

MCHA's Coalition of Peninsula Businesses
Brief Summary of SWRCB's Cease and Desist Order and
Explanation of Water Available for Use
 August 12, 2011

On October 20, 2009 the State Water Resources Control Board (SWRCB) adopted Water Rights Order 2009-0060 (09-60), a Cease and Desist Order (CDO) against California American Water Co. (Cal Am), as a follow-up and modification of Water Rights Order 1995-10 (95-10) issued in July of 1995. 95-10 ordered Cal Am to stop diverting water in excess of its legal right (3,376 acre feet annually) from the Carmel River Basin and to develop an alternative water supply to replace its unlawful diversions (at the time, 10,730 acre feet per year).

What this means is that absent a new water supply, as of December 31, 2016 (in other words, for 2017 and later years) we will have only 39% of the water available to use that we had in 2008, a 61% reduction that all businesses, local governments and residents would have a hard time surviving. Unquestionably, this establishes the urgency to construct and make operational on a timely basis the PUC-ordered Regional Water Project.

The key provisions of 09-60/the CDO are these:

- ✓ Cal Am shall diligently implement actions to terminate its unlawful diversions from the Carmel River and shall terminate all unlawful diversions from the river no later than December 31, 2016.
- ✓ Cal Am shall not divert water from the Carmel River for new service connections or for any increased use of water at existing service addresses resulting from a change of zoning or use.
- ✓ An interim schedule ramping down Carmel River diversions was included (see chart below which tracks total Cal Am production limits from Carmel River and Seaside Basin).
- ✓ Any water supply developed and available for use, from any source, shall be used to decrease unlawful diversions from the Carmel River (including Aquifer Storage/Recovery, Sand City Desal).
- ✓ Cal Am shall comply with all provisions of Order 95-10 except as modified by this order.

The following chart depicts the amount of water available for use by Cal Am customers (Cal Am production limits) due to the ramp down ordered by 09-60/CDO and reductions ordered by the Seaside Basin Adjudication (chart adapted from work of MPWMD General Manager Darby Fuerst):

Cal Am Production Limits 2009 through 2021
 As Dictated by the CDO and the Seaside Adjudication
 Values in acre feet

Water Year	Allowable Production	Carmel River	Seaside Basin
2009	14,747	11,285	3,462
2010	13,762	10,429	3,333
2011	13,762	10,429	3,333
2012	13,124	10,308	2,816
2013	13,003	10,187	2,816
2014	12,882	10,066	2,816
2015	12,244	9,945	2,299
2016	12,002	9,703	2,299
2017	5,675	3,376	2,299
2018	5,196	3,376	1,820
2019	5,196	3,376	1,820
2020	5,196	3,376	1,820
2021	4,850	3,376	1,474
Allowable production in 2017 is 38% of 2009			
Allowable production in 2018 through 2020 is 35% of 2009			
Allowable production in 2021 and following is 33% of 2009			

As Order 09-60/CDO specifies, as of December 31, 2016, the Cal Am production limit from the Carmel River is its legal limit of 3,376 acre feet. When combined with the Seaside Basin production limit of 2,299 acre feet, total Cal Am water available for use in 2017 is 5,675 acre feet, or 39% of the water available in 2009. Available water drops again in 2018 (to 35% of 2009) and 2021 to 33% of 2009).