

**STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD**

DIVISION OF WATER RIGHTS

DRAFT PERMIT FOR DIVERSION AND USE OF WATER

APPLICATION 30215A

PERMIT XXXXX

of: California American Water
PO Box 951
Monterey, CA 93942-0951

The permit is being issued in accordance with **Application 30215A** filed on **January 26, 1993** has been approved by the State Water Resources Control Board (State Water Board) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source:	Tributary to:
(1) Carmel River	Pacific Ocean
(5-32) Carmel River Subterranean Stream	Pacific Ocean

within the County of **Monterey**.

2. Location of points of diversion.

Points of Diversion (By California Coordinate System of 1983-Zone 4)	40-acre subdivision of public land survey or projection thereof	Section (Projected)	Township	Range	Base and Meridian
(1) San Clemente Dam: North 2,053,010 feet and East 5,765,040 feet	NW¹/₄ of SW¹/₄	24	17S	2E	MD
(5) Canada Well: North 2,092,010 feet and East 5,715,190 feet	NE¹/₄ of SW¹/₄	17	16S	1E	MD
(6) San Carlos Well: North 2,091,660 feet and East 5,717,990 feet	NE¹/₄ of SE¹/₄	17	16S	1E	MD
(7) Cypress Well: North 2,087,610 feet and East 5,724,640 feet	SW¹/₄ of NW¹/₄	22	16S	1E	MD
(8) Pearce Well: North 2,087,360 feet and East 5,726,140 feet	SE¹/₄ of NW¹/₄	22	16S	1E	MD

(9) Schulte Well: North 2,087,410 feet and East 5,729,240 feet	SW¹/₄ of NW¹/₄	23	16S	1E	MD
(10) Manor #2 Well: North 2,086,460 feet and East 5,731,340 feet	NE¹/₄ of SW¹/₄	23	16S	1E	MD
(11) Begonia #2 Well: North 2,085,510 feet and East 5,734,740 feet	NW¹/₄ of SW¹/₄	24	16S	1E	MD
(12) Berwick #7 Well: North 2,084,460 feet and East 5,735,290 feet	SW¹/₄ of SW¹/₄	24	16S	1E	MD
(13) Berwick #8 Well: North 2,084,510 feet and East 5,736,090 feet	SE¹/₄ of SW¹/₄	24	16S	1E	MD
(15) Scarlett #8 Well: North 2,084,510 feet and East 5,740,590 feet	SW¹/₄ of SW¹/₄	19	16S	2E	MD
(17) Los Laureles #5 Well: North 2,080,310 feet and East 5,748,590 feet	NW¹/₄ of SE¹/₄	29	16S	2E	MD
(18) Los Laureles #6 Well: North 2,079,510 feet and East 5,749,440 feet	SE¹/₄ of SE¹/₄	29	16S	2E	MD
(19) West Garzas #4 Well: North 2,075,260 feet and East 5,752,190 feet	NE¹/₄ of SW¹/₄	33	16S	2E	MD
(20) Garzas Creek #3: North 2,073,610 feet and East 5,753,040 feet	SW¹/₄ of SE¹/₄	33	16S	2E	MD
(21) Panetta #2 Well: North 2,072,110 feet and East 5,754,740 feet	NW¹/₄ of NW¹/₄	3	17S	2E	MD
(22) Panetta #1 Well: North 2,071,960 feet and East 5,754,640 feet	NW¹/₄ of NW¹/₄	3	17S	2E	MD
(17) Robles #3 Well: North 2,067,110 feet and East 5759,490 feet	NE¹/₄ of NE¹/₄	10	17S	2E	MD
(24) Russell #4 Well: North 2,061,810 feet and East 5,764,040 feet	SW¹/₄ of SE¹/₄	14	17S	2E	MD
(25) Russell #2 Well: North 2,061,410 feet and East 5,764,040 feet	SE¹/₄ of SE¹/₄	14	17S	2E	MD
(26) A Well: North 2,091,070 feet and East 5,706,020 feet	SE ¹/₄ of SE ¹/₄	13	16S	1W	MD
(27) B Well: North 2,091,970 feet and East 5,709,420 feet	NE ¹/₄ of SW ¹/₄	18	16S	1E	MD

(28) C Well: North 2,087,220 feet and East 5,724,470 feet	SW ¼ of NW ¼	22	16S	1E	MD
(29) D Well: North 2,087,370 feet and East 5,7729,270 feet	SW ¼ of NW ¼	23	16S	1E	MD
(30) E Well: North 2,084,920 feet and East 5,737,320 feet	SW ¼ of SE ¼	24	16S	1E	MD
(31) F Well: North 2,072,120 feet and East 5,754,670 feet	NW ¼ of NW ¼	3	17S	2E	MD
(32) G Well: North 2,070,270 feet and East 5,755,270 feet	SW ¼ of NW ¼	3	17S	2E	MD

3. Purpose of use	4. Place of use	Section (Projected)	Township	Range	Base and Meridian	Acres
Municipal	Within the California-American Water Company service area, Carmel River watershed area only.					

The place of use is shown on map dated February 7, 2012 and filed with the State Water Board.

The following acronyms are used in this permit:

- Monterey Peninsula Water Management District – MPWMD
- National Marine Fisheries Service – NMFS
- California Department of Fish and Game – DFG
- California American Water – Cal-Am

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **4.1 cubic feet per second** from December 1 of each year to May 31 of the succeeding year. The maximum annual diversion shall not exceed **2,964 acre-feet** during the authorized diversion season. (000005H)
6. Complete application of the water to the authorized use shall be made by December 1, 2022. (0000009)
7. This permit shall not be construed as conferring upon the permittee right of access to the points of diversion. (0000022)
8. Cal-Am shall consult with the Division of Water Rights and, within one year from the date of this permit, shall submit to the State Water Board its Urban Water Management Plan as prepared and adopted in conformance with Section 10610, et seq. of the California Water Code, supplemented by any additional information that may be required by the Board.

All cost-effective measures identified in the Urban Water Management Plan and any supplements thereto shall be implemented in accordance with the schedule for implementation found therein. (0000029A)

9. If it is determined after permit issuance that the as-built conditions of the project are not correctly represented by the map(s) prepared to accompany the application, permittee shall, at its expense, have the subject map(s) updated or replaced with equivalent as-built maps(s). Said revision(s) or new map(s) shall be prepared by a civil engineer or land surveyor registered or licensed in the State of California and shall meet the requirements prescribed in section 715 and sections 717 through 723 of the California Code of Regulations, Title 23. Said revision(s) or map(s) shall be furnished upon request of the Deputy Director for Water Rights.

(0000030)

10. Permittee shall install devices to measure the instantaneous rate and cumulative quantity of water diverted from the Carmel River. All measuring devices shall be properly maintained.

(0060900) (0080900)

11. Permittee shall, in cooperation with MPWMD, calibrate and maintain, a continuous flow measurement device, satisfactory to the State Water Board, at Carmel River at Highway 1 Bridge (River Mile 1.1)

If any measuring device is rendered inoperative for any reason, all diversions under this permit shall cease until such time as the device is restored to service.

These requirements shall remain in force as long as water is diverted by permittee (or successors-in-interest) under any permit or license issued pursuant to Application 30215A.

(0060062BP) (0000204)

12. Within six months of the issuance of this permit, the permittee shall submit a Compliance Plan for approval by the Deputy Director for Water Rights that will demonstrate compliance with the flow bypass terms specified in this permit. The Compliance Plan shall include the following:

- a. A description of the gages and monitoring devices that will be installed or have been installed to measure stream flow and diversion to underground storage.
- b. A time schedule for installation of these facilities.
- c. A description of the frequency of data collection and the methods for recording diversions, bypass flows and storage levels.
- d. An operation and maintenance plan that will be used to maintain gages and monitoring devices in good condition.

The permittee shall be responsible for all costs associated with developing the Compliance Plan, and installing and maintaining all monitoring facilities described in the Compliance Plan.

The monitoring data shall be maintained by the permittee for ten years from the date of collection and made available to the Deputy Director for Water Rights, upon request. Any non-compliance with the terms of the permit shall be reported by the permittee promptly to the Deputy Director for Water Rights.

(0000070)

13. Permittee shall implement any elements of the Riparian Corridor Management Program outlined in the MPWMD's November 1990 Water Allocation Mitigation Program not implemented by MPWMD until Application 30215A is licensed. Survey data and analysis of results shall be submitted annually to DFG for review and comment.

(0490500)

14. For the protection of fisheries, wildlife, and other instream uses in the Carmel River, diversions under this permit shall be subject to maintenance of minimum mean daily instream flows as specified in Table A, Minimum Mean Daily Instream Flow Requirements. No water shall be diverted under this permit if the instream flows would be reduced by such diversion below the minimum mean daily flows specified in Table A. To ensure compliance with these conditions, by September 30 of each year,

Permittee shall file a report with the Deputy Director for Water Rights, DFG and NMFS containing the following information:

- a. Dates during the previous period of December 1 to May 31 of the succeeding year when water was diverted under this permit; and
- b. Mean daily flows recorded at the Carmel River at Highway 1 Bridge gage.

TABLE A	
MINIMUM MEAN DAILY INSTREAM FLOW REQUIREMENTS	
December 1-April 15	April 16-May 31
<p>Prior to Carmel River lagoon opening to the ocean ¹: May divert with minimum bypass of 40 cfs at the Carmel River at Highway 1 Bridge gage.</p> <p>Following Carmel River lagoon opening to the ocean: May divert with minimum bypass of 120 cfs at the Carmel River at Highway 1 Bridge gage.</p>	<p>May divert with minimum bypass of 80 cfs at the Carmel River at Highway 1 Bridge gage.</p>

¹ On December 1, if water in the lagoon is flowing to the ocean, the lagoon shall be deemed to be open to the ocean. If on December 1 water in the lagoon is not flowing to the ocean, the lagoon shall be deemed to be open to the ocean when the lagoon level drops rapidly from a stable elevation to a lower elevation as evidenced by the water surface elevation gage located at the Carmel Area Wastewater District effluent pipeline across the south arm of the lagoon. This elevation gage is operated by Monterey Peninsula Water Management District.

(0400500)

- 15. Permittee shall continue to negotiate with DFG to maintain, insofar as possible, a minimum 5 cubic feet per second bypass flow below San Clemente Dam as measured at the Sleepy Hollow weir.

(0400500)

- 16. To prevent stranding of spring and fall steelhead juveniles and smolts during critically dry conditions, permittee shall continue to implement or fund implementation of Fisheries Mitigation Measure 3 as outlined in the MPWMD's November 1990 Water Allocation Mitigation Program ("Rescue juveniles downstream of Robles del Rio in summer").

(0400500)

- 17. Permittee shall, in cooperation with MPWMD and in consultation with DFG, conduct studies to determine the effectiveness of fish rescue operations specified in the MPWMD's November 1990 Water Allocation Mitigation Program. The results shall be submitted to the Deputy Director for Water Rights, for review and approval.

(0400500)

- 18. Permittee shall, in cooperation with MPWMD, implement the Lagoon Mitigation Program outlined in the MPWMD's November 1990 Water Allocation Mitigation Program. Annual reports shall be submitted to the Department of Parks and Recreation, DFG, and the Deputy Director for Water Rights for review.

(0400500)

19. Permittee shall maintain in good working order all riparian irrigation systems owned or operated by permittee under the MPWMD's November 1990 Water Allocation Mitigation Program for use as needed during dry and critically dry water years.

(0400500)

THIS PERMIT IS ALSO SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
- B. Progress reports shall be submitted promptly by permittees when requested by the State Water Board until a license is issued. (0000010)
- C. Permittees shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by said State Water Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
- D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittees without unreasonable draft on the source. Permittees may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the State Water Board also may be exercised by imposing further limitations on the diversion and use of water by the permittees in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Board if, after notice to the permittees and an opportunity for hearing, the State Water Board finds that such modification is necessary to meet

water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the State Water Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

- F. This permit does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050 - 2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531 - 1544). If a "take" will result from any act authorized under this water right, the permittees shall obtain authorization for an incidental take prior to construction or operation of the project. Permittees shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

- G. Permittees shall maintain records of the amount of water diverted and used to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(0000015)

- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and the permittees is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittees. If a stream or lake agreement is not necessary for this permitted project, the permittees shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game.

(0000063)

This permit is issued and permittees take it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD

*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated:

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