

# Exhibit H

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# MONTEREY COUNTY

## RESOURCE MANAGEMENT AGENCY

Carl P. Holm, AICP, Director



Building Services / Environmental Services / Planning Services / Public Works & Facilities  
1441 Schilling Place South, 2nd Floor  
Salinas, California 93901

(831)755-4800

[www.co.monterey.ca.us/rma](http://www.co.monterey.ca.us/rma)

20 December 2019

SENT VIA EMAIL

Owner of Property  
Laguna Seca Office Park

**SUBJECT: Application PLN170765 for a Laguna Seca Office Park (LSOP) General Development Plan (GDP) to exclude residential development potential from Lots 1 and 9-18.**

To Whom it may concern,

You are receiving this letter because you are listed as an owner of property within the Laguna Seca Office Park (LSOP) in the County of Monterey. This letter is intended to inform you that the County of Monterey has received an application for a General Development Plan (GDP) for the LSOP that could impact your property by limiting future potential to add residential uses to the commercial office space use already on the property. The subject application for the GDP (County File Number PLN170765) includes restriction of potential future residential development on all lots in the LSOP developed with commercial office uses in exchange for clustering residential use on five (5) currently vacant lots within the park. The County is welcoming feedback on the proposal from those directly affected. Currently, the project is tentatively scheduled for the Monterey County Planning Commission on January 29<sup>th</sup>.

The LSOP is zoned 'Visitor Serving/Professional and Office Zoning District' ("VO"). Pursuant to the adopted Zoning Ordinance (Title 21 of the Monterey County Code), residential development is allowed in the VO zoning district with a Use Permit provided the gross square footage of the residential use does not exceed the gross square footage of the commercial use. None of the lots in the LSOP contain residential use at this time. There are 18 lots total and 5 of those lots are undeveloped. As it stands now, each LSOP property owner could apply for a Use Permit to add residential square footage not exceeding the total commercial square footage on their property. The proposed GDP would remove residential development potential from individual lots and instead place theoretical maximum residential square footage (based on total commercial square footage already developed within the whole LSOP) on currently undeveloped lots. In other words, the proposed project would essentially transfer residential development potential from the other properties in the LSOP.

It is the County's understanding that residential development may already be restricted on most lots in the LSOP. This understanding is based on information submitted to the County by the applicant for the GDP including a copy of the LSOP Covenants, Conditions, and Restrictions (CC&Rs), signed by a majority of the total voting power of the LSOP Association. This document was recorded on September 22, 2003 with the County. Section 3.01 Use of the Property in the CC&Rs provides that:

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*no portion of Lots 1 and 8 through 19 shall be used for other than professional, executive or administrative offices and no portion of Lots 2 through 7 shall be used for other than such offices or residences.*

However, the County does not have jurisdiction to enforce CC&Rs. The County does have the ability to enforce GDPs which it approves. Therefore, if approved, this proposed GDP would be enforceable by the County.

If you have questions or concerns regarding this letter or the proposed GDP, please do not hesitate to contact the project planner at (831)796-6414 or by email at [guthriejs@co.monterey.ca.us](mailto:guthriejs@co.monterey.ca.us)

Sincerely,

A handwritten signature in black ink, appearing to read 'Jaime Scott Guthrie'.

Jaime Scott Guthrie, Project Planner  
Resource Management Agency – Planning

## Application PLN170765 - LSOP General Development Plan (GDP)

Daniel Archer <darcher@kaglaw.net>

Wed 1/22/2020 9:33 AM

To: Guthrie, Jaime S. x6414 <GuthrieJS@co.monterey.ca.us>

 1 attachments (104 KB)

Monterey County Planning Letter re GDP Application (12-20-19).pdf;

[CAUTION: This email originated from outside of the County. Do not click links or open attachments unless you recognize the sender and know the content is safe. ]

Jamie: I am the Manager and majority owner of 24591 Silver Cloud Court, LLC, itself the owner of the office building located at 24591 Silver Cloud Court (Lot 16) in the LSOP.

I received and have reviewed the attached letter dated December 20, 2019 addressed to the owners of property within the LSOP and asking for feedback from those directly affected by the proposed GDP clustering residential use on Lots 2-7 (and confirming the restriction on residential development on other Lots).

As your letter indicates, all LSOP Lots are currently restricted by the terms of the CC&RS that run with the land and bind the owners of the Lots. The CC&Rs provide that only Lots 2-7 may be used for residences. A conforming GDP does not appear to deprive any owner of a use to which they are presently entitled. To the contrary, it confirms and conforms to the existing use restrictions in the CC&Rs – restrictions that were expressly approved by the owners of property within the LSOP.

On behalf of the owner of property in the LSOP, we support the proposed GDP clustering residential use on Lots 2-7. Frankly, the GDP appears to present a thoughtful way to provide much needed housing to the area, and is a more sensical approach than to scatter residential use within mixed-use projects throughout the LSOP, the potential for which is practically non-existent based upon the use restrictions in the CC&Rs.

The only way to address Monterey County's housing needs is to provide more housing. The GDP seems to be a thoughtful and practical approach to do just that.

Thank you for your willingness to accept feedback (and support) from those directly affected by the GDP. Please contact me if you have any questions.

**Daniel F. Archer, Esq.** | Kennedy, Archer & Giffen, Inc. | 24591 Silver Cloud Court, Suite 200 | Monterey, CA 93940 | direct: 831-657-6441 | main: 831-373-7500 | main fax: 831-373-7555 | [darcher@kaglaw.net](mailto:darcher@kaglaw.net) | [www.kaglaw.net](http://www.kaglaw.net)

**App.#PLN170765**

John Jessen <johnjessenconst@gmail.com>

Tue 1/28/2020 7:34 AM

To: Guthrie, Jaime S. x6414 <GuthrieJS@co.monterey.ca.us>

[CAUTION: This email originated from outside of the County. Do not click links or open attachments unless you recognize the sender and know the content is safe. ]

Jaime,

I am the owner of lot 13 &14 in the Laguna Seca Office Park, 24551 and 24560 Silvercloud court. I am very much against the lose of my ability to use my property for apartments at a later date. I should not lose my rights so other property owners can develop there residential units next door. I am not against the owner building apartments on their property. I believe it is a good use for that property.

John and Judy Jessen

831-320-0163

# MONTEREY COUNTY REGIONAL FIRE DISTRICT



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[www.mcrfd.org](http://www.mcrfd.org)

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David J. Sargenti, Deputy Chief

Miles J. Schuler, Division Chief/Operations & Training  
Eric Ulwelling, Division Chief/EMS & Safety  
Kevin Kamnikar, Division Chief/Fire Prevention

Jaime Scott Guthrie, Associate Planner  
Monterey County RMA – Planning  
1441 Schilling Place  
Salinas, CA 93901

January 29, 2020

Planning File No. PLN170765  
Applicant: McIntosh, Leonard, H TR  
Request: Apt. Bldg (Lot 5) & Res/Com Use

APN: 173-121-005  
Address: Lots 2 – 7 Laguna Seca Office Park and  
24491 Citation Court, Monterey  
Subject: **Evacuation & Wildfire Risk**

Dear Ms. Guthrie

Pursuant to your request, this letter is sent to discuss the site evacuation and wildfire risk at the site for the proposed apartment building at 24491 Citation Court as well as the potential residential uses on Lots 2 – 7 of the Laguna Seca Office Park.

In the event of an emergency that would require evacuation, the future on-site roadways on the respective sites, along with the existing roads (Citation Court, Blue Larkspur Lane, York Road, etc.) will provide sufficient means of egress for vehicles evacuating the site during an emergency. The existing and proposed roads will provide a safe queue of traffic making their way out of the area. All vehicles in the Laguna Seca Office Park will have the opportunity to use different evacuation routes in the vicinity.

Additionally, the construction of the current proposed apartment building and any future buildings will include required automatic fire sprinkler systems inside the building and vegetation management around the buildings. The fire sprinkler system will be designed support safe evacuation of the occupants, and the associated fire alarm system will facilitate the prompt dispatch of the fire district resources in the event of a fire. Required vegetation management around the buildings will lessen the risk of fire spreading to and from the buildings.

If you have any questions about this information, please let me know.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Priolo", is written over the word "Sincerely,".

DOROTHY PRIOLO  
Deputy Fire Marshal

*Serving the Northern Salinas Valley, Highway 68 Corridor, Community of Chualar,  
Carmel Valley, Mid Carmel Valley & Santa Lucia Preserve*



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File No. 8078.01

December 23, 2019



### VIA US Mail & Electronic Mail

Monterey County Resource Management Agency  
Land Use Division, Planning  
Attn: Jamie S. Guthrie  
1441 Schilling Place – South, 2nd Floor  
Salinas, CA 93901  
guthriejs@co.monterey.ca.us

### Re: PLN170765 – McIntosh Leonard H. Tr. (Laguna Seca Office Park)

Dear Ms. Guthrie,

This follows up on my August 13, 2019 letter to the Planning Commission regarding this application. In that letter I wrote that there was insufficient evidence to support then proposed Finding No. 7 that changes or additions in the project do not cause substantial changes or new information that would require major revisions to the certified EIR with respect to either traffic or water resources.

### TRAFFIC

I am providing you with a link to the August 2017 TAMC Final SR 68 Scenic Highway Plan and Appendices (“2017 SR 68 Plan”), which are incorporated in this letter.  
<https://www.tamcmonterey.org/programs/highway-projects/sr-68-scenic-highway-plan/>.

The 2017 SR 68 Plan provides a great deal of data on the operational aspects of SR 68 based upon several performance metrics in addition to LOS. The information is provided consistent with the Smart Mobility Framework and recent CEQA streamlining legislation (i.e., SB 743). Among other items, the 2017 SR 68 Plan contains and is based upon information concerning: traffic counts; travel speeds and trip distributions; collision data; roadkill data; vehicle queue lengths; corridor travel speeds, travel time, travel time reliability, and delay; multi-modal level of



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service; on-road mobile source of health-based criteria pollutants and climate change pollutants; and wildlife roadkill hotspots. Much of this data was not collected at all in the 1983 FEIR, so represents "new information" under CEQA. The new information in the SR 68 Plan, when compared to the 1983 FEIR, evidences multiple "changes in circumstances". Because the information in the 2017 SR 68 Plan is only two years old, the same changes in circumstances exist between the 1983 FEIR and the 2019 Addendum for this project.

For example, at the time of the 1983 FEIR, the daily traffic volumes on SR 68 near York Road were 12,700 trips with peak hour volumes of approximately 1,250 trips. The peak hour level of service was D. The 2017 SR 68 Plan discloses that traffic volumes have increased substantially and that the SR 68 LOS between Ragsdale Drive and Laureles Grade Road is worse than reported in 1983, operating at LOS E in both the AM and PM peak hours.

The "new information" in the 2017 SR 68 Plan is indisputably of "substantial importance" and the changes in circumstances it reveals would increase the severity of previously examined significant effects. For example, the 2017 SR 68 Plan states "[T]raffic along this section SR 68 is expected to increase by approximately 10% over the next 25 years, but the net effect on performance will be a 70% increase in delay, meaning that SR 68 is at a tipping point and each new trip along the corridor exacerbates traffic congestion exponentially." (2017 SR 68 Plan, page 2.)

Additionally, the 2017 SR 68 Plan identifies mitigation measures or alternatives that are either newly feasible or considerably different from those analyzed in the 1983 FEIR. They are also considerably different from mitigations and alternatives examined in the 2019 Tiered IS/Addendum, although a comparison to the Tiered IS/Addendum is not the standard under CEQA to determine if a subsequent or supplemental EIR is required.

By way of example as concerns alternatives, the 2017 SR 68 Plan identifies three improvement plan alternatives not found in the 1983 FIER. Among these, it identifies a preferred corridor concept of a roundabout corridor. This is a feasible alternative which was not evaluated in the 1983 FEIR.

But one example of the feasible mitigation measures identified in the 2017 SR 68 Plan, but not the 1983 FEIR, are location-specific and corridor-wide safety countermeasures based on the contributing factors from the baseline collision hot-spot assessments of the Highway Safety Manual and FHA audits.

## WATER RESOURCES

My August 13, 2019 letter stated that the 2006 adjudication and the Cal Am moratorium application are evidence that the changes in circumstances and new information therein will result in substantially more severe impacts that require the need for imposing previously infeasible mitigation measures, or considerably different mitigation measures. These measures

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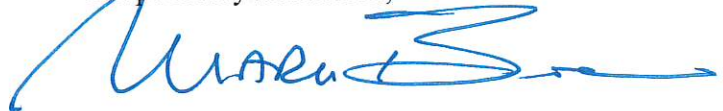
would require major changes to those in the 1983 FEIR. Contrary to the previously proposed Finding 7. f), there is in fact "new information of substantial importance" concerning water supplies that was not known at the time the 1983 FEIR was certified.

The 1983 FEIR concluded that: Projected pumping requirements on the property will not cause the deterioration of the groundwater capabilities of the adjoining properties nor those of the City of Seaside. New information available since 1983 includes both the 2006 adjudication and the Cal Am water moratorium application. These proceedings reflect that Cal Am's Laguna Seca Subarea water production is 303.26 AF over its water production limits. (See August 13, 2019 letter Exhibit "A", pages 5-6.) Furthermore, Cal Am "intends to help alleviate the Laguna Seca Subarea deficit by supplying existing customers and uses in the Ryan Ranch and Bishop service areas with water produced from the Coastal subarea. (August 13, 2019 letter Exhibit "A", page 6.)

On August 13, 2019, the applicant's counsel stated to the Planning Commission that the applicant has an adjudicated water entitlement, so will not be subject to any water moratorium that might be imposed by the PUC. Assuming for discussion that this is correct, a pending moratorium nevertheless represents: 1) a change in circumstances that can create more severe water impacts; and 2) new information therein result in substantially more severe impacts that require the need for imposing previously infeasible mitigation measures, or considerably different mitigation measures. Both these conditions require a subsequent or supplemental EIR for the reasons stated in my letter dated August 13, 2019, which is incorporated herein by reference.

The fact that applicant's property may not be subject to the above referenced water moratorium, should it be imposed, is irrelevant to the question whether his project may have more severe water related impacts than were contemplated in the 1983 EIR, in which no significant water resources impacts were identified. If anything, the fact that this property has the adjudicated right to use water under worsened water supply conditions (which Cal Am asserts justify a water supply hookup moratorium) is evidence of a potential for more severe water impacts on water resources than were identified in the 1983 FEIR.

Respectfully submitted,



Mark Blum

MAB/ab

cc: client

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Mark A. Blum  
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File No. 8078.01

August 13, 2019

### **VIA EMAIL and HAND DELIVERY**

Monterey County Planning Commission  
Attn: Melissa McDougal  
1441 Schilling Place  
Salinas, CA 93901  
McDougalM@co.monterey.ca.us

Re: PLN170765 – McIntosh Leonard H. Tr. (Laguna Seca Office Park)

Honorable Commissioners,

I represent the York Hills Homeowners Association (the “Association”). The Association opposes Application PLN170765 (the “Project”) on numerous grounds, including procedural considerations and potential water and traffic impacts which have not been sufficiently assessed.

Procedurally, the Association believes the abbreviated CEQA process has unreasonably restricted public participation and prejudiced the ability to review and meaningfully comment on the proposal.

Substantively, the staff report and proposed resolution lack substantial evidence to support the proposed CEQA findings. Simply put, relevant facts, particularly regarding current water supply and traffic conditions, have not been determined or evaluated. Nevertheless, there is enough evidence concerning substantial changes in the Project and new information that a Subsequent or Supplemental EIR should be prepared, as more fully described below.

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## **DISCUSSION**

### **A. The Process**

The staff decision to prepare an Addendum, instead of an Initial Study or a Subsequent or Supplemental EIR, has avoided circulation of the CEQA document for public comment and responses to comments. The proposed 2019 EIR Addendum clearly recites that staff is evaluating the potential impacts associated with this Project based upon both the 1983 FEIR and the 2012 IS/Addendum and their underlying studies. These documents are in fact attachments to the 2019 Addendum.

The public and this Commission have had only one week to review all of the materials. A week is wholly inadequate to review the 1983 FEIR (182 pages) and 2012 IS/Addendum (51 pages). While the use of an addendum may be technically compliant with CEQA in some circumstances to determine if a Subsequent or Supplemental EIR should be prepared, in these circumstances it is inconsistent with the level of transparency and participation which Monterey County normally seeks to afford the public.

The process followed to prepare the 2012 Addendum involved first preparing a fifty-one-page Initial Study, and then converting it to a Tiered FEIR Addendum. While still flawed, that process resulted in substantially more analysis and evidence than the present four-page 2019 Addendum.

### **B. The Proposed CEQA Findings Are Not Supported by Substantial Evidence and Are Contradicted by the Existing Evidence**

As staff notes, a Subsequent or Supplemental EIR may be triggered by substantial changes in the Project or circumstances that will require major revisions to the EIR, or new information of substantial importance that was not known at the time the EIR was certified. Public Resources Code Section 21166 and CEQA Guidelines Section 15162.

The Addendum concludes that none of the three exceptions triggering the need for a Subsequent or Supplemental EIR is triggered by this Project. This determination is not supported by substantial evidence.

Staff has determined that there are substantial changes in the Project and the circumstances under which it is being undertaken since the 1983 EIR was certified.

In both cases, however, staff concludes these changes will not result in substantially more severe impacts that require the need for imposing previously infeasible mitigation measures, or considerably different mitigation measures that would require major changes to the 36-year old

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EIR. The Addendum recommendation lacks the requisite fact-based evaluation of the relevant factors under Public Resources Code Section 21166 and CEQA Guidelines Section 15162.

Similarly, staff proposes there is no new information of substantial importance since the EIR was certified in 1983. This is because staff has not required the applicant to provide certain crucial current information which should be evaluated.

Notwithstanding these evidentiary flaws, there is substantial evidence in the record of substantial changes in the Project or circumstances that will require major revisions to the EIR. There is also new information of substantial importance that was not known at the time the EIR was certified. Both these circumstances require preparation of a Subsequent or Supplemental EIR.

## THE FINDINGS

### A. DES Evaluation

**Finding 3** is that the Project is appropriate based on application of the Development Evaluation System (DES).

**Evidence 3.c)** refers to the 2006 Seaside Groundwater Basin adjudication (Superior Court Case No. M664343):

“The adjudication describes de minimis production by any person or entity less than five (5) AFY is not likely to significantly contribute to material injury to or any interest related to the Seaside Groundwater Basin. The estimated total water use for the proposed project is 15.616 AFY (Lots 2-7 residential use) and 1.952 AFY (Lot 5 apartment building). . . .”

This Project is, by definition, under the terms of the adjudication, not a “de minimis production” and is therefore “likely to significantly contribute to material injury to or any interest related to the Seaside Groundwater Basin.” This point is not acknowledged in the DES evaluation. The staff report statement that “the proposed project would meet all of the criteria” (emphasis added) is incorrect.

For that matter, the DES evaluation itself does not appear to be included in the agenda packet, so cannot be commented upon.

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## **B. CEQA Evaluation**

**Finding 7** is that “An Addendum was prepared ... to reflect changes or additions in the project that do not cause substantial changes or new information that would require major revisions to the certified EIR.”

**Evidence 7.d)** acknowledges there is a “substantial change in the project”, but nevertheless concludes that “...analysis of the current proposal indicates no previously unidentified significant environmental impacts or substantially more severe impacts that require the need for imposing previously infeasible mitigation measures, or considerably different mitigation measures or alternatives that would require major revisions to the FEIR.”

The alleged “evidence” is a wholly conclusory statement that does not provide any facts or analysis whatsoever. Staff’s analysis needs to be set forth to determine if there is indeed substantial evidence to support Finding 7 with regard to the “substantial change in the project”.

**Evidence 7.e)** also acknowledges a “changes in circumstances” between the 1983 FEIR and the 2012 IS/Addendum and between the 2012 IS/Addendum and the 20189 Addendum, but again concludes, “None of the changes in circumstances would increase the severity of previously examined significant effects, nor would cause to identify mitigation measures or alternatives that are either newly feasible or considerably different from those analyzed in the FEIR or Tiered IS/Addendum.”

Again, the alleged evidence is a wholly conclusory statement that does not provide any of the analysis staff reports to have engaged in. Staff’s analysis needs to be set forth to determine if there is indeed substantial evidence to support Finding 7 with regard to the “changes in circumstances”.

**Evidence 7.f)** is that “There is no new information of substantial importance that was not known at the time the Office park FEIR was adopted.” To the extent this may be true, it is because the staff has not required the applicant to provide sufficient information with the application.

Having reviewed the staff report and other agenda materials, I find no such evidence to support CEQA Finding No. 7 concerning water or traffic, as described below.

## **Water**

There is no evidence whatsoever offered to support Finding 7 as regards water supply. The finding is in fact flatly contradicted by evidence that since 1983 there have been both changes in circumstances under which the Project is being undertaken and new information of substantial importance that was not known at the time the Office park FEIR was adopted with respect to water supply.

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One substantial change (mentioned in Evidence 3.c)) is that there was a groundwater adjudication in approximately 2006, and that the adjudication established the standard that production over de minimis limits is “likely to significantly contribute to material injury to or any interest related to the Seaside Groundwater Basin.” The Project is estimated to require groundwater production over 15 AFY, well over the 5 AFY de minimis limit, so is “likely to significantly contribute to material injury to or any interest related to the Seaside Groundwater Basin.”

Another significant change in circumstances, not mentioned anywhere in the record, is that since 2018 California-American Water Company (Cal Am), the proposed water supplier, has been seeking California Public Utilities Commission approval of a water moratorium on further connections within the Laguna Seca Subarea, which is the source of water for the Bishop service area proposed to serve the Project. The application is based, among other factors, on changes in circumstances that have occurred since the 2006 adjudication. See Exhibit “A”.

Changed circumstances include that Cal Am’s Laguna Seca Subarea water production was 303.26 AF over its water production limits in 2018. (Exhibit “A”, pages 5-6.) Moreover, Cal Am “intends to help alleviate the Laguna Seca Subarea deficit by supplying existing customers and uses in the Ryan Ranch and Bishop service areas with water produced from the Coastal subarea.” (Exhibit “A”, page 6.)

Furthermore, the pending moratorium application, if approved, would affect the consistency of this Project with applicable County policies and regulations. None of these issues are either recognized or evaluated in the 2019 Addendum.

For these same reasons, there is no evidence in the record that the “None of the changes in circumstances would increase the severity of previously examined significant effects, nor would cause [the lead agency] to identify mitigation measures or alternatives that are either newly feasible or considerably different from those analyzed in the FEIR or Tiered IS/Addendum.” If anything, water production over both the de minimis limits established in 2006 and the Cal Am’s production limits for 2018 and beyond, are substantial changes in circumstances that would increase the severity of previously examined effects. There is simply no analysis in the Addendum whether the increased severity of previously examined effects “would cause [the lead agency] to identify mitigation measures or alternatives that are either newly feasible or considerably different from those analyzed in the FEIR or Tiered IS/Addendum.”

The 1983 FEIR determined that “The Laguna Seca Office Park has adequate groundwater resources and projected pumping capacity to sustain this and future developments.” The FEIR therefore did not identify any impacts that could not be mitigated simply by monitoring and conservation practices. (See FEIR pg. 49.) The 2006 adjudication and the Cal Am moratorium application are evidence that the changes in circumstances and new information therein will



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result in substantially more severe impacts that require the need for imposing previously infeasible mitigation measures, or considerably different mitigation measures. These measures would require major changes to those in the EIR and the 2012 Addendum.

Contrary to proposed Finding 7. f), there is in fact “new information of substantial importance” concerning water supplies that was not known at the time the Office park FEIR was adopted. The 1983 FEIR concluded that:

*Projected pumping requirements on the property will not cause the deterioration of the groundwater capabilities of the adjoining properties nor those of the City of Seaside.*

New information available since 1983 includes the 2006 adjudication and the Cal Am water moratorium application. These proceedings reflect that Cal Am’s Laguna Seca Subarea water production is 303.26 AF over its water production limits. (See Exhibit “A”, pages 5-6.) Furthermore, Cal Am “intends to help alleviate the Laguna Seca Subarea deficit by supplying existing customers and uses in the Ryan Ranch and Bishop service areas with water produced from the Coastal subarea. (Exhibit “A”, page 6.) This new information flatly contradicts the proposed CEQA determination that, “There is no new information of substantial importance that was not known at the time the Office park FEIR was adopted.”

In particular, the new information in the moratorium application shows that circumstances have substantially changed so that: 1) the de minimis limits set in the 2006 adjudication are no longer valid; and 2) any pumping for this Project whatsoever is “likely to significantly contribute to material injury to or any interest related to the Seaside Groundwater Basin.”

The changes in circumstances since 1983 concerning groundwater supplies are substantial and indicate the Project would create new or more severe significant groundwater impacts and policy inconsistencies. None of the new information concerning groundwater supplies was known at the time the Office park FEIR was adopted, and the new information presented by the Cal Am moratorium application was not known at the time of the 2012 IS/Addendum. The new information is similarly of substantial importance because it indicates the presence of new significant environmental groundwater impacts will require major revisions to the 1983 FEIR.

## **Traffic**

The only data offered to support Finding 7 concerning traffic and the current Project is a 2018 Trip Generation Study. The Trip Generation Study has a very narrow scope. It merely compares the estimated trip generation of the planned office uses to the proposed 2019 apartment uses. It does not provide any data regarding current roadway segment and intersections conditions. Consequently, does not assess the impacts of the apartment trips on the existing roadway segment and intersection conditions, but rather only on 1983 conditions.

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There is, for example, no current vehicle to capacity ratio information presented that is more recent than the 2012 Addendum. Nor are we provided with the current volume (vehicles per hour) or average speed of vehicles. There are no narrative descriptions of the performance characteristics of the affected roadway segments or intersections. Staff acknowledges that circumstances have changed in the last nine years, but nowhere are these changes described quantitatively or even qualitatively.

Absent this information, there is no evidentiary basis at all, let alone substantial evidence, for the Addendum conclusion that the Project “would have less than significant impact on traffic.” (2019 Addendum, Sect. 2.7, pg. 4.) To the contrary, the FEIR and 2012 Addendum “recognizes the significant unavoidable traffic impacts of adding trips to the congested road segments and intersections from the development of the approved office park even after mitigations were applied.” (IS PLN020332, pg. 44.)

No previous analysis has examined the impacts of this Project on current road segment and intersection conditions and the 2019 Addendum fails to do so. The 1983 FEIR contained a full traffic analysis, but the data is thirty-six (36) years old. Moreover, its projections assumed Highway 68 would be expanded to a four to six-lane expressway, which has not occurred. Nor does the record contain information on pending projects for a current cumulative impact assessment.

At best, the 2018 Trip Generation Study is evidence that the number of trips anticipated from the apartment uses in this Project may be less than the number of trips anticipated from the office uses in 2012. There is no data nor analysis of the effects of those trips on 2019 traffic conditions. To conclude the trips generated will be no more impactful is to necessarily assume the road segment and intersection conditions have not worsened. There is no evidence whatsoever to support that finding, and the findings may not rely on unsupported assumptions.

**Evidence 7.f)** is that “There is no new information of substantial importance that was not known at the time the Office park FEIR was adopted.” If this is true, it is because the staff has not required the applicant to provide sufficient information with the application. In particular, the applicant was only required to provide a Trip Generation Study. This is not substantial evidence to support Finding 7 with regard to “new information” for the reasons described above.

Unlike the 2019 Addendum, the 2012 IS/Addendum at least contained then current LOS data for most segments of Highway 68 and three intersections, including York Road. The 2019 Addendum evaluated the relative impacts of the 2012 project to those of the 1983 project in terms of Levels of Service. It concluded that under both 1983 and projected 2012 conditions the highway operated at LOS F, resulting in significant unavoidable impacts. The Addendum found the proposed office building to be within the projected traffic impacts analyzed in the EIR (LOS F).

August 13, 2019  
Page 8

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While this was a legally flawed conclusion, the fifty-one (51) pages of evidence presented in 2012 was nevertheless far more than the four (4) pages provided by the 2019 Addendum. The sole data point provided by the 2019 Addendum is that "Highway 68 is still a two-lane road and along with the York Road intersection, currently operates at LOS F." It provides no other evidence regarding the affected Highway 68 segments and intersections. More information is needed to support the proposed finding that no Subsequent or Supplemental EIR is required. For example, data concerning current vehicle to capacity ratio, vehicle volume (vehicles per hour) and average speed of vehicles would allow a determination whether the current Project will send trips to a highway with more or less capacity than in 1983.

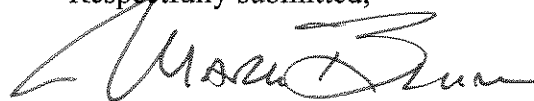
LOS F is the lowest category level of service, and County standards consider a single trip added to a LOS F road segment or intersection to be a significant impact. However, conditions under LOS F can vary dramatically. In 1983 Highway 68 was at LOS F with a 0.68 vehicle to capacity ratio. In 2012, it was 1.01. Today, the record contains no evidence what the ratio is. Consequently, the 2019 Addendum provides no evidence whether the trips generated by the apartment uses will be added to traffic which is better or worse than that last documented in detail in 1983. Absent this information, it cannot be determined if the traffic impacts may be substantially more severe.

Because the Addendum incorrectly finds that the Project "would have less than significant impact on traffic" (flatly contradicted by the evidence in the EIR) and concludes without evidentiary basis that there will not be substantially more severe impacts, the Addendum conclusion that there is no need for imposing previously infeasible mitigation measures, or considerably different traffic mitigation measures that would require major changes to the 36-year old EIR, is unsupported by the evidence.

## CONCLUSION

In conclusion, there is no evidence to support the proposed finding that Public Resources Code Section 21166 and Code of Regulations Section 15162 do not require a Subsequent or Supplemental EIR to assess traffic conditions. There is, however, evidence in the record that new information and changed circumstances regarding groundwater water supply and impacts are "likely to significantly contribute to material injury to or any interest related to the Seaside Groundwater Basin." These circumstances require a Subsequent or Supplemental EIR to assess water supply impacts.

Respectfully submitted,



Mark A. Blum

MAB/ab

cc: client  
Jamie Scott Guthrie

EXHIBIT A



**FILED**

07/02/19  
04:59 PM

**A1907005**

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

In the Matter of the Application of  
California-American Water Company  
(U210W) for an Order Authorizing and  
Imposing a Moratorium on Water Service  
Connections in the Laguna Seca Subarea of  
its Monterey County District.

Application No. 19-\_\_\_\_\_

**APPLICATION OF CALIFORNIA-AMERICAN WATER COMPANY (U210W)  
FOR AN ORDER AUTHORIZING AND IMPOSING A MORATORIUM ON WATER  
SERVICE CONNECTIONS IN THE LAGUNA SECA SUBAREA OF ITS MONTEREY  
COUNTY DISTRICT**

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Water Company

July 2, 2019

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1                                   **BEFORE THE PUBLIC UTILITIES COMMISSION**  
2                                   **OF THE STATE OF CALIFORNIA**

3  
4       In the Matter of the Application of  
5       California-American Water Company  
6       (U210W) for an Order Authorizing and  
7       Imposing a Moratorium Water Service  
      Connections in the Laguna Seca Subarea of  
      its Monterey County District.

Application No. 19-\_\_\_\_\_

8  
9       **APPLICATION OF CALIFORNIA-AMERICAN WATER COMPANY (U210W) FOR AN**  
10      **ORDER AUTHORIZING AND IMPOSING A MORATORIUM ON WATER SERVICE**  
11      **CONNECTIONS IN THE LAGUNA SECA SUBAREA OF ITS MONTEREY COUNTY**  
12      **DISTRICT**

13      **I.       INTRODUCTION**

14           California-American Water Company (“California American Water”) respectfully  
15       submits this Application for an Order Authorizing and Imposing a Moratorium on Water Service  
16       Connections in the Laguna Seca Subarea of its Monterey County District (“Application”) to  
17       comply with the withdrawal limitations set by the Seaside Groundwater Basin Adjudication,  
18       Monterey County Superior Court Case No. M66343. The Laguna Seca Subarea moratorium  
19       would apply to new or expanded water service connections until the existing moratorium on the  
20       Monterey Main System expires.

21      **II.     FACTUAL AND PROCEDURAL BACKGROUND AND NECESSITY FOR**  
22      **RELIEF**

23           **A.     California American Water’s Monterey County District**

24           California American Water’s Monterey County District is made up of several distinct  
25       water systems. The water systems include Monterey Main, Ryan Ranch, Hidden Hills, and  
26       Bishop.

27           As the California Public Utilities Commission (“Commission”) recently recognized:

28           Water supply on the Monterey Peninsula is available largely from rainfall

1 and has long been constrained due to frequent drought conditions on the  
2 semi-arid Peninsula. Water supply constraints have been extensively  
3 documented and have existed for decades on the Monterey Peninsula.<sup>1</sup>

4 Unlike many regions of the State, in terms of water resources, Monterey is in an isolated  
5 area where all available water is obtained locally through groundwater or surface methods. No  
6 imported water is available, thus making the area prone to drought conditions and reduced  
7 availability of supplies based on weather conditions. Water supply for the Monterey County  
8 District is primarily developed from shallow wells in the Carmel Valley, mid-depth and deep  
9 wells in the Seaside Basin, and deep wells along the Highway 68 corridor. Production from  
10 these sources is limited by government orders, court adjudications, and annual rainfall amounts.  
11 The two key regulatory limitations on water production for the Monterey County District are: (1)  
12 the State Water Resources Control Board's ("SWRCB") Carmel River Orders, including Order  
13 No. WR 95-10 ("Order 95-10"), Order No. WRO 2009-0060 (the "Cease and Desist Order" or  
14 "CDO"), and Order No. WRO 2016-0016 (the "Amended CDO"), and (2) the Amended  
15 Decision issued in the Seaside Basin Adjudication (the "Amended Decision").  
16

17 **1. State Water Resources Control Board Order 95-10, CDO and**  
18 **Amended CDO**

19 In 1995, the SWRCB issued Order 95-10, which found that California American Water's  
20 Carmel River Valley wells were producing water subject to the SWRCB's permitting authority,  
21 and that California American Water's water rights authorized diversion of only 3,376 acre feet  
22 per year. On that basis, the SWRCB concluded that California American Water did not have the  
23 legal right to about 10,730 acre-feet annually of its then-current diversions from the Carmel  
24 River. In 2009, SWRCB issued the CDO requiring California American Water eliminate all  
25 non-permitted diversions for the Carmel River by no later than December 31, 2016, which  
26

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27 <sup>1</sup> D.18-09-017, *Decision Approving a Modified Monterey Peninsula Water Supply Project, Adopting*  
28 *Settlement Agreements, Issuing Certificate of Public Convenience and Necessity and Certifying*  
*Combined Environmental Report*, as modified by D.19-01-051, p.4.



1 amounts to nearly a 70 percent curtailment of water diversions. In 2016, SWRCB issued the  
2 Amended CDO, imposing a lower annual Carmel River diversion limit, adopting a new  
3 compliance schedule and requiring all unauthorized diversions from the Carmel River end by  
4 December 31, 2021. The Amended CDO imposes further, “one-for-one” Carmel River diversion  
5 reductions as the Pure Water Monterey Project is brought on-line.

6 Condition 2 of the 2009 CDO prohibits diversions from the Carmel River for new  
7 connections or certain increased uses. Consistent with Condition 2, in Decision 11-03-048 the  
8 Commission authorized a moratorium for the Monterey Main System on new service  
9 connections and increased use of water at existing service addresses resulting from a change in  
10 zoning or use. Pursuant to California American Water’s tariffs, the Monterey Main System  
11 moratorium:

12 ...shall expire at the filing by California-American Water Company of a Tier 1  
13 advice letter with the Commission transmitting the written concurrence of the  
14 Deputy Director of Water Rights of the State Water Resources Control Board  
15 with California-American Water Company’s finding that a permanent supply of  
River water.

## 16 **2. The Monterey Peninsula Water Supply Project**

17 In Application (“A.”) 12-04-019, California American Water sought Commission  
18 authorization to construct and operate the Monterey Peninsula Water Supply Project  
19 (“MPWSP”) in response to the CDO. In Decision (D.) 18-09-017, the Commission granted  
20 California American Water a Certificate of Public Convenience and Necessity (“CPCN”) for the  
21 MPWSP, including a desalination plant at a size of 6.4 million gallons per day. The Commission  
22 concluded “that a CPCN is needed to authorize Cal-Am to construct and operate the MPWSP so  
23 that it may replace water supplies for Cal-Am’s Monterey District in response to the CDO issued  
24 by the [SWRCB] to cease excess diversions from the Carmel River by December 31, 2021, meet  
25 reasonable demand... provide a reliable and secure supply, include a reasonable ‘buffer’ against  
26 uncertainties, and satisfy all other reasonable needs.”<sup>2</sup>

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28 <sup>2</sup> D.18-09-017, pp.68-69.

**B. California American Water's Laguna Seca Subarea and the Seaside Groundwater Basin Adjudication**

The Laguna Seca Subarea of the Seaside Groundwater Basin ("Basin") is currently the source of water for California American Water's Ryan Ranch, Hidden Hills and Bishop service areas. California American Water has six groundwater wells located within the Laguna Seca Subarea.

In August 2003, California American Water filed a complaint in Monterey Superior Court, Case No. M66343, seeking appointment of a Watermaster and adjudication of the groundwater rights for the Basin on the basis that use was exceeding replenishment and there was an imminent risk to water supply and quality. Despite the necessity of continued extractions from the Basin, it was apparent that the then existing level of Basin production was likely not sustainable and could lead to long-term overdraft and chronically lowered water levels leading to negative and irreversible Basin impacts – most notably seawater intrusion.

In February 2007, the Superior Court issued the Amended Decision, finding that Basin pumping must be reduced over time to avoid adverse Basin impacts. For California American Water and other producers, the decision required reduction in Basin production over a fifteen-year period in order to prevent seawater intrusion. Specifically, California American Water's pumping rights were reduced from more than 4,000 acre-feet per year to about 1,500 acre-feet annually. The mandatory reductions are felt more heavily in the Laguna Seca Subarea, in which California American Water's authorized pumping allocation was reduced to zero in 2018. The chart below illustrates California American Water's court-ordered allocation limits.

Seaside Groundwater Basin Adjudication Allocations: Water Years 2006-2026

California American Water Share (AFY)

Water Year	Coastal Subareas (AF)	Laguna Seca Subarea (AF)
2006-2008	3,504	345
2009	3,191	271
2010-2011	3,087	246

2012-2014	2,669	147
2015-2017	2,251	48
2018-2020	1,820	0
2021-2023	1,494	0

The Amended Decision established a regional Watermaster board to manage the basin. The Watermaster is charged with administering and enforcing the provisions of the Amended Decision and to that end is required to hold regular meetings. At the time of the adjudication, Watermaster and California American Water believed that an alternate source of water would be available to serve the Laguna Seca Subarea by Water Year 2018.

**C. California American Water’s Laguna Seca Subarea Water Supply Deficit**

As set forth above, the Seaside Groundwater Basin Adjudication set California American Water’s production limits for the Laguna Seca Subarea at zero starting in Water Year 2018, which began October 1, 2017. The amount of water available to California American Water during Water Year 2018 and the actual amount produced are provided in the table below. The “target” for the year is California American Water’s adjudicated production rights for Water Year 2018. The “actual” is the metered production in AF from California American Water wells within the Laguna Seca Subarea.

Laguna Seca Subarea Water

Year 2018

	Target (AF)	Actual (AF)
Oct	0.00	24.00
Nov	0.00	18.60
Dec	0.00	23.59
Jan	0.00	19.19
Feb	0.00	21.64
Mar	0.00	18.48
Apr	0.00	19.67
May	0.00	27.54
Jun	0.00	31.26
Jul	0.00	33.52
Aug	0.00	35.04

Sep	0.00	30.74
Total (AF)	0.00	303.26
Target (AF)	0.00	
Balance (AF)	-303.26	

The actual production of 303.26 AF minus the operating yield of 0.0 AF results in an overproduction of 303.26 AF. Thus, at this time, all Laguna Seca Subarea production is in excess of California American Water's adjudicated production rights and a moratorium is justified.

Pursuant to the Amended Decision, California American Water may supply the Ryan Ranch and Bishop service areas with water produced from the Coastal Subarea of the Basin, consistent with California American Water's allocation for the Coastal Subarea. As such, in the short term, once the Main System/Ryan Ranch intertie project is constructed and water from the Pure Water Monterey project is available for delivery, and if sufficient water is also available as a result of Aquifer Storage and Recovery efforts ("ASR"), California American Water intends to help alleviate the Laguna Seca Subarea deficit by supplying existing customers and uses in the Ryan Ranch and Bishop service areas with water produced from the Coastal Subarea. Long-term, California American Water intends to supply all of its systems located within the Laguna Seca Subarea with water from the Main System, using all water sources in its portfolio. However, until the MPWSP is brought on-line and the CDO is lifted, California American Water may only use its Basin supply to serve demands in the Laguna Seca Subarea, with use of native Coastal Subarea groundwater to help meet demands in the Laguna Seca Subarea further stretching California American Water's limited water supplies until the CDO is lifted.

General Order 103-A, at Section II.2.B.(3)a., states that a system's facilities shall have the capacity to meet the source capacity requirements as defined in the Waterworks Standards, CCR Title 22, Section 64554, or its successor. If, at any time, the system does not have this capacity, the utility shall request a service connection moratorium until such time as it can demonstrate the source capacity has been increased to meet system requirements. Here, the amount of water allocated to the Laguna Seca Subarea by the adjudication is legally insufficient

1 for new and extended uses, which justifies issuance of the requested moratorium.

2 California American Water's practice has been to continue to produce water from the  
3 Laguna Seca Subarea and incur replenishment assessments for over-production. However, this  
4 practice is no longer available now that California American Water's Laguna Seca allocation has  
5 reached zero. Under the Amended Decision, a producer must pay replenishment assessments for  
6 any water produced in excess of its base water right (i.e. its share of the natural safe yield) but  
7 within its share of the operating yield.<sup>3</sup> In years where replenishment water is available, a  
8 producer may produce in excess of its share of the operating yield, but must pay an additional  
9 replenishment assessment on that water.<sup>4</sup> In years where replenishment water is unavailable, all  
10 producers, including California American Water, are enjoined from any over-production beyond  
11 the operating yield.<sup>5</sup> A producer whose allocation has been reduced to zero is not allowed to  
12 engage in over-production by paying a replenishment assessment, even if replenishment water is  
13 available. Further, producers are enjoined from producing except pursuant to a right authorized  
14 by the Amended Decision.<sup>6</sup>

15 **D. Past and On-Going Efforts to Correct the Supply Deficit**

16 Until the MPWSP is online, the only source water outside of the Basin that could be  
17 provided to the Laguna Seca Subarea would be from the Carmel River. However, California  
18 American Water's use of this source water is constrained by the CDO and cannot support new  
19 connections until the MPWSP is complete. As explained above, California American Water may  
20 be able to physically serve water to existing customers in the Ryan Ranch and Bishop service  
21 areas with groundwater produced from the Coastal Subarea of the Basin once the Bishop/Ryan  
22 Ranch intertie project is constructed and water from the Pure Water Monterey project is available  
23 for delivery to California American Water's customers, if sufficient ASR water is available.  
24 Until that time, and given no other currently viable options, California American Water will  
25

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26 <sup>3</sup> See *Amended Decision*, Exhibit A, Section III.A.28, "Replenishment Assessment" and Section III.j.iii,  
27 "Artificial Replenishment and Replenishment Assessments."

28 <sup>4</sup> *Id.*

<sup>5</sup> *Id.* at Section III.D, "Injunction of Unauthorized Production."

<sup>6</sup> *Id.* at Section III.D, "Injunction of Unauthorized Production."

1 serve its existing customers with groundwater produced from the Laguna Seca Subarea. Even  
2 with the Bishop/Ryan Ranch interconnect, the available water to serve these two locations would  
3 be dependent on the available stored ASR water from previous rains. Additionally, the  
4 interconnect would not extend to Hidden Hills, which would still be served from the Laguna  
5 Seca Subarea. Consequently, a combination of building the interconnect and implementing the  
6 moratorium would be the most prudent approach for the Laguna Seca Subarea.

7 Even though California American Water's allocation for the Laguna Seca Subarea  
8 groundwater has been at zero since Water Year 2018, and despite the more stringent Carmel  
9 River diversion limits imposed in the Amended CDO, California American Water continues to  
10 receive requests for new or expanded water service connections with Water Connection Permits  
11 being issued by the Monterey Peninsula Water Management District ("MPWMD").

12 In direct response to this situation and recognizing that an alternative water supply would  
13 not be available when anticipated, California American Water requested a moratorium on service  
14 connections in the Laguna Seca Subarea in A.16-07-002, the Company's general rate case  
15 application for test year 2018, which request was supported by MPWMD. In D.18-12-021, the  
16 Commission found that California American Water failed to provide sufficient notice of the  
17 moratorium to its customers and did not present sufficient information to support a moratorium  
18 because the Company did not explain why it could not rely on "payment of replenishment  
19 assessments to the Watermaster or through importation of non-native water to the Seaside  
20 Basin."<sup>7</sup> The Commission concluded that "Cal-Am may renew [its moratorium] request in a  
21 new application or in its next GRC if it provides appropriate notice to potentially affected  
22 customers."<sup>8</sup> This Application addresses those concerns by (1) demonstrating, as set forth  
23 above, that payment of replenishment assessments or importation of non-native water are not  
24 viable solutions, and (2) providing notice to Laguna Seca Subarea customers and property  
25 owners as described below.

26  
27  
28 <sup>7</sup> D.18-12-021, p.24.

<sup>8</sup> D.18-12-021, p.24.

1     **III.     REQUESTED RELIEF**

2             California American Water now seeks Commission authorization to:

3             (A) impose a moratorium in its Laguna Seca Subarea service areas (which includes the  
4     Ryan Ranch,<sup>9</sup> Hidden Hills, and Bishop systems) on new or expanded water service  
5     connections until the existing Monterey Main System moratorium expires;

6             (B) modify its Monterey County District tariffs to include a special condition authorizing  
7     California American Water to refuse to connect new or expanded water service connections in its  
8     Laguna Seca Subarea service areas; and

9             (C) supply water to new or expanded service connections after the moratorium's  
10    effective date, provided that any such service had obtained all necessary written approvals  
11    required for project construction and connection to California American Water's water system  
12    prior to that date.

13            With no allocated Laguna Seca Subarea source water, and the restrictions in the  
14    Amended CDO, California American Water cannot justify setting new meters resulting in  
15    increased system consumption in contravention of the adjudication. Setting new service  
16    connections or expanding existing connections is risky and unreliable given California American  
17    Water's current water supply situation and is contrary to the intent and objectives of the CDO,  
18    Amended CDO, and Amended Decision. Additionally, as explained above, importation of non-  
19    native water is not a solution.

20            Because prospective customers are still obtaining water permits from MPWMD, and in  
21    compliance with the Commission's directive in D.18-12-021, California American Water files  
22    this Application. To address any concerns regarding notice, California American Water intends  
23    to provide the notice attached hereto as Attachment A and described in greater detail below. In  
24    addition, and before the filing of this Application, California American Water invited  
25    representatives from several Homeowner Associations in its Laguna Seca Subarea to a  
26    presentation at its offices to discuss this Application and the requested relief. A representative  
27    \_\_\_\_\_

28    <sup>9</sup> Although the Ryan Ranch service area currently has a service connection moratorium imposed by  
MPWMD, it is possible the MPWMD moratorium may be lifted prior to implementation of the MPWSP.



1 from County Supervisor Mary Adams's office attended the meeting. Three representatives from  
2 MPWMD were also present.

3 The basis for this application includes, but is not limited to, Public Utilities Code Section  
4 451 (prohibiting unreasonable discrimination in service); General Order 103-A, sections  
5 II.2.B.(3) (requiring public utilities to ensure the system meets 22 C.C.R. Section 64554); and *In*  
6 *Re Southern California Water Company*, D.91-04-022 (allowing a connection moratorium when  
7 a wholesale water supplier to a regulated utility ordered a connection moratorium without the  
8 regulated utility declaring its own water shortage emergency).

9 The Commission has the authority under Section 451 to authorize difference in service  
10 when those differences are not undue, unjust or unreasonable. If California American Water  
11 were to continue to connect new customers in the Laguna Seca Subarea despite a production  
12 allocation of zero, California American Water will be forced to continue the unreliable existing  
13 practice that does not conform to the intent and objectives of the CDO and Seaside Groundwater  
14 Basin Adjudication. Therefore, absent a court order modifying the production rights established  
15 by the Seaside Groundwater Basin Adjudication, a reasonable basis exists to refuse service to  
16 prospective customers of California American Water's systems served with water produced from  
17 the Laguna Seca Subarea.

18 California American Water has not implemented the procedures specified in Chapter 3 of  
19 Division 1 of the California Water Code, commencing with Water Code section 350, prior to  
20 filing this application as those procedures are inapplicable to this Application.

21 For the reasons described in this Application, California American Water respectfully  
22 requests, after notice and a full opportunity for public comment, that a special condition be  
23 placed in its tariffs for Laguna Seca Subarea allowing California American Water to refuse  
24 service to new or expanded water connections.

#### 25 **IV. COMPLIANCE WITH CEQA**

26 Action by the Commission on this Application is either not subject to or is exempt from  
27 the California Environmental Quality Act ("CEQA").

28 Action by the Commission on this application is not subject to CEQA because the

1 requested action is ministerial. The requested action seeks authorization to comply with the  
2 Amended Decision; there is no opportunity for the Commission to shape California American  
3 Water's compliance with that order in a manner that might address environmental impacts of the  
4 adjudication.<sup>10</sup>

5 Action by the Commission on this application would enforce General Order 103-A. Such  
6 action is categorically exempt from CEQA pursuant to 14 C.C.R. § 15321, which exempts  
7 actions to enforce a law, general rule, standard or objective administered or adopted by a  
8 regulatory agency.

9 **V. CATEGORY, HEARING, ISSUES AND PROPOSED SCHEDULE [RULE 2.1(C)]**

10 **A. Category**

11 California American Water proposes the category for this proceeding is ratesetting.

12 **B. Are Evidentiary Hearings Necessary?**

13 California American Water believes that evidentiary hearings are not necessary because  
14 this Application does not raise any material issue of fact or law. The necessity for the requested  
15 authorization has been demonstrated. California American Water intends to introduce the  
16 following items in support of the Application:

- 17 1. This Application, copies of which have been or will be delivered to the Commission.
- 18 2. Prepared witness qualifications and direct testimony of Christopher Cook, Central  
19 Division Director of Operations for California American Water, to support the  
20 reasonableness and prudence of the Application.
- 21 3. Prepared and oral rebuttal testimony and related exhibits if necessary to support  
22 California American Water's specific requests.

23 **C. Issues**

24 There are two issues in the proceeding. The first is whether California American Water  
25 should be allowed to implement a moratorium in the Laguna Seca Subarea. The second is the  
26

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27 <sup>10</sup> See *California American Water v. City of Seaside*, 183 Cal.App.4th 471 (2010); see also *Mountain*  
28 *Lion Foundation v. Fish & Game Commission*, 16 Cal.4th 105 (1997); *Leach v. City of San Diego*, 220  
Cal.App.3d 389 (1990).

proper duration of such a moratorium, if a moratorium to be implemented.

**D. Safety Considerations**

California American Water is committed to the safety of its employees and customers. This commitment to safety involves efforts to protect system infrastructure and safeguard customers supplies. This commitment to safety of customer supply supports the requested moratorium.

**E. Schedule**

California American Water submits the procedural schedule below for the Commission's consideration of the relief requested.

Event	Date
Application Filed	July 2, 2019
Protests and Responses to the Application	30 Days after Notice
Reply to Protests or Responses	40 Days after Notice
Prehearing Conference	45 Days after Application Filed
Scoping Memo	60 Days after Application Filed
Proposed Decision Issued	150 Days after Application Filed
Commission Decision	180 Days after Application Filed

**VI. OTHER PROCEDURAL REQUIREMENTS**

**A. Communications Concerning Application [Rule 2.1(b)]**

All communications and correspondence with the Applicants should be directed to:

1 Sarah E. Leeper  
2 California-American Water Company  
3 555 Montgomery Street, Suite 816  
4 San Francisco, CA 94111  
5 Tel: (415) 863-2960  
6 Fax: (415) 397-1586  
7 Email: sarah.leeper@amwater.com

Cathy Hongola-Baptista  
California-American Water Company  
555 Montgomery Street, Suite 816  
San Francisco, CA 94111  
Tel: (415) 293-3023  
Fax: (415) 397-1586  
Email: cathy.hongola-  
baptista@amwater.com

8 **B. Description of Applicant [Rule 2.1(a) and Rule 2.2]**

9 California American Water's exact legal name is California-American Water Company.  
10 California American Water, a California corporation, is a Class A public utility water and  
11 wastewater company regulated by the Commission. California American Water provides  
12 regulated water and/or wastewater utility services in parts of San Diego, Los Angeles, Ventura,  
13 Monterey, Sonoma, Yolo, Sacramento, Merced, and Placer counties. California American  
14 Water's principal place of business is 655 W. Broadway, Suite 1410, San Diego, CA 92101-  
15 8494.

16 California American Water filed a certified copy of its articles of incorporation with the  
17 Commission on January 6, 1966 in Application 48170. California American Water filed a  
18 certified copy of an amendment to its articles of incorporation with the Commission on  
19 November 30, 1989, in Application 89-11-036. California American Water filed a certified copy  
20 of a further amendment to its articles of incorporation with the Commission on February 28,  
21 2002, in Application 02-02-030. California American Water filed a certified copy of an  
22 additional amendment to its articles of incorporation with the Commission on April 3, 2017, in  
23 Application 17-04-003. California American Water has not subsequently amended its articles of  
24 incorporation.

25 **VII. SERVICE AND NOTICE**

26 California American Water will serve the Application on the parties identified on the  
27 attached service list, which includes certain parties listed on the Monterey service lists for its last  
28 general rate case (A.16-07-002).

1           Within 15 working days of the California Public Utilities Commission’s Public Advisor’s  
2 Office (“PAO”) approving the notice, California American Water will mail a notice of this  
3 Application to (1) all of its Laguna Seca Subarea customers, and (2) to Laguna Seca Subarea  
4 property owners that are not current California American Water customers, but for which  
5 California American Water has an address, notifying them of the proposed moratorium. A draft  
6 of that notice is set forth in attached Exhibit A. Prior to filing the Application, California  
7 American Water supplied the PAO with drafts of the proposed notice.  
8

9           The recipients of the notice (i) will be furnished the Application number and file  
10 reference, (ii) will be requested to direct any questions to California American Water at its  
11 Central Division office, and (iii) will be advised to communicate in writing with the Commission  
12 if they take exception to this Application or are not satisfied with the information furnished by  
13 California American Water.  
14

## 15 **VIII. CONCLUSION**

16           For the reasons set forth above, California American Water respectfully requests that the  
17 Commission issue a decision finding that:

- 18           a. California American Water’s Application is granted;
- 19           b. California American Water is authorized to immediately refuse service to new or  
20           expanded connections upon approval of this Application;
- 21           c. California American Water is authorized to file a Tier 1 advice letter within 15  
22           days of a final decision granting this Application to add a special condition to its  
23           Monterey County District tariffs authorizing California American Water:
  - 24                   a. to refuse service to new or expanded connections in the Laguna Seca  
25                   Subarea until the existing Monterey Main System moratorium terminates;  
26                   and
  - 27                   b. to supply water to new or expanded service connections after the  
28                   moratorium’s effective date, provided that any such service had obtained

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all necessary written approvals required for project construction and  
connection to California American Water’s water system prior to that date;  
and

d. For such other relief as may be necessary and appropriate.

DATED: July 2, 2019

Respectfully submitted,

By /s/ Cathy Hongola-Baptista

Cathy Hongola-Baptista

Sarah E. Leeper  
Nicholas A. Subias  
Cathy Hongola-Baptista  
California-American Water Company  
555 Montgomery Street, Suite 816  
San Francisco, CA 94111  
Tel: (415) 863-2960  
Fax: (415) 397-1586  
Email: sarah.leeper@amwater.com  
nicholas.subias@amwater.com  
cathy.hongola-baptista@amwater.com

Attorneys for Applicant  
California-American Water Company


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**VERIFICATION**

I am an officer of the applicant corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 27, 2019 at Pacific Grove, California.

By:   
Garry Hofer  
Vice President of Operations  
California-American Water Company

# EXHIBIT A



Para una versión en español de este aviso, visite nuestro sitio web [www.californiaamwater.com](http://www.californiaamwater.com).

**NOTICE OF APPLICATION REQUESTING AUTHORITY TO IMPLEMENT NEW WATER  
HOOKUPS AND EXPANSIONS OF WATER USE SERVICE MORATORIUM IN THE  
LAGUNA SECA SUBAREA  
(A.19-07-XXX)**

California American Water has filed a request with the California Public Utilities Commission (CPUC) for authority to impose a moratorium on new or expanded connections in the Laguna Seca Subarea of its Monterey County District. The Laguna Seca Subarea includes the Ryan Ranch, Hidden Hills and Bishop systems. The request is necessary to comply with withdrawal limitations set by the Seaside Groundwater Basin Adjudication<sup>1</sup>. The Seaside Groundwater Basin Adjudication requires California American Water and other producers to reduce production from the Seaside Groundwater Basin to prevent seawater intrusion. The moratorium would apply until the existing moratorium on California American Water's Monterey Main System terminates, which is anticipated by the end of 2021.

On July 2, 2019, California American Water filed application (A.19-XX-XXX) with the CPUC requesting a modification to its existing tariffs authorizing California American Water to implement the moratorium described above. **This will not affect rates and is not a request to change rates.**

**CUSTOMER QUESTIONS; OBTAINING A COPY OF THE APPLICATION**

The application and its attachment will be made available upon request. Customers who wish to obtain a copy of the application or who have questions about the application may contact Anthony Lopez at [Anthony.Lopez@amwater.com](mailto:Anthony.Lopez@amwater.com); 511 Forest Lodge Road, Suite 100, Pacific Grove, CA 93950.

The application may also be reviewed online on the CPUC's Docket Card webpage <https://apps.cpuc.ca.gov/apex/f?p=401:1:0>. Type the application number (19XXXXX) into the Proceeding Number Search box. The application may also be reviewed in person at the CPUC's Central Files Office by appointment. For more information, contact [aljcentralfilesid@cpuc.ca.gov](mailto:aljcentralfilesid@cpuc.ca.gov) or 1-415-703-2045.

**CPUC PROCESS**

This application will be assigned to an Administrative Law Judge (Judge) who will determine how to receive evidence and other related documents necessary for the CPUC to establish a record upon which to base its decision. Evidentiary hearings may be held where parties of record will present their testimony and may be subject to cross-examination before the Judge. These hearings are open to the public, but only those who are parties of record may present evidence or cross-examine witnesses. After considering all proposals and all evidence presented during the formal hearing process, the Judge will issue a draft decision which may adopt all or part of California American Water's request, modify, or deny the application. Any of the five CPUC Commissioners may sponsor an alternate decision and the issue will be voted on at a scheduled CPUC Voting Meeting.

---

<sup>1</sup> Monterey County Superior Court Case No. M66343

The CPUC may deem it necessary to hold Public Participation Hearings (PPHs) for this requested moratorium. In the event PPHs are scheduled, customers will be notified of the date(s), time(s) and location(s) through a bill insert or separate mailer. Notices will also be posted in a local newspaper.

### **STAY INFORMED**

If you would like to follow this proceeding, or any other issue before the CPUC, you may use the CPUC's free subscription service. Sign up at: <http://subscribecpuc.cpuc.ca.gov/>.

If you would like to learn how you can participate in the proceeding, have informal comments, or have questions about the CPUC processes, you may access the CPUC's Public Advisor's Office (PAO) webpage at <http://consumers.cpuc.ca.gov/pao/>. You may also contact the PAO as follows:

Write: CPUC Public Advisor's Office  
505 Van Ness Avenue  
San Francisco, CA 94102  
Email: [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov)  
Phone: 1-866-849-8390 (toll-free) or 1-415-703-2074  
1-866-836-7825 (toll-free) or TTY 1-415-703-5282

Please refer to **California American Water's Laguna Seca Subarea Moratorium Application No. 19-07-XXX** in any communications with the CPUC regarding this matter. These comments will become part of the public correspondence file for this proceeding and made available for review to the assigned Judge, the Commissioners, and appropriate CPUC staff.

Ms, Jamie Scott-Guthrie, AICP  
Associate Planner  
(GuthrieJS@co.monterey.ca.us)  
Monterey County RMA/Planning  
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Mr. Craig Spencer  
Planning Manager  
(SpencerC@co.monterey.ca.us)  
Monterey County RMA/Planning  
1441 Schilling Place  
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FAX: (831) 757-9516

I am the owner or an authorized agent of the owner of lot 9 in the Laguna Seca Office Park. I do not object to Application PLN170765 and hereby confirm my understanding that the use of lot 9 is limited to professional office uses and that residential use of Laguna Seca Office Park lots 2-7 is permitted, consistent with the CC&Rs.

Signed

  
M. Massoudi, Property Owner

Date

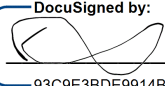
6/17/2020

Ms, Jamie Scott-Guthrie, AICP  
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Mr. Craig Spencer  
Planning Manager  
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Monterey County RMA/Planning  
1441 Schilling Place  
Salinas, CA 93901

FAX: (831) 757-9516

I am the owner or an authorized agent of the owner of lot 4 in the Laguna Seca Office Park. I do not object to Application PLN170765 and hereby confirm my understanding that the use of lot 4 will not be limited to professional office uses and that residential use of Laguna Seca Office Park lots 2-7 is permitted and is consistent with the CC&Rs.

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Signed

5/15/2020

Date

Clifton H. McIntosh

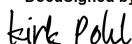
Print Name

Ms, Jamie Scott-Guthrie, AICP  
Associate Planner  
(GuthrieJS@co.monterey.ca.us)  
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(SpencerC@co.monterey.ca.us)  
Monterey County RMA/Planning  
1441 Schilling Place  
Salinas, CA 93901

FAX: (831) 757-9516

I am the owner or an authorized agent of the owner of lot 11 in the Laguna Seca Office Park. I do not object to Application PLN170765 and hereby confirm my understanding that the use of lot 11 is limited to professional office uses and that residential use of Laguna Seca Office Park lots 2-7 is permitted, consistent with the CC&Rs.

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Signed

May 14, 2020

Date

Kirk Pohl

Print Name

Ms, Jamie Scott-Guthrie, AICP  
Associate Planner  
(GuthrieJS@co.monterey.ca.us)  
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Mr. Craig Spencer  
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(SpencerC@co.monterey.ca.us)  
Monterey County RMA/Planning  
1441 Schilling Place  
Salinas, CA 93901

FAX: (831) 757-9516

I am the owner or an authorized agent of the owner of lot 15 in the Laguna Seca Office Park. I do not object to Application PLN170765 and hereby confirm my understanding that the use of lot 15 is limited to professional office uses and that residential use of Laguna Seca Office Park lots 2-7 is permitted, consistent with the CC&Rs.

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5/18/2020

Date

Carolyn Donaway, Owners Representative

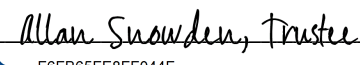
Print Name

Ms, Jamie Scott-Guthrie, AICP  
Associate Planner  
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Salinas, CA 93901

Mr. Craig Spencer  
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(SpencerC@co.monterey.ca.us)  
Monterey County RMA/Planning  
1441 Schilling Place  
Salinas, CA 93901

FAX: (831) 757-9516

I am the owner or an authorized agent of the owner of two office condo units on Lot 10 in the Laguna Seca Office Park which consist of approximately 1949 square feet (APN 173-123-003 and 004). I do not object to Application PLN170765 and hereby confirm my understanding that the use of lot10 is limited to professional office uses and that residential use of Laguna Seca Office Park lots 2-7 is permitted, consistent with the CC&Rs.

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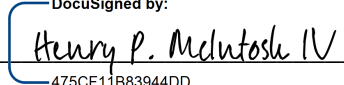
Allan Snowden, trustee

Ms, Jamie Scott-Guthrie, AICP  
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1441 Schilling Place  
Salinas, CA 93901

FAX: (831) 757-9516

I am the owner or an authorized agent of the owner of lot 6 in the Laguna Seca Office Park. I do not object to Application PLN170765 and hereby confirm my understanding that the use of lot 6 will not be limited to professional office uses and that residential use of Laguna Seca Office Park lots 2-7 is permitted and is consistent with the CC&Rs.

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5/15/2020  
\_\_\_\_\_  
Date

Henry P. McIntosh  
Print Name

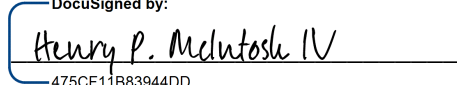


Ms, Jamie Scott-Guthrie, AICP  
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Mr. Craig Spencer  
Planning Manager  
(SpencerC@co.monterey.ca.us)  
Monterey County RMA/Planning  
1441 Schilling Place  
Salinas, CA 93901

FAX: (831) 757-9516

I am the owner or an authorized agent of the owner of lot 7 in the Laguna Seca Office Park. I do not object to Application PLN170765 and hereby confirm my understanding that the use of lot 7 will not be limited to professional office uses and that residential use of Laguna Seca Office Park lots 2-7 is permitted and is consistent with the CC&Rs.

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Signed

5/15/2020

Date

Henry P. McIntosh

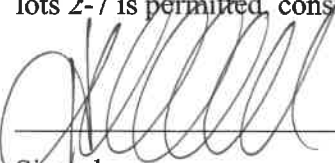
Print Name

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Mr. Craig Spencer  
Planning Manager  
(SpencerC@co.monterey.ca.us)  
Monterey County RMA/Planning  
1441 Schilling Place  
Salinas, CA 93901

FAX: (831) 757-9516

I am the owner or an authorized agent of the owner of lot 19 in the Laguna Seca Office Park. I do not object to Application PLN170765 and hereby confirm my understanding that the use of lot 19 is limited to professional office uses and that residential use of Laguna Seca Office Park lots 2-7 is permitted, consistent with the CC&Rs.

  
\_\_\_\_\_  
Signed

5/19/2020  
\_\_\_\_\_  
Date

HENRY RUANKE  
\_\_\_\_\_  
Print Name

Ms, Jamie Scott-Guthrie, AICP  
Associate Planner  
(GuthrieJS@co.monterey.ca.us)  
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Mr. Craig Spencer  
Planning Manager  
(SpencerC@co.monterey.ca.us)  
Monterey County RMA/Planning  
1441 Schilling Place  
Salinas, CA 93901

FAX: (831) 757-9516

I am the owner or an authorized agent of the owner of lot 16 in the Laguna Seca Office Park. I do not object to Application PLN170765 and hereby confirm my understanding that the use of lot 16 is limited to professional office uses and that residential use of Laguna Seca Office Park lots 2-7 is permitted, consistent with the CC&Rs.

Daniel Archer

Signed

05-20-2020

Date

Daniel F. Archer, Manager of 24591 Silver Cloud Court, LLC

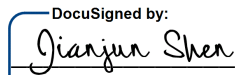
Print Name

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FAX: (831) 757-9516

I am the owner or an authorized agent of the owner of lots 2 and 3 in the Laguna Seca Office Park. I do not object to Application PLN170765 and hereby confirm my understanding that the use of lots 2 & 3 is currently limited to professional office uses and that if PLN170765 is approved that residential use of Laguna Seca Office Park lots 2-7 would be permitted, consistent with the CC&Rs.

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6/17/2020

Date

Print Name Steven Shen

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