MARINA COAST WATER DISTRICT

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VIA U.S. Mail & email (ecreel@swca.com)

June 17, 2014

City of Marina
c/o Emily Creel, Environmental Planner
1422 Monterey Street, C200
San Luis Obispo, CA 93401

Re: Draft Initial Study and Mitigated Negative Declaration (IS/MND) for the California American Water Slant Test Well Project

Dear Ms. Creel:

Thank you for the opportunity to submit comments on the above document.

Section 2.3, Proposed Project, of the Draft IS/MND states, "The purpose of the proposed project is to gather technical data related to the potential hydrogeologic and water quality effects of the proposed MPWSP."

Section IX of the Initial Study form addresses Hydrology and Water Quality.

Item IX(b) asks, would the project "Substantially deplete groundwater supplies . . . such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level . . ..?"

Item IX(f) asks, would the project otherwise "substantially degrade water quality."

1. Cal-Am is proposing to pump approximately 1,613 to 4,032 acre feet per year on the CEMEX property; 3,226 to 8,064 acre feet over a maximum 24-month operational period. However, groundwater extraction on the CEMEX property is legally limited to 500 acre feet per year under the 1996 Annexation Agreement and Groundwater Mitigation Framework for Marina Area Lands signed by the City of Marina, MCWD, and RMC Lonestar, predecessor in interest to CEMEX. MCWD submitted a letter to Mr. David Burnett, Chair of the Marina City Planning Commission, for the February 6, 2014 Special Meeting on Action Item to provide a requested interpretation of MMC Section 17.41.260 relating to Cal-Am's request to drill test bore holes on this same CEMEX property. In our letter, we pointed out the following:

> MCWD, the City of Marina, the Monterey County Water Resources Agency (MCWRA), J. G. Armstrong Family Members, and RMC Lonestar, the predecessor in interest to CEMEX, signed the 1996 Annexation Agreement and Groundwater Mitigation Framework for Marina Area Lands. The 1996 Agreement has two separate but related

purposes as enumerated in Section 1.1. The first purpose "is to help reduce seawater intrusion and protect the groundwater resource and preserve the environment of the Salinas River Groundwater Basin through voluntary commitments by the Parties to limit, conserve and manage the use of groundwater from the Salinas River groundwater basin." The second purpose was to address annexation issues. To meet that first purpose, Section 7.2, Quantity Limitations, states, "*Commencing on the effective date of this Agreement and Framework*, Lonestar shall limit withdrawal and use of groundwater from the Basin to Lonestar's historical use of 500 afy of groundwater." [Emphasis added.]. Furthermore, Section 7.4.5, Additional Annexation Fee for Change in Water Use, provides for increased fees if use of water on the property changes from industrial or agricultural uses. That means that Lonestar (now CEMEX), the City of Marina, the MCWRA, and MCWD are contractually obligated to prohibit anyone (including CAW) from (1) extracting more than 500 afy on the property, (2) using extracted water for purposes other than industrial or agricultural, and (3) exporting any groundwater off the CEMEX property.

MCWD hereby objects to any approval by the City of Marina of the slant test well project as described in the Draft IS/MND as constituting a breach of the 1996 Annexation Agreement.

2. The slant test well pumping itself could have a significant impact on the Salinas Valley Groundwater Basin since this is the third year of drought, which prompted Governor Brown to declare a drought emergency and requesting all citizens to reduce water use.

The Draft IS/MND describes the amount of water to be pumped on the CEMEX property as follows:

- "The slant test well would operate continuously, 24 hours a day for a period of up to 24 months. Routine operation would include continuous extraction of water from the Dune Sand and/or 180-FTE Aquifers and discharge into the Pacific Ocean via the existing outfall pipe. The water flow rate during the operational period would vary from 1,000 gallons per minute (gpm) to 2,500 gpm." (p. 23)

- The proposed rate of pumping from the CEMEX property will equal an approximate extraction of between 4.5 and 11 acre feet of water per day, and 3,226 to 8,064 acre feet over the up to 24-month life of the project. (p. 111) This translates to approximately 1,613 to 4,032 acre feet per year.

To put Cal-Am's estimate of pumping 1,613 to 4,032 acre feet per year on the CEMEX property in perspective, MCWD's Central Marina Service Area used approximately 2,100 acre feet in 2013. The proposed slant test well is projected to extract approximately 0.78 to 1.9 times the amount of groundwater pumped by MCWD to serve its Central Marina Service Area in one year. If it is later determined that, for example, 25% of the source water is Salinas Valley groundwater, then approximately 403 to 1,008 acre feet of slant test well water pumped per year is Salinas Valley groundwater.

3. The Draft IS/MND (a) misrepresents what the 2013 SWRCB draft report actually said and (b) prejudges the the slant test well results even though "The purpose of the proposed project is to gather technical data related to the potential hydrogeologic and water quality effects of the proposed MPWSP."

The Draft IS/MND on page 145 states, "SWRCB has indicated that Cal Am has the right to pump from within the aquifers at the CEMEX site (SWRCB 2013)." That is a significant misrepresentation of what the SWRCB draft report actually stated. Furthermore, the SWRCB draft report did not address the 1996 Annexation Agreement (Comment 1 above). The SWRCB draft report on page 28 stated the following:

> Cal-Am needs no groundwater right or other water right to extract seawater from Monterey Bay. Based on the information provided, however, the proposed MPWSP could extract some fresh water from within the Basin. An appropriative groundwater right is needed to extract water from the Basin for use outside the parcel where the wells are located.

The SWRCB draft report went on to state, "In summary, to appropriate groundwater from the Basin, the burden is on Cal-Am to show no injury to other users."

On page 112, the Draft IS/MND states,

> Areas in the immediate vicinity of the slant test well that could potentially experience marginal amounts of drawdown are not expected to have usable water supplies in the Dune Sand or 180-FTE Aquifers where pumping would occur due to the extent of seawater intrusion in that area. Therefore, drawdown of water in surrounding wells would not constitute an adverse effect on a usable water source." [Emphasis added.]

If the Final IS/MND is going to rely upon the SWRCB draft report, then the Final IS/MND must state that based upon the information then available to the SWRCB, the SWRCB concluded that "the proposed MPWSP could extract some fresh water from within the Basin," that legally Cal-Am could not extract that water since it did not have an appropriative groundwater right, and that Cal-Am had the legal burden to show no injury to other users within the Basin. In addition, the City of Marina must delete all misstatements of what was contained in the SWRCB draft report.

4. The Response to IX(f) on page 115 concludes that "the project is not expected to increase existing seawater intrusion in the project area." However, no mitigation measures are proposed in the event that there is evidence that the slant test well pumping does increase seawater intrusion or does increase salinity within the CEMEX property or anywhere within the 2-mile radius. The Final IS/MND must (a) prescribe threshold limits, (b) justify those threshold limits with sound science, and (c) require that all project pumping cease should any of those threshold limits be met.

5. The Draft IS/MND fails to recognize that Cal-Am will need to obtain a construction water permit from MCWD for an out-of-district use.

The Draft IS/MND states, "Approximately 226,000 gallons (0.7 acre foot) of water would be needed for drilling activities [on the CEMEX property] and would be obtained [by trucking water] from the City of Marina's domestic water supply. The City's supplies would be sufficient for project construction needs." (p. 113) See also the Response to XVII(d) on page 145. The drafters of the Draft IS/MND apparently do not know that MCWD is the domestic water supplier to the City of Marina. MCWD has no legal obligation to provide water for use outside of the District's service area. Especially given the drought and the Governor's Emergency Declaration, MCWD staff will need to determine whether MCWD's supplies are sufficient for the project's estimated construction water needs. Cal-Am will need to apply to MCWD for a construction water permit for an out-of-district use. MCWD should be included in the list on page 27 of agencies from which "entitlements" must be obtained. These requirements need to be addressed in the final version of the CEQA document.

6. The Final IS/MND needs to include a proposed timeline showing when all "entitlements" are projected to be obtained (p. 27), the preparation, review, and approval of the groundwater monitoring plan (including determination of baseline conditions) (p. 119), project construction, project operation, project decommissioning, and any other significant project milestones. You cannot determine the potential impacts of the project unless you know when, where, and for how long specific activities are projected to occur.

7. The Draft IS/MND's Response to IX(b) conclusion states, "impacts associated with a depletion of groundwater supplies would be less than significant with mitigation described in HYD/mm-1." The mitigation measures proposed in HYD/mm-1 are inadequate and, consequently, the IX(b) conclusion is not supportable and at least a focused EIR should be required and prepared. The SWRCB placed the legal burden on Cal-Am to show no injury to other users within the Basin. That requirement also applies to any slant test well pumping.

The amount of groundwater proposed to be extracted from the slant test well is not an insignificant amount. The proposed slant test well is projected to extract between 4.5 and 11 acre feet of water per day, and 1,643 to 4,015 acre feet per year for up to 2 years, which is approximately 0.78 to 1.9 times the 2,100 acre feet of groundwater pumped by MCWD to serve its Central Marina Service Area during 2013. If the MPWSP desalination plant will need 7 to 9 slant wells constructed in order to extract 25,000 acre feet per year (68.5 acre feet per day) of feed water, that is over 6 times greater than the maximum 11 acre feet per day (or over 15 times greater than the minimum of 4.5 acre feet per day) being proposed to be extracted by the slant test well.

The proposed HYD/mm-1 mitigation measures on page 119 are inadequate. The following additional mitigation measures must be required:

(1) The first two sentences under HYD/mm-1 state, "Prior to construction, the applicant shall prepare a groundwater monitoring plan for City review and approval. The plan shall determine, through preliminary monitoring and sampling prior to pumping activities, a baseline condition of groundwater levels and quality, including reasonable range of natural fluctuations, in the Dune Sand, 180-FTE, and 400-Foot Aquifers." Determining the appropriate baseline conditions are very important in any environmental impact analysis.

Hydrologic baseline conditions must be determined based upon measurements taken during all five water year types (i.e., critical, dry, below normal, above normal, and wet). What appears being proposed in this instance is just some cursory, preliminary monitoring occurring over a very short time period. If that is not the case, the HYD/mm-1 needs to explain in detail how hydrologic baseline conditions are intended to be established for this project and by whom and when. Also see Comment 6 above calling for a project timeline.

(2) The proposed groundwater monitoring plan must also be submitted to MCWD and to all well owners within a 2-mile radius of the project site for review and approval.

(3) Justification must be provided for the proposed drawdown threshold of "1 foot above natural fluctuations on groundwater levels." There does not appear to be any discussion in the Draft IS/MND as to why "1 foot" is a reasonable mitigation threshold and on the historic "natural fluctuations" of groundwater levels within the 2-mile radius of the project site, especially during a multi-year drought. Nacimiento and San Antonio Reservoirs are basically empty so there is very little groundwater recharge occurring from Salinas River water.

(4) "If pumping activities reflect a drawdown of 1 foot or greater" in any well within the 2-mile radius, then the slant well testing should cease and the entire slant well testing project should be reevaluated. If the MPWSP desalination plant will need 7 to 9 slant wells constructed in order to extract 25,000 acre feet per year (68.5 acre feet per day) of feed water, that is over 6 times greater than the maximum 11 acre feet per day (or over 15 times greater than the minimum of 4.5 acre feet per day) being proposed to be extracted by the slant test well.

(5) "Compensatory mitigation" is not a proper mitigation measure in this situation where the MPWSP itself would extract 6 to 15 times greater amounts of water.

(6) After the first sentence in the third paragraph that "The plan shall designate a person or persons to monitor implementation of the monitoring plan and to order implementation of mitigation if necessary," add the following: "The person or persons so designated shall have at least ten (10) years of experience as an expert on groundwater hydrology or hydrogeology (preferably with experience with the Salinas Valley Groundwater Basin) and shall not have been or is not currently and shall not during this or follow-on MPWSP studies be a consultant for California American Water or its parent or any of its affiliates."

(7) The groundwater monitoring plan must include a requirement for regular reporting (no less than monthly) on the results of the monitoring activities, and the reports shall be submitted to the City, MCWD, other relevant regulatory agencies, and all well owners within the 2-mile radius, and be posted on the City's website within 3 days of receipt.

The Draft IS/MND does not address at all (1) the 1996 Annexation Agreement limiting groundwater extractions from the CEMEX property to 500 acre feet per year and (2) MCWD being the source of the potable water needed for well drilling activities other than to misidentify the City of Marina as the source.

For the reasons stated above, the Draft IS/MND does not adequately address the potential impacts to groundwater supplies and groundwater quality and does not require adequate mitigation measures. A focused EIR should be prepared to address all of the issues described in this letter.

Please do not hesitate to contact me if you have any questions about these comments.

Very truly yours,

Brian C. Lee

Brian Lee
Interim General Manager
Marina Coast Water District