LANDWATCH
MONTEREY COUNTY

August 30, 2026

Ryan E. Lodge, Executive Officer
California Regional Water Quality Control Board, Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906
Via email: centralcoast@waterboards.ca.gov

Re: Comments on the Tentative Order — NPDES Permit for the Monterey Peninsula Water Supply Project (M1W/Cal-Am Co-Permittees) (DRAFT ORDER R3-2026-0057)

Dear Mr. Lodge:

LandWatch Monterey County submits the following comments on the Tentative Order for the National Pollutant Discharge Elimination System (NPDES) permit governing the Monterey Peninsula Water Supply Project (MPWSP), posted on the Central Coast Water Board's website. LandWatch is a 501(c)(3) land use, housing, climate, and sustainability organization serving Monterey County, and we have a longstanding interest in the water supply, coastal, and environmental review issues raised by this permit.

Request for Extended Comment Period and Records

The Tentative Order is lengthy and technically complex, and it raises significant unresolved questions about water quality, marine biological impacts, and compliance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). We request that the Regional Water Quality Control Board (RWQCB) extend the public comment period to allow for the level of review this permit warrants.

We further request, pursuant to the Public Records Act if necessary, (1) copies of comments submitted by Monterey One Water (M1W) as soon as they are filed, and (2) the CEQA document(s) the Board intends to rely upon to support approval of the Water Code section 13142.5(b) Ocean Plan determination.

I. Constitutional and Regulatory Concerns with the M1W/Cal-Am Co-Permittee Structure

The Tentative Order names M1W, a public agency, and California American Water Company (Cal-Am), a private, investor-owned utility, as co-permittees, jointly and severally responsible for compliance and required to submit combined regulatory reports. We are concerned that structuring the permit this way, coupled with a requirement that both entities jointly apply for any future

change in discharge through a shared Report of Waste Discharge, may run afoul of Article XVI, Section 6 of the California Constitution, which prohibits the state, local governments, and public agencies from making a gift of public money or a thing of value to any private individual or corporation.

The arrangement also appears to impose numerous unfunded mandates on M1W without an accompanying cost-sharing agreement for new infrastructure, and would make it exceptionally difficult for any future entity to discharge brine to the shared outfall, since both M1W and Cal-Am would need to approve any new Report of Waste Discharge. As drafted, and under the parties' current contractual arrangements, M1W's ratepayers stand to bear significant, unanticipated costs. We ask the RWQCB to clarify the legal basis for this co-permittee structure and to resolve these cost-allocation and gift-of-public-funds concerns before the Order is adopted.

II. Unaddressed Discharges from Slant Well Testing and Construction Activities

The Tentative Order does not adequately address discharges associated with slant well testing, development, and the construction of ocean outfall and brine facility improvements. It is unclear where slant well testing and development water will be discharged, whether that discharge will require a separate permit, and whether it will be routed to land near the slant wells — potentially altering the wells' own intake water quality — or to M1W's beach junction structure for combination with M1W effluent and, eventually, brine. The Order does not explain how the analysis of source and effluent water quality would change under each of these discharge scenarios, or how changes in intake salinity would affect compliance with discharge and dilution requirements.

Similarly, the Order provides no detail on the extent of beach property disturbance — including staging, stockpiling, and vehicular access — that will accompany excavation of the outfall junction structure and pipeline near Marina State Beach, nor whether excavation at or near sea level, or in areas of high groundwater, will generate dewatering effluent requiring its own discharge authorization. The Order also does not describe how M1W's effluent discharge, which cannot be interrupted, will be managed to simultaneously avoid bypass of wastewater to the beach and surface zone and ensure safe diver access to the outfall for joint-seal replacement. Attachment F, sections 4.4.2.5.2, 4.4.2.6, and 4.4.3, reach conclusions about these activities without providing the underlying factual or analytical basis, leaving the public and the Board without a means to evaluate whether these discharges comply with applicable water quality regulations. We request that the RWQCB supplement the record with this information before proceeding.

III. Unsupported Compliance Flexibility and Marine Biological Impact Findings

The Tentative Order affords Cal-Am a two-hour daily allowance for non-compliant Ocean Plan brine flowrates (exceeding 8.66 mgd or dropping below 5.8 mgd, per Table 9, footnote 2), while M1W receives no comparable allowance for its secondary effluent or reverse-osmosis concentrate discharges. The RWQCB should explain the basis for this disparate treatment. In addition, the Water Code section 13142.5(b) analysis does not identify the Area of Production Foregone or the mitigation required for marine life mortality attributable to the brine discharge — information the public needs to meaningfully evaluate and comment on those impacts.

IV. Alternatives Analysis and Water Supply Need

The Tentative Order's 13142.5(b) analysis does not evaluate feasible alternatives to the MPWSP's stated objectives, and no new alternatives appear to have been considered since the California Public Utilities Commission's (CPUC) 2018 certification decision, notwithstanding the CPUC's 2025 Phase 2 decision. The Order does not identify the reference document supporting its Section 4.4.2.4.1 alternatives discussion or explain its continued reliance on 2018 findings of water supply need. Current public-record supply and demand data show that Cal-Am has access to 5,750 acre-feet per year (AFY) from Pure Water Monterey, that total available firm supply is approximately 11,200 AFY, and that more than 9,200 acre-feet (AF) remain in storage in the Seaside Groundwater Basin above firm supply — more than 2,000 AFY in excess of current demand in the Cal-Am Monterey District service area. And because Cal-Am is contractually obliged to take the Pure Water Monterey supply, it cannot simply substitute desalination supply; it must justify a need for the additional desalinated water and it has not done so. Given this data, the RWQCB's rationale for the current timing of this permit is unclear and appears inconsistent with the record on supply and demand, and we ask that the Board address it directly.

Relatedly, Attachment F, Section 4.4.2.5.1 ("Any Lowering of Water Quality Is Consistent with the Maximum Benefit to the People of the State") appears to rest on unsupported opinion rather than facts in the record. Its assertion that the MPWSP will "diversify available water resources, reduce reliance on environmentally sensitive water sources, and improve long-term water supply reliability" is difficult to reconcile with the absence of any current or projected violation of the water supply orders and adjudications governing the Peninsula's existing sources. Separately, Section 2.4 does not demonstrate that the MPWSP employs the best available intake, outfall, design, site, technology, and mitigation measures, as required, and does not address publicly available statements by Cal-Am's own attorneys identifying the Pure Water Monterey Expansion as a viable alternative to the MPWSP desalination facility.

V. CEQA and NEPA Environmental Review Gaps

The Tentative Order does not identify where a CEQA-required cumulative impacts analysis addresses the MPWSP together with past, present, and reasonably foreseeable projects, including the Pure Water Monterey Expansion, the Salinas Valley Basin Groundwater Sustainability Agency's Brackish Groundwater Restoration Project, and Marina Coast Water District's local desalination project. Nor does the record identify where a CEQA-required growth-inducing impacts analysis was made available for public review; the 2016/2018 CPUC Draft EIR/EIS on which the Order appears to rely predates current population, jobs, housing, and water demand data. If the Coastal Commission's approved 4.8 mgd MPWSP facility is built, it would raise total supply to nearly 17,000 AFY — a 47 percent increase over the Peninsula's approximately 9,000 AFY of existing demand — enough for roughly 24,000 additional single-family dwellings, or the equivalent of seven new homes per day for ten years, a rate that exceeds AMBAG and local General Plan growth projections without an identified location for that development.

The Order likewise does not identify a CEQA-required greenhouse gas analysis reflecting the newly required outfall, brine storage, and conveyance components, even though the MPWSP EIR/EIS previously found construction-related climate impacts to be significant and unavoidable; nor is it clear how the required CEQA documentation can be completed before the permit approval currently anticipated for December 2026. The CEQA and NEPA record similarly does not appear to describe or

quantify the energy, climate, water quality, or migratory-bird impacts of the newly required continuous brine storage and discharge operations (5.8 to 8.66 mgd over 24-hour periods), including any impacts from open pond or tank storage — an issue of particular interest to the California Coastal Commission. Finally, the Order requires an ongoing comparison of buoyancy conditions and timing to avoid triggering an additional permitting process; we ask the RWQCB to clarify whether this requirement is intended to induce M1W to increase secondary effluent discharge (and reduce water recycling) to help Cal-Am avoid further permitting, and how it accounts for other prospective brine dischargers, such as those associated with Marina Coast Water District and Salinas Valley Basin Groundwater Sustainability Agency projects, in light of the State's Recycled Water Policy and Climate Action Plans.

VI. Land Ownership, Easements, and Permit Effective Date

The Tentative Order does not identify who owns the land underlying the proposed brine pipeline and outfall improvements, what easements or entitlements exist, how many acres of public and private land will be disturbed, or what agricultural, biological, cultural, and ecosystem services that land currently provides. Public records indicate that Regen has not issued Cal-Am an easement for the brine pipeline across its property, and Figure B-5 nonetheless depicts the pipeline crossing that property. Because construction is expected to take at least three years, and MPWSP brine will not be available for years after that, we ask that the RWQCB condition the Order's effective date on completion of the outfall changes, rather than allowing it to take effect immediately and impose costs on M1W's ratepayers with no corresponding change in M1W's discharge in the interim.

VII. Technical, Definitional, and Mapping Inconsistencies

Several technical aspects of the Tentative Order require clarification. Section 3.2's shift from Average Dry Weather Flow to Instantaneous Maximum Flow for the treatment plant (29.6 mgd) appears to meaningfully reduce the Regional Treatment Plant's permitted capacity, at potential cost to M1W ratepayers and possible constraint on future sewer connections. Section 4's expanded sampling requirements will increase costs to M1W ratepayers without a corresponding change other than the addition of brine discharge, and the new bacteria requirements in Section 4.1.1.4.1 are imposed without an identified bacteria problem, potentially conflicting with M1W's existing nutrient-removal goals given their cost and energy demands.

We also ask the RWQCB to clarify whether Table 9, footnote 1 is consistent with the technical dilution analysis, and whether the Order intends to permit partial- or full-day non-compliance with the California Ocean Plan if brine is not discharged continuously on a given sampling day. The Order's definition of Brine Waste, unlike its definition of Hauled Saline Waste, is based solely on a salinity range, raising the question of whether Cal-Am could route stormwater, sanitary waste, or clean-in-place chemicals to M1W provided the combined flow meets that salinity threshold. The Order also assumes that instantaneous flowrate reporting requires a flowmeter, without addressing whether other methods (e.g., pump run-time calculations) would satisfy this requirement.

Several of the Order's supporting figures contain unexplained inconsistencies that warrant correction or clarification: Figure B-2 does not show new desalinated-water injection wells near General Jim Moore Boulevard, depicts a “Finish Water Pipeline” to the Castroville Seawater Intrusion Project despite a former Cal-Am President's 2022 statement to the Coastal Commission that no water would serve agricultural irrigation, and shows a Carmel Valley Pump Station under construction that appears inconsistent with Cal-Am's 2025 rate testimony. Figure B-6 does not

clarify whether one or two open brine storage ponds or tanks are proposed, their locations, associated sampling locations, or where desalination-plant sanitary sewage will be treated.Figure B-7 does not explain how many monitoring buoys (OFF-A through -F, REF-A, and REF-B) are required, where they will be located, or whether Cal-Am has obtained the necessary approvals from the State Lands Commission, U.S. Army Corps of Engineers, RWQCB (Clean Water Act section 401), and U.S. Coast Guard. Figure C-2, footnote 1 states that construction was to begin in October 2026; if the plant is now under construction as publicly observed, the RWQCB should confirm whether the Order's supporting information is current, given that the project still appears to be pursuing its NPDES permit, Monterey Bay National Marine Sanctuary discharge authorization, and an M1W brine discharge agreement. Finally, Figure C-6 depicts non-brine wastewater (RO cleaning waste, sewage, wash-down water, spent chemicals) being routed to a single brine equalization basin before discharge to M1W; the RWQCB should confirm whether these wastewaters have been sampled, analyzed, and accounted for in the Ocean Plan water quality and CEQA analyses.

Conclusion and Requested Action

For the foregoing reasons, LandWatch Monterey County respectfully requests that the RWQCB (1) extend the public comment period on the Tentative Order; (2) provide the requested Public Records Act materials described above; and (3) revise the Tentative Order, or decline to adopt it in its current form, until the constitutional, water-supply, environmental review, and technical deficiencies identified in this letter have been fully addressed and disclosed to the public. We appreciate the Board's consideration of these comments and welcome the opportunity to discuss them further.

Sincerely,



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Executive Director

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