



State Water Resources Control Board



Terry Tamminen
*Secretary for
Environmental
Protection*

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

Arnold Schwarzenegger
Governor

MARCH 17, 2004

State Clearinghouse
1400 Tenth Street
Sacramento, CA 95814

Thom McCue
Monterey County Planning and
Building Inspection Department
2620 First Avenue
Marina, CA 93933-6205

Dear Sir or Madam:

PEBBLE BEACH COMPANY'S DEL MONTE FOREST PRESERVATION AND
DEVELOPMENT PLAN – SCH# 2002011130

Division of Water Rights (Division) staff has reviewed the Draft Environmental Impact Report (DEIR) for the Pebble Beach project identified above. The document states that the direct water requirement is 355 acre-feet per annum (afa). The DEIR states that the local water purveyor, California-American Water Company (Cal-Am) is not constrained by the requirements of State Water Resources Control Board (SWRCB) Order WR 95-10 in providing this water from the Carmel River. Division staff disagrees with this statement because it lacks the necessary supporting documentation.

Cal-Am has legal rights for only 3,376 afa of the 11,285 afa that it diverts from the Carmel River. In Order WR 95-10, the SWRCB exercises its discretionary enforcement capability as long as total annual diversions by Cal-Am do not exceed 11,285 afa. This should not be construed as a finding that there is a legal supply for most of the water that Cal-Am provides to its customers. During the water year October 1, 2002 through September 30, 2003, Cal-Am exceeded the 11,285 afa limit by 35 af. The Division is addressing the non-compliance issue. Thus, **Cal-Am has no additional water within the 11,285 afa limit to serve new development.**

The issue of whether Cal-Am can legally supply water to the Pebble Beach project hinges on whether Cal-Am can divert more than 11,285 afa (the Order WR 95-10 limit) to serve the new development. The water supply information in the DEIR indicates that landscape and golf course irrigation will obtain some of its water from the Carmel Area Wastewater District (CAWD) facility. The DEIR indicates that the CAWD facility produces between 550 and 780 afa. **New diversions from the Carmel River are needed, however, to provide potable water for** consumptive uses for the 403 residential units, 34-unit planned unit development, 53 low-cost housing units, **golf course** clubhouse and related facilities.

California Environmental Protection Agency

The SWRCB is exercising its enforcement discretion to not penalize Cal-Am for excess diversions from the Carmel River as long as Cal-Am's diversions do not exceed 11,285 acre-feet per annum (afa) plus the quantity of potable water provided to Pebble Beach Company (up to 380 afa) and other sponsors under the 380 afa entitlement for use on the Del Monte Forest properties (see enclosed letters dated March 27, 1998 and October 18, 2001). This enforcement discretion will be exercised as long as the wastewater reclamation project continues to produce as much as, or more than, the quantity of potable water delivered to the Del Monte Forest property, and the reclaimed wastewater is utilized on lands within the Cal-Am service area.

Order WR 95-10 does not provide discretion to address any projects involving the use of additional output from the wastewater treatment facility, other than the 380 afa. The DEIR does not analyze how much of the 380 afa has already been allocated to other projects. The DEIR is deficient without this analysis. The DEIR needs to analyze both the quantity assigned from the 380 afa (and provide metering data to document whether already approved uses are taking more water than originally expected) and daily impacts to the Carmel River as a result of the new diversions from that source related to this project.

If this project, in combination with other projects, exceeds the 380 afa identified in Order WR 95-10 for use on the Del Monte Forest property, diversions in excess of 380 afa will be subject to enforcement pursuant to Water Code section 1052.

It is my understanding that the Monterey Peninsula Water Management District is planning to allocate additional output from the CAWD facility to local uses. Will this result in additional exchange of treated wastewater with new diversions from the Carmel River? If so, the cumulative impacts of all reasonably foreseeable new projects should be addressed in the DEIR.

The DEIR needs to analyze which Cal-Am diversion works will be used to supply the water to this project, as well as any local instream effects associated with additional diversion at the specific well(s). **What impacts will occur to steelhead and red-legged frogs?** Will additional diversion result in a cone of depression, drawdown effects, or a "dry spot" in the riverbed at the diversion works? What mitigation measures will be implemented to address any new effects to the Carmel River?

The DEIR should state how water will be provided for this project, should Cal-Am fail to fully legalize its Carmel River diversions.

The DEIR should analyze whether additional diversions will result in any violations or potential violations of annual instream flow diversion agreements between Cal-Am and the Department of Fish and Game and the NOAA Fisheries. Is a biological opinion on steelhead or red-legged frog prior to initiating new diversions?

If you require further assistance, I can be contacted at (916) 341-5363.

Sincerely,

ORIGINAL SIGNED BY

Katherine Mrowka, Chief
Watershed Unit #3

Enclosures (2)

cc: (without enclosures)

Ms. Fran Farina
Monterey Peninsula Water
Management District
P.O. Box 85
Monterey, CA 93942-0085

Mr. Steven Leonard
California-American Water Company
P.O. Box 951
Monterey, CA 9394200951

Mr. David Dilworth
Helping Our Peninsula's Environment
P.O. Box 1495
Carmel, CA 93921

Mr. Stuart Somach
Somach, Simmons & Dunn
Hall of Justice Building
813 Sixth Street, Third Floor
Sacramento, CA 95814-2403

KMrowka:jmtipps03.17.04
U:\PERDRV\Kathy Mrowka\pebble beach EIR.doc