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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates.

Application 12-04-019
(Filed April 23, 2012)

**ADMINISTRATIVE LAW JUDGE'S RULING
EXTENDING BRIEFING SCHEDULE**

For the reasons identified by the Commission's Energy Division, the comment period on the Draft Environmental Impact Report has been extended. (See attached Notice issued by Energy Division on July 9, 2015.) The briefing schedule should similarly be extended in order to facilitate the efficient use of resources and promote the development of an organized record.

Opening briefs on legal and policy issues had been due July 14, 2015, with reply briefs due July 29, 2015. The new dates for the filing and serving of opening and reply briefs will be provided in a subsequent ruling.

IT IS RULED that the briefing schedule is extended to dates to be provided by subsequent Ruling.

Dated July 9, 2015, at San Francisco, California.

/s/ GARY WEATHERFORD
Gary Weatherford
Administrative Law Judge

ATTACHMENT

**Notice to all Parties
California American Water Co. Application A.12-04-019: Monterey
Peninsula Water Supply Project (MPWSP)**

(Issued July 9, 2015)

Notice to all Parties
California American Water Co. Application A.12-04-019: Monterey Peninsula Water Supply Project (MPWSP)

MPWSP DEIR Comment Period Extended to September 30, 2015

In Application (A.) 12-04-019, California American Water Company (Cal-Am) has applied to the California Public Utilities Commission (Commission) for a Certificate of Public Convenience and Necessity (CPCN) to build and operate a desalination plant, and related facilities, on the Monterey Peninsula. This project is called the Monterey Peninsula Water Supply Project (MPWSP).

The California Environmental Quality Act (CEQA) applies to this project. *See* Pub. Res. Code § 21080(a) (CEQA generally applies to "discretionary projects to be . . . approved by public agencies . . ."). As the state agency that has the primary permitting authority over this project, the Commission is the appropriate CEQA lead agency. CEQA Guidelines § 15051(b) ("If the project is to be carried out by a nongovernmental person or entity, the Lead Agency shall be the public agency with the greatest responsibility for supervising or approving the project as a whole."). As the Lead Agency, the Commission determined that an Environmental Impact Report (EIR) was necessary, and was obliged to "cause the document to be prepared." CEQA Guidelines § 15367. We engaged an environmental consultant, Environmental Science Associates (ESA), to help us prepare that document.

The Commission's Energy Division issued the Draft EIR in April 2015. Comments on the Draft EIR were due on July 13, 2015. **Energy Division has now determined that it is appropriate to further extend the comment period on the Draft EIR to September 30, 2015. We may take additional actions as described below.** We do these things for three important reasons.

First: We have learned that one of our sub-contractors, an entity called Geosciences, also has a contractual relationship with Cal-Am, the MPWSP's proponent, and that Geosciences's contract with Cal-Am pertains to the MPWSP; and that the President of Geosciences holds one or more patents related to slant well technology that Cal-Am might or could use in the construction of the MPWSP.

The Commission takes this situation very seriously. As a result of concerns raised by these issues, after transitioning their work product to ESA, Geosciences will not do any more work for the Commission on this project.

EXHIBIT 8-A

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The work that Geosciences had done for the Commission in the past relates specifically to that portion of the EIR addressing the MPWSP's impact on local groundwater resources. *See* MPWSP DEIR, Chapter 4.4. We are now regarding that work as if it had been performed by the proponent, Cal-Am, rather than as the Commission's work product. We are considering options to independently evaluate the accuracy and credibility of that work, including but not limited to entering into a contract with a neutral third party to review that work; and/or opening up that work to review by the parties to this proceeding, or by the public at large.

During the remainder of the Draft EIR comment period, we specifically invite you to comment on the issues raised above, and we solicit your suggestions as to what remedies, if any, we should undertake.

Second: Independent of the possible conflicts addressed above, several parties have submitted comments asking for greater access to the data, models, and assumptions used by Geosciences in the hydrogeology modeling work they have performed. That is not required by CEQA, and ordinarily, the Commission would not make those data, models, or assumptions available to the public. But this is not an ordinary situation. Under the circumstances, we find it appropriate to make that information available to the parties.

Please tell us in what form it would be most helpful to you to have those data, models, and assumptions, no later than close of business on July 30, 2015.

Third: Independent of the issues raised above, we have received a comment from the Monterey Bay National Marine Sanctuary (Sanctuary) indicating that the Draft EIR should be recirculated as a joint state/federal environmental document under both CEQA and the National Environmental Policy Act (NEPA). The Sanctuary has stated that they would be the appropriate NEPA Lead Agency.

Recirculating the MPWSP environmental document as a joint CEQA/NEPA document would allow the Commission to complete its fact-finding into the Geosciences issues discussed above, and would allow the parties an additional opportunity to comment on those issues, as well as any other subjects contained in the joint CEQA/NEPA document. This would also allow the Commission to perform a more detailed analysis of several possible alternatives to the MPWSP, including the People's Moss Landing Water Desalination Project, and the Monterey Bay Regional Water Project (commonly known as the Deepwater Desal project).

EXHIBIT 8-A

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During the remainder of the Draft EIR comment period, we specifically invite you to comment on the advisability of recirculating the Draft EIR as a joint CEQA/NEPA document.

Comments are now due by close of business on **Wednesday, September 30, 2015**.

The Draft EIR and Appendices are available for download at:

<http://www.cpuc.ca.gov/PUC/energy/Environment/Current+Projects/esa/mpwsp/index.html>

Written comments should be addressed to:

Mary Jo Borak, CPUC
c/o ESA
550 Kearny Street, Suite 800
San Francisco, CA 94108

Comments can be sent by fax to (415) 896-0332, or by email to MPWSP-EIR@esassoc.com.

All comments must be received by Close of Business on September 30, 2015.

Finally, we briefly address the separate, but related, track by which the Commission will determine whether to issue a CPCN for Cal-Am to build and operate a desalination plant. That track does not primarily consider environmental impacts, but rather issues such as project costs and the benefit to ratepayers. The Commission's Administrative Law Judge (ALJ) Division has set the date for initial briefs on the CPCN track for **July 15, 2015**. Energy Division has informed ALJ Division of the issues raised above, and has asked ALJ Division to consider delaying or suspending briefing on the CPCN track. You may expect a ruling on that matter shortly.

(END OF ATTACHMENT)