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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of California-American Water Company (U210W) for Authorization to Increase its Revenues for Water Service in its Monterey District by \$24,718,200 or 80.30% in the year 2009; \$6,503,900 or 11.72% in the year 2010; and \$7,598,300 or 12.25% in the year 2011 Under the Current Rate Design and To Increase its Revenues for Water Service in the Toro Service Area of its Monterey District by \$354,324 or 114.97% in the year 2009; \$25,000 or 3.77% in the year 2010; and \$46,500 or 6.76% in the year 2011 Under the Current Rate Design.

Application 08-01-027
(Filed January 30, 2008)

And Related Matters

Application 08-01-023
Application 08-01-024
(Filed January 30, 2008)

**DIRECT TESTIMONY OF
DARBY W. FUERST**

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Attorneys for
**MONTEREY PENINSULA WATER
MANAGEMENT DISTRICT**

Date: September 2, 2008

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And Related Matters

Application 08-01-023
Application 08-01-024
(Filed January 30, 2008)

**DIRECT TESTIMONY OF
DARRY W. FUERST**

Q1. Please state your name, business address, and telephone number.

A1. My name is Darby W. Fuerst. My business address is 5 Harris Court, Building G,
Monterey, California 93940. My telephone number is (831) 658-5651.

Q2. By whom are you employed and in what capacity?

A2. I am employed by the Monterey Peninsula Water Management District (MPWMD, or
Water Management District) as Interim General Manager.

Q3. Please give a summary of your professional qualifications.

A3. My education includes a M.S. degree in water resources administration from the University of
Arizona, a B.S. degree in geological sciences from the University of Washington, a B.A. degree in

1 English literature from Occidental College, and an A.A. degree in mathematics from Cañada College.
2 I am a Certified Professional Hydrologist (No. 1658) with the American Institute of Hydrology. I
3 have more than 26 years of professional experience in the field of surface water hydrology and water
4 resources administration working for local, state, and federal agencies. Except for a one-year period
5 (October 1988 through September 1989), I have worked for the Monterey Peninsula Water
6 Management District for the past 23 years. I have been employed by the Water Management District
7 as the Interim General Manager since March 2008.

8
9 Q4. Please briefly outline your current responsibilities.

10 A4 As General Manager, I am responsible for all activities of the Water Management District,
11 including operations of the administrative services, planning and engineering, water resources, and
12 water demand divisions. I previously served as the General Manager of the Water Management
13 District for five years between December 1995 and June 2001.

14 In addition to serving as General Manager, I have also served as the Water Resources
15 Manager and Senior Hydrologist with the Water Management District. In this first position, I have
16 been responsible for the management of the programs, services, and staff of the Water Resources
17 Division including surface and ground water data collection programs, development and application
18 of computer simulations models, administration of the fishery protection activities in the Carmel
19 River basin, development of quarterly water supply strategies and budgets for California American
20 Water's (CAW's) main water distribution system, and negotiation of the annual Carmel River
21 Memorandum of Agreement (MOA) among CAW, California Department of Fish and Game
22 (CDFG), and the Water Management District that governs reservoir releases to the lower Carmel
23 River during the low-flow season. In this second position, I have been responsible for the
24 development, maintenance, and application of the Water Management District's computer simulation
25 model of the water resources of the Monterey Peninsula area. This model, the Carmel Valley
26 Simulation Model (CVSIM), is the Water Management District's principal analytical tool for

1 assessing the performance of the water resources system under varying physical, structural, and
2 operational conditions.

3
4 Q5. Have you previously testified before the California Public Utilities Commission?

5 A5. Yes, I have. Most recently, I provided testimony on CAW's 2005 General Rate Case
6 Application (A.05-02-012).

7 Q6. What is the purpose of your testimony in this proceeding?

8 A6. The purpose of my testimony is to provide information regarding CAW's Special Request
9 #6 which addresses special levies and assessments incurred as a result of ESA compliance issues,
10 CAW's request for capitalization of its Seaside Basin adjudication expenses, CAW's proposal to
11 interconnect its smaller water distribution systems in the Highway 68 corridor, and how costs
12 associated with CAW's capital expenses for its smaller systems in the Highway 68 corridor are
13 spread among its Monterey District customer base. The Highway 68 corridor is within the Laguna
14 Seca Subarea of the Seaside Basin.

15
16 Q7. What is the Water Management District's concern regarding CAW's Special Request #6?

17 A7. In its application, CAW requests implementation of a memorandum account to track
18 special levies and assessments incurred as a result of Endangered Species Act (ESA) compliance
19 issues. In Chapter 13 of Exhibit A of its application, CAW indicates that it is renewing its request
20 for a memorandum account and that this account would track all expenditures for non-compliance
21 with ESA issues on the Carmel River. Specifically, in David Stephenson's testimony (pages 21
22 and 22), CAW acknowledges that the Commission previously ruled against this request in D.06-
23 11-050, but argues that this renewed request is warranted because of its obligation to serve water
24 to its customers from Carmel River sources. This argument is based on the assertion that CAW
25 could be determined to be in violation of ESA requirements and assessed a levy or fine, even
26 though it believes that it is doing everything possible to reduce consumption by its customers.

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1 As in 2005, the District opposes this request and believes that the Commission should not
2 deviate from its policy of not allowing recovery of fines, i.e., "special levies or assessments" for
3 violations of ESA requirements. As noted in D.06-11-05, CAW has considerable management
4 control over whether or not the regulatory agencies enforcing ESA requirements impose fines and
5 has negotiated agreements with the US Fish and Wildlife Service and the National Marine
6 Fisheries Service regarding protection of the California red-legged frog and Carmel River
7 steelhead and related prosecutorial discretion. In this regard, the District believes that CAW's
8 Special Request #6 should be denied.

9
10 Q8. What is the Water Management District's concern regarding CAW's request for
11 reimbursement of its litigation expenses related to the Seaside-basin Adjudication?

12 A8. The District believes that the method for reimbursement is unreasonable. In David
13 Stephenson's testimony (pages 5 through 7), CAW requests that it be allowed to capitalize all of
14 the costs it incurred in the court action to adjudicate the Seaside Groundwater Basin and the one-
15 time cost it paid to the Seaside Watermaster upon establishment of the Watermaster. The total
16 cost incurred was \$2,755,960, with \$1,503,949 for legal fees, \$910,000 for initial funding of the
17 Watermaster and Seaside Basin Monitoring Plan, and \$342,011 for other one-time Seaside Basin
18 Watermaster costs. CAW asserts that these costs are capital expenditures and properly capitalized
19 as Land and Land Rights according to NARUC¹ Accounting Instruction 24.

20 The District concurs with DRA's recommendation to amortize the litigation and one-time
21 Watermaster costs of \$2,755,960 over a 20-year period to reflect the benefits of the Seaside Basin
22 Adjudication to CAW and its ratepayers. This amounts to \$137,798 of expense per year. The
23 District agrees that CAW should not be allowed to add the costs to the ratebase.

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27 ¹ National Association of Regulatory Utility Commissioners.

1 The District disagrees with Mr. Stephenson's assertion that the case went to trial solely
2 because the Water Management District and Monterey County Water Resources Agency did not
3 join the negotiated settlement.

4
5 Q9. What is the Water Management District's concern regarding CAW's request to
6 interconnect its Hidden Hills system with its main system and interconnect its Ryan Ranch and
7 Bishop systems?

8 A9. CAW is requesting \$546,000 to construct an intertie between its main system and its
9 Hidden Hills system and \$277,000 to construct an intertie between its Ryan Ranch and Bishop
10 Systems in 2009. Under the current conditions of approval adopted by the District Board for
11 CAW's Ryan Ranch, Hidden Hills and Bishop Systems, only the Ryan Ranch system is allowed
12 an interconnection with CAW's main system that can only be used during emergency events. In
13 addition, all transfers of water between the main system and the Ryan Ranch system must be
14 metered and reported to the District within one week of occurrence.

15 Given CAW's current and diminishing allocations of water in the Laguna Seca Subarea of
16 the Seaside Basin, it is likely that the Water Management District Board will concur with CAW's
17 request to develop additional interties for operational efficiency and reliability. However, the
18 Water Management District Board's action on future amendments to CAW's water distribution
19 system permits in the Laguna Seca Subarea is not certain. CAW must go through the Water
20 Management District's process for amending its water distribution system permits, i.e., Rules 21-
21 C and 22-E, and must comply with California Environmental Quality Act (CEQA) review
22 requirements.

23 Equally important, the amendments to the water distribution system permits for CAW's
24 Ryan Ranch, Hidden Hills, and Bishop systems must include safeguards to ensure that water users
25 in CAW's main system are not disadvantaged by the proposed interties and potential water
26 transfers. Specifically, the amended permits should include language that all transfers must be
27 metered, documented, and ultimately replaced.

28

1 The Water Management District recommends that CAW be required to develop a work
2 plan and tentative schedule for obtaining the permits and permit amendments needed to construct
3 and operate the proposed interconnections between its main system and the Hidden Hills system
4 and between its Ryan Ranch and Bishop systems. This plan should include a description of the
5 anticipated amount and source of water that will be transferred through the proposed
6 interconnections, both in the interim before and the period after a long-term water supply project
7 such as CAW's Coastal Water Project is developed.

8 Q10. Is the Water Management District still concerned with how costs associated with CAW's
9 capital expenses for subsystem improvements are spread among its Monterey District customer
10 base?

11 A10. Yes. In CAW's 2005 General Rate Case application, MPWMD raised the issue facing
12 CAW's main system customers that many of CAW's capital costs were for projects associated
13 with its newly acquired subsystems in the Highway 68 corridor. This reduced revenue needed for
14 main system repairs or replacements and added to their burden of funding a replacement water
15 supply project.

16 The Commission recognized the Water Management District's concern in Decision 06-11-
17 050 and suggested that it may be appropriate to consider a capital improvement surcharge for
18 subsystem customers. CAW was directed to provide a full breakout of all capital improvement
19 projects undertaken in each of its four subsystems since State Water Resources Control Board
20 Order No. WR 95-10 was adopted and a breakout of estimated costs for additional capital projects
21 planned over the coming ten years.

22 Now that CAW has provided the past and prospective breakout of capital improvement
23 projects, the Water Management District supports a capital improvement surcharge for CAW's
24 subsystem customers. This will reduce the burden on main system customers and require
25 subsystem customers to pay a more reasonable portion of costs associated with their system
26 improvements.

1 Q11. Does this complete your testimony?

2 A11. Yes.

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