive model input. For example, importing new water into the Basin might involve a scenario that takes into account:

- The amount of water imported into the Basin,
- How the water is used in the Basin, e.g., injection, surface recharge or in-lieu of groundwater pumping,
- Changes to the operation of existing wells as a result of the imported water being used,
- Changes in future land use, and
- Changes in future boundary conditions.

It may take numerous model runs to optimize the model scenario by changing placement of recharge and/or extraction to where the scenario has the least negative impact to the Basin in terms of adverse groundwater levels.

8. REFERENCES

Durbin, T.J., 2007. *Groundwater flow and transport model, Seaside groundwater basin, Monterey County, California.* Technical advisory committee draft, prepared for RBF Consultants, October 1, 2007.

Feeney, M.B., 2007. *Seaside Groundwater Basin Watermaster - seawater sentinel wells project, summary of operations,* October 2007.

Geosyntec Consultants, 2007. *El Toro groundwater study, Monterey County, California,* prepared for Monterey County Resources Management Agency, July 2007.

Harbaugh, A.W., E.R. Banta, M.C. Hill, and M.G. McDonald. 2000. *MODFLOW-2000, the U.S. Geological Survey modular ground-water model – user guide to modularization concepts and the ground-water flow process*, U.S. Geological Survey, Open-File Report 00-92, 121p.

HydroMetrics LLC, 2009. *Basin management action plan, Seaside groundwater basin, Monterey County, California,* prepared for Seaside groundwater basin watermaster, February 2009.

Watermark Numerical Computing. 2004. *PEST Model-Independent Parameter Estimation User Manual: 5th Edition*, July 2004.

Yates, E.B., M.B. Feeney, L.I. Rosenberg, 2002. *Laguna Seca subarea phase III hydrogeologic update*, prepared for Monterey Peninsula Water Management District, November 2002.

Yates, E.B., M.B. Feeney, L.I. Rosenberg, 2005. *Seaside groundwater basin: update on water management resource conditions*, prepared for Monterey Peninsula Water Management District, April 2005.

APPENDIX A

LIST OF WORKSHOP ATTENDESS

Bob Jaques	Seaside Groundwater Basin Watermaster
Bob Costa	Seaside Groundwater Basin Watermaster and Laguna Seca subarea landowners
John Fischer	Public (as an observer)
Rick Riedl	City of Seaside
Brain True	Marina Coast Water District
Robert Johnson	Monterey County Water Resources Agency
Martin Feeney	Consultant
Tom Bunosky	California American Water Company
Craig Antony	California American Water Company
Joe Oliver	Monterey Peninsula Water Management District
Thomas Christensen	Monterey Peninsula Water Management District
Bob Holden	Monterey Regional Water Pollution Control Agency
Jerry Cole	CDM (consultant to MRWPCA)
Phyllis Stanin	Todd Engineers (consultant to MRWPCA)
Derrik Williams	HydroMetrics LLC
Georgina King	HydroMetrics LLC

APPENDIX B

WORKSHOP POWERPOINT PRESENTATION

APPENDIX C

DATA REQUEST

Agency	Data Needed	Date Received
MCWRA	GIS data from IGSM	
	Groundwater level data for all wells within model boundary (see GIS shapefile)	
	Precipitation contours in GIS format	
	Land use	
MPWMD	Monthly production for each well	
	Groundwater level data for all wells within model boundary (see GIS shapefile)	
	Injection and artificial recharge data	
	Map showing historical areas of septic tanks	
	Laguna Seca golf course monthly irrigation since 1987 (include source of water)	
	Land use	
City of Seaside	Monthly production for each well	
	Map showing historical areas of septic tanks	
	Land use	
Cal-Am	Monthly production for each well	
	Delivery to irrigators	
MCWD	Monthly production for each well	
	Groundwater level data for all wells within model boundary (see GIS shapefile)	
	Bayonet and Blackhorse golf course monthly irrigation since 1987 (include source of water)	
AMBAG	Land use	
FORA	Land use	
County Parks	Map showing historical areas of septic tanks	

ITEM NO. IX.B.

OTHER
NEW BUSINESS

SEASIDE GROUNDWATER BASIN WATERMASTER

TO: Board of Directors

FROM: Dewey D Evans, CEO

DATE: March 18, 2009

SUBJECT: Monterey Peninsula Water Management District ("MPWMD") Denial of the California American Water ("CAW") Application to Amend its Water Distribution System Permit to Serve the Monterey Bay Shores Ecoresort

PURPOSE:

The purpose of this item is for the Board to discuss the MPWMD hearing of February 26, 2009 and consider its position in the matter. (Agenda item IX.B.1.b) relates to this issue and should be considered along with this item IX.B.1.a))

RECOMMENDATION:

It is recommended that the Board direct staff to retain legal counsel to participate in and file as necessary legal documents in the Adjudication, Cal Am v. City of Seaside, including a joinder in any action by Security National Guaranty, Inc., in order to uphold Watermaster's previous approval of Security National Guaranty's water distribution proposal and to clarify the jurisdiction of the Watermaster on these issues and the limits on the jurisdiction of MPWMD in light of the Watermaster duties, the Amended Decision, and the physical solution imposed on the Seaside Groundwater Basin.

DISCUSSION:

MPWMD at its February 26, 2009 Board meeting denied the CAW application to amend its water distribution system permit to serve the Monterey Bay Shores Ecoresort ("MBSE") based on the need to prepare a subsequent EIR on water supply issues.

In a letter dated September 19, 2008 to MBSE owner, Security National Guaranty ("SNG"), Watermaster found that the water supply approach for the project was consistent with the terms of the Basin Adjudication Decision. Director Bruno, acting on his own behalf, in correspondence to MPWMD Chair Ms. Markey dated January 12, 2009, supported MPWMD Board approval of the application as necessary to uphold SNG's adjudicated rights to produce water from the Seaside Groundwater Basin for beneficial use.

The Board approved in the 2009 Administrative Budget $25,000 for retention of legal services for staff assistance in particular matters. Staff is in the process of retaining legal counsel.

ATTACHMENTS:

Correspondence from Mr. Bruno to Ms. Markey, MPWMD, dated January 12, 2009

MPWMD February 26, 2009 Board meeting agenda – Item 15: Public Hearings CONSIDER APPLICATION TO AMEND CAW WATER DISTRIBUTION SYSTEM…

Paul B. Bruno, CPA
114 Via Del Milagro, Monterey, CA, 93940

January 12, 2009

Ms. Kristi Markey, Chair
Monterey Peninsula Water Management District
Post Office Box 85, Monterey, 93942

Re: Application to Amend California American Water Distribution System to Serve Monterey Bay Shores Ecoresort, MPWMD Application # 20080915MBS-L4

Dear Ms. Markey,

I am writing to support the Board's approval of the application to amend California American Water Distribution System to serve the Monterey Bay Shores Ecoresort. The Board will consider this matter on January 29, 2009. Unfortunately, I will be attending to other business in Washington DC and unable to speak to the board in person that day.

As you may know, I currently serve as the Vice Chair of the Seaside Basin Watermaster and have twice served on the MPWMD's Community Advisory Committee. I am not writing to debate the merits of the proposed resort. While I support the preliminary design of the ecoresort and believe that it encompasses many visionary components, I will not address those aspects of the project since land use decisions are not within the District's charge.

I understand that the MPWMD must approve any amendments to a water distribution system within its boundaries. In this case, your Board's approval should be a mere formality. The request before you is unique in that it deals with the applicant's adjudicated rights to produce water from the basin. Those rights are governed by the Seaside Basin Watermaster which has already taken a position on their plan. At its October 23rd meeting, the Watermaster unanimously approved a letter stating that Security National Guaranty's water distribution plan was in compliance with the Basin Adjudication. Specifically, that "*SNG's approach as described is consistent with the terms of the Basin Adjudication Decision.*" Please note that Director Lehman participated in that meeting as the MPWMD's representative.

SNG's plan is more than just consistent with the adjudication. I believe that it is a very innovative way to bring us one step closer to achieving the goal of protecting the basin from seawater intrusion. The adjudication encourages this sort of creativity by allowing those who have water rights to move both the pumping and the use within the basin. Accordingly, I believe that it would be very difficult for the MPWMD to defend a denial of this application.

The Watermaster understood that SNG's proposal would be good for the overall health and protection of the basin. If your board judges the requested amendment on its merits, they should come to the same conclusion and approve the request.

Sincerely,

Paul B. Bruno, CPA

ITEM: PUBLIC HEARINGS

15. CONSIDER APPLICATION TO AMEND CALIFORNIA AMERICAN WATER DISTRIBUTION SYSTEM TO SERVE MONTEREY BAY SHORES ECORESORT IN SAND CITY; CALIFORNIA AMERICAN WATER AND SECURITY NATIONAL GUARANTY, CO-APPLICANTS; MPWMD APPLICATION #20080915MBS; APN 011-501-014

Meeting Date:	**February 26, 2009**	**Budgeted:**	**N/A**
From:	**Darby Fuerst, General Manager**	**Program/ Line Item No.:**	**N/A**
Prepared By:	**Henrietta Stern**	**Cost Estimate:**	**N/A**

General Counsel Approval: Yes
Committee Recommendation: N/A
CEQA Compliance: The MPWMD, as a Responsible Agency, will rely on the EIR for the Monterey Bay Shores Resort (SCH #97091005) previously certified by the City of Sand City in December 1998, and the Addendum to the EIR (December 2008) adopted by the City on January 20, 2009.

SUMMARY: This action is a continuation of public hearings held on November 17, 2008 and January 29, 2009 for consideration of Application #20080915MBS (**Exhibit 15-A**) submitted on September 15, 2008 by co-applicants California American Water (CAW) and Security National Guaranty, Inc. (SNG). In brief, the application requests District approval to enable CAW to produce up to 90 acre-feet per year (AFY) from its wells in the Seaside Groundwater Basin for service to Assessor's Parcel Number (APN) 011-501-014, the site of the proposed Monterey Bay Shores Ecoresort (MBSE) in Sand City, shown in **Exhibit 15-B**. CAW extractions from the Seaside Groundwater Basin could increase by up to 90 AFY based on water rights held by SNG as specified in the Seaside Basin adjudication, and approved by the Seaside Basin Watermaster in a letter dated September 19, 2008 (**Exhibit 15-C**). As described in the "Discussion" section below, there is an important distinction between 90 AFY of production from CAW well(s) in the Basin and 90 AFY actually delivered as metered sales to the resort.

The MPWMD Board initially continued this item in November 2008 to allow the public more time to review environmental documents associated with the MBSE, and for the applicant to respond to several information requests posed by the Board. On January 29, 2009, the Board opened the public hearing but continued this item pending receipt of a formal written determination by the State Water Resources Control Board (SWRCB) regarding applicability of the one-for-one replacement condition in SWRCB Order WR 95-10. A letter dated February 5, 2009 was received from the SWRCB on February 9, 2009 (**Exhibit 15-D**), and is described below. Technical information from CAW about delivery of water solely from wells in the Seaside Basin was also requested. The MPWMD Board's action solely relates to water management issues, including CAW supply to the affected parcel, not the overall merits of the proposed resort.

Pertinent elements of the November 17, 2008 and January 29, 2009 agenda packages are repeated herein for clarity. The November 17, 2008 materials are available on the District website at: http://www.mpwmd.dst.ca.us/asd/board/boardpacket/2008/20081117/11/item11.htm. The January 29, 2009 staff report and presentation materials are available on the website at: http://www.mpwmd.dst.ca.us/asd/board/boardpacket/2009/20090129/18/item18.htm. Substantive letters to the Board are also tabulated weekly and are available on the website at: http://www.mpwmd.dst.ca.us/gmletters/gmletters.htm.

The MPWMD serves as a Responsible Agency in compliance with the California Environmental Quality Act (CEQA), and relies on environmental documents adopted by the City of Sand City (Lead Agency), as discussed below. All MPWMD files associated with this application are available for review at the District office. This public hearing has been properly noticed.

The "Discussion" section in the January 29, 2009 agenda package reviewed information received as of January 21, 2009. Several documents were provided immediately before and on the day of the January 29, 2009 public hearing. This staff report will review pertinent information that updates the materials in the January 29, 2009 agenda package and was received as of February 19, 2009. Please review the "Background" and "Discussion" sections below for more information.

Importantly, Board members who were not present at earlier hearings on this matter must review all materials received during those proceedings and view the meeting video in order to vote on this matter. The meetings materials and DVD have been provided to affected Board members.

RECOMMENDATIONS: District staff recommends that the Board take the following actions:

1. Adopt the revised MPWMD Findings of Approval for Application #20080915MBS to Amend the CAW WDS (**Exhibit 15-E**) with specific reference to Findings associated with District compliance with CEQA as a Responsible Agency. The "Discussion" section below reviews written assertions about adequacy of MPWMD's CEQA review that were made by participants at the January 29, 2009 public hearing.

2. Approve Application #20080915MBS; authorize issuance of MPWMD Permit #M09-03-L4 with the 33 Conditions of Approval specified in **Exhibit 15-F**. Board guidance is needed for Condition #32 as noted in Recommendation 3 below. The Conditions of Approval include required conditions as specified in MPWMD Rule 22-D as well as several special conditions for this project, as described in the "Discussion" section below.

3. Determine which version of Condition #32 shall be imposed. Option 1 urges CAW to obtain an additional 59 AFY from SNG (and other available adjudicated water rights) to reduce pumping from the Carmel River, and is voluntary. Option 2 requires CAW to enter into an agreement with SNG to obtain the 59 AFY available from SNG's 149 AFY water rights, and to show proof of an agreement within 180 days of this WDS permit approval. Option 2 also requires careful monitoring of production sources and reporting using protocol approved by the MPWMD General Manager. Staff recommends Option 2 for the reasons provided in the "Discussion" section below.
4. Direct staff to file a Notice of Determination with the Monterey County Clerk in compliance with CEQA Guidelines Section 15096(i).

BACKGROUND: The history of the MBSE application is provided on the District website at: http://www.mpwmd.dst.ca.us/asd/board/boardpacket/2008/20081117/11/item11.htm and http://www.mpwmd.dst.ca.us/asd/board/boardpacket/2009/20090129/18/item18.htm.

The 39.04-acre project site was used for sand mining for 60 years, and is currently in a degraded state. The resort proposal now includes the following uses: (1) a 161-room hotel; (2) 46 visitor-serving condominium units; (3) 42 additional visitor-serving condominium units; (4) 92 residential condominium units; (5) auxiliary uses to include a restaurant, conference and spa facilities; and (6) parking, open space area, public access, and trails. Many "green" technologies are proposed, as described on the MBSE project website: http://www.montereybayshores.com/. Additional project

information is found in *Addendum to the Final Environmental Impact Report, Monterey Bay Shores Resort, SCH #97091005* (dated October 2008, but actually printed in December 2008). This version is provided on the District website at:
http://www.mpwmd.dst.ca.us/ceqa/ceqa.htm.

There are existing on-site well(s) owned by the applicant, but these are not part of the application currently before the Board. The District owns two monitor wells located on the subject parcel.

Water Rights

Integral to the MBSE water supply is the Seaside Groundwater Basin Adjudication Judgment of March 27, 2006 (Final Decision). This Decision sets the groundwater quantity allowed to be used by SNG on its property (APN 011-501-014). The Decision also stipulates that the Seaside Groundwater Basin shall be administered by a Watermaster. SNG was granted an Alternative Production Allocation (APA) of 149 AFY under the Decision, which is not reduced over time. This contrasts with the Standard Production Allocation (SPA), which is reduced over time to meet the targets set by the Court. In a letter dated September 19, 2008 (**Exhibit 15-C**), the Watermaster confirmed SNG's right to produce 149 AFY from the Seaside Groundwater Basin for beneficial use on the SNG property. Importantly, the Watermaster does not constrain the production to occur on the subject parcel through SNG's existing on-site wells. Water may be produced from another offsite well owned by another entity and delivered to the SNG parcel so long as the well is within the Seaside Basin. Hence, CAW may produce the requested 90 AFY for service to the MBSE site through CAW wells located farther inland, and this amount will not be reduced over time. From a hydrogeologic perspective, production from inland wells is preferable to production by coastal wells as the risk of seawater intrusion is reduced. The adjudication decision and other information are available on the Watermaster's website at:
www.seasidebasinwatermaster.org.

It is noted that the District received a copy of a February 5, 2009 letter from the California Environmental Law Project (CELP)/Sierra Club to Ralph Rubio, Watermaster Chairperson (**Exhibit 15-G**). The letter: (a) questions the legality of the Watermaster's determinations and cites various litigation; (b) requests the Watermaster to reconsider its September 19, 2008 letter at its meeting of March 4, 2009, specifically the issue of whether the 90 AFY should be considered as an APA that is not reduced over time or an SPA; and (c) as an alternative, asks the Watermaster to obtain an interpretation of the Decision as it relates to this matter from the presiding Judge Randall. The CELP wrote a second letter to the Watermaster dated February 11, 2009 (**Exhibit 15-H**), which reiterates its position that the SNG water rights used by CAW should be viewed as a Standard Production Allocation that is reduced over time, and that Judge Randall should confirm the Watermaster's action. The CELP letters are provided as background only, as they are not directed toward the District, nor make any request of the District. The District's understanding is that the Watermaster meeting set for March 4, 2009 will be continued to March 18, 2009. It is not known whether the CELP request for reconsideration will be on that agenda, or if on the agenda, what the Watermaster action might be. As noted in the "Discussion" section below, District mandatory conditions of approval already identify approvals needed from other pertinent agencies in order for the MWMD permit to be considered as valid.

Unless reconsidered by the Watermaster, the ability for SNG to transfer excess water (149 AFY – 90 AFY = 59 AFY) elsewhere in the Basin has also been affirmed by the Watermaster in its September 19, 2008 letter (**Exhibit 15-C**). Specifically, subject to timelines set by the Superior Court, SNG or its successor(s) has the right to convert the remaining 59 AFY of the 149 AFY original allotment to a Standard Production Allocation (SPA) by filing a declaration and serving it to all parties in the Seaside Basin litigation. This 59 AFY, if converted from an APA to SPA, would be subject to reduction calculations as provided in the Decision. Water produced from the Basin under a SPA is not restricted to use on the SNG property. Importantly, conversion of the 59 AFY is not the subject of Application

#20080915MBS before the District Board, but the subject is raised by the SWRCB in its February 5, 2009 letter.

Citing the Seaside Basin adjudication, James Kassel, Assistant Deputy Director for Water Rights, and Chief Enforcement Officer for the SWRCB Water Rights Division, determined that the one-for-one replacement required in SWRCB Order 95-10 does not apply to the SNG situation if CAW water is supplied only from wells in the Seaside Basin and not from Carmel River sources (**Exhibit 15-D**). The letter recommends that MPWMD require "strict water accounting methods to ensure that any use of Carmel River water does not serve this project" and that such data also be included in CAW's ongoing quarterly reports to the SWRCB. The letter also encourages CAW to obtain 59 AFY from SNG and other available adjudicated rights to reduce pumping from the Carmel River (these rights would be subject to the one-for-one replacement requirement in Order 95-10, i.e., Condition 2).

For reference, the MBSE parcel is currently within the CAW service area, but is not eligible to receive water from the pending Sand City desalination project. MPWMD Ordinance No. 132, adopted in January 2008, prohibits CAW service via a Water Entitlement to the MBSE parcel from the desalination project as a Benefitted Property partly because MBSE has its own independent source of Seaside Basin water. Also, the desalination project is sized only to meet the redevelopment needs of the City of Sand City.

MPWMD Board Information Requests on November 17, 2008 and January 29, 2009

At the November 17, 2008 public hearing, the District Board directed that the hearing be continued and made several information requests. These requests were provided to the applicant in a letter from MPWMD staff dated November 20, 2008, and included:

1. Obtain a letter from Monterey County Health Department that concurs with the gray water reuse technology proposed for MBSE.
2. Compare water use in similar mixed use resorts or full-service hotel/spas, if available, to the water use proposed for MBSE; explain how MBSE would use less water than a similar resort that does not employ the water-saving technologies proposed for MBSE.
3. Demonstrate how the MBSE water use estimates were derived, and obtain concurrence from MPWMD staff.
4. Explain water rights associated with MBSE parcel and use of these rights by CAW. Explain how CAW would deliver water to the parcel and how the projected monthly water demand would be served by CAW, especially during the high-flow period (November through April), when CAW is required to minimize its production from the Seaside Basin. Explain the role of proposed Sand City desalination project, if any.
5. Address means to ensure migrating, wind-blown sand will not adversely affect operation of water-saving equipment and technology.
6. Provide water-related sections of the October 2008 Addendum for public review on the MPWMD website, including project description (Section 3), hydrology/water quality (Section 4.8) and public utilities (Section 4.16).
7. Encourage City of Sand City and California Coastal Commission to provide the October 2008 Addendum for public review, with the full document available on a website.
8. Provide list of local public outreach or public review opportunities prior to the January 29, 2009 MPWMD Board meeting.

The "Discussion" section in the January 29, 2009 agenda package provides the applicant's responses to the eight information requests, including supporting attachments.

The more recent information requests posed by the Board at the January 29, 2009 hearing include:

1. Obtain a letter from SWRCB regarding applicability of one-for-one replacement element in Order WR 95-10.
2. Obtain a technical report from CAW describing what operational changes will be made to deliver water to the MBSE parcel solely from Seaside Basin sources, in light of SWRCB Order 98-04, the interagency Quarterly Water Supply Strategy and Budget process, and infrastructure/hydraulic constraints in the CAW system. A CAW letter dated January 29, 2009 (**Exhibit 15-I**) stated that CAW will serve MBSE solely from wells in the Seaside Basin at all times. This issue is described in more detail below.
3. District staff and Counsel review validity of assertions made by hearing participants regarding adequacy of CEQA review, particularly the need for a Subsequent EIR.

DISCUSSION: The following paragraphs review pertinent new information received immediately preceding, during, and after the January 29, 2009 hearing that have not been reviewed in a written agenda staff report to date. Revised Findings and Conditions of Approval are then discussed along with CEQA compliance. The MBSE file is available at the District office for inspection, upon request.

Obtain SWRCB Determination on Applicability of Order 95-10.
As noted above, the SWRCB's February 5, 2009 letter (**Exhibit 15-D**) determined that the one-for one replacement requirement in Order 95-10 does not apply to the MBSE application so long as CAW water is supplied solely from Seaside wells. As noted below, District staff has recommended several new Conditions of Approval that stem from the SWRCB letter.

Explain CAW Water Delivery Solely from Seaside Wells
The applicant previously submitted materials describing the engineering aspects of water delivery and provided attachments on CAW infrastructure. The current focus is on the ability of CAW to serve MBSE solely from Seaside well(s) during the winter "high flow season," when Carmel River flow exceeds 40 cubic feet per second (cfs). To date, this has been a period when CAW's Seaside Basin wells are turned off pursuant to SWRCB Order 98-04, which directs CAW to minimize production in Seaside during the winter season, when Carmel River sources are plentiful, in order to maximize water storage in the Seaside Basin for use in dry periods, thereby reducing extractions from the Carmel River Basin, when the river habitat is most vulnerable. It is noted that Order 98-04 does not prohibit use of Seaside wells by CAW.

The key technical questions relate to the physical ability of CAW to supply water to just one customer (MBSE parcel) from a Seaside well given that large municipal wells are typically designed to run on full throttle (on or off) and serve many customers at one time. Regardless of seasonal changes, CAW must always remain under the annual limits set by the SWRCB for the Carmel River and the limits set by the Superior Court for the Seaside Basin.

As of this writing, and perhaps due to the limited time between the January 29 and February 26, 2009 meetings, a formal response by CAW to these questions has not been received. Additional information may be presented at the February 26, 2009 hearing. Note that new Special Condition #30 requires a formal written response from CAW on this subject within 90 days of permit approval, or the WDS permit will not be valid.

Adequacy of CEQA Review by MPWMD
For the January 29, 2009 hearing, the District received letters from CELP/Sierra Club, Land Watch Monterey County and League of Women Voters questioning the adequacy of the City of Sand City's Addendum to the Final EIR on the MBSE project for use by the District as a Responsible Agency. The

letters questioned whether a Subsequent EIR is needed and asserted that the District's CEQA compliance may not be adequate. Please refer to the CEQA section below for an overview of the assertions and the MPWMD staff response.

Other Agency Review

The District focus is solely on the WDS application by CAW/SNG to enable CAW service to the MBSE project using SNG's water rights. Another entity associated with water supply from the Seaside Basin is the Watermaster. As noted above, CELP/Sierra Club has requested that the Watermaster consider the 90 AFY to be produced by CAW for service as a Standard (rather than Alternative) Production Allocation, which would be reduced over time. It is unknown when or if the Watermaster will respond, though the CELP letter requested consideration of this issue on March 4, 2009 (Note: The March 4, 2009 Watermaster meeting has been continued to March 18, 2009). The California Public Utilities Commission (CPUC) has already confirmed a CAW advice letter regarding CAW's annexation of the MBSE parcel, which was based on District approval in October 2007. More information on the annexation history is available in the January 29, 2009 hearing materials.

Other agencies address the whole of the project, including the City of Sand City, the CEQA lead agency, and the California Coastal Commission (CCC). CCC's strong preference is for MPWMD to first approve the water service before the CCC hearing on the MBSE project, slated for March 11-13, 2009 in Monterey. A Court Order stemming from litigation between SNG and CCC requires that the CCC hold a hearing on the project before March 31, 2009. It is not confirmed whether a formal determination by CCC to approve or deny the MBSE project is also required before March 31, 2009. **Exhibit 15-J** is a January 16, 2009 letter from CCC to the applicant with a checklist of information requests, including water supply approvals.

MPWMD Condition of Approval #5 addresses approvals by other agencies, which is required by District Rules 22-D-1-c and 22-D-3. This condition has been revised to specifically name pertinent agencies that regulate the MBSE project, and states that the validity of the MPWMD WDS permit is contingent on project approvals by these other entities.

February 2009 Findings of Approval

The February 2009 Findings of Approval for Application #20080915MBS (**Exhibit 15-E**) are based on evidence provided in the application materials, including supporting documents received through February 19, 2009, on file at the District office. Staff believes the application meets the criteria and minimum standards for Approval set by District Rules 22-B and C. Pertinent information includes environmental documents prepared for the City of Sand City in compliance with CEQA; technical studies, reports, memoranda and maps; correspondence between MPWMD staff, the applicant, and/or SWRCB; previous approvals by other governmental entities; action by the Monterey County Superior Court and Seaside Basin Watermaster; and review of CEQA in light of comments made by hearing participants to date.

MPWMD approval of the application, as conditioned, is not anticipated to result in a further effect to the Seaside Basins beyond what has already been approved and/or is allowed. All things being equal, there could temporarily be more water actually drawn from the Seaside Basin in the near-term with the project than without it. However, the Superior Court's action in the Seaside Basin adjudication preserves the rights of Alternative Producers such as SNG to extract water from the Seaside Basin, and compels Standard Producers such as CAW to reduce their cumulative use over time until the natural safe yield of the Seaside Basin is reached. This long-term action is expected to result in reduced cumulative extractions from the Basin in compliance with the Court's 2006 Final Decision. Thus, approval of the application is consistent with MPWMD Rule 22-C-4 regarding overdrafts.

The SWRCB letter of February 5, 2009 and the proposed MPWMD Conditions of Approval dated February 2009 (**Exhibit 15-F**), which are consistent with the SWRCB letter, will result in no additional impact to the Carmel River, and could potentially benefit the river. Only Seaside Basin water shall be allowed to be produced by CAW to serve the MBSE project, and a strict accounting of water sources used to serve the MBSE project shall be required. The SWRCB has determined that the one-for-one replacement for new CAW supplies in Order 95-10 does not apply to the 90 AFY of SNG's water rights set aside for the MBSE project. However, the SWRCB urges CAW to obtain rights to the remaining 59 AFY of SNG's Seaside Basin water rights, and offset that amount by an equal reduction in Carmel River diversions. MPWMD Condition #32 addresses this issue, and provides two options for the Board to consider: either encourage or require CAW to obtain the 59 AFY available from Seaside to offset Carmel River pumping.

The Findings of Approval also include several Findings that specifically relate to CEQA compliance by the District. These are addressed in the "MPWMD CEQA Compliance" subsection below.

February 2009 Conditions of Approval

The February 2009 Conditions of Approval (**Exhibit 15-F**) proposed for Permit #M09-03-L4 are consistent with MPWMD Rule 22-D governing approval of Water Distribution Systems. **Conditions #1 through #4** define the Permitted System, including up to 90 AFY of CAW production to serve the MBSE located on APN 011-501-014, based on SNG's legal right to 149 AFY of Alternative Production Allocation water.

Condition #3 includes several additional components:

- The source of CAW supply to serve the MBSE parcel shall be derived solely from the Seaside Basin, and the use of Carmel River water to serve the parcel shall be prohibited.
- Due to system losses in the CAW system, the 90 AFY production limit is equivalent to a maximum of 83.7 AFY metered sales at the MBSE project site, based on assumed system losses of seven percent (7%). The MPWMD General Manager may consider a change to the 7% loss factor if CAW provides adequate documentation (as determined by MPWMD) showing such as change is warranted. This issue is discussed further below.
- For the purpose of MPWMD's Expanded Conservation and Standby Rationing Program, 90 AFY is added to CAW's allowed production from the Seaside Basin. This means the current amount of 3,504 AFY would be increased to a new amount of 3,594 AFY in the near-term. If the Court or Watermaster reduces water available to CAW below 3,504 AFY, 90 AFY shall be added to CAW's recognized allotment. The CAW production limit of 11,285 AFY from the Carmel River, as currently set by the SWRCB, would not be changed by this action.

The consideration of system losses, resulting in a lower number than 90 AFY for actual metered sales to the MBSE parcel, was requested by the General Manager on January 29, 2009, when he realized that this technical consideration was not included in the January 2009 draft Findings and Conditions. For all projects depending on CAW water, the District distinguishes between production from the well(s) and metered sales at the point of use by the customer. Based on CAW records, the system losses (sometimes referred to as "unaccounted for water") have been 10% or more for the past four years. Using a 10% factor, 90 AFY of production would equate to 81 AFY of metered sales. This amount was suggested to the Board during the staff presentation on January 29, 2009. The applicant disagrees with this change and discussed his concerns with the MPWMD General Manager in early February 2009. District staff is willing to change the factor to 7% (the standard target for CAW system losses in the MPWMD Rules and Regulations). Using a 7% loss factor, 90 AFY of CAW production is equivalent to 83.7 AFY of metered sales at the MBSE parcel. As noted above, CAW may provide documentation in the form of a technical report to the MPWMD General Manager to support a requested change to the 7% loss factor,

based on protocol approved by the MPWMD General Manager prior to the submittal of the technical report. Importantly, the SNG situation is not the same as the Sand City Desalination Plant WDS, where a brand new pipeline will transmit desalinated water directly from the plant into the CAW system at a specific location only a few hundred feet away. The District did not impose a system loss factor for the desalination project WDS due to that unique situation.

Conditions #5 through #23 reflect standard MPWMD mandatory conditions, including water quality, metering and annual reporting, conservation, required Indemnification Agreement, fee payments, timely notice of pending or actual changes to the system, and other required elements. As noted above, **Condition #5** has been expanded to specify other agency approvals that are needed. Other Conditions of Approval (**Conditions #24 and #25**) address basic water rights and the Endangered Species Act; these conditions are not required by District rules, but are included in all MPWMD WDS permits.

Special Condition #26 addresses the requirement that District staff have physical access to the two dedicated monitor wells owned by MPWMD on APN 011-501-014, in addition to the existing production well owned by SNG. The District's wells must be maintained in good condition throughout construction.

Special Condition #27 requires SNG and its successors to provide copies to the District of any report submitted to the Watermaster on water levels in its production well(s) on a monthly basis; the amount of water it has produced on a quarterly basis; and certain water quality test results on an annual basis each Fall. It also requires CAW to provide metered sales information to parcel APN 011-501-014 on an annual (water year) basis, and more frequently, if directed by the MPWMD General Manager. This information is used to ensure that metered sales to MBSE do not exceed the 83.7 AFY limit imposed in Condition #3.

Special Condition #28 requires SNG and its successors to give notice to the District and copies of any correspondence with the Watermaster regarding transferring the right to produce water from the Basin under an Alternative Production Allocation right to a Standard Production Allocation right.

Conditions #29 through #33 are new, and stem from the SWRCB letter dated February 5, 2009 as well as the technical questions about how CAW will serve the project with only Seaside wells.

Condition #29 states that CAW must implement "strict water accounting methods approved by the MPWMD General Manager to track CAW production sources to ensure that only Seaside Basin wells (and not Sand City desalination water) serve the MBSE parcel identified as APN 011-501-014, and no Carmel River Basin water is produced to serve the subject parcel." The condition also requires quarterly reporting of MBSE-related water production data, and that the reports shall be provided to MPWMD "in the manner and form as prescribed by the District." It adds that the data tracking and reporting protocol must be approved by the District prior to completion of construction of the MBSE project. This means that the District will work with CAW to develop a reasonable production tracking and reporting protocol that will enable compliance with the SWRCB letter of February 5, 2009. This condition focuses on the sources of supply for the 90 AFY maximum production in contrast to the metered sales at the MBSE parcel addressed in Condition #27.

Condition #30 is related to Condition #29 as it addresses how CAW will actually serve the MBSE parcel with only Seaside wells, given CAW's current practice to minimize or terminate Seaside well production during the winter "high flow season." Condition #30 requires CAW to submit a written Operations Plan to the District within 90 days of the CAW/MBSE WDS approval explaining: (a) which Seaside wells will be used to serve MBSE; (b) physical constraints associated with potential source wells and related infrastructure; (c) impacts to compliance with SWRCB Order 98-04, if any; (d)

ramifications to the Quarterly Water Supply Strategy and Budget process; and (e) estimated production from Seaside Basin well(s) in the winter "high flow season) to serve the MBSE parcel (and potential other customers, if required due to well operation constraints). An extension of time to submit the report may be requested by CAW subject to approval by the MPWMD General Manager.

Condition #31 requires that CAW provide the District a copy of any quarterly report to the SWRCB that includes information about service to the subject MBSE parcel.

Condition #32 addresses CAW's opportunity to obtain an additional 59 AFY from SNG (and potentially other available adjudicated water rights in the Seaside Basin) specifically for the purpose of reducing pumping from the Carmel River. Importantly, staff has provided **two options** for Board consideration:

- **Option 1** "urges" CAW to obtain an additional 59 AFY (as amended by restrictions imposed by the Watermaster) from SNG (and potentially other available adjudicated water rights in the Seaside Basin) specifically for the purpose of reducing pumping from the Carmel River." Option 1 is voluntary, but would require careful monitoring and reporting using protocol approved by the MPWMD General Manager if rights are obtained, similar to Condition #29.
- **Option 2** requires CAW to enter into an agreement with SNG to obtain the remaining 59 AFY (as amended by restrictions imposed by the Watermaster) available from SNG's 149 AFY water rights, and to show proof of an agreement within 180 days of the CCC Coastal Development Permit approval. Similar to Condition #29, Option 2 also requires careful monitoring and reporting of production sources using protocol approved by the MPWMD General Manager. Option 2 is mandatory as it relates to CAW and SNG; of course, CAW is encouraged to voluntarily pursue water rights from parties other than SNG.

District staff recommends Option 2 be adopted by the Board because CAW and SNG are co-applicants on this application, and Mr. Ghandour indicated his intent to make his remaining water rights "available to the public trust" at the January 29, 2009 hearing. The financial and legal arrangement between CAW and SNG is not the domain of the District; MPWMD is solely interested in the beneficial use of the remaining SNG water rights. District staff briefly spoke with Mr. Ghandour, who prefers Option 1 due to unspecified tax, legal and other ramifications associated with the Watermaster and CCC. He will be available to discuss this issue in more depth at the February 26, 2009 hearing.

For both Option 1 and Option 2, the obtained water rights would be subject to the one-for-one replacement in Order 95-10. It is also understood that the 59 AFY would be in the Standard Production Allocation category, and thus would be reduced over time pursuant to the Seaside Basin adjudication until the natural safe yield of the Seaside Basin is achieved.

Condition #33 requires SNG to ensure that any use of its on-site wells on the MBSE parcel does not result in more than 90 AFY extractions from the Seaside Basin, when CAW production is also considered. It also requires careful tracking and reporting in the manner and form as prescribed by the District. For example, if CAW produces 70 AF from Seaside to serve the MBSE parcel in a year, production from SNG's on-site wells may not exceed 20 AF in that year. It is understood that SNG does not plan to use its on-site wells unless needed as an emergency back-up supply. This condition is simply proposed as a cross-check and safeguard.

The net result of Conditions #3, #27, #29, #32 and #33 is that: (a) no more than 90 AFY production will be extracted from the Seaside Basin to serve the MBSE parcel; (b) no more than 83.7 AFY of CAW metered sales will be consumed at the SNG parcel; (c) CAW's near-term rights to water in the Coastal Subareas of the Seaside Basin could be as high as 3,653 AFY (3,504 + 90 + 59); and (d) extractions

from the Carmel River could potentially be reduced by 59 AFY.

The applicants have indicated that they understand these conditions, and generally agree with them, with the exception of the system losses described above for Condition #3 and Option 2 for Condition #32. Notably, District Rule 22-D-1-m as specified in Condition #19 requires written, notarized acceptance of the conditions via a Permit Condition Acceptance Form in order for the WDS permit to be valid. Rule 22-D-1-n as specified in Condition #22 requires recordation of a deed restriction signed and notarized by the property owner that includes the WDS permit, conditions, and Indemnification Agreement between the applicants and MPWMD.

MPWMD CEQA Compliance

The District Board action must comply with CEQA as well as MPWMD regulations. In the review of this application, MPWMD has followed those guidelines adopted by the State of California and published in the California Administrative Code, Title 14, Section 15000, *et seq*. Specifically, the MPWMD, as a Responsible Agency under CEQA for this action, has complied with Guidelines Section 15096. The District Board has relied on previous action by the City of Sand City, the Lead Agency under CEQA. On December 1, 1998, the City adopted Resolution SC 98-83 certifying the Final Environmental Impact Report (SCH#97091005) for approving the MBSE as originally proposed. The City also approved the project via a series of resolutions that were provided in the November 17, 2008 public hearing materials. The City's Notice of Determination for the FEIR was filed with the County Clerk on December 2, 1998.

The District Board also relies on a technical Addendum, prepared in October 2008 and updated in December 2008, which describes the reduced size and scope of the project, particularly the reduced water demand due to new water-saving technologies that are now part of the project description. The Addendum addresses each of the questions posed in an Initial Study, and evaluates the potential impacts associated with each environmental topic. In relation to water supply issues, the Addendum summarizes information that is already in the public record and/or has already been evaluated by MPWMD independently as part of the WDS approval process. The pertinent information in the Addendum includes:

- Updated water rights status for SNG and determination of 149 AFY available to the project site as a result of the Seaside Basin adjudication;
- Confirmation by the Watermaster that CAW may serve the MBSE parcel based on SNG's water rights;
- Revised water use estimates, as confirmed by District staff, for MBSE as proposed in 2009; this amount is less than the original project evaluated in the 1998 EIR; and
- Description of the MPWMD approval process for the subject WDS permit.

The October 2008 (brown cover) *Revised Draft Addendum to the Environmental Impact Report for the Monterey Bay Shores Resort* (SCH # 97091005) was provided to District staff, Board members, and was available for public review as part of the November 17, 2008 public hearing. In early December 2008, a final version entitled *Addendum to the Environmental Impact Report for the Monterey Bay Shores Resort* (light blue cover, still dated October 2008) was provided to the District with minor changes to the water-related sections. The project description and water-related sections of this December 2008 document were placed on the District website and a hard copy was provided in the District foyer. The Board was provided the four pages where there were minor refinements from the October 2008 to the December 2008 versions. This information is included in the January 29, 2009 staff report.

At a January 20, 2009 public hearing, the City of Sand City formally adopted the Addendum, including an errata sheet with minor corrections unrelated to water supply or hydrology. The City passed

Resolution #SC 96-06 that determined: (1) no major revisions to the EIR are needed for the revised project, and (2) a Subsequent EIR is not required for the revised project.

CEQA Guidelines Section 15164 states that the lead agency or a responsible agency shall prepare an Addendum to a previously certified EIR if some changes or additions are necessary, but none of the conditions described in CEQA Section 15162(a) regarding a Subsequent EIR have occurred. District staff and Counsel do not believe a Subsequent EIR is needed because the project does not:

- Involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects due to a change in the project [Guidelines 15162(a)(1)];
- Involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects due to a change in the circumstances (setting) under which the project is undertaken [Guidelines 15162(a)(2)]; or
- Involve new information of substantial importance that shows any of the following: (A) the project will have one or more significant environmental effects not previously discussed; (B) significant effects previously examined will be substantially more severe than previously described; (C) mitigation measures or alternatives previously found to be infeasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the measure or alternative; and (D) mitigation measures or alternatives considerably different than those analyzed in the previous EIR would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the measure or alternative. [Guidelines 15162(a)(3)].

With respect to hydrology and water supply, the anticipated water demand has been reduced due to "green" technologies incorporated into the project description; the Superior Court has adjudicated the Seaside Groundwater Basin resulting in 149 AFY water rights assigned to SNG; and water production to serve the MBSE parcel would be pumped from CAW wells farther inland rather than by coastal wells at the project site, thereby reducing the risk of seawater intrusion. The current MBSE project, with the proposed MPWMD Conditions of Approval (**Exhibit 15-F**) is consistent with the Seaside Basin adjudication, SWRCB Order 95-10, recent direction by the Watermaster and SWRCB Division of Water Rights, and could potentially result in reduced diversions from the Carmel River. There are no mitigation measures or alternatives that meet the specific criteria of CEQA Guidelines 15162(a)(3)(C) and (D) cited above.

The Addendum will suffice for purposes of the District as a Responsible Agency, thus fulfilling the requirements of CEQA. Furthermore, CEQA Section 15164(c) states that an Addendum need not be circulated for public review. As noted above, the City of Sand City adopted the Addendum at a public hearing on January 20, 2009.

CEQA directs that projects should first avoid, then minimize and mitigate impacts, in that order. As described above, the February 2009 proposed Conditions of Approval focus on avoidance of hydrologic impacts via: (a) serve the project only from Seaside wells in accordance with the Seaside Basin adjudication and SWRCB letter for February 5, 2009, (b) obtain additional available water rights in Seaside to reduce Carmel River pumping, (c) implement stringent tracking and reporting of water production and consumption, (d) regulate on-site pumping to stay within limits set by the Seaside Basin adjudication, and to minimize pumping near the coast, and (e) develop clear operational plans to consistently comply with the conditions.

As required by CEQA Sections 15091, 15092 and 15093, the District Board, through Findings (and cited evidence) #21, #22 and #23 (**Exhibit 15-E**) has determined, in relation to hydrology and water supply, that: (a) the project will not have a significant effect on the environment, (b) mitigation measures

are not required as part of the District's action on this WDS permit, and (c) a Statement of Overriding Considerations was not required to be adopted by the District Board for this action. If the application is approved by the Board, the District will file its own Notice of Determination in compliance with CEQA Section 15096(i).

Exhibit 15-K is a table prepared by District staff and Counsel that consolidates the assertions related to CEQA compliance contained in letters submitted for the January 29 and February 26, 2009 public hearings, as of February 19, 2009. The specific letters received are listed and provided as exhibits in the "Noticing and Public Comment" subsection below. Stated very briefly, recent information renders moot most of the assertions or recommendations in these letters regarding interpretation of SWRCB Order 95-10, and impacts of the MBSE project on the Carmel River. This information includes:

- January 29, 2009 letter from CAW (**Exhibit 15-I**) stating it will serve the MBSE parcel only with water pumped from Seaside Basin wells;
- February 5, 2009 letter from SWRCB Water Rights Division (**Exhibit 15-D**) determining that the one-for-one replacement requirement in SWRCB Order 95-10 does not apply to the MBSE application so long as CAW serves the project from Seaside wells and not the Carmel River;
- Revised proposed MPWMD Conditions of Approval (**Exhibit 15-F**) crafted to ensure that only Seaside Basin water will be used to serve the MBSE project, less water will be needed from the Carmel River, and compliance with existing Orders governing water use in the Seaside and Carmel River Basins will occur.

Noticing and Public Comment

Public notice has been provided for this public hearing in several ways, including: (1) mailed notices to property owners within 300 feet of the subject parcel; (2) posted notices at the project site; (3) posted notice at the MPWMD office; (4) notice of the public hearing to recipients of District agendas for the January 29 and February 26, 2009 meetings; (5) standard agenda/hearing notices to local media; and (6) posting of the CEQA documents and related materials on the District website at: http://www.mpwmd.dst.ca.us/ceqa/ceqa.htm and for agenda items/meetings at: http://www.mpwmd.dst.ca.us/asd/board/meetings/meeting.htm (see Feb. 26, 2009, Item 15).

To date (February 19, 2009 at 10:00 AM), 83 comment letters have been received; a cumulative listing is provided as **Exhibit 15-L**. The actual letters have been provided to the Board under separate cover. Any letters received after the printing deadline for this staff report will be provided to the Board at the February 26, 2009 hearing.

A total of 77 letters expressed support for the MBSE project, lauded the benefits of the innovative, water-saving "green" technologies, and noted the positive benefit to the local economy and jobs. The "Discussion" section in the January 29, 2009 reviewed letters from environmental organizations received by January 21, 2009 that opposed the MBSE application and/or questioned the District's compliance with CEQA. Additional letters from attorneys representing the applicant and environmental organizations were received through the day of the January 29, 2009 hearing, and were summarized by the attorneys during the public hearing.

To date, the letters containing substantive questions or assertions about the District's CEQA compliance, regulatory authority or permit conditions include:

- CELP for Sierra Club dated January 15, 2009 (**Exhibit 15-M**)
- CELP for Sierra Club dated January 26, 2009 (**Exhibit 15-N**)
- Land Watch Monterey County dated January 27, 2009 (**Exhibit 15-O**)

- League of Women Voters dated January 6, 2009 (**Exhibit 15-P**)
- Lombardo & Gilles for applicant dated January 21, 2009 (**Exhibit 15-Q**)
- Lombardo & Gilles for applicant dated January 29, 2009 (**Exhibit 15-R**)
- Sand City letter dated February 9, 2009 (**Exhibit 15-S**)

Any letters received after February 19, 2009 at 10:00 AM will be provided to the Board at the February 26, 2009 hearing.

EXHIBITS

15–A Application #20080915MBS to amend the CAW WDS (without attachments)
15–B Map of Project Location
15–C Seaside Basin Watermaster letter confirming water rights
15–D SWRCB letter to CELP/Sierra Club dated February 5, 2009
15–E MPWMD Draft Findings of Approval, as of February 19, 2009
15–F MPWMD Draft Conditions of Approval, as of February 19, 2009
15–G February 5, 2009 letter from CELP/Sierra Club to Seaside Basin Watermaster
15–H February 11, 2009 letter from CELP/Sierra Club to Seaside Basin Watermaster
15-I CAW letter dated January 29, 2009 regarding service to SNG from Seaside wells
15–J January 16, 2009 letter from CCC to applicant with list of information requests
15-K Staff/Counsel review of CEQA-related assertions through February 19, 2009
15-L Updated list of comment letters received as of February 19, 2009
15-M CELP for Sierra Club letter dated January 15, 2009
15-N CELP for Sierra Club letter dated January 26, 2009
15-O Land Watch Monterey County letter dated January 27, 2009
15-P League of Women Voters letter dated January 6, 2009
15-Q Lombardo & Gilles for applicant letter dated January 21, 2009
15-R Lombardo & Gilles for applicant letter dated January 29, 2009
15-S Sand City letter dated February 9, 2009

U:\staff\word\boardpacket\2009\20090226\PubHrgs\15\item15.doc
Prepared by H. Stern, 2/18/09

SEASIDE GROUNDWATER BASIN
WATERMASTER

TO: Board of Directors

FROM: Dewey D Evans, CEO

DATE: March 18, 2009

SUBJECT: Security National Guaranty Monterey Bay Shores Ecoresort; Watermaster Letter of September 19, 2008; California Environmental Law Center Letters of February 5 and February 11, 2009; and Responsive February 17, 2009 Letter from Security National Guaranty

PURPOSE:

For Watermaster Board to consider correspondence related to the application by Security National Guaranty for water connection permits from the Monterey Peninsula Water Management District

RECOMMENDATION:

It is recommended that the Board consider the correspondence stemming from its letter to Security National Guaranty ("SNG") dated September 19, 2008 regarding SNG's water distribution plan and take action as deemed appropriate.

DISCUSSION:

This item is referred to Mr. Russ McGlothlin who asked that it placed on the agenda for today's meeting.

ATTACHMENTS:

Watermaster letter to Security National Guaranty dated September 19, 2008

California Environmental Law Project letter to Watermaster dated February 5, 2009

California Environmental Law Project letter to Watermaster dated February 11, 2009, including attachment of State Water Resources Control Board letter to California Environmental Law Project dated February 5, 2009

Lombardo & Giles for Security National Guaranty responsive letter to Watermaster dated February 17, 2009

EXHIBIT 11-C

Seaside Groundwater Basin Watermaster
2600 Garden Road, Suite 228
Monterey, CA 93940
(831) 641-0113

September 19, 2008

Mr. Ed Ghandour
Security National Guaranty, Inc.
505 Montgomery, Suite 1019
San Francisco, CA 94111

Re: SNG's Water Distribution Plan

Dear Mr. Ghandour:

Water for Use by SNG Onsite:
The Seaside Groundwater Basin Watermaster (**"Watermaster"**) understands that Security National Guaranty, Inc. (**"SNG"**) has made application to the Monterey Peninsula Water Management District (**"MPWMD"**) for necessary connection permits to produce 90 acre feet of water from the Seaside Groundwater Basin (the **"Basin"**) for beneficial use on property owned by SNG located in Sand City (the **"SNG Property"**) and more particularly described in Exhibit "C" to the final Judgment entered March 27, 2006 in *California American Water Company v. City of Seaside, et al.* (the **"Basin Adjudication Decision"**).

SNG was granted an 'Alternative Production Allocation' under the Basin Adjudication Decision. SNG's Alternative Production Allocation gives it the right to produce up to 149 acre feet of water on an annual basis from the Seaside Groundwater Basin, for beneficial use on the SNG Property. SNG's proposal to produce 90 acre feet of water annually from the Basin for use on the SNG Property is well within SNG's 149 acre foot Alternative Production Allocation.

Water for Use Offsite:
The Watermaster further understands that SNG may propose that some of the water produced from the Basin under its production allocation not be used on the SNG Property.

Prior to January 1, 2009, unless this date is extended by the Court, SNG also has the right to convert some or all of its Alternative Production Allocation to a 'Standard Production Allocation' by filing a declaration in *California American Water Company v. City of Seaside, et al.* and serving that declaration on all parties to that action. If SNG makes the election to convert some or all of its Alternative Production Allocation to a Standard Production Allocation, the amount of water which could be produced from the Seaside Groundwater Basin under the Standard Production Allocation would be subject to calculation as provided in the Basin Adjudication Decision. Water produced from the Basin under a Standard Production Allocation is not restricted to use on the SNG Property.

SNG's approach as described above is consistent with the terms of the Basin Adjudication Decision.

Under the Rules adopted by the Watermaster, SNG must report the water levels in its production well(s) to the Watermaster on a monthly basis; the amount of water it has produced on a quarterly basis; and certain water quality test results on an annual basis each fall. The Rules also require SNG to give notice to the Watermaster prior to transferring the right to produce water from the Basin under a Standard Production Right.

Sincerely,

Ralph Rubio, Chairman of the Board of Directors
Seaside Groundwater Basin Watermaster

Attachment: Exhibit C, Seaside Groundwater Basin Adjudication Court Judgment

CALIFORNIA ENVIRONMENTAL LAW PROJECT
A Non-Profit Legal Corporation

Of Counsel

Laurens H. Silver, Esq.
P.O. Box 667
Mill Valley, CA 94942
Tel: 510.237-6598
Fax: 510.237-6598

February 5, 2009

Ralph Rubio, Chairman
Seaside Groundwater Basin Watermaster
2600 Garden Road, Suite 228
Monterey, CA 93940-0810

Re: Water Connection Permit – Security National Guarantee (Watermaster Letter of September 19, 2008)

Dear Mr. Rubio:

By letter dated September 19, 2008, you advised Mr. Ed Ghandoor, Security National Guaranty, Inc. that under the Basin Adjudication Decision, "SNG's Alternative Production Allocation gives it the right to produce up to 149 acre-feet of water on an annual basis from the Seaside Groundwater Basin for beneficial use on the SNG property." You further advised that with respect to water used off-site, SNG "has the right to convert some or all of its Alternative Production Allocation to a "Standard Production Allocation…"

The SNG application referred to in your letter proposed that Cal-Am would pump groundwater from its Peralta wells and convey it through the Cal-Am distribution system for use on SNG's property. SNG proposed that this pumped water be treated as production from its Alternative Production Allocation, as set forth in the Adjudication Decision (California American v. City of Seaside, No. M66343.

For the reasons stated below, Sierra Club believes that to the extent your letter endorsed such an arrangement ("SNG's approach as described above is consistent with the terms of the Basin Adjudication Decision"), that endorsement is legally incorrect. Sierra Club requests that you reconsider this Opinion, or in the alternative, refer it to Judge Randall for interpretation.

The Adjudication Decision creates two classes of rights in the Basin – the Standard Production Allocation and the Alternative Production Allocation. The Standard Production Allocation generally includes producers with appropriative rights. The Alternative Production Allocation encompasses producers with overlying rights ("Accordingly, the Court find that the parties collectively possess a variety of rights based in prescription and other original rights (including overlying and appropriative rights).") (Decision at 9, emphasis added) In III B1, the Court, referencing "groundwater rights" states:

> "Parties have accrued mutual prescriptive rights and/or have preserved their overlying appropriative, and prescriptive rights...These individual and competitive rights, whether mutually prescriptive, appropriative, or overlying rights can be most efficiently exercised and satisfied by the implementation of this physical solution."

In III B3, p.19, the Court characterizes SNG's right as an "overlying Groundwater right" and recites that SNG "has chosen to participate in an Alternative Production Allocation." In III B3(a), id., the Court ruled that "the Alternative Production Allocation may not be transferred for use on any other property, but shall be limited to use on the respective properties..."

If the Watermaster intended in his September 19, 2008 letter to approve SNG's plan to contract with Cal-Am to pump Peralta well water to be conveyed through the Cal-Am distribution system for use on the SNG site, the Watermaster in effect authorized an unlawful use of SNG's overlying right that is not contemplated under the Decision and that is inconsistent with California law pertaining to overlying water rights. The overlying right constitutes an appurtenant right to take water from the ground and use it on the overlying property. It is unlawful to sever the appurtenant pumping right from the right of use. The overlying land-owner cannot lawfully "convey" its groundwater pumping right to a third party, who is to pump water not appurtenant to the overlying land.

In City of Barstow v Mohave Water Agency, 23 Cal.4th, 1224 (2000), the Supreme Court characterized an overlying right as "the owner's right to take water from the ground underneath for use on his land within the basin or watershed; it is based on ownership of the land and is appurtenant." 23 Cal 4th at 1231. (emphasis added) The Court cited California Water Service Co. v. Edw. Sidebotham and Sons, 224 Cal.App. 2d, 715-725. (1964) in support of its statement. The Court described the overlying rights of appellants as "the right to pump water from the ground underneath their respective lands for use on their lands."

In Hutchins, Water Rights Laws In Nineteen Western States, it is stated:

> "The right to use percolated water, as well as the corpus of the water itself, is real property." In Pasadena v. Alhambra, 33 Cal.2d 908, 925 (1949) the California Supreme Court stated that the overlying "right," or right of the owner of the land, "to take water from the ground underneath for use of his underlying land is based on ownership of the land and is appurtenant thereto." (Hutchins, Vol.II, 67). (emphasis added)

In Burr v. Maclay Rancho Water Co., 154 Cal.428, 439 (1908) the Supreme Court adjudicated the right of the plaintiff as the owner of certain lands to take waters from the underlying supply for use on such lands and declared "that such right is parcel of said lands." In Pasadena v. Alhambra, 33 Cal.2nd 908, 925 (1949) the Court stated that the overlying right to take water from the ground underneath for use on overlying land "is based on ownership of the land and is appurtenant thereto." See Hutchins, The California Law of Water Rights, at 428.

An appurtenant water right is one that is incidental to the use of land when it is by right used with the land for its benefit. Civil Code §662 recites: "A thing is deemed to be incidental or appurtenant to land when it is by right used with the land for its benefit..." Civil Code §658 defines real property. "Real or immovable property consists of (1) land; (2) that which is affixed to land, (3) that which is incidental or appurtenant to land." Id. Black's Law Dictionary defines appurtenant as "belonging to; accessory or incident o; adjunct, appended or annexed to." Black's Law Dictionary, Third Edition.

Nothing in the Court's Decision contemplates such severance of an appurtenant pumping right, as SNG has proposed. In effect it has assigned its pumping right to Cal-Am, contemplating increased Cal-Am production from the Peralta Well that will be conveyed through the Cal-Am distribution system to SNG. If the Watermaster allows this precedent to occur, other owners of Alternative Production Allocations under the Seaside Decree could similarly sever the appurtenant pumping right from their property and enjoy and use water conveyed from other parts of the Basin for use on the overlying property.[1]

Nothing in the Court's Decision relating to the Alternative Production Allocation indicates that the Court intended to expand the rights of overlying water rights owners by authorizing them to contract with off-site users to pump groundwater for use on their overlying property. Rather, the Court's Decision suggests it had no intention to expand the right, since it ruled that the "Alternative Production Allocation may not be transferred for use on any other property, but shall be limited to use on the respective properties." III B3(a), p. 19. In effect, the Watermaster has endorsed a "use" of the overlying right on other property by apparently endorsing augmented pumping at the Peralta Well and transporting the water produced off-site for ultimate use on SNG's land.

Civil Code §22.2 provides that "the common law of England, so far as it is not repugnant to or inconsistent with the Constitution of the United States, or the Constitution or laws of this State, is the rule of decision in all the courts of this state." Since the Court's decision recognizes overlying rights as the foundation for the Alternative Production Allocation, the Court had an obligation to make clear how, if at all, it was altering or abrogating the common-law rules in the context of a physical solution. It did not do so, and it may not have had the power to do so. See City of Barstow, supra.

Rather, as the Watermaster noted in his letter, if the overlying landowner wished to use water off-site and transfer its production allocation for use by others, it was authorized to do so under the Decision by electing to change all or a portion of its Alternative Production Allocation to the Standard Production Allocation. Decision III B3(e) p. 21. If SNG wishes to contract with Cal-Am to pump water off-site for use on its property it may do so only by electing to produce under the Standard Production Allocation. Under III M2 (p.42), the parties may assign and transfer any portion of their respective Production Allocation for use within the Basin. This would be the exclusive procedure for SNG to follow, as allowed under the Decision, if it wishes to have water purveyed to it from off-site wells.

---

[1] We note that (including SNG), there are approximately 1400 acre-feet in Alternative Production Allocations under the Seaside Decree.

In sanctioning SNG's proposal, the Watermaster has created special benefits to SNG that are clearly not intended under the Decision. First it has improperly "enhanced" SNG's overlying right by allowing it to sever the appurtenant pumping right from its land. Secondly, it has improperly granted SNG immunity from the 10% reduction requirement in production from the Basin that the Court has mandated for Standard Production Allocation pumpers. Had SNG done what the Decision contemplates in connection with the transfer or assignment of rights and elected to become a Standard Production Allocation producer, SNG's 149 acre foot production allocation would be subject to the 10% reduction requirement.

Sierra Club asks for reconsideration of the Watermaster's decision, and/or for submission of this matter to Judge Randall for resolution. The Decision states "full jurisdiction power and authority are retained and reserved by the Court upon application…by the Watermaster for such further or supplemental orders or directions as maybe necessary or appropriate for interpretation, enforcement, or implementation of this Decision."

Sierra Club asks for your prompt reconsideration of your opinion and that you notify the MPWMD of any such reconsideration. The MPWMD is currently considering Cal-Am's application for a water distribution permit.

Sincerely
CALIFORNIA ENVIRONMENTAL LAW PROJECT

Laurens H. Silver
On behalf of Ventana Chapter, Sierra Club

cc: Darby Fuerst, MPWMD
Victoria Whitney
Sheri Damon, Esq.

CALIFORNIA ENVIRONMENTAL LAW PROJECT

A Non-Profit Legal Corporation

Of Counsel

Laurens H. Silver, Esq.
P.O. Box 667
Mill Valley, CA 94942
Tel: 510.237-6598 Fax: 510.237-6598

February 11, 2009

Ralph Rubio, Chairman
Seaside Groundwater Basin Watermaster
2600 Garden Road, Suite 228
Monterey, CA 93940-0810

Re: Water Connection Permit – Security National Guarantee (Watermaster Letter of September 19, 2008)

Dear Mr. Rubio:

This letter is intended to supplement my letter of February 5, 2009, and to comment on a letter dated February 5, 2009 written to me by James W. Kassel of the SWRCB, concerning the Application of California-American Water Company for a Water Distribution Permit To Serve Monterey Bay Shores Ecoresort. I am forwarding a copy of this letter to you, as you are not copied on this letter. In his letter Mr. Kassel states:

> "The Water supply for this project will be up to 90 AFY from the Seaside Groundwater Basin. The Seaside Groundwater Basin Adjudication Judgment of March 27, 2006 allocated 149 AF to Security National Guaranty, Inc. (SNG) for use on the property of this project. The judgment does not restrict the production of water to the subject parcel through SNG's onsite wells. Water may also be produced from another offsite well owned by another entity and delivered to the SNG parcel, so long as the well is within the Seaside Groundwater Basin."

In connection with Mr. Kassel's interpretation of the meaning of the Adjudication Decision, with respect to the SNG application, Sierra Club would like to iterate its position taken in its February 5, 2009 letter to you. In that letter, Sierra Club stated:

> Rather, as the Watermaster noted in his letter, if the overlying landowner

> wished to use water off-site and transfer its production allocation for use by others, it was authorized to do so under the Decision by electing to change all or a portion of its Alternative Production Allocation to the Standard Production Allocation. Decision III B3(e) p.21. If SNG wishes to contract with Cal-Am to pump water off-site for use on its property it may do so only by electing to produce under the Standard Production Allocation. Under III M2 (p.42), the parties may assign and transfer any portion of their respective Production Allocation for use within the Basin. This would be the exclusive procedure for SNG to follow as allowed under the Decision, if it wishes to have water purveyed to it from off-site wells.
>
> In sanctioning SNG's proposal, the Watermaster has created special benefits to SNG that are clearly not intended under the Decision. First it has improperly "enhanced" SNG's overlying right by allowing it to sever the appurtenant pumping right from its land. Secondly, it has improperly granted SNG immunity from the 10% reduction requirement in production from the Basin that the Court had mandated for Standard Production Allocation pumpers. Had SNG done what the Decision contemplates in connection with the transfer or assignment of rights and elected to become a Standard Production Allocation producer, SNG's 149 acre foot production allocation would be subject to the 10% reduction requirement.

Sierra Club's position, then, is that since the Adjudication Decision specifically prohibits holders of the Alterative Production Allocation from transferring their water rights (allocation) for use on any other property, but shall be limited to use on the respective properties (Decision, IIIB3(a)), if SNG wishes to engage Cal-Am to pump from an off-site well, it must elect to proceed under a Standard Production Allowance (and be subject to the mandatory reduction requirements under the Adjudication Decision). Sierra Club believes that SNG has only one option under the Adjudication Decision if it wishes to proceed with its off-site pumping scheme – it must proceed to elect a Standard Production Allocation (at least with regard to the amount needed for the project).

In this respect, as qualified above, Sierra Club does not quarrel with Mr. Kassell's characterization of the Adjudication Decision.

I would also like to note that while under the common law, a riparian right may under certain circumstances be "severed" when land is subdivided and cut off from contact with a stream, see Hudson v. Daily, 156 Cal 617, 624-625 (1909), there is no case law authority that a pumping right can be severed from the overlying right so long as the water is conveyed to the overlying land for use there. In any event, the Adjudication Decision itself supplants the common law relating to overlying rights. It contemplates severance of the overlying pumping right, by permitting a holder of an Alternative Production Allocation to elect to proceed under a Standard Production Allocation. This "severance" however, which promotes transferability of pumping rights within the aquifer effectively "transmutes" the common-law overlying right into a transferable interest in water, which, under the Decision, can be effectuated only through an election to proceed under a Standard Production Allocation.

In the last paragraph of its February 5, 2009 letter, Sierra Club asked for your "prompt

reconsideration of your opinion". Since the City of Seaside maintains a Municipal Water System, which includes 3 water wells, and is an Alternative Allocation Producer under the Decision, Sierra Club believes that it would be appropriate for you acting as Watermaster, to apply to Judge Randall, for an opinion, as set forth in the Adjudication Decision, rather than to render a decision or reconsideration. Please set this matter on the agenda for the March 4, 2009 Watermaster Board meeting.

Sincerely
CALIFORNIA ENVIRONMENTAL LAW PROJECT

Laurens H. Silver
On behalf of Ventana Chapter, Sierra Club

cc: Darby Fuerst, MPWMD
Victoria Whitney
Sheri Damon, Esq.

State Water Resources Control Board

Division of Water Rights
1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
Fax: 916.341.5400 ♦ www.waterrights.ca.gov

Linda S. Adams
Secretary for
Environmental Protection

Arnold Schwarzenegger
Governor

Laurens H. Silver, Esq.
P.O. Box 667
Mill Valley, CA 94942

Dear Mr. Silver:

APPLICATION OF CALIFORNIA AMERICAN WATER COMPANY FOR WATER DISTRIBUTION PERMIT TO SERVE MONTEREY BAY SHORES ECORESORT

This letter is in response to your letter dated January 15, 2009 to Victoria Whitney, State Water Resources Control Board (State Water Board) Deputy Director for Water Rights, asking for a determination whether the one-for-one reduction of Condition 2 of State Water Board Order 95-10 applies to the 90 acre-feet per year (AFY) that will be pumped by the California American Water Company (Cal-Am) for the benefit of the Monterey Bay Shores Ecoresort in Sand City. We are also in receipt of your letter to Ms. Whitney dated January 26, 2009 providing your position on this matter in greater detail. Because the State Water Board is currently considering evidence presented at a recent water right hearing with regard to compliance with Order 95-10 and Ms. Whitney is advising the Board on that matter, she has asked me to respond to your request in my capacity as the Chief Enforcement Officer for the Division of Water Rights.

Conditions 2 and 4 of Order 95-10 state:

2. Cal-Am shall diligently implement one or more of the following actions to terminate its unlawful diversions from the Carmel River: (1) obtain appropriative permits for water being unlawfully diverted from the Carmel River, (2) obtain water from other sources of supply and make one-for-one reductions in unlawful diversions from the Carmel River, provided that water pumped from the Seaside aquifer shall be governed by condition 4 of this Order not this condition, and/or (3) contract with another agency having appropriative rights to divert and use water from the Carmel River.

4. Cal-Am shall maximize production from the Seaside aquifer for the purpose of serving existing connections, honoring existing commitments (allocations), and to reduce diversions from the Carmel River to the greatest extent. The long-term yield of the basin shall be maintained by using the practical rate of withdrawal method.

I have reviewed the description of this project on the website of the Monterey Peninsula Water Management District (District) and have discussed the project with District staff. The water supply for this project will be up to 90 AFY from the Seaside Goundwater Basin. The Seaside Groundwater Basin Adjudication Judgment of March 27, 2006 allocated 149 AFY to Security National Guaranty, Inc. (SNG) for use on the property of this project. The judgment does not restrict the production of water to the subject parcel through SNG's onsite wells. Water may also be produced from another offsite well owned by another entity and delivered to the SNG parcel so long as the well is within the Seaside Groundwater Basin. For this project, Cal-Am

will be using its water distribution system to deliver water to this project from Seaside Groundwater Basin wells offsite of this project parcel. Because of the inter-related nature of Cal-Am's water delivery system, it is my understanding that there is a possibility that Cal-Am could supply this project with Carmel River water.

Because the supply of water being supplied from the Seaside Groundwater Basin has been allocated to SNG by the Seaside Groundwater Adjudication, it is my opinion that Order 95-10 does not require Cal-Am to make a one-for-one reduction in its unlawful diversion from the Carmel River. However, Cal-Am should not in any case supply this project with Carmel River water. This would only exacerbate Cal-Am's illegal diversion of water from the Carmel River.

If the District decides to approve this application, I recommend that the District require Cal-Am to implement strict water accounting methods to ensure that any use of Carmel River water does not serve this project. Furthermore, it would be in Cal-Am's interest to include such accounting in its quarterly reports to the State Water Board in order to demonstrate that service to this project does not violate Order 95-10.

I also note that SNG will only be using up to 90 AFY for this project and will have 59 AFY of its groundwater allocation remaining. Cal-Am should consider obtaining the rights to any unused portions of the water allocations from the Seaside Basin groundwater adjudication from SNG and other entities in order to minimize its use of water from the Carmel River. It is my opinion that Cal-Am should undergo these efforts at least in an interim time frame to reduce its unauthorized diversion from the Carmel River until it secures an alternate long term water supply.

Please call me at (916) 341-5446 if you have any questions regarding this matter.

Sincerely,

James W. Kassel

James W. Kassel
Assistant Deputy Director for Water Rights

cc: Darby Fuerst, General Manager
Monterey Peninsula Water Management District
5 Harris Court Building
PO Box 85
Monterey, CA 93942

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

Victoria Whitney, State Water Board Deputy Director for Water Rights

John O'Hagan, Manager, Division of Water Rights Enforcement Section

Reed Sato, Director, State Water Board Office of Enforcement

Anthony L. Lombardo
Jeffery R. Gilles

Dennis C. Beougher
Patrick S.M. Casey
Sheri L. Damon
E. Soren Diaz
J. Kenneth Gorman
Koren R. McWilliams
Paul Rovella
Bradley W. Sullivan
James W. Sullivan
Kelly McCarthy Sutherland

Virginia A. Hines
Of Counsel

Amy Purchase Reid
Of Counsel

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

225 Sixth Street
Hollister, CA 95023
831-630-9444

February 17, 2009

Ralph Rubio, Chairman
Seaside Groundwater Basin Watermaster
2600 Garden Road, Suite 228
Monterey CA 93940-0810

RE: Response to California Environmental Law Project Letters
Dated February 5, 2009 and February 11, 2009

Dear Mr. Rubio:

This letter is submitted in response to Laurens H. Silver's letter dated February 5, 2009 directed to the Water Master regarding its review and approval of the SNG water distribution permit application to the Water Management District, and his follow up letter dated February 11, 2009.

Response to February 5, 2009 Letter

As pointed out in Mr. Silver's letter, the Amended Decision states that Alternative Production Allocation may not be transferred ***for use*** on any other property, but shall be limited to use on the respective property.[1] But Mr. Silver errs in asserting that SNG is proposing to ***use*** its water off-site. To the contrary, as the Water Master acknowledged, SNG proposes to use its Alternative Production Allocation on the SNG property for the proposed resort project. Thus, Mr. Silver's objection on this point has no merit.

Mr. Silver similarly ignores the other provisions of the Amended Decision which support the production from any location within the subarea of the Seaside Basin. He argues that the Amended Decision did not address the issue. Mr. Silver is again incorrect. See, e.g., the definitions section:

"the amount of Groundwater that a Producer …may Produce from a subarea of the Seaside Basin…;"[2]

Groundwater is all Water beneath the ground surface in the Seaside Basin…;[3]

Producer means a Party possessing Base Water Rights;

---

[1] Amended Decision Section III B3(a), page 19:
[2] Amended Decision, Section III, A.1.:4-6
[3] Amended Decision, Section IIIA.12.:14-16

Production Allocation is the amount of Groundwater that a Producer may Produce from a subarea of the Seaside Basin….;[4]

Each Producer is authorized to Produce its Production Allocation within the designated subarea ….;[5]

"The Alternative Production Allocation may not be transferred for use on any other property…."[6]

All of these provisions support the proposal by SNG to allow Cal Am to pump SNG's water inland (to minimize environmental impacts on the basis) and deliver it for use on SNG's property for the resort project. Mr. Silver ignores the authority bestowed by the Amended Decision as well as the environmental benefits that this arrangement is designed to achieve.

Mr. Silver further ignores the powers of the Water Master to manage the Seaside basin, including its correlative pumping and, in particular, the authority to:

> adopt a comprehensive monitoring and management plan;[7]
>
> relocate authorized production locations;[8]
>
> take any action to protect groundwater quality and reduce potential threats to contamination;[9] and
> take any other action to implement the Amended Decision.[10]

The Watermaster was well within its powers and duties to issue its decision on the water distribution permit application finding that SNG's applications consistent with the Amended Decision.

Additionally, case law supports both the Watermaster's decision and the Monterey Court's physical solution to the Seaside Basin Adjudication decision, in that water rights in an adjudicated basin are correlative to one another. A long line of cases support the notion that overlying water rights situated over a "common strata of percolating water" may be exercised to take such quantity of water as may be reasonably necessary for the beneficial use upon his land or the reasonable proportion of such water, for use upon lands situated over the strata.[11] In other words, just as the Amended Decision emphasizes the location of use, so do the cases.

---

[4] Amended Decision, Section IIIA27. Page 14:24-27
[5] Amended Decision, Section IIIB2, Page 17-18
[6] Amended Decision, Section IIIB3a., Page 20
[7] Amended Decision, Section III L(3)(j)(i), Page 32
[8] Amended Decision, Section III L(3)(j)(xxii), Page 39
[9] Amended Decision, Section IIIL(3)(j)(xxiii), Page 39-40
[10] Amended Decision, Section III L(3)(j)(xxiv), Page 40
[11] Katz v. Walkinshaw, 141 Cal. 116; **Peabody v. Vallejo, 2 Cal. 2d 351**

Mr. Silver cites several laws and cases which are irrelevant to this situation because none of the citations deal directly with an adjudicated basin. Mr. Silver also fails to correctly describe the SNG proposal, which is to use its allocation on its own property - - SNG is not converting it or delivering it ***for use*** on some other property. Accordingly, there is no requirement for SNG to convert the Alternative Allocation to a Standard Allocation.

The Water Master's decision is binding and final upon the Water Management District.

Response to February 11, 2009 Letter

Mr. Silver's February 11, 2009 letter is principally a response to the February 5, 2009 determination by the SWRCB that Order 95-10 "does not require Cal Am to make a one-for-one reduction . . . ." Previously, this had been one of Mr. Silver's most vigorous assertions and it has now been conclusively rejected by the SWRCB.

Mr. Silver thus again reverts to his standby argument that SNG's proposal is not allowed by the Amended Decision without a conversion to standard allocation. For the reasons specified above, Mr. Silver misinterprets the Amended Decision and mischaracterizes SNG's proposal. SNG's proposal does not "transmute" its right into a transferable interest in water but rather is simply a mechanism to ensure that an environmentally superior approach to pumping within the sub basin is employed. i.e., to minimize any potential for saltwater intrusion from pumping in the coastal area. It is ironic that the Sierra Club, an organization which claims to place a priority on environmental protection, is opposed to a measure that is scientifically recognized as an environmentally responsible approach to minimizing the potential for seawater intrusion on the Seaside Basin. This very issue was considered by the Court in the trial leading up to the Amended Decision.

The Water Master's decision was correct. It has no obligation to file anything with Judge Randall. If the Sierra Club believes otherwise, it, not the Water Master, has the burden to seek judicial relief in accordance with the appropriate procedures.

Thank you.

Sincerely,

LOMBARDO & GILLES, LLP

Sheri L. Damon

cc: Darby Fuerst

ITEM IX. B. 2.
3/18/09

SEASIDE GROUNDWATER BASIN
WATERMASTER

TO: Board of Directors

FROM: Laura Dadiw, Assistant to the Watermaster CEO
APPROVED BY: Dewey Evans, CEO

DATE: March 18, 2009

SUBJECT: Current versus Proposed Watermaster Carryover Credit Record Keeping and Replenishment Assessment Calculation

---

PURPOSE:

The purpose of this item is for the Watermaster Board to determine whether to change the basis of calculation of carryover credits when Replenishment Assessments are levied on pumpers that overproduce during a given water year.

The second purpose of this item is for the Watermaster Board to consider acceptance that Alternative Production Allocation ("APA") that is exceeded in any given water year is to be assessed for Operating Yield Overproduction only once.

RECOMMENDATION:

It is recommended that the Board consider accepting the request of the City of Seaside to use its proposed method for Carryover Credit when calculating Replenishment Assessments. It is further recommended that the Board consider accepting the non-duplicative method of Replenishment Assessment of APA producers for Operating Yield Over-Production as set forth by the City of Seaside.

BACKGROUND:

At the end of each Water Year, Watermaster determines if any of the four Standard Producers ("SPs") has overproduced its Base Water Right or Natural Safe Yield ("NSY") Allocation from the Seaside Groundwater Basin ("Basin") and, if so, levies a NSY Over-Production Replenishment Assessment and, if applicable, Operating Yield Over-Production Replenishment Assessment based on production reported by producers to Watermaster each quarter. The Decision and the Watermaster Rules and Regulations set forth a general method for calculating the Replenishment Assessments including the NSY Over-Production Assessment that is based on a percentage share of NSY allotted to each of the four Standard Producers. The calculation of Replenishment Assessments takes into consideration allocations that may not have been pumped by SPs during a given Water Year, termed "carryover credits" in the Decision.

Watermaster staff, assisted by California American Water's Counsel at the time – Sandra Dunn of Somach, Simmons & Dunn – interpreted the governing documents and calculated Replenishment Assessments for Water Year 2006, the first year of the Adjudication. A calculation spreadsheet using the WY 2006 method was developed and used for WY 2007 and again for WY 2008.

The City of Seaside, in a memorandum dated November 21, 2008, contended that Watermaster had erred in its method of calculation of the Replenishment Assessments and accounting of carryover credits and objected to the related Watermaster 2009 Replenishment Assessment

Budget. Attorney Russ McGlothlin for the City of Seaside provided Watermaster his interpretation of the Decision as to the appropriate accounting method for carryover credits and Replenishment Assessments. Mr. Robert Jaques, Watermaster Technical Program Manager, subsequently provided a document to the City of Seaside and California American Water ("CAW") Attorney, Tim Miller on the rationale for the current method that Watermaster uses for calculating Replenishment Assessments.

The City of Seaside, jointly with CAW, presented in a memorandum dated December 5, 2008, contentions with the Watermaster accounting method with respect to carryover credit and replenishment assessments to Counsel of Record, Seaside Basin Adjudication, to solicit feedback regarding the proposed corrected calculation method. Graniterock Company and D.B.O Development No. 27 submitted notices that each had no objection to the City of Seaside's interpretation of the Decision in the matter and the proposed methodology; other parties have not yet responded that Watermaster is aware of.

This issue was presented as informational at the last Watermaster Board meeting of February 4, 2009 noting that the Budget / Finance Committee would review further. A meeting of the Committee was not able to be arranged due to conflicts in member schedules.

DISCUSSION:

Calculation of Carryover Credits:

Watermaster currently calculates Replenishment Assessments designating carryover credits as the full amount not pumped by SPs below Base Water Right Allocations in the previous year. The total of all of the SP's Base Water Rights including full carryover credits is then used to determine the percentage of Natural Safe Yield available to each SP (Base Water Right of each SP divided by total Base Water Rights of all SPs) which is then used to determine NSY overproduction and the amount of Replenishment Assessment to be levied.

Watermaster staff prepared matrices in an attempt to quantify the City of Seaside's proposed corrected accounting of Carryover Credits and Replenishment Assessments. It was interpreted by staff that the City of Seaside contends:

1) NSY Allocation is separate and distinct from any carryover credits accumulated therefore the % Natural Safe Yield available to SPs should remain the same each year as long as the Natural Safe Yield of the Basin is not adjusted by order or decree.

2) Carryover credits accrued in the previous water year should be classified as "free" if the producer pumped less than the NSY allocated in that year, and classified as "not free" if the producer pumped less than its total base water right for that year but not less than the producer's NSY allocation.

An analysis of the matrices as presented (see attached) shows that the proposed accounting method would, if retroactive over the past 3 years, result in the NSY assessments against California American Water being reduced $28,695.32 for WY 2007 and $153,868.39 for WY 2008; the City of Seaside assessments would be reduced $7,761.40 for WY 2007 and $11,642.73 for WY 2008.

Replenishments Assessments on Operating Yield Overproduction:

The City of Seaside claims that the intent of the Decision is for Alternative Production Allocation ("APA") that is exceeded in any given water year to be assessed for Operating Yield Over-Production only once claiming that "additional" in the Decision language in this regard has the

meaning of "distinct," and further noting that double charging for each acre foot of Operating Yield Over-Production results in an accrual of twice what is required to fund this one-for-one replenishment.

CONCLUSION:

Absent the ability to directly contact the judge for certainty as to the intent of the Court in the matter, Watermaster has interpreted the ambiguous nature of the Decision language with regards to this issue to the best of its ability and has presented sound rationale for its current method of assessment. Watermaster is currently negotiating to retain unbiased legal counsel to assist in this type of issue and hopes to have a contract in place by the end of March.

The City of Seaside feels that the matter can be acted upon by the Watermaster Board without the need to contact the judge or the need for Watermaster to retain counsel for assistance. Four of the Counsels of Record have weighed in with no objection to the proposed methodology as noted above. The Watermaster CEO is in agreement that the method proposed by the City of Seaside seems reasonable, and Mr. McGlothlin feels it is in line with the judge's design of the Decision's prescribed physical solution.

FISCAL IMPACT

Board acceptance of a change in carryover credit accounting as proposed by the City of Seaside, if retroactive for Water Years 2006-2008 results in a decrease in assessments of $201,967.84.[1]

Board acceptance of a non-duplicative charge for APA Operating Yield Over-Production would result in a decrease in the City of Seaside APA assessment for Water Year 2008 of $131,705.

ATTACHMENTS:

Memorandum from City of Seaside dated November 21, 2008 re: Objection to 2009 Calculation of Replenishment Assessment

Response Paper from Robert Jaques, Watermaster Technical Program Manager, on the Rationale for Current Method of Calculating Replenishment Assessments (with side-bar comments by City of Seaside)

Memorandum from City of Seaside and CAW dated December 5, 2008 re: Watermaster Accounting Methods with Respect to Carryover Credits and Annual Replenishment Assessment Obligations

Water Year Replenishment Assessment Analysis for WY 2006, 2007, and 2008

Worksheets for the Seaside Basin Watermaster Producer Allocations WY 2006, 2007, and 2008 as reported by Watermaster in Annual Reports to Court for WY 2006, 2007, and 2008

Worksheets for the Seaside Basin Watermaster Producer Allocations WY 2006, 2007, and 2008 using the City of Seaside proposed rationale

Email notice of non-objection from Graniterock Company dated December 22, 2008 (confidential – on file)

Email notice of non-objection from D.B.O. Development dated February 16, 2009 (confidential – on file)

[1]*The reduction in replenishment assessments related to carryover credit could be offset by a corrected amount of $50,940 owed by the City of Seaside due to an error made in the 2006 Water Year calculation, subject to Board review.*

Note: Any change in the method of calculating Carryover Credits or Replenishment Assessments would need to be addressed in the Annual Report to the Court.

Note: The City of Seaside has not formally acknowledged whether the matrices developed by the Watermaster staff reflect the proposed methodology as intended.

Memorandum

Russell McGlothlin
805.882.1418 tel
805.965.4333 fax
rmcglothlin@bhfs.com

DATE: November 21, 2008

TO: Seaside Basin Watermaster

FROM: Russell McGlothlin

RE: Objection to 2009 Calculation of Replenishment Assessment

---

They City of Seaside ("City") contends that the Seaside Groundwater Basin Watermaster ("Watermaster") has erred in its calculation of the applicable replenishment assessment and accounting of Carryover Credits based upon a misinterpretation of the Seaside Basin Decision (California American Water v. City of Seaside et al. (Superior Court of Monterey County, 2006, No. M66343 ("Decision").) For these reasons, the City objects to the 2009 Watermaster Budget until these matters are resolved.

I. CARRYOVER ACCOUNTING AND EFFECT UPON REPLENISHMENT ASSESSMENT CALCULATION

Carryover is the amount of a Party's Production Allocation that is not extracted from the Basin in a given year. (Decision III.A.5, p. 11.) Likewise, a Carryover Credit is the quantity of water established through Carryover (via non-production) that a party is entitled to produce from the Basin in future years. (Amended Decision III.A.6, p. 11.) We understand that in calculating the amount of Native Safe Yield ("NSY") available for production by the parties in any particular year, Watermaster currently deducts the amount of accumulated Carryover Credits from the assumed NSY of 3,000 acre-feet, thereby reducing the amount of NSY available for production by the parties under their respective APA or SPA rights for the year at issue. The City contends that this accounting procedure misconstrues the Carryover concept and the NSY. The Carryover represents a portion of the Operating Yield Allocation, and is part the NSY, for the year that the Carryover Credits accrue, not the year that that the Carryover Credits are carried over to or pumped. Under the Watermaster's present approach, it is possible that Carryover Credits could reach 3,000 acre feet, and thus eviscerate NSY for a given water year. Such result was not intended by the Decision

The appropriate accounting method is to account for Carryover Credits separately from the NSY. Watermaster should also account for Carryover Credits in two categories as follows:

(1) A Carryover Credit that was part of the SPA producer's share of the NSY (i.e. "free production"), for which no replenishment assessment would have been paid had the water been produced rather than carried over, should be accounted for as a "free" Carryover Credit. No replenishment assessment should be assessed upon water extracted pursuant to this category.

21 East Carrillo Street | Santa Barbara, CA 93101-2706
Brownstein Hyatt Farber Schreck, LLP | bhfs.com
805.963.7000 *tel*
805.965.4333 *fax*

(2) Watermaster should separately account for any Carryover Credit that was part of the SPA producer's Operating Yield Allocation, but in excess of the SPA Producer's share of the NSY for the year in which the credit accrued. A replenishment assessment should be assessed against water extracted pursuant to this category because the SPA Producer would have incurred a replenishment assessment for this allocation had the water been produced rather than carried over. .

This accounting approach is consistent with the Decision because the Carryover reflects water not pumped within the Operating Yield/NSY in the year in which the credit accrues. The Carryover Credit is effectively a means of storing Operating Yield/NSY from one year for production in a later year. The basin remains balanced within the cumulative pumping limitations while allowing beneficial flexibility. Watermaster's current practice of deducting Carryover Credits from the NSY in future years arbitrarily reduces the amount of NSY available for the SPA producers, and is thus inconsistent with the physical solution adopted by the Decision.

II. REPLENISHMENT ASSESSMENTS ON OPERATING YIELD OVER-PRODUCTION

The Amended Decision distinguishes between *Over-Production* and *Operating Yield Over-Production*. Over-Production is the groundwater available for production between the SPA producer's Operating Yield Allocation and its share of NSY (i.e., free production.) (Decision, III.A.21, p. 14.) Operating Yield Over-Production is production in excess of a producers Operating Yield allocation. (Decision, III.A.21, 22, p. 14.) The City and Cal Am have both produced groundwater in excess of their Operating Yield allocation (i.e., Operating Yield Over-Production.) This Operating Yield Over-Production violated the Decision because the Watermaster did not declare that replenishment water is available to allow Operating Yield Production. (See Decision, III.B.j.iii., p. 33 [disallowing Operating Yield Over-Production in years in which Watermaster does not declare replenishment water to be available].) The City is pursuing initiatives to ensure future violations do not occur.

Watermaster has billed a double replenishment assessment on this Operating Yield Over-Production because it incorrectly interprets the Decision to require Watermaster to impose a duplicative assessment upon Operating Yield Over-Production rather than a separate and distinct replenishment assessment upon Operating Yield Over-Production. We recognize that there is certain ambiguity in the Decision resulting from its description of the replenishment assessment applied to Operating Yield Over-Production as an "additional" assessment. (Decision, III.B.j.iii., p. 33.) However, it is important to focus on the type of production to which the replenishment assessment applies. Again, the Decision defines "Over-Production" and "Operating Yield Over-Production" distinctly. Operating Yield Overproduction commences where standard Over-Production ends. Because the Decision defines the two forms of over-production distinctly, the replenishment assessments should likewise be applied distinctly.

The double assessment proposed by Watermaster also has no justification within the physical solution's design to each acre foot of water that is extracted in excess of NSY. Double charging for each acre foot of Operating Yield Over-Production results in an accrual of twice what is required to fund this one-for-one replenishment.

III. ERROR IN CALCULATING THE CITY'S SPA PRODUCTION ALLOCATION

On February 7, 2007, the Watermaster calculated Seaside Municipal's SPA as 7.43 percent of the 3,868 afy allocated to the Coastal Subarea. This equates to 287.4 afy. However, the Watermaster rounded down the SPA Operating Yield for Seaside Municipal to 287 afy. The

Watermaster has incorrectly used 287 afy, instead of 287.4 afy, to calculate the NSY for the City's municipal system. The City requests that its Operating Yield Allocation of *287.4* afy be used. .

RATIONALE FOR CURRENT METHOD OF CALCULATING REPLENISHMENT ASSESSMENTS

Definitions of Terms

The following definitions of terms used in this paper are taken directly from Section III.A of the Amended Decision filed February 9, 2007 in the Monterey County Superior Court.

Base Water Right is the percentage figure or the fixed amount assigned to each Party as provided in Section III.B.2, which is used to determine various rights and obligations of the Parties as provided in Sections III.B.2, III.B.3, III.L.3.c, and III.L.3.j.iii.

Carryover means that portion of a Party's Production Allocation that is not Extracted from the Basin during a particular Water Year. Each acre-foot of Carryover establishes an acre-foot of Carryover Credit.

Carryover Credit means the quantity of Water established through Carryover, that a Party is entitled to Produce from the Basin pursuant to Section III.F.

Natural Safe Yield means the quantity of Groundwater existing in the Seaside Basin that occurs solely as a result of Natural Replenishment. [Note: in this Section of the Amended Decision a range of values for the Natural Safe Yield is described for the Basin as a whole, and for the Coastal Subareas. A specific value of 608 acre-feet per year is described for the Laguna Seca Subarea.]

Operating Safe Yield means the maximum amount of Groundwater resulting from Natural Replenishment that this Decision, based upon historical usage, allows to be produced from each Subarea for a finite period of years, unless such level of production is found to cause Material Injury. The Operating Safe Yield for the Seaside Basin, as a whole, is 5,600 acre-feet. The Operating Yield is 4,611 acre feet for the Coastal Subarea and 989 acre-feet for the Laguna Seca Subarea. [Note: there is further discussion under this definition regarding the Operating Safe Yield and Material Injury, but it does not appear to be pertinent to this paper, so it is not repeated here.]

Over-Production means (1) with regard to all production from the Seaside Basin, that quantity of Production which exceeds an initially assumed Natural Safe Yield of 3,000 afy (or such adjusted calculation of Natural Safe Yield as further study of the Basin by the Watermaster shall justify); or (2) with regard to each Producer, that quantity of Water Produced in any Water Year in excess of that Producer's Base Water Right, as applied to an initially assumed Natural Safe Yield of 3,000 afy (subject to adjustment as further study shall justify). For a Party producing under the Alternative Production Allocation, the calculation shall be based upon the Base Water Right assigned to them in Table 1, infra, only to the extent that Party has elected to convert all or part of an Alternative Production Allocation into a Standard Production Allocation, pursuant to Section III.B.3.e.

Comment [r1]: Acknowledge that this definition does not place an upper cap on Over-Production where Operating Over-Production commences.

Operating Yield Over-Production means pumping of Native Water by Producers in excess of the Standard Production Allocation or Alternative Production Allocation, as discussed in Section III.L.3.j.iii.

Production Allocation is the amount of Groundwater that a Producer may Produce from a Subarea of the Seaside Basin based on the Parties' election to proceed under either the Standard Production Allocation or the Alternative Production Allocation set forth in Sections III.B.2 and III.B.3, respectively.

Replenishment Assessment means an assessment levied by the Watermaster per each acre-foot of Over-Production against each party Over-Producing Groundwater in the previous Water Year. The amount of the assessment shall be sufficient to cover the cost of Artificial Replenishment in an amount necessary to off-set that Producer's Over-Production, and levied as provided in Section III.L.3.j.iii.

Standard Production Allocation is the amount of Groundwater that a Producer participating in this allocation method may Produce from a Subarea of the Seaside Basin as provided in Section III.B.2, which is determined by multiplying the Base Water Right by the Operating Yield.

Comment [r2]: Note that Operating Yield Over-Production is defined separate and distinct from Over-Produciton.

Comment [r3]: Note the design of the physical solution is to replace Over-Production not augment more than Over-Production

Sections of the Amended Decision Dealing with the Calculation of Replenishment Assessments

Section III.B.2: Standard Production Allocation. Each Producer is authorized to Produce its Production Allocation within the designated Subarea in each of the first three Water Years. Except for those Parties electing to proceed under the Alternative Production Allocation, as set forth in Section III.B.3, each Producer's Production Allocation for the first three Water Years shall be calculated by multiplying its Base Water Right, set forth in Table 1 below, by that portion of the Operating Yield which is in excess of the sum of the Alternative Production Allocations. The Operating Yield for the Seaside Basin, as a whole, is set at 5,600 acre feet annually (afa). The Operating Yield for the Coastal Subarea is 4,611 afa, with 743 afa committed to Alternative Production Allocations and 3,868 afa committed to Standard Production Allocations. The Operating Yield for the Laguna Seca Subarea is 989 afa, with 644 afa committed to Alternative Production Allocations and 345 afa committed to Standard Production Allocations. [Note: There is additional discussion under this Section that does not appear to be pertinent to this paper, and is therefore not repeated here.]

Section III.B.3: Alternative Production Allocation. The Alternative Production Allocation provides the aforementioned parties [sic. all the listed Alternative Producers] with a prior and paramount right over those Parties Producing under the Standard Production Allocation. [Note: There is additional discussion under this Section that does not appear to be pertinent to this paper, and is therefore not repeated here.]

Section III.F: Right to Carry over Unused Production Allocations; Carryover Credits. Except for those certain Parties electing to proceed under the Alternative Production Allocation, as set forth in Section III.B. 3., for the first three Water Years each Producer who, during a particular

Water Year, does not Extract from the Basin a total quantity equal to such Producer's Standard Production Allocation for the particular Water Year may establish Carryover Credits, up to the total amount of that Producer's Storage Allocation; provided, however, in no circumstance may the sum of a Producer's Storage Credits and Carryover Credits exceed that Producer's available Storage Allocation. Use (Extraction) of Carryover Credits shall be governed as otherwise provided in this Decision and the Watermaster's Rules and Regulations. In consideration of Seaside Basin's hydrogeologic characteristics, Watermaster may discount the quantity of Water that may be Extracted pursuant to a Carryover Credit.

Section III.H.5: Carryover. Each Producer operating under the Standard Production Allocation shall have the right to use their respective Storage Allocation to Store any Carryover Water subject to the provisions of this Decision. Unused (not Extracted) Stored Water Credits and Carryover Credits shall be carried over from year to year for the first three Water Years. Thereafter, Carryover Water withdrawal is subject to a percentage decrease consistent with percentage decreases in the Operating Yield, according to the terms of this Decision. Due to the hydrogeologic characteristics of the Seaside Basin, naturally occurring losses of stored Water may require Watermaster to discount the percentage of Stored Water that may be Extracted. Watermaster shall study the efficiencies of Storage in the Seaside Basin and set a uniform percentage for withdrawals of Stored Water.

Section III.K: Order of Accounting for the Production of Groundwater. Unless otherwise requested by a Producer in writing to Watermaster, Watermaster shall account for all Production water from the Seaside Basin by a Producer in any Water Year as follows: Production shall first be deemed Production of that Producer's Production Allocation up to that Producer's total Production Allocation, and thereafter shall be deemed Production of that Producer's Carryover Credits, if any, and thereafter shall be deemed Production of the Producer's Stored Water Credits, if any. So long as consistent with this section, Watermaster may prescribe administrative rules within its Rules and Regulations concerning the method and manner of accounting for the Production of Groundwater.

Comment [r4]: Note that Decision distinguishes between production of Production Allocation and Carryover Credits. Production Allocation arises from the current year's NSY. Carryover arises from prior year NSY. Note also that the Decision imparts authority to Watermaster to prescribe accounting rules, which provides grounds to account for "free" Carryover and Carryover subject to the RA.

Section III.L.3.j.ii: Declaration of Operating Yield. Based upon the evidence at trial concerning historic Production in the Basin, the Court sets as the Operating Yield for the Seaside Basin, as a whole, as 5,600 acre feet. The Operating Yield for the Coastal Subarea is 4,611 acre feet and 989 acre feet for the Laguna Seca Subarea. [Note: there is further discussion in this Section that does not appear to be pertinent to this paper, and is therefore not repeated here.]

Section III.L.3.j.iii : Artificial Replenishment Assessments. Each Water Year, the Watermaster will determine a Replenishment Assessment for Artificial Replenishment of the Seaside Basin necessary to offset the cumulative Basin Over-Production (as defined in Section III.A.21.), and levy a Replenishment Assessment. Said Replenishment Assessment does not apply to Production under an Alternative Production Allocation so long as such Production is within the fixed amount established for that Producer in Table 2 of Section III.B.3. Funds so generated may be accumulated for multiple Water Years, if necessary, and shall be utilized solely for replenishment of the Basin Groundwater supply with Non-native water.

Comment [r5]: Again note that the intent of the physical solution to raise sufficient RA to offset cumulative Over-Production. This does not suggest double assessment on some Over-Production, which would raise more than required for a one-for-one replenishment.

An additional Watermaster Replenishment Assessment shall be levied after the close of each Water Year against all Producers that incurred Operating Yield over-Production during the Water Year. Said assessment shall be in addition to the Replenishment Assessment addressed in Section III.A.21. The Replenishment Assessment based upon Operating Yield over-Production shall be levied against the Parties participating in the Alternative Production Allocation for only such Production that exceeds the Parties' respective fixed Alternative Production Allocation identified in Table 2. In the event Watermaster cannot procure Artificial Replacement Water to offset Operating Yield over-Production during the ensuing Water Year, the Watermaster shall so declare in December and no Operating Yield over-Production then in effect may occur during the ensuing Water Year. Funds generated by the Operating Yield Over-Production Assessment shall be used by the Watermaster to engage in or contract for Replenishment of the Operating Yield Over-Production occurring in the as expeditiously as possible.

Replacement Assessments based on Over-Production and Operating Yield Over-Production shall be assessed within 60 days of the end of each Water Year on a per acre-foot basis on each acre-foot, or portion of an acre-foot, of Over-Production, and payment shall be due no later than January 15 of the following year. The per acre-foot amount of the Replenishment Assessments shall be determined and declared by Watermaster in October of each Water Year in order to provide Parties in advance knowledge of the cost of Over-Production in that Water Year.

Comment [r6]: Acknowledge the use of the term "additional," but additional must not necessarily mean "duplicative:" "Additional" can also be interpreted as as a second or another separate RA on Operating Yield Over-Production, which a separately defined form of Over-Production.

Discussion and Rationale for the Current Method of Calculating Replenishment Assessments

For Standard Producers

Step 1: Determine how much water was actually produced by all of the Alternative Producers during the Water Year. This data comes from the Watermaster's "Annual Production Report" which is included in Appendix 1 of the Annual Report.

Step 2: Subtract the total amount actually produced by all of the Alternative Producers (from Step 1) from the Natural Safe Yield (NSY) for the Basin, established by the Decision in the definition of Over-Production to be 3,000 AFY for the Basin as a whole. This calculation determines the amount of water available to be produced by the Standard Producers without incurring a Replenishment Assessment for cumulative Basin Over-Production.

Comment [r7]: Agree with analysis to here

Rationale: The definition of Over-Production states that with regard to all production from the Seaside Basin, Over-Production is defined as that quantity of Production which exceeds an initially assumed Natural Safe Yield of 3,000 afy.

Comment [r8]: However, read together with the other provisions of the Decision, the 3,000 afy should not include production of Carryover established pursuant to a prior years NSY or Stored Water.

Section III.B.2 states that within the Coastal Subarea the Operating Yield is 4,611 afa, with 743 afa committed to Alternative Production Allocations and 3,868 afa committed to Standard Production Allocations. This Section also states that within the Laguna Seca Subarea the Operating Yield is 989 afa, with 644 afa committed to Alternative Production Allocations and 345 afa committed to Standard Production Allocations.

Section III.L.3.j.iii states that the Basin Over-Production Assessment does not apply to any Alternative Producer, as long as the Alternative Producer has not pumped more than its Production Allocation. Hence, the Alternative Producers cumulative production in any Water Year is subtracted from the NSY figure of 3,000 AFY to determine how much of the NSY is available for use by the Standard Producers before they incur a Replenishment Assessment for Basin Over-Production.

Step 3: Allocate the amount of NSY available to the Standard Producers (from Step 2) to each Standard Producer in proportion that the Standard Producer's Operating Yield allocation. A Standard Producer's Operating Yield allocation can vary from year-to-year depending on whether a Standard Producer has any Carryover Credits from prior Water Years. The calculation is performed in a series of steps:

(A) the amount of Operating Yield available to Standard Producers in each Subarea is determined by subtracting the total amount of Operating Yield set aside for the Alternative Producers in that Subarea from the total Operating Yield for that Subarea (the Operating Yield amounts for each Subarea, and the amounts of Operating Yield set aside for the Alternative Producers in each Subarea, are listed in Section III.B.2 of the Amended Decision),

(B) the Standard Producers' Base Water Rights percentages from Table 1 in Section 3.B.2 of the Amended Decision are normalized, so that the percentages add up to 100.00% in each of the two Subareas (Coastal and Laguna Seca),

(C) these normalized percentages (from Step B) are multiplied by the amount of Operating Yield that is available to Standard Producers in each of the two Subareas (from Step A). This determines the amount of Base Water Right for each of the Standard Producers,

(D) if a Standard Producer has any Carryover Credits from prior Water Years, these Carryover Credits are added to that Standard Producer's Base Water Right (from Step C) to arrive at the Standard Producer's Operating Yield allocation for this Water Year, which is the total amount of water that the Standard Producer is allowed to pump during this Water Year without incurring a Replenishment Assessment for Operating Yield Over-Production,

(E) the percentage of total Operating Yield available to each Standard Producer in this Water Year is determined by dividing each Standard Producer's value from Step D by the total amount of all of the Standard Producers' values from Step D.

Rationale: Carryover Credits recognize that if a Standard Producer pumps less that its Base Water Right [as described in Step 3C)] in a given Water Year, that Standard Producer is entitled to carry over the unpumped amount to subsequent year(s). Thus, the amount of water that a Standard Producer is authorized by the Amended Decision to pump in any given Water Year (its Operating Yield allocation for that Water Year) can vary and may be more than its Base Water Right, depending on whether that Standard Producer had any Carryover Credits for that Water Year.

Step 4: The percentage of total Operating Yield available to each Standard Producer [from Step 3(E)] is multiplied by the amount of water available to be produced by the Standard Producers

Comment [r9]: This is where we disagree. A Producer's Operating Yield Allocation is calculated by multiplying its Base Water Right, set forth in Table 1, by that portion of the Operating Yield which is in excess of the sum of the Alternative Production Allocations. See definition above. It does not include Carryover or Stored Water. These should be accounted for separately.

Comment [r10]: Again, disagree with this step.

Comment [r11]: Yes, but this does not require that Carryover be included within a party's Operating Yield Allocation

without incurring a Replenishment Assessment for cumulative Basin Over-Production (from Step 2) to determine the volume of NSY available for each Standard Producer to pump in this Water Year without incurring a Replenishment Assessment for cumulative Basin Over-Production.

Rationale: The Amended Decision does not provide any direction or guidance on how the volume of NSY available for each Standard Producer is to be determined. Distributing the total amount of NSY available to all of the Standard Producers based on their percentages of total Operating Yield available is the approach that has been used by the Watermaster since its inception, and is the most logical and reasonable approach to be used.

Comment [r12]: Agree with this statement but Carryover should be included in determining SPA producer's share of the Operating Yield.

Step 5: The volume of NSY available for each Standard Producer to pump in this Water Year without incurring a Replenishment Assessment for cumulative Basin Over-Production (from Step 4) is subtracted from each Standard Producer's actual Production for this Water Year (this data comes from the Watermaster's "Annual Production Report" which is included in Appendix 1 of the Annual Report) to determine each Standard Producer's NSY Over-Production.

Rationale: This is as defined in the definition of Over-Production, and as described in Section 3.L.3.j.iii of the Amended Decision.

Step 6: The Replenishment Assessment for cumulative Basin Over-Production for each Standard Producer is determined by multiplying each Standard Producer's NSY Over-Production (from Step 5) by the Replenishment Assessment unit cost adopted by the Water Master for this Water Year. This unit cost is adopted and declared by the Watermaster at the beginning of each Water Year, and is discussed in Section H of the Annual Report.

Comment [r13]: In our opinion, this standard Over-Production should only equal the amount of each SPA producer's Operating Yield Allocation minus their share of the NSY. The category of Operating Yield Allocation covers the remainder as described in Step 7 below.

Rationale: This is as described in the definition of Replenishment Assessment in the Amended Decision.

Step 7: The Standard Producer's Operating Yield allocation for this Water Year [from Step 3(D)] is subtracted from the Standard Producer's actual Production for this Water Year to determine each Standard Producer's Operating Yield Over-Production.

Rationale: This is as described in the definition of Operating Yield Over-Production, and as described in Section 3.L.3.j.iii of the Amended Decision.

Step 8: The Replenishment Assessment for Operating Yield Over-Production for each Standard Producer is determined by multiplying each Standard Producer's Operating Yield Over-Production (from Step 7) by the Replenishment Assessment unit cost adopted by the Water Master for this Water Year.

Rationale: This is as described in the definition of Replenishment Assessment in the Amended Decision.

Step 9: The total amount of Replenishment Assessment that is levied against each Standard Producer for this Water Year is the sum of the amounts found in Steps 6 and 8.

Rationale: This is as described in Section III.L.3.j.iii of the Amended Decision.

For Alternative Producers

Step 1: The volume of water each Alternative Producer is authorized to pump in this Water Year without incurring a Replenishment Assessment for cumulative Basin Over-Production is the Alternative Producer's Allocation, as set forth in Table 2 of Section III.B.3 of the Amended Decision. The Alternative Producer's Allocation is subtracted from the Alternative Producer's actual Production for this Water Year (this data comes from the Watermaster's "Annual Production Report" which is included in Appendix 1 of the Annual Report) to determine each Alternative Producer's Basin Over-Production.

Rationale: This is as defined in the definition of Over-Production, and as described in Section 3.L.3.j.iii of the Amended Decision.

Step 2: The Replenishment Assessment for cumulative Basin Over-Production for each Alternative Producer is determined by multiplying each Alternative Producer's Basin Over-Production (from Step 1) by the Replenishment Assessment unit cost adopted by the Water Master for this Water Year. This unit cost is adopted and declared by the Watermaster at the beginning of each Water Year, and is discussed in Section H of the Annual Report.

Rationale: This is as described in the definition of Replenishment Assessment in the Amended Decision, and as described in Section 3.L.3.j.iii of the Amended Decision.

Step 3: The volume of water each Alternative Producer is authorized to pump in this Water Year without incurring a Replenishment Assessment for Operating Yield Over-Production is the Alternative Producer's Allocation, as set forth in Table 2 of Section III.B.3 of the Amended Decision. The Alternative Producer's Allocation is subtracted from the Alternative Producer's actual Production for this Water Year (this data comes from the Watermaster's "Annual Production Report" which is included in Appendix 1 of the Annual Report) to determine each Alternative Producer's Operating Yield Over-Production.

Comment [r14]: We are of the opinion that there is only the Operating Yield Over-Production RA applicable to the production by an APA producer in excess of the APA allocation set forth in Section Table 2 of Section III.B.3.

Rationale: This is as described in the definition of Operating Yield Over-Production.

Step 4: The Replenishment Assessment for Operating Yield Over-Production for each Alternative Producer is determined by multiplying each Alternative Producer's Operating Yield Over-Production (from Step 3) by the Replenishment Assessment unit cost adopted by the Water Master for this Water Year.

Rationale: This is as described in the definition of Replenishment Assessment in the Amended Decision, and as described in Section 3.L.3.j.iii of the Amended Decision.

Step 5: The total amount of Replenishment Assessment that is levied against each Alternative Producer for this Water Year is the sum of the amounts found in Steps 2 and 4.

Rationale: This is as described in Section III.L.3.j.iii of the Amended Decision. That Section states that each of the two components of the Replenishment Assessment, the component for cumulative Basin Over-Production and the component for Operating Yield Over-Production, do not apply to Production under an Alternative Production Allocation so long as such Production is within the fixed amount established for that Producer in Table 2 of Section III.B.3. The language in this Section makes it clear that if an Alternative Producer pumps in excess of its Alternative Production Allocation, it is to be charged both components of the Replenishment Assessment.

Intent of the Replenishment Assessment, and the Two Components Thereof

The definition of Replenishment Assessment states that the amount of the assessment shall be sufficient to cover the cost of Artificial Replenishment in an amount necessary to off-set that Producer's Over-Production, and levied as provided in Section III.L.3.j.iii.

Section III.L.3.j.iii states that funds generated by the Replenishment Assessments shall be utilized solely for replenishment of the Basin Groundwater supply with Non-native water.

The intent of having two components to the Replenishment Assessment is not explicitly stated in the Amended Decision. However, the fact that two components are to be calculated for each Producer, both Standard and Alternative, is clearly stated in Section III.L.3.j.iii.

It appears that the intent of the component pertaining to cumulative Basin Over-Production is intended principally to provide a financial incentive to all users to pump as little water as possible to meet their demand requirements. This appears to be the intent, since the NSY of 3,000 AFY is substantially lower than the Operating Yield of 5,600 AFY, so it is very unlikely that the Producers could all reduce their pumping sufficiently to cumulatively pump less than 3,000 AFY.

It appears that the intent of the component pertaining to cumulative Operating Yield Over-Production is intended to provide an additional financial incentive to all users to not exceed their Operating Yield allocations. Section 3.L.j.iii even uses the wording that this component is "An additional Watermaster Replenishment Assessment…" This appears to be the intent, since the Operating Yield of 5,600 AFY in the Amended Decision was based on actual historical pumping records, and was intended to represent a reasonable amount of water to meet the demand requirements of all of the Producers in the Basin, in a typical year.

Comment [r15]: We disagree that this intent is evident in the Decision. Rather, we view the intent to be garnering sufficient revenue to offset production in excess of the NSY. Watermaster's interpretation would (a) raise more revenue than is required to replenish overproduction, and (b) create a disincentive to engaging in Operating Yield Over-Production after replenishment water becomes available – an undesirable result when the Basin can be used as a resource for conveyance and storage of imported water.

Memorandum

Russell M. McGlothlin
805.882.1418 tel
805.965.4333 fax
RMcglothlin@bhfs.com

DATE: December 5, 2008

TO: Counsel of Record, Seaside Basin Adjudication - California American Water v. City of Seaside et al. (Super. Ct. County of Monterey, 2006, No. M66343)

FROM: Russell M. McGlothlin

RE: Watermaster Accounting Methods With Respect to Carryover Credits and Annual Replenishment Assessment Obligations

I. INTRODUCTION

California-American Water Co. (Cal Am) and the City of Seaside (Seaside) jointly submit this memorandum to solicit feedback from other counsel of record with respect to the Seaside Groundwater Basin Watermaster's (Watermaster) method for accounting for Carryover Credits and calculation of the annual Replenishment Assessment (RA) obligations. Cal Am and Seaside respectfully disagree with the method used by Watermaster in the following respects:

- Carryover – Watermaster presently includes Carryover Credits within its calculation of each Standard Production Allocation (SPA) producer's share of the available Native Safe Yield (NSY). Cal Am and Seaside contend that Carryover Credits should be accounted for separately and independently, and should have no bearing on a SPA's producer's share of NSY. Further, Carryover Credits should be accounted for in two separate categories: (1) "free" Carryover Credits that are not subject to an RA, and Carryover Credits subject to the RA (see discussion below).

- Double RA on Operating Yield Overproduction – The Decision distinguishes between Over-Production and Operating Yield Over-Production. Watermaster interprets the Decision to require that Operating Yield Over-Production be assessed a double RA. Cal Am and Seaside object to Watermaster's approach because it renders the definition of Operating Yield Over-Production superfluous, conflicts with the purpose of the RA, and is generally inconsistent with the design of the Decision's prescribed physical solution.

Cal Am and Seaside request that the other legal counsel of record in this action provide feedback on or before December 31, 2008 concerning the substance of this memorandum and the accounting approaches recommended herein.

21 East Carrillo Street | Santa Barbara, CA 93101-2706
Brownstein Hyatt Farber Schreck, LLP | bhfs.com
805.963.7000 *tel*
805.965.4333 *fax*

II. DISCUSSION

A. Calculating Carryover Credit

Carryover is the amount of a SPA producer's allocation that is not extracted from the Basin in a given year. (Decision, III.A.5, p. 11.) A Carryover Credit is the quantity of water established through Carryover that a SPA producer may produce from the Basin in future years in addition to its SPA. (See Decision, III.A.6, p. 11, F, p.22, H.5, p. 27.) Because the Carryover Credit represents a portion of the Operating Yield Allocation for the year in which it accrues, the Carryover Credit should be accounted for as a portion of the Operating Yield for the year of accrual, and should have no bearing on the Operating Yield or NSY in future years.

Watermaster should account for Carryover Credits in two categories as follows:

(1) Carryover Credits that accrue from non-production of a SPA producer's share of the NSY (i.e. "free production"), for which no replenishment assessment would have been paid had the water been produced rather than carried over, should be accounted for as a "free" Carryover Credit. No replenishment assessment should be assessed upon water extracted pursuant to this category.

(2) Watermaster should separately account for Carryover Credits that accrue from non-production of a SPA producer's Operating Yield Allocation, but in excess of the SPA Producer's share of the NSY. A replenishment assessment should be assessed against water extracted pursuant to this category because the SPA Producer would have incurred a replenishment assessment for this allocation had the water been produced rather than carried over. .

This accounting approach is consistent with the Decision because the purpose of authorizing the accrual of Carryover Credits is to effectively allow storage and later use of unneeded Operating Yield/NSY[1]. Separate accounting of Carryover Credits is also consistent with the Decision's production limits. Carryover Credits resulting from un-pumped Operating Yield remains stored in the Basin, allowing additional production in future years without exceeding the cumulative production limits over multiple years.

As explained below, Watermaster currently includes Carryover Credits in its calculation of each SPA producer's share of the available NSY in future years. Cal Am and Seaside object to Watermaster's current accounting procedure because it causes Carryover Credits developed in prior years to impact the proportion of NSY available to each SPA producer during the present year.

B. RA Calculation

Cal Am and Seaside object to two aspects of Watermaster's RA calculation approach. The first concerns the inclusion of Carryover Credits in the method for calculating the RA. The second concerns the imposition of a double RA on Operating Yield Over-Production.

---

[1] NSY (initially assumed to be 3,000 afy) is a component of the Operating Yield (initially set at 5,600 afy).

1. Carryover Credits and the RA Calculation

In calculating each SPA producer's RA obligation each year, the Watermaster presently includes Carryover Credits in the cumulative total quantity of allowed production for each SPA producer, and then based upon this adjusted amount, determines each SPA producer's proportionate share of the available NSY (3,000 afy minus APA production). The calculation effects each SPA producer's RA obligation because no RA is incurred for production of each producer's share of the NSY. The approach used by Watermaster causes SPA producers that do not possess Carryover Credits to receive a lower amount of the available NSY, and thus increases their RA burden.

For the reasons discussed above, it is inappropriate to include Carryover Credits, which were developed in prior years, in the calculation of shares of the available NSY. Rather, each SPA producer's share of the available NSY should be determined solely on the basis of their Base Water Right as a percentage of the total of Base Water Rights held by all SPA producers. Carryover Credits should be accounted for separately.

2. Double RA on Operating Yield Over-Production

The Decision provides separate definitions for *Over-Production* and *Operating Yield Over-Production*. Over-Production is defined as production in excess of a producer's Base Water Right as applied to an initially assumed NSY of 3,000 afy. . (Decision, III.A.21, p. 14.) Operating Yield Over-Production is defined as production in excess of a producer's Operating Yield allocation. (Decision, III.A.21, 22, p. 14.) There is some ambiguity in the Decision pertaining to the application of the RA to Operating Yield Over-Production. The Decision states that an "additional" RA shall be imposed upon Operating Yield Over-Production. (Decision, III.L.j.iii, p. 33.) The Decision is unclear as to whether the term "additional" should be interpreted as either (1) a duplicative RA, or (2) another, separate RA, which is to be applied to a distinct form of over-production. Watermaster reads the term additional to require it to impose a duplicative RA on Operating Yield Over-Production, while Cal Am and Seaside interprets the term to mean another, separate RA.

Another way to pose the question is as follows: does the RA applicable to the first form of over-production (i.e., over-production between a SPA producer's share of the NSY and its Operating Yield allocation) end where Operating Yield Over-Production begins, or does the first form of over-production continue and overlap with Operating Yield Over-Production? The first interpretation would support the conclusion that Operating Yield Over-Production is subject to a distinct and separate RA. The later interpretation supports imposition of a double RA on Operating Yield Over-Production because an RA would be applied to *all* production in excess of NSY including Operating Yield Over-Production, and a second duplicative RA would apply to the subset that is Operating Yield Over-Production.

A narrow reading of the definition of Over-Production would favor the later interpretation because the definition appears to include *all* production in excess of a producer's Base Water Right. (Decision, III.A.21, p. 14.) However, such a narrow reading would render the definition of Operating Yield Over-Production superfluous, which would violate the canon of interpretation that all terms of a judgment should be given meaning. (*People v. Landon White Bail Bonds* (1991) 234 Cal.App.3d 66, 76.)

Such an interpretation would also deviate from the practical purpose for the RA, which is to procure sufficient funds for Watermaster to secure non-native water supplies to replenish each acre-foot of production in excess of NSY, thereby ensuring that over the long-term no greater amount of groundwater is produced from the Basin than is replenished by natural and artificial sources. (See Decision, III.L.j.iii, p. 33 [providing that the RA is to be assessed on a "per acre-foot basis on each acre foot" of Over-Production]; see also definition of Over-Production, Decision, III.A.21, p. 14 [defining Over-Production in the Basin-wide context as all production in excess of the NSY].) Double charging for each acre foot of Operating Yield Over-Production would result in greater replenishment revenue than is necessary to replenish the cumulative in excess of the NSY. Such an interpretation would conflict with the rule that each clause or term of a judgment is to be construed in relation to the entire judgment as a whole to effectuate the evident intent. (*Lazar v. Superior Court* (1940)16 Cal.2d 617, 622.)

An interpretation that results in a double assessment would also impair opportunities for practical Basin management over the long-term. Operating Yield Over-Production is not allowed by the Decision's terms unless non-native replenishment supplies are available to replenish the excess production. However, once non-native supplies are available in the future, practical strategies may be implemented to use the Basin as a means to store, treat, and deliver artificially replenished water supplies, including treated recycled water. For example once ample replenishment water is available water users could be encouraged to engage in Operating Yield Over-Production as the means to obtain their water supply requirements and then pay a single (i.e., non-duplicative) RA for the Operating Yield Over-Production. Watermaster would use the funds to procure (likely in cooperation with others) sufficient non-native replenishment water to offset the additional production. Such a strategy could be implemented as a means to avoid construction of unnecessary delivery, treatment, and storage infrastructure. As a result, the community could lower the costs of the Coastal Water Project, and make greater beneficial use of treated recycled water by realizing the additional treatment effects that result from groundwater storage of treated recycled water.

The Decision allows such future innovative water management. Such strategies are also consistent with other adjudicated groundwater basins in the State (see e.g., Mojave adjudication). However, imposition of a double RA on Operating Yield Over-Production would create a virtually insurmountable perverse incentive to such desirable water management opportunities.

III. THE WATERMASTER IS NOT AUTHORIZED TO CREATE NEW ASSESSMENTS

Cal Am and Seaside object to the double RA applied to the Operating Yield Over-Production because the Decision does not authorize such double assessment for the reasons discussed. Cal Am and Seaside have each produced groundwater in excess of their respective Operating Yield allocations, resulting in Operating Yield Over-Production when non-native replenishment supplies are presently unavailable. The Judgment is silent on the consequences for Operating Yield Over-Production when replenishment water is unavailable and therefore any response must be from the Court – not the Watermaster.

Regarding the potential for Court action, Cal Am and Seaside also ask that other legal counsel of record consider the following:

- Both entities are attempting strategies to remedy Operating Yield Over-Production in that Seaside has contracted for the purchase of surplus Carryover Credits to offset Operating Yield Over-Production within its municipal system, and Cal Am is seeking clarification to apply water stored pursuant to its ASR program to offset its Operating Yield Over-Production;

- Payment of a single RA on Operating Yield Over-Production will raise sufficient funds to procure replenishment water when available to offset the Operating Yield Over-Production;

- Both entities are making all reasonable efforts to avoid recurrence; and

- Unauthorized double assessments are paid for by the public (Seaside citizens or Cal Am ratepayers).

IV. REQUEST FOR ACCORD AMONG THE PARTIES

Seaside and Cal Am request that the other legal counsel of record provide feedback on the substance of this memo *on or before December 31, 2008*, and to the extent there is accord, support Cal Am's and Seaside's request that Watermaster modify its accounting method with respect to Carryover Credits and the calculation of the RA, consistent with the approach recommended herein. If there is disagreement among the Parties, we believe that all would benefit from a mutual request for clarification from the Court.

WATERMASTER

2006 WATER YEAR REPLENISHMENT ASSESSMENT ANALYSIS

Standard Producers	**Cal Am**	**Seaside Muni**	**Granite Rock**	**DBO Development**	
2006 - Watermaster Calculations (billed to producers)					
Actual Production	3,710.00	332.00	-	-	
Volume of NSY Available	1,848.00	138.00	13.00	23.00	
NSY Overproduction	1,861.00	149.00	-	-	
Assessment	$ 2,106,652.00	$ 168,668.00	$ -	$ -	$ 2,275,320.00
OY Available	3,849.20	287.40	27.10	49.30	
OY Overproduction	-	45.00	-	-	
Assessment	$ -	$ 50,940.00	$ -	$ -	$ 50,940.00
	$ 2,106,652.00	**$ 219,608.00**	**$ -**	**$ -**	**$ 2,326,260.00**
2006 - Using City of Seaside Rationale					
Actual Production	3,710.00	332.00	-	-	
Volume of NSY Available	1,848.00	137.93	13.01	23.66	
NSY Overproduction	1,861.00	149.00	-	-	
Assessment	$ 2,106,652.00	$ 168,668.00	$ -	$ -	$ 2,275,320.00
OY Available	3,849.20	287.40	27.10	49.30	
OY Overproduction	-	45.00	-	-	
Assessment	$ -	$ 50,940.00	$ -	$ -	$ 50,940.00
WATER YEAR 2006 ASSESSMENT TOTALS	**$ 2,106,652.00**	**$ 219,608.00**	**$ -**	**$ -**	**$ 2,326,260.00**
Difference	***$ -***	***$ -***	***$ -***	***$ -***	

WATERMASTER

2007 WATER YEAR REPLENISHMENT ASSESSMENT ANALYSIS

Standard Producers	Cal Am	Seaside Muni	Granite Rock	DBO Development	
2007 - Watermaster Calculations (billed to producers)					
Actual Production	4,059.90	287.70	-	-	
Volume of NSY Available	1,768.20	127.40	33.70	33.80	
NSY Overproduction	2,291.70	160.50	-	-	
Assessment	$ 2,594,166.34	$ 181,671.87	$ -	$ -	$ 2,775,838.21
OY Available	3,990.20	287.40	54.10	98.30	
OY Overproduction	69.60	0.50	-	-	
Assessment	$ 78,837.77	510 39/50	$ -	$ -	$ 79,348.55
	$ 2,673,004.11	**$ 182,182.65**	**$ -**	**$ -**	**$ 2,855,186.76**
2007 - Using City of Seaside Rationale					
Actual Production	4,059.90	287.70	-	-	
Volume of NSY Available	1,793.58	133.92	12.63	22.97	
NSY Overproduction	2,266.32	153.78	-	-	
Assessment	$ 2,565,471.02	$ 174,081.65	$ -	$ -	$ 2,739,552.67
OY Available (rounded to WM figure above)	3,990.20	287.40	54.20	98.60	
OY Overproduction	69.60	0.30	-	-	
Assessment	$ 78,837.77	339.60	$ -	$ -	$ 79,177.37
WATER YEAR 2007 ASSESSMENT TOTALS	**$ 2,644,308.79**	**$ 174,421.25**	**$ -**	**$ -**	**$ 2,818,730.04**
Difference	***$ 28,695.32***	***$ 7,761.40***	***$ -***	***$ -***	

WATERMASTER

2008 WATER YEAR REPLENISHMENT ASSESSMENT ANALYSIS

Standard Producers	Cal Am	Seaside Muni	Granite Rock	DBO Development	
2008 - Watermaster Calculations (billed to producers)					
Actual Production	3,862.90	294.20	-	-	
Volume of NSY Available	1,708.80	127.60	36.05	65.70	
NSY Overproduction	2,154.08	166.67	-	-	
Assessment	$ 5,352,881.92	$ 414,182.45	$ -	$ -	$ 5,767,064.37
OY Available	3,849.20	287.40	81.30	147.90	
OY Overproduction	13.70	6.80	-	-	
Assessment	$ 34,044.50	16,898.00	$ -	$ -	$ 50,942.50
	$ 5,386,926.42	**$ 431,080.45**	**$ -**	**$ -**	**$ 5,818,006.87**
2008 - Using City of Seaside Rationale					
Actual Production	3,862.90	294.20	-	-	
Volume of NSY Available	1,770.74	132.21	12.47	22.68	
NSY Overproduction	2,092.16	161.99	-	-	
Assessment	$ 5,199,013.53	$ 402,539.72	$ -	$ -	$ 5,601,553.25
OY Available	3,849.20	287.40	81.30	147.90	
OY Overproduction	13.70	6.80	-	-	
Assessment	$ 34,044.50	16,898.00	$ -	$ -	$ 50,942.50
WATER YEAR 2008 ASSESSMENT TOTALS	**$ 5,233,058.03**	**$ 419,437.72**	**$ -**	**$ -**	**$ 5,652,495.75**
Difference	***$ 153,868.39***	***$ 11,642.73***	***$ -***	***$ -***	

Standard Producers	Cal Am	Seaside Muni	Granite Rock	DBO Development
Difference Total for 06, 07 & 08 Water Years Using City of Seaside Rationale	***$ 182,563.71***	***$ 19,404.13***	***$ -***	***$ -***

Replenishment Assessments

Using the Basin-wide methodology approved by the Court on January 12, 2007, and as shown in detail on the spreadsheet attached hereto, Watermaster calculated the Water Year 2006 Replenishment Assessments as follows:

Natural Safe Yield: 3000 acre-feet

Cumulative Alternative Production Allocations: 978 acre-feet

Natural Safe Yield Available to Standard Producers: 2022 (3000 minus 978)

Standard Producers' Allocation of Natural Safe Yield:

California American – 1848 acre-feet (91.38 percent)
Seaside Municipal – 138 acre-feet (6.81 percent)
DBO – 23 acre-feet (1.16 percent)
Granite Rock – 13 acre-feet (.64 percent)

Standard Producers' Natural Yield Overproduction:

California American – 1861 acre-feet
Seaside Municipal – 194 acre-feet
DBO – 0
Granite Rock – 0

Natural Yield Over Production Replenishment Assessments:

California American – $2,106,652 (1861 acre-feet of Over Production multiplied by the $1132 per acre-foot replenishment assessment approved by Watermaster)
Seaside Municipal - $168,668 (149 acre-feet of Over Production multiplied by the $1132 per acre-foot replenishment assessment approved by Watermaster)

Operating Yield Over Production Replenishment Assessment:

The City of Seaside produced 45 acre-feet in excess of its Standard Production Allocation. Watermaster is imposing an additional replenishment assessment on this Over Production.

Seaside Municipal - $50,940

Total Water Year 2006 Replenishment Assessments: $2,326,260.

Water Year 2007 - Watermaster Calculation of Allocations

SEASIDE BASIN WATERMASTER PRODUCER ALLOCATIONS

Initial Basin-Wide Operating Yield[1]	**5600**	**Coastal Operating Yield[1]**	**4611**
Natural Safe Yield (NSY)[2]	**3000**	**Laguna Seca Operating Yield[1]**	**989**

ALTERNATIVE PRODUCER ALLOCATIONS

Coastal Subarea[3]	**Acre-Feet**	**Laguna Seca Subarea[3]**	**Acre-Feet**
Seaside (Golf)	540	Pasadera	251
SNG	149	Bishop	320
Calabrese	14	York School	32
Mission Memorial (Alderwood)	31	Laguna Seca County Park	41
Sand City	9		
Total[1]	**743**	**Total[1]**	**644**

STANDARD PRODUCER ALLOCATIONS

Coastal Operating Yield Available to Standard Producers (AFY)	**3,868**	**Laguna Seca Operating Yield Available to Standard Producers (AFY)**	**345**

Coastal Subarea	**Standard Producer Allocations**		**AFY Available to This Producer**	**Laguna Seca Subarea**	**Standard Producer Allocations**		**AFY Available to This Producer**
	Base Water Right %[4]	**Weighted %[5]**			**Base Water Right %[4]**	**Weighted %[5]**	
California American Water	77.55%	90.60%	3,504.2	California American Water	100.00%	100.00%	345.0
Seaside (Municipal)	6.36%	7.43%	287.4				
Granite Rock	0.60%	0.70%	27.1				
D.B.O. Development No. 27	1.09%	1.27%	49.3				
Total	**85.60%**	**100.00%**	**3,868.0**	**Total**	**100.00%**	**100.00%**	**345.0**

Allocation of Available Operating Yield Among Standard Producers	**Base Water Right Available to this Producer (AF)**	**Carryover Credits from Prior Water Year (AF)**	**Total Available to this Producer in This Water Year (AF)**	**% of Total Operating Yield Allocation Available to Standard Producers in This Water Year**
California American Water	3,849.2	141	3,990.2	90.07%
Seaside (Municipal)	287.4	0	287.4	6.49%
Granite Rock	27.1	49	76.1	1.72%
D.B.O. Development No. 27	49.3	27	76.3	1.72%
Total	**4,213.0**	**217.0**	**4,430.0**	**100.00%**

Footnotes:
(1) From page 17 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.
(2) From page 14 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.
(3) From page 21 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.
(4) From Table 1 on page 19 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.

Water Year 2007 - Watermaster Calculation of Replenishment Assessements

CALCULATION OF REPLENISHMENT ASSESSMENTS

Using the Basin-wide methodology approved by the Court on January 12, 2007, and as shown in detail on the spreadsheet contained in this Attachment, Watermaster calculated the Water Year 2007 Replenishment Assessments as follows:

2007 Replenishment Assessment Unit Charge = $1,132.00

NSY Available to Standard Producers for WY 2007 (AF) = 1963.1

Standard Producers	WY 2007 Production (AF)	% of NSY Available	Volume of NSY Available (AF)	NSY Overproduction (AF)	NSY Overproduction Assessment	Operating Yield Available (AF)	Operating Yield Overproduction (AF)	Operating Yield Overproduction Assessment	Total Assessment
California American Water	4059.9	90.07%	1,768.2	2,291.7	$2,594,166.34	3,990.2	69.6	$78,837.77	$2,673,004.11
Seaside (Municipal)	287.8	6.49%	127.4	160.5	$181,671.87	287.4	0.5	$510.78	$182,182.65
Granite Rock	0.0	1.72%	33.7	0.0	$0.00	76.1	0.0	$0.00	$0.00
D.B.O. Development No. 27	0.0	1.72%	33.8	0.0	$0.00	76.3	0.0	$0.00	$0.00
Total Production	**4347.7**	**100.00%**	**1963.1**	**2452.2**	**$2,775,838.21**	**4,430.0**	**70.1**	**$79,348.55**	**$2,855,186.76**

Water Year 2008 - Watermaster Calculation of Allocations

SEASIDE BASIN WATERMASTER PRODUCER ALLOCATIONS

Initial Basin-Wide Operating Yield[1]	**5600**	**Coastal Operating Yield[1]**	**4611**
Natural Safe Yield (NSY)[2]	**3000**	**Laguna Seca Operating Yield[1]**	**989**

ALTERNATIVE PRODUCER ALLOCATIONS

Coastal Subarea[3]	Acre-Feet	Laguna Seca Subarea[3]	Acre-Feet
Seaside (Golf)	540	Pasadera	251
SNG	149	Bishop	320
Calabrese	14	York School	32
Mission Memorial (Alderwood)	31	Laguna Seca County Park	41
Sand City	9		
Total[1]	**743**	**Total[1]**	**644**

STANDARD PRODUCER ALLOCATIONS

Coastal Operating Yield Available to Standard Producers (AFY)	**3,868**	**Laguna Seca Operating Yield Available to Standard Producers (AFY)**	**345**

Coastal Subarea	Standard Producer Allocations		AFY Available to This Producer	Laguna Seca Subarea	Standard Producer Allocations		AFY Available to This Producer
	Base Water Right %[4]	Weighted %[5]			Base Water Right %[4]	Weighted %[5]	
California American Water	77.55%	90.60%	3,504.2	California American Water	100.00%	100.00%	345.0
Seaside (Municipal)	6.36%	7.43%	287.4				
Granite Rock	0.60%	0.70%	27.1				
D.B.O. Development No. 27	1.09%	1.27%	49.3				
Total	**85.60%**	**100.00%**	**3,868.0**	**Total**	**100.00%**	**100.00%**	**345.0**

Allocation of Available Operating Yield Among Standard Producers	Base Water Right Avaliable to this Producer (AF)	Carryover Credits from Prior Water Year (AF)[6]	Total Available to this Producer in This Water Year (AF)	% of Total Operating Yield Allocation Available to Standard Producers in This Water Year
California American Water	3,849.2	0.0	3,849.2	88.17%
Seaside (Municipal)	287.4	0.0	287.4	6.58%
Granite Rock	27.1	54.2	81.3	1.86%
D.B.O. Development No. 27	49.3	98.6	147.9	3.39%
Total	**4,213.0**	**152.8**	**4,365.8**	**100.00%**

Footnotes:
(1) From page 17 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.
(2) From page 14 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.
(3) From page 21 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.
(4) From Table 1 on page 19 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.
(5) Calculated from the Base Water Right percentages in the adjacent column.
(6) From the "Annual Report 2007" tab of this Spreadsheet. This same amount is also stated on page 2 of Watermaster's "Annual Report-2007."

Water Year 2008 - Watermaster Calculation of Replenishment Assessment

CALCULATION OF REPLENISHMENT ASSESSMENTS

Using the Basin-wide methodology approved by the Court on January 12, 2007, and as shown in detail on the spreadsheet contained in this Attachment, Watermaster calculated the Water Year 2008 Replenishment Assessments as follows:

2008 Replenishment Assessment Unit Charge = $2,485

NSY Available to Standard Producers for WY 2007 (AF)[1][3] = 1938.1

Standard Producers	WY 2008 Production (AF)	% of NSY Available	Volume of NSY Available (AF)	NSY Overproduction (AF)	NSY Overproduction Assessment	Operating Yield Available (AF)	Operating Yield Overproduction (AF)	Operating Yield Overproduction Assessment	Total Assessment
California American Water	3862.9	88.17%	1,708.8	2,154.1	$5,352,939	3,849.2	13.7	$34,045	$5,386,983
Seaside (Municipal)	294.2	6.58%	127.6	166.6	$414,001	287.4	6.8	$16,898	$430,899
Granite Rock	0.0	1.86%	36.1	0.0	$0	81.3	0.0	$0	$0
D.B.O. Development No. 27	0.0	3.39%	65.6	0.0	$0	147.9	0.0	$0	$0
Total Production	**4,157.1**	**100.00%**	**1,938.1**	**2,320.7**	**$5,766,940**	**4,365.8**	**20.5**	**$50,943**	**$5,817,882**

Alternative Producers [2]	WY 2008 Production (AF)	% of NSY Available	Volume of NSY Available (AF)	NSY Overproduction (AF)	NSY Overproduction Assessment	Operating Yield Available (AF)	Operating Yield Overproduction (AF)	Operating Yield Overproduction Assessment	Total Assessment
City of Seaside (Golf Courses)	593.0	N/A	540.0	53.0	$131,705	540.0	53.0	$131,705	$263,410
Total Production	**593.0**	**N/A**	**540.0**	**53.0**	**$131,705**	**540.0**	**53.0**	**$131,705**	**$263,410**

Footnotes:

(1) Calculated as the difference between the NSY amount of 3,000 AF (from the "2008 Annual Report Sheet 1" in this Spreadsheet) and the Total Production from Alternative Producers of 1,114.9 AF (from the "Annual Production Report 2008" sheet in this Spreadsheet).

(2) In accordance with Section III.L.3.j.iii of the Amended Decision, Alternative Producers are not subject to the Replenishment Assessments unless their pumping exceeds their pumping allocation set forth in Table 2 of the Amended Decision. If that allocation amount is exceeded, then the Replenishment Assessments for both NSY Overproduction and Operating Yield Overproduction apply to the amount by which the allocation was exceeded.

(3) The City of Seaside (Golf Course) pumped in excess of its allocated amount by 53.0 AF, as noted in the table above. This overpumping amount does not serve to reduce the NSY available to Standard Producers, since a Replenishment Assessment charge against Seaside results from this overpumping. If the overpumping amount also reduced the NSY available to Standard Producers, it would result in double-assessing this overpumping amount, because the Standard Producers would be assessed for this amount, too.

Seaside Basin Groundwater Account
Per Amended Decision, Dated February 9, 2007

PROPOSED CITY OF SEASIDE PRODUCER ALLOCATIONS WY 2006

Initial Basin-Wide Operating Yield[1]	**5600.0**	**Coastal Operating Yield[1]**	**4611.0**
Natural Safe Yield (NSY)[2]	**3000.0**	**Laguna Seca Operating Yield[1]**	**989.0**

ALTERNATIVE PRODUCER ALLOCATIONS

Coastal Subarea[3]	Acre-Feet	Laguna Seca Subarea[3]	Acre-Feet
Seaside (Golf)	540.0	Pasadera	251.0
SNG	149.0	Bishop	320.0
Calabrese	14.0	York School	32.0
Mission Memorial (Alderwood)	31.0	Laguna Seca County Park	41.0
Sand City	9.0		
Total[1]	**743.0**	**Total[1]**	**644.0**

STANDARD PRODUCER ALLOCATIONS

Coastal Operating Yield Available to Standard Producers (AFY)			**3868.00**	**Laguna Seca Operating Yield Available to Standard Producers (AFY)**			**345.00**
Coastal Subarea	**Standard Producer Allocations**		**AFY Available to This Producer**	**Laguna Seca Subarea**	**Standard Producer Allocations**		**AFY Available to This Producer**
	Base Water Right %[4]	**Weighted %[5]**			**Base Water Right %[4]**	**Weighted %[5]**	
California American Water	77.55%	90.60%	3504.20	CAW	45.13%	100.00%	345.00
Seaside (Municipal)	6.36%	7.43%	287.40				
Granite Rock	0.60%	0.70%	27.10				
D.B.O. Development No. 27	1.09%	1.27%	49.30				
Total	**85.60%**	**100.00%**	**3868.00**	**Total**	**45.13%**	**100.00%**	**345.00**

Allocation of Available Operating Yield Among Standard Producers	**Base Water Right Available to this Producer (AF)**	**% NSY to SPA (Base Water Right ./. Total Water Right)**	**NSY Available to Producers (AF) Current Water Year**	**Free Carryover Credits from Prior Water Year**	**Not-Free Carryover Credits from Prior Water Year**	**Total Producer NSY (AF) (NSY Available + Free Carryover Credits)**	**Total Base Water Right Available to Producer in Current Water Year**	**Actual AFY Pumped by Producer in WY 2006**	**Free Carryover Credits to WY 2007**	**Not-Free Carryover Credits to WY 2007**
			AFA Pumped 978.1 AF							
			2021.9							
California American Water	3849.20	91.36%	1847.31	0.00	0.00	1847.31	3849.20	3710.00	0.00	139.20
Seaside (Municipal)	287.40	6.82%	137.93	0.00	0.00	137.93	287.40	332.00	0.00	0.00
Granite Rock	27.10	0.64%	13.01	0.00	0.00	13.01	27.10	0.00	13.01	14.09
D.B.O. Development No. 27	49.30	1.17%	23.66	0.00	0.00	23.66	49.30	0.00	23.66	25.64
Total	**4213.00**	**100.00%**	**2021.90**	**0.00**	**0.00**	**2021.90**	**4213.00**	**4042.00**	**36.67**	**178.93**

Footnotes:
(1) From page 17 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.
(2) From page 14 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.
(3) From page 21 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.
(4) From Table 1 on page 19 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.
(5) Calculated from the Base Water Right percentages in the adjacent column.
(6) From the "Annual Report 2007" tab of this Spreadsheet. This same amount is also stated on page 2 of Watermaster's "Annual Report-2007."

PROPOSED CITY OF SEASIDE CALCULATION OF REPLENISHMENT ASSESSMENTS WY 2006

Using the Basin-wide methodology approved by the Court on January 12, 2007, and as shown in detail on the spreadsheet contained in this attachement, Watermaster calculated the Water Year 2006 Replenisment Assessments as follows:

2006 Replenishment Assessment Unit Charge = $1,132.00

2006 NSY Available to Standard Producers = 2,021.90 AF (3,000 AF NSY - 978.1 AFA 2006 Production)

Standard Producers	WY 2006 Production (AF)	% of NSY Available	Volume of NSY Available (AF)	NSY Overproduction (AF)	NSY Overproduction Assessment	Operating Yield Available (AF)	Operating Yield Overproduction (AF)	Operating Yield Overproduction Assessment	Total Assessment
California American Water	3710.00	91.36%	1847.31	1862.69	$ 2,108,570.33	3849.20	0.00	$ -	$ 2,108,570.33
Seaside (Municipal)	332.00	6.82%	137.93	194.07	$ 219,688.59	287.40	44.60	$ 50,487.20	$ 270,175.79
Granite Rock	0.00	0.64%	13.01	0.00	$ -	27.10	0.00	$ -	$ -
D.B.O. Development No. 27	0.00	1.17%	23.66	0.00	$ -	49.30	0.00	$ -	$ -
Total Production	4042.00	100.00%	2021.90	2056.77	$ 2,328,258.92	4213.00	44.60	$ 50,487.20	$ 2,378,746.12

194.07 above was calculated by Sandra Dunne as 149 in error

$219,688.59 is listed as $168,668 .00 erroneously in the Replenishment Assessment Budget

PROPOSED CITY OF SEASIDE PRODUCER ALLOCATIONS WY 2007

Initial Basin-Wide Operating Yield[1]	**5600.0**	**Coastal Operating Yield[1]**	**4611.0**
Natural Safe Yield (NSY)[2]	**3000.0**	**Laguna Seca Operating Yield[1]**	**989.0**

ALTERNATIVE PRODUCER ALLOCATIONS

Coastal Subarea[3]	Acre-Feet	Laguna Seca Subarea[3]	Acre-Feet
Seaside (Golf)	540.0	Pasadera	251.0
SNG	149.0	Bishop	320.0
Calabrese	14.0	York School	32.0
Mission Memorial (Alderwood)	31.0	Laguna Seca County Park	41.0
Sand City	9.0		
Total[1]	**743.0**	**Total[1]**	**644.0**

STANDARD PRODUCER ALLOCATIONS

Coastal Operating Yield Available to Standard Producers (AFY)			**3868.00**	**Laguna Seca Operating Yield Available to Standard Producers (AFY)**			**345.00**
Coastal Subarea	**Standard Producer Allocations**		**AFY Available to This Producer**	**Laguna Seca Subarea**	**Standard Producer Allocations**		**AFY Available to This Producer**
	Base Water Right %[4]	**Weighted %[5]**			**Base Water Right %[4]**	**Weighted %[5]**	
California American Water	77.55%	90.60%	3504.20	CAW	45.13%	100.00%	345.00
Seaside (Municipal)	6.36%	7.43%	287.40				
Granite Rock	0.60%	0.70%	27.10				
D.B.O. Development No. 27	1.09%	1.27%	49.30				
Total	**85.60%**	**100.00%**	**3868.00**	**Total**	**45.13%**	**100.00%**	**345.00**

Allocation of Available Operating Yield Among Standard Producers	**Base Water Right Available to this Producer (AF)**	**% NSY to SPA (Base Water Right ./. Total Water Right)**	**NSY Available to Producers (AF) Current Water Year**	**Free Carryover Credits from Prior Water Year**	**Not-Free Carryover Credits from Prior Water Year**	**Total Producer NSY (AF) (NSY Available + Free Carryover Credits)**	**Total Base Water Right Available to Producer in Current Water Year**	**Actual AFY Pumped by Producer in WY 2007**	**Free Carryover Credits to WY 2008**	**Not-Free Carryover Credits to WY 2008**
		NSY 3000 - 1036.9 =	AFA Pumped 1036.9 AF 1963.1							
California American Water	3849.20	91.36%	1793.58	0.00	139.20	1793.58	3988.40	4059.90	0.00	0.00
Seaside (Municipal)	287.40	6.82%	133.92	0.00	0.00	133.92	287.40	287.70	0.00	0.00
Granite Rock	27.10	0.64%	12.63	13.01	14.09	25.63	54.20	0.00	25.63	28.57
D.B.O. Development No. 27	49.30	1.17%	22.97	23.66	25.64	46.63	98.60	0.00	46.63	51.97
Total	**4213.00**	**100.00%**	**1963.10**	**36.67**	**178.93**	**1999.77**	**4428.60**	**4347.60**	**72.27**	**80.53**

Footnotes:

(1) From page 17 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.
(2) From page 14 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.
(3) From page 21 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.
(4) From Table 1 on page 19 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.
(5) Calculated from the Base Water Right percentages in the adjacent column.
(6) From the "Annual Report 2007" tab of this Spreadsheet. This same amount is also stated on page 2 of Watermaster's "Annual Report-2007."

PROPOSED CITY OF SEASIDE CALCULATION OF REPLENISHMENT ASSESSMENTS WY 2007

Using the Basin-wide methodology approved by the Court on January 12, 2007, and as shown in detail on the spreadsheet contained in this attachement, Watermaster calculated the Water Year 2007 Replenisment Assessments as follows:

2007 Replenishment Assessment Unit Charge = $1,132.00

2007 NSY Available to Standard Producers = 1,963.10 AF (3,000 AF NSY - 1036.9 AFA 2007 Production)

Standard Producers	WY 2007 Production (AF)	% of NSY Available	Volume of NSY Available (AF)	NSY Overproduction (AF)	NSY Overproduction Assessment	Operating Yield Available (AF)	Operating Yield Overproduction (AF)	Operating Yield Overproduction Assessment	Total Assessment
California American Water	4059.90	91.36%	1793.58	2266.32	$ 2,565,471.02	3988.40	71.50	$ 80,938.00	$ 2,646,409.02
Seaside (Municipal)	287.70	6.82%	133.92	153.78	$ 174,081.65	287.40	0.30	$ 339.60	$ 174,421.25
Granite Rock	0.00	0.64%	12.63	0.00	$ -	54.20	0.00	$ -	$ -
D.B.O. Development No. 27	0.00	1.17%	22.97	0.00	$ -	98.60	0.00	$ -	$ -
Total Production	4347.60	100.00%	1963.10	2420.10	$ 2,739,552.67	4428.60	71.80	$ 81,277.60	$ 2,820,830.27

PROPOSED CITY OF SEASIDE PRODUCER ALLOCATIONS WY 2008

Initial Basin-Wide Operating Yield[1]	**5600.0**	**Coastal Operating Yield[1]**	**4611.0**
Natural Safe Yield (NSY)[2]	**3000.0**	**Laguna Seca Operating Yield[1]**	**989.0**

ALTERNATIVE PRODUCER ALLOCATIONS

Coastal Subarea[3]	Acre-Feet	Laguna Seca Subarea[3]	Acre-Feet
Seaside (Golf)	540.0	Pasadera	251.0
SNG	149.0	Bishop	320.0
Calabrese	14.0	York School	32.0
Mission Memorial (Alderwood)	31.0	Laguna Seca County Park	41.0
Sand City	9.0		
Total[1]	**743.0**	**Total[1]**	**644.0**

STANDARD PRODUCER ALLOCATIONS

Coastal Operating Yield Available to Standard Producers (AFY)			**3868.00**	**Laguna Seca Operating Yield Available to Standard Producers (AFY)**			**345.00**
Coastal Subarea	**Standard Producer Allocations**		**AFY Available to This Producer**	**Laguna Seca Subarea**	**Standard Producer Allocations**		**AFY Available to This Producer**
	Base Water Right %[4]	**Weighted %[5]**			**Base Water Right %[4]**	**Weighted %[5]**	
California American Water	77.55%	90.60%	3504.20	CAW	45.13%	100.00%	345.00
Seaside (Municipal)	6.36%	7.43%	287.40				
Granite Rock	0.60%	0.70%	27.10				
D.B.O. Development No. 27	1.09%	1.27%	49.30				
Total	**85.60%**	**100.00%**	**3868.00**	**Total**	**45.13%**	**100.00%**	**345.00**

Allocation of Available Operating Yield Among Standard Producers	**Base Water Right Available to this Producer (AF)**	**% NSY to SPA (Base Water Right ./. Total Water Right)**	**NSY Available to Producers (AF) Current Water Year**	**Free Carryover Credits from Prior Water Year**	**Not-Free Carryover Credits from Prior Water Year**	**Total Producer NSY (AF) (NSY Available + Free Carryover Credits)**	**Total Base Water Right Available to Producer in Current Water Year**	**Actual AFY Pumped by Producer in WY 2008**	**Free Carryover Credits to WY 2009**	**Not-Free Carryover Credits to WY 2009**
		NSY 3000 - 1114.9 =	AFA Pumped 1061.9 AF 1938.1							
California American Water	3849.20	91.36%	1770.74	0.00	0.00	1770.74	3849.20	3862.90	0.00	0.00
Seaside (Municipal)	287.40	6.82%	132.21	0.00	0.00	132.21	287.40	294.20	0.00	0.00
Granite Rock	27.10	0.64%	12.47	25.63	28.57	38.10	81.30	0.00	38.10	43.20
D.B.O. Development No. 27	49.30	1.17%	22.68	46.63	51.97	69.31	147.90	0.00	69.31	78.59
Total	**4213.00**	**100.00%**	**1938.10**	**72.27**	**80.53**	**2010.37**	**4365.80**	**4157.10**	**107.41**	**121.79**

Footnotes:
(1) From page 17 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.
(2) From page 14 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.
(3) From page 21 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.
(4) From Table 1 on page 19 of Exhibit A (Amended Decision)of Court Order filed February 9, 2007.
(5) Calculated from the Base Water Right percentages in the adjacent column.
(6) From the "Annual Report 2007" tab of this Spreadsheet. This same amount is also stated on page 2 of Watermaster's "Annual Report-2007."

PROPOSED CITY OF SEASIDE CALCULATION OF REPLENISHMENT ASSESSMENTS WY 2008

Using the Basin-wide methodology approved by the Court on January 12, 2007, and as shown in detail on the spreadsheet contained in this attachement, Watermaster calculated the Water Year 2008 Replenisment Assessments as follows:

2008 Replenishment Assessment Unit Charge = $2,485.00

2008 NSY Available to Standard Producers = 1,938.10 AF (3,000 AF NSY - 1036.9 AFA 2007 Production)

Standard Producers	WY 2008 Production (AF)	% of NSY Available	Volume of NSY Available (AF)	NSY Overproduction (AF)	NSY Overproduction Assessment	Operating Yield Available (AF)	Operating Yield Overproduction (AF)	Operating Yield Overproduction Assessment	Total Assessment
California American Water	3,862.90	91.36%	1,770.74	2,092.16	$ 5,199,013.53	3,849.20	13.70	$ 34,044.50	$ 5,233,058.03
Seaside (Municipal)	294.20	6.82%	132.21	161.99	$ 402,539.72	287.40	6.80	$ 16,898.00	$ 419,437.72
Granite Rock	0.00	0.64%	12.47	0.00	$ -	81.30	0.00	$ -	$ -
D.B.O. Development No. 27	0.00	1.17%	22.68	0.00	$ -	147.90	0.00	$ -	$ -
Total Production	4,157.10	100.00%	1,938.10	2,254.15	$ 5,601,553.25	4,365.80	20.50	$ 50,942.50	$ 5,652,495.75

ITEM NO. X.

INFORMATIONAL REPORTS

(NO ACTION REQUIRED)

SEASIDE GROUNDWATER BASIN WATERMASTER CRITICAL MILESTONE DATES

ITEM X.A. 3/18/09

ANNUAL MILESTONES	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016		
Each Producer[1] is authorized to Produce its Production Allocation[2] within the designated Subarea[1] in each of the first three Water Years.[3] Alternative Producers may change to Standard Production by March 27, 2009 by filing a declaraton with the Court and with the other parties.	27-Mar-06	30-Sep-07	APA to SPA election amended to in perpetuity 12/12/2009										
Commencing with the fourth Water Year and Triennially thereafter, the Operating Yield for both Subareas will be decreased by 10% until the Operating Yield is equivalent to the Natural Safe Yield unless by recharge or reclaimed water use results in a decrease in production of Native Water as required by the decision.				**75% of the Operating Yield of 5,600 decreased 10% Jan 1, 2009**		Operating yield could decrease 10% every three years on October 1st until it is the equivalent of Natural Safe Yield			1-Oct	1-Oct	1-Oct		
Each Water Year by November 15th, the Watermaster will determine and levy a Replenishment Assessment[4] on each Standard Producer[1], with payment due from Producer 40 days after the levy is mailed			15-Nov	15-Nov	15-Nov	15-Nov	15-Nov	15-Nov	15-Nov	15-Nov	15-Nov		
After the close of each Water Year, the Watermaster will determine and levy a Replenishment Assessment[4] against all Producers[1] that incurred Operating Yield Over Production during the Water Year, with payment due from Producer by January 15th			15-Nov	30-Nov	30-Nov	30-Nov	30-Nov	30-Nov	30-Nov	30-Nov	30-Nov		
California American Water to submit annually to Watermaster any augmentation to water supply for possible credit toward Replenishment Assessment	**Annually**	15-Nov	CAW Credit Request Granted (signed MOU) January 15, 2009	15-Nov	15-Nov	15-Nov	15-Nov	15-Nov	15-Nov	15-Nov	15-Nov		
Water level monitoring - monthly data collection *from all members for inclusion in the consolidated database.*	**Reported Annually**	**Monthly**	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly		
Water quality monitoring - yearly data collection *from all members for inclusinon in consolidated database*	**Reported Annually**	15-Nov	28-Feb & 15-Nov	15-Nov	15-Nov	15-Nov	15-Nov	15-Nov	15-Nov	15-Nov	15-Nov		
Summary report of water resources data *to all members/parties* Reported the 15th each quarter month:	**Quarterly**		Jan, Apr, Jul, Oct 15th	Jan, Apr, Jul, Oct 15th	Jan, Apr, Jul, Oct 15th	Jan, Apr, Jul, Oct 15th	Jan, Apr, Jul, Oct 15th	Jan, Apr, Jul, Oct 15th	Jan, Apr, Jul, Oct 15th	Jan, Apr, Jul, Oct 15th	Jul, Oct 15th		
Annual Report to Court	**15-Jan**	15-Nov	15-Nov	15-Nov	15-Nov	15-Nov	15-Nov	15-Nov	15-Nov	15-Nov	15-Nov		

ADMINISTRATIVE MILESTONES	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016		
Adjudicaton ordered by Court and filed	27-Mar-06												
Board Directors Terms		**7-Nov**											
Budget (Administrative) Adopted/distributed					15-Jan	15-Jan	15-Jan	15-Jan	15-Jan	15-Jan	15-Jan		
Budget (Operations) Adopted/distributed					15-Jan	15-Jan	15-Jan	15-Jan	15-Jan	15-Jan	15-Jan		
Budget (Replenishment)Adopted/distributed					15-Jan	15-Jan	15-Jan	15-Jan	15-Jan	15-Jan	15-Jan		
Administrative Assessments	15-Jan-06	15-Jan-07	15-Jan-08	15-Jan-09	15-Jan	15-Jan-11	15-Jan-12	15-Jan-13	15-Jan-14	15-Jan-15	15-Jan-16		
Operations Assessments	15-Jan-07	15-Jan-07	15-Jan-08	15-Jan-09	15-Jan	15-Jan-11	15-Jan-12	15-Jan-13	15-Jan-14	15-Jan-15	15-Jan-16		
Capital Assessments	Seaside 2007 Not Received		NONE	15-Jan-09	15-Jan	15-Jan-11	15-Jan-12	15-Jan-13	15-Jan-14	15-Jan-15	15-Jan-16		
Replenishment Assessments	Calc Method Contested by City of Seaside			15-Jan-10	15-Jan-11	15-Jan-12	15-Jan-13	15-Jan-14	15-Jan-15	15-Jan-16	15-Jan-17		
Annual Report to Court	15-Nov-06	15-Nov-07	15-Nov-08	15-Nov	15-Nov	15-Nov	15-Nov	15-Nov	15-Nov	15-Nov	15-Nov		
Answers to Judge's Questions re: Annual Report		30-Jan-09	28-Feb-08	1-Feb-09									
Declaration of Replenishment Water Availability	Feb-06	Dec-06	Dec-07	18 Mar	Dec-09	Dec-10	Dec-11	Dec-12	Dec-13	Dec-14	Dec-15		

MONTHLY MILESTONES	2006-07	Jan 09	Feb 09	Mar 09	Apr 09	May 09	Jun 09	Jul 09	Aug 09	Sep 09	Oct 09	Nov 09	Dec 09
Board Directors Terms													
Fiscal Year tentative budgets distribution to all parties													
75% of the Operating Yield of 5,600 decreased 10% Jan 1, 2009 and Declaration of Replenishment Water Available	31-Dec		**To TAC 11-Mar-09**	18-Mar-09									
Administrative Assessments				Seaside Not Recvd									
Operations Assessments				Seaside Not Recvd									
Capital Assessments				Seaside Not Recvd									
Replenishment Assessments			Contested by City of Seaside 18-Mar action										

SPECIAL ISSUES	2006-07	Jan 09	Feb 09	Mar 09	Apr 09	May 09	Jun 09	Jul 09	Aug 09	Sep 09	Oct 09	Nov 09	Dec 09
SWRCB Cease Desist Order California American Water		1/30/09 Release of EIR	60-Day Public Comment Period & Public Hearings on Draft EIR Feb - Mar 2009. TAC review report 18 Mar			Final EIR Release							
Watermaster Board Regular Meeting Schedule		16-Jan	6-Feb	5-Mar	2-Apr	7-May Cancl	4-Jun	2-Jul Cancl	6-Aug Cancl	9-Sep	1-Oct	5-Nov	3-Dec

SUMMARY PROJECT SCHEDULE (See detailed project schedule for more information)			*Monitoring and Management Program 2009*			*MRWPCA Groundwater Replenishment Project*							
Program Administration, Database Management			1/1/09 - 12/31/09			**Initial Study**	TAC support in EIR review 18 March						
Basin Monitor Well Construction			1/1/09-9/10/09										
Enhanced Groundwater Model	Goals & Objectives 18 Mar		1/1/09-11/4/09										
Production Water Level & Water Quality Monitoring (Hydrometrics, MPWMD, MCWRA)			1/1/09 - 12/31/09										
BMAP / SIRP (Hydrometrics, MPWMD, MCWRA)			2/4/2009										
Seawater Intrusion Detection Program (Hydrometrics, MPWMD, MCWRA)			1/1/09 - 12/31/09										

Complete =
Yet to be completed =
Scheduled for Board or TAC meeting =
Imminent Critical Deadline =

Revised March 12, 2009

D-R-A-F-T
MINUTES

Seaside Groundwater Basin Watermaster
Technical Advisory Committee Meeting
February 11, 2009

Attendees: **TAC Members**
City of Seaside – Diana Ingersoll, Rick Riedl
California American Water – Tom Bunosky (by telephone)
City of Monterey – Todd Bennett
Laguna Seca Property Owners – No Representative
MPWMD – Joe Oliver
Public Member – John Fischer
MCWRA – No Representative
City of Del Rey Oaks – No Representative
City of Sand City – Steve Matarazzo
Coastal Subarea Landowners – No Representative

Watermaster
Technical Program Manager - Robert Jaques

Consultants
HydroMetrics LLC - Derrik Williams and Georgina King (by telephone)

Others:
None

The meeting was called to order at 1:34 p.m.

1. **Administrative Matters:**
   A. Approve Minutes from January 14, 2009
   On a motion by Mr. Riedl, seconded by Mr. Fischer, the minutes were unanimously approved as presented.

2. **Planned Workshop with HydroMetrics for Ground Water Modeling Work**

Mr. Jaques summarized the agenda packet material on this item.

Mr. Williams said that the Technical Memo contained in the agenda packet describes the subjects that will be discussed at the workshop. Mr. Williams extended an invitation to any other technical representatives who may be interested in the modeling process to attend the workshop. At the workshop Mr. Williams will lay out what data is available and will solicit input regarding other data can be provided to help with the modeling effort.

Ms. King said that the principal goal of the workshop will be to reach consensus on the issues to be addressed by the model. HydroMetrics will provide copies of the October, 2007 Durbin Model report to TAC members who request one, if they do not already have access to one from a previous distribution of that document.

Mr. Fischer commented that figures are much easier to understand when shown in color.

Questions were asked regarding various topics including model calibration issues and cell size. Mr. Williams responded that these will be included as topics for discussion at the workshop.

Mr. Matarazzo asked if Mr. Feeney would be participating in the workshop. Mr. Williams said that Mr. Feeney may or may not be at the workshop, but will participate in the modeling work itself.

Ms. King and Mr. Williams said they will need to acquire as much pumping data as possible for the modeling effort.

Mr. Bunosky noted that the workshop will produce a list of issues and questions the model will be used to address. This list will then go to the Board for their concurrence at the Board's March meeting, before proceeding with work on the model.

Mr. Williams and Ms. King said that the meeting will start at 1:00 PM rather than 1:30 PM as noted in the Technical Memorandum that was the emailed out by HydroMetrics. Mr. Jaques will highlight this time change in the minutes from today's meeting. Mr. Jaques noted that if an additional modeling meeting becomes necessary it could either be included with a Special TAC meeting, if one is necessary, or at the regularly scheduled March 11th TAC meeting, if the Board decides to delay its regular March 4th meeting to March 18, as Mr. Jaques has requested through Mr. Evans.

Mr. Jaques will e-mail TAC members with regard to TAC meeting dates once he hears back for Mr. Evans on this matter.

Mr. Bunosky asked Mr. Williams if there will likely be additional costs beyond the current amount authorized through RFS No. 2009-002, as a result of the workshop. Mr. Williams said he did not expect this to be a problem. Mr. Williams will provide a budget update to confirm that the original budget will be sufficient. Any cost issues will be identified at the workshop so they can be discussed at that time.

Mr. Fischer asked if any schedule impacts were envisioned. Mr. Williams said that the time to compile all the data will be the one issue beyond HydroMetrics' control, so the schedule will depend on how quickly that work can be accomplished. Schedule impact issues will also be discussed at the workshop if necessary.

Following discussion it was decided to move the start of the modeling workshop so as to begin at 11:30 AM. HydroMetrics will bring in sandwiches for the workshop. Ms. King will send out an updated e-mail with the new time and ask for a head count, so that the sandwiches can be ordered.

3. Progress Report on Database Issues

Mr. Jaques summarized the agenda packet materials for this item.

Mr. Oliver said that testing shows the database to be working satisfactorily, and it is no longer being hosted by RBF. It should be accessible on the Watermaster web site through a link in the very near future. Much of the data of will be available to view by the general public without having to have a password. Others will have more accessibility my logging in using their passwords. He anticipates the database will be active on the Watermaster's web site as early as next week. What it is ready, Mr. Oliver well send out an e-mail notifying TAC members.

Note: at this point Diana Ingersoll joined the TAC meeting at approximately 2:15 p.m.

4. Progress Report on Selection of Site for New Monitoring Well

Mr. Jaques summarized the agenda packet materials for this item.

Ms. Ingersoll requested that contact be made with MCWD to confirm that they have no objections or concerns with regard to installing the monitoring well. Mr. Jaques will do this.

Note: Mr. Bunosky turned over chairmanship of the meeting to Ms. Ingersoll at this point.

5. Develop Recommendations to the Board Regarding 10% Cutback Issues

Mr. Jaques summarized the agenda packet materials on this item.

Mr. Oliver noted that the first reduction is only for three-fourths of the first water year.

Mr. Bunosky said he had calculated CAW's cutback to be 387 acre feet. This would be their share of the 420 acre feet of cutback that is required, including both the Coastal on the Laguna Seca subareas. Mr. Bunosky recommended including a breakdown of how the cutback would affect each of the Standard Producers. Ms. Ingersoll commented that Mr. Riedl has already made this calculation and well provide it to Mr. Jaques.

There was discussion regarding the draft discussion paper included in the agenda packet, with comments and conclusions as described below.

For Condition (a): Mr. Oliver said the phase 1 ASR project is not intended as a replenishment supply to the Seaside Ground Water Basin, so it does not represent a replenishment source. **There was TAC consensus that the answer to this question is "no".**

For Condition (b): Mr. Oliver and Ms. Ingersoll explained that the term "reclaimed water" was considered to apply to reclaimed wastewater during testimony during the adjudication court process. However, it may be appropriate to extend the term to include desalination water as discussed in the agenda packet materials. Ms. Ingersoll asked Mr. Matarazzo if the desalination plant water could be made available by contract, and he responded "yes".

Mr. Bunosky commented that the State Department of Public Health will be issuing a permit which will impact how soon the desalination plant can be put into operation. He said the Department of Public Health has not yet provided CAW with their requirements to issue the permit. He also commented that they are affected staff-wise due to the current State budget problems and staff furloughs, and that he expected this might delay the process.

Mr. Matarazzo commented that the Department of Public Health will require two months of full-scale plant operation with satisfactory performance before they will allow the plant to begin delivering water to the potable distribution system of CAW.

Mr. Bunosky said it would not be possible to produce as many as 300 acre feet of desalinated water between the time the plant starts up and the September 30, 2009 end of Water Year, due to plant capacity limitations.

Ms. Ingersoll said that Seaside will be severely impacted by a 10 percent cutback on its Municipal System, and that solutions must be developed. She also commented that Seaside is of the understanding that the cutback has already been imposed as of January 1, 2009.

Mr. Williams questioned the Judge's intent with regard to subparagraph (b) of this Section of the Decision. Following discussion the issues were a clarified.

Mr. Matarazzo said that the projected earliest delivery date of desalinated water to the CAW distribution system would be June 1, 2009. Mr. Bunosky said the plant probably could not be run at a higher capacity to produce 300 acre feet in less time than a full year. Mr. Jaques asked if a best estimate of the how

much water could be produced between June 1 and September 30, 2009 could be provided, and Mr. Bunosky responded that he would look into getting this information.

Mr. Bunosky said that 94 acre feet of the desalination plant's production capacity is dedicated to Sand City under the terms of the contract between CAW and Sand City. He said this represents about one-third of the desalination plant's production capacity. The rest of the 300 acre feet of capacity is for Sand City's future growth, and CAW is not permitted to hook up any other customers that would be served by that water.

Various other edits were proposed and will be incorporated by Mr. Jaques into the discussion paper contained in the agenda packet.

Mr. Oliver said that due to CAW's system configuration it may not be possible for CAW to reduce their Seaside Basin pumping by the full 300 AFY.

Mr. Matarazzo asked for information from Ms. Ingersoll with regard to Seaside getting MCWD water for its golf courses. Ms. Ingersoll said that an evaluation of obtaining MCWD water for use in serving the Seaside golf courses and the Seaside Resort Development was still in progress. She said that the initial conclusion was that this was not the best approach to pursue. However, staff is evaluating the concept of how best to use the 540 AFY of golf course well production capacity that is allocated under the Decision. She said that the City Council would probably have a March Study Session to discuss this in detail. Due to delays in completing the Seaside Resort Development, a decision on this will probably not be made in time to get MCWD water by September 30, 2009. However, she said Seaside's Mayor could direct a staff to "make it happen" in order to avert a 10 percent reduction. She went on to say that Seaside is currently evaluating transferring some or all of the Alternative Production allocation of its Seaside Golf Course system to the Seaside Municipal system, if water from MCWD can be obtained to serve some or all of the golf course irrigation demand.

Mr. Bunosky commented that the TAC should focus on the technical issues, since many other aspects of Decision are really non-technical Board issues.

In response to a question from Mr. Jaques, Mr. Bunosky said that CAW would not be willing to commit to reducing its Seaside Ground Water Basin pumping by any specific amount, because it cannot control the water demands on its system.

There was TAC consensus that the answer to this question is "no".

For Condition (c): **There was TAC consensus that the answer to this question is "no".** However, it was agreed that describing MCWD water as a possible replenishment source should be included.

For Condition (d): There was TAC consensus that this applies to the entire basin, not to just certain sub-areas of the basin. **There was TAC consensus that the answer to this question is "no".**

Mr. Williams added that it is not possible at present to say that the sub-areas are truly hydrogeologically separate. He went on to say that the model will hopefully shed further light on this and may allow a refinement of that conclusion.

Mr. Jaques will revise the draft discussion paper contained in the agenda packet and e-mail the revised version to the TAC for further editing in order to finalize it for presentation to the Board at its March meeting.

6. Schedule

Mr. Jaques highlighted a few issues contained in the schedule, but there were no questions or other discussion.

7. Draft EIR for the CAW Coastal Water Project

Ms. Ingersoll summarized the agenda packet materials for this item. Comments on the CWP DEIR are to be provided to Mr. Jaques so they can be included in the next TAC meeting agenda packet for discussion. A Special TAC meeting may be held on Monday February 23, at 11:00 AM if the Board does not reschedule its regular March 4th meeting date to March 18th in order for it to occur after the TAC meeting. If the Board meeting is deferred, it will not be necessary to have the February 23rd Special TAC meeting. Mr. Jaques will email TAC members to alert them as to whether or not the Special TAC meeting will be necessary. If the Special TAC meeting is not needed, then the next TAC meeting will be the regular meeting on March 11, 2009.

8. Other business

Mr. Jaques summarized the agenda packet materials for this item and their was no further discussion other than an inquiry from Mr. Bunosky as to what MCWRA's rationale was in reaching its decision. Mr. Jaques explained that he was only provided the information that was contained in the agenda packet. It was agreed that Mr. Johnson would be asked to provide a further elaboration on this at a future TAC meeting.

Mr. Jaques and Mr. Oliver will review the work that was proposed for MCWRA to perform under its contract, and report back to the TAC as to any concerns they may have with regard to this.

9. Set next meeting date for Wednesday March 11, 2009 at 1:30 p.m.
To be held at the Seaside City Hall Portable Office Buildings Conference Room

The next Regular TAC meeting was set for this time, date, and location. A Special TAC meeting may be necessary, depending on whether the Board holds to its regular meeting date of March 4, or reschedules their meeting to March 18. This is discussed above under item 7.

The meeting adjourned at 4:10 p.m.

Seaside Groundwater Basin Watermaster

Reported Quarterly and Annual Water Production (in Acre Feet) From the Seaside Groundwater Basin For All Producers Inclued in the Seaside Basin Adjudication -- Water Year 2009

(All Values in Acre-Feet ([AF])

Producer	Quarters				Annual To-Date Reported Total	Base Operating Yield Allocation
	Oct-Dec 2008	Jan-Mar 2009	Apr-Jun 2009	Jul-Sep 2009		
Coastal Subareas						
CAW (Coastal Subareas)	957.6				957.6	TBD
Seaside (Municipal)	69.9				69.9	TBD
Granite Rock Company	Exempt				-	TBD
DBO Development No. 27	Exempt				-	TBD
City of Seaside (Golf Courses)	96.7				96.7	540.0
Sand City	0.0				-	9.0
Security National Guaranty	0.0				0.0	149.0
Cypress Pacific Investors*	Exempt				-	14.0
Alderwoods Group (Mission Memorial)	4.2				4.2	31.0
Coastal Subarea Totals	*1,128.4*	*0.0*	*0.0*	*0.0*	*1,128.4*	*4,611.0*
Laguna Seca Subareas						
CAW (Inland Subareas)	119.7				533.2	TBD
Pasadera Country Club	18.0				18.0	251.0
Laguna Seca/Bishop	37.0				300.2	320.0
York School	4.4				4.4	32.0
Laguna Seca Park (County)	0.0				0.0	41.0
Laguna Seca Subarea Totals	*179.1*	-	-	-	*855.8*	*989.0*
				Seaside Basin Production Totals =	**1,984.2**	**5,600.0**
				Total Production by Alternative Producers =	**423.6**	
				Total Production by Standard Producers =	**1,560.7**	

*Referred to as "M.E. Calabrese 1987 Trust" in Decision

Notes:

1. The water year (WY) begins October 1 and ends September 30 of the following calendar year. For example, WY 2009 began on October 1, 2008, and will end on September 30, 2009.

2. Values shown in the table are based on reports to the Watermaster as received directly or by MPWMD by **January 15, 2009.**

3. All values are rounded to the nearest tenth of an acre-foot. Where required, reported data were converted to acre-feet utilizing the relationships: 325,851 gallons = 43,560 cubic feet = 1 acre-foot.

4. "Operating Yield" values based on Seaside Basin Adjudication decision as amended, signed February 9, 2007 (Monterey County Superior Court Case No. M66343).

5. Any minor discrepancies in totals are attributable to rounding. CAW = California American Water.

6. Graniterock Company, DBO Development No. 27, and Cypress Pacific Investors exempted from production reporting by Watermaster TAC February 2008.

ITEM NO. XI.

DIRECTOR'S REPORTS

ITEM NO. XII.

EXECUTIVE OFFICER COMMENTS