

EXHIBIT 15-D



Correspondence Dated January 4, 2019 through January 16, 2019

**Process for Development of Feasibility Study on Public Ownership
of the Monterey Peninsula Water System**

Page	Name	Date
1	Alison Jones-Pomatto	1/9/2019
2	Alexanne Mills	1/4/2019
3	Chuck Cech	1/9/2019
8	Dennis Allion	1/9/2019
10	David Beach	1/4/2019
15	Jon Hill	1/9/2019
20	John Magill	1/10/2019
21	Mary Ann Carbone	1/9/2019
23	Mac J Del Piero	1/9/2019
68	Mike Lino	1/11/2019
71	Marli Melton	1/9/2019
72	Pat Venza	1/9/2019
73	Thomas Reeves	1/9/2019
75	Tim Sanders	1/8/2019
79	Alan Estrada	1/16/2019
80	Anna Thompson	1/15/2019
81	Barbara Evans	1/15/2019
82	Brian LeNeve	1/15/2019
84	Bob McGinley	1/15/2019
86	Bob McKenzie	1/14/2019
88	Graham and Carter Filion	1/14/2019
89	Greg Thompson	1/16/2019
90	Helga Fellay	1/14/2019
94	John Sherry	1/15/2019
95	Jacquelyn Woodward	1/14/2019
96	Lorin Letendre	1/15/2019
97	Melodie Chrislock	1/15/2019
103	Mark Eckles	1/15/2019
107	Peter Hiller	1/12/2019
108	Robert Ellis	1/16/2019
110	Russell Eisberry	1/12/2019
112	Tim Smith	1/15/2019

Arlene Tavani

From: alison jones-pomatto <ajonespomatto@yahoo.com>
Sent: Wednesday, January 9, 2019 8:55 AM
To: Comments
Subject: Feasibility study

What the feasibility of public water means to me is that there will be a significant financial savings within five years. The costs to buy out Cal-Am must not add to what we're paying for our current water bills, whether directly or indirectly through a parcel fee.

It also means that there is an identifiable water source that will be sufficient for the residential and agricultural interests of Monterey county, allowing for minimal growth. I remember water rationing and do not want to go back to that place. I am a firm believer in water conservation and use as little as I possibly can. I want to be certain that basic conservation, not sacrifice, will be enough to fulfill the area's water needs for years to come.

Alison Jones-Pomatto
895 Balboa Avenue
Pacific Grove, CA 93950

EXHIBIT 15-D

From: [Alexanne Mills](#)
To: [Comments](#)
Subject: Measure J Feasibility Study Comments
Date: Friday, January 4, 2019 6:20:08 PM

Regarding Measure J, and public ownership of our water system, “feasible” means honestly looking at the state of American Water in general and CalAm specifically, regarding their huge profits as private owners and comparing that to owning our own system. The fact that we are paying the highest, if not one of the highest, water rates in the nation does more than prove the point!

The many studies done to date show, without a doubt, that we can do much better for our people as a public company than a private one. I believe that about 87% of the US has public water and that most of the systems are well managed. We have the expertise to do a good job, and need to have the will to make it happen.

To me, the “feasibility” of changing to public water has already been proven and needs to be implemented. The costs of making this happen will more than pay for themselves. CalAm has been taking us to the cleaners.

Alexanne Mills 831-917-5390
60 Del Mesa Carmel
Carmel, CA 93923

Thank you for sharing your thoughts regarding the Water Management District’s Feasibility Study. Your participation in this exercise is critical for a thorough and comprehensive process.

We are asking you to please try to answer the following questions:

- What does “feasible” mean to you?
- Which measure of “feasibility” is most important to you?
- What do you see are the benefits of a publicly owned water system?

You may expand your thoughts of course, but we ask that you address these questions.

Thank you!

Water Management District Staff

**THERE MAY BE 386 MILLION REASONS WHY
MONTEREY RATEPAYER SHOULD REPLACE CAL AM!**

**THE PUBLIC SHOULD BUILD AND OWN THE \$320 MILLION
MONTEREY PENINSULA DESALINATION SYSTEM**

**CAL PUBLIC UTILITIES COMMISSION
CAPITAL STRUCTURE SETS THE
CAL AM RATE OF RETURN ON
EQUITY AND DEBT**

**DURING THE YEARS 2018 - 2020
CAL AM'S OVERALL RATE OF RETURN
IS SET BY THE CPUC AT 7.61%**

**HOW MUCH WILL THE \$320,000,000
DESAL SYSTEM REALLY COST**

**IF CAL AM BUILDS AND OWNS IT,
THE 30 YEARS COST TO CUSTOMERS
AT 7.61% WOULD BE**

\$814,190,040

(NOT INCLUDING OPERATION AND MAINTAINANCE)

**IF A PUBLIC ENTITY BUILDS AND OWNS,
THE DESALINATION SYSTEM
THE 30 YEAR COST USING 2% CWSRF**

WE WILL PAY

\$427,601,632

REASON TO PREPLACE CAL AM

\$386,558,408 SAVINGS

PSSSST!

**THERE IS ALSO A REAL POSSIBILITY OF
STATE AND FEDERAL GRANTS HELPING
PAY FOR OUR
*PUBLIC OWNED WATER SYSTEMS***

EXHIBIT 15-D

From: [Dave Stoldt](#)
To: [Arlene Tavani](#)
Subject: Fwd: Written input for definition of FEASIBLE
Date: Thursday, January 10, 2019 1:10:57 AM

Sent from my iPhone

Begin forwarded message:

From: Dennis Allion <dennisallion@sbcglobal.net>
Date: January 9, 2019 at 6:59:19 PM PST
To: "dstoldt@mpwmd.net" <dstoldt@mpwmd.net>, George Riley <georgetriley@gmail.com>, "water@mollyevans.org" <water@mollyevans.org>, "jcbarchfaia@att.net" <jcbarchfaia@att.net>
Cc: Alison Kerr <alison4dro@gmail.com>, Dino Pick <citymanager@delreyoaks.org>, John Gaglioti <jsgaglioti@yahoo.com>
Subject: **Written input for definition of FEASIBLE**
Reply-To: Dennis Allion <dennisallion@sbcglobal.net>

Dear Board members and David,

I wanted to add a few thoughts to those I shared with you last night.

First is to clarify a few facts I threw out about my water bill. I looked back to 2003 through 2018 at the bills and found that anywhere from 23 to 43 percent of our bills were for surcharges, taxes, water project, conservation projects, something called a General Expenses Balancing Account surcharge, WRAM and other stuff. The actual cost to me of the water over that 16 year span was 69% of my bill, the other 31% was for all these other things. The cost per gallon, with all charges included was .8 cents in 2003 to currently 2.1 cents per gallon; this turns out to be approximately 6% annual increases and includes things like the dam removal and the biggest element is the Water Revenue Adjustment Mechanism (WRAM) (which is a CPUC approved way of letting CALAM recover revenues lost due to conservation efforts; intended to recognize that there are fixed cost and the rates were based on a higher volume of water deliveries). I hope that part of the study will be directed toward determining if we can eliminate the WRAM by public ownership.

The measure justly calls for an objective feasibility study by independent experts. The word objective is very important for the Water Management District Board as it will have the final say, not the voting rate payers – we have effectively put our trust and water future in your hands. Last night I implored that you objectively look at the numbers that will be generated by the studies; understand the risks associated with the assumptions made by the company or companies conducting the various studies required and

EXHIBIT 15-D

objectively decide what is the proper course of action.

While you may be considering this, I want to emphasize that not only must any water company (public or private) recover all its operating cost it must also plan for and collect funds to perform ongoing capital improvements, equipment and pipeline replacement. This must be an essential part of the feasibility studies.

The buyout becomes more confusing when the issue of the possible (or probable?) desalinization plant is thrown in. I believe we truly do need the additional water primarily due to the growing possibility of extended drought periods. The decision to include the potential plant capital expense in the feasibility study needs to be made - perhaps as a second scenario.

Last comment - as a 70 year old I am not going to be too excited about a buyout if it means that our water bills will be lower than what we would be paying a private sector company but only 30 years from now - I will never see the lower prices.

As has been eloquently stated by Paul Bruno, Measure J was passed by people who expect future water provided under public ownership will be more "affordable" than water provided by California American Water. That is a great and desirable expectation. The measure requires a feasibility study prior to any action taken to proceed with actions to purchase the water system by the public. All good except for the word feasible – which you are seeking definitions for. Thank you for asking.

Sincerely
Dennis Allion

EXHIBIT 15-D

Arlene Tavani

From: Dave Stoldt
Sent: Friday, January 4, 2019 8:54 PM
To: David Beech
Cc: Molly Evans; Arlene Tavani; Melodie Chrislock
Subject: Re: Agenda for January 7, 8, 9, 10 and 15, 2019 Listening Sessions re development of feasibility study on public ownership of Monterey Peninsula water system

Thank you David.

First of all, I do not believe that we are “revealing” anything “at the last moment before public comment.” We have characterized these sessions as two-fold: Please tell us what you are willing to accept or objectify as “feasible” as a measurable or objective measure of economic feasibility. Then, if it proves to be feasible under one, two, or more of these measures, then as we must move on to the next phase — proving public benefit — then what public benefits do you perceive in the acquisition of the Cal-Am system?

I do not believe we can filter or vet the desires (hopes) of speakers, rather just let the chips fall as they may. The Board is listening, but they are not naive, rather will be using what they hear to inform a future decision. This is not another public vote on the criteria for what is feasible, rather an opportunity to inform the Board so they can form their own opinion.

A 56% to 46% win on Measure J requires us to follow through on the initiative, but also listen to the 46%-ers. It is all going to be OK...

As I stated earlier, I believe the feasibility question is an objective economic measure and, to date, my Board has agreed. In other words, “Is it in the ratepayer’s interest”? We simply want to hear from ratepayers what their interests are.

Regards,

Dave

On Jan 4, 2019, at 4:37 PM, David Beech <dbeeche@comcast.net> wrote:

Hello Dave,

Since Molly has already kindly replied to my two previous messages, may I offer to you this time a new idea that just occurred to me?

This is that you ask that each speaker at the listening meetings should begin by stating whether they *hope* that the public acquisition of Cal Am will prove feasible or not.

The rationale is that you can hardly ask people to say how they voted on Measure J, but something similar needs to be used to interpret the definition of feasibility that they favor, i.e. how low or high they set the bar. You obviously don't want to be rerunning the Measure J ballot, and counting "votes" for different feasibility criteria, dependent on "voter turnout" among the relatively small number of attendees who get to speak.

EXHIBIT 15-D

I can only look forward to learning how these meetings will play into "the process for analyzing the feasibility of acquiring [CalAm]" that you will be revealing at the last moment before public comment.

Thanks for your patience. I can see that you are very committed to implementing Measure J correctly, and this is a delicate stage.

David

the process for analyzing the feasibility of acquiring

On 1/4/2019 5:47 AM, Molly Evans wrote:
Mr. Beech,

There is no packet available, not even for Board members, as we are not reviewing anything from staff. These sessions are solely to hear from the public. Any advance information available is on the District's web site, including the questions we will be asking the public (which I sent in my previous email to you) and the agenda.

The public directed the Board to adopt a rule creating a policy of public ownership of the water system "when feasible" without any guidance as to what that means. The sole purpose of the listening sessions is to hear that guidance directly from the public. Once the Board has received said guidance, the Board will develop the criteria to be given to the consultants to work with as they perform the study.

The email address can be found on the District's web site, along with the aforementioned information about for the listening sessions. It is comments@mpwmd.net

- Molly
Molly Evans
MPWMD Chair

On Jan 3, 2019, at 10:22 PM, David Beech <dbeech@comcast.net> wrote:

Hello Molly,

Thanks for your considered reply, although I fear you have not taken my point about the parallel with the Board having a few days to review the staff packet ahead of expressing their opinions in a meeting.

What kind of "consideration" will the District give to these public comments? So far, the description has been about "listening", and it would help people shape their comments to know to what purpose they will be applied, e.g. to be forwarded or summarized for the consultants selected to produce the Written Plan?

I'd be grateful for the email address for submission.

EXHIBIT 15-D

Thanks again,

David

On 1/3/2019 1:02 PM, Molly Evans wrote:
Mr. Beech,

Thank you for your message. I hope this will clarify the intent of these sessions. Generally speaking, all the District is looking for is 1) what does "feasible" mean to you? and 2) why do you see public ownership of the water system as beneficial? I believe that many people will be of similar mind and the District will be able to understand what the people intended by the term "feasible". However, as Mr. Stoldt said, having the context of the presentation will be beneficial in helping people determine what they would like to say when they have their opportunity to speak.

These questions are not new, and I believe most people have the answers already top of mind and will not need the full three minutes to express. There is also no need to attend every session or any at all. They will all be structured the same, and there is a special email address set up for anyone not able to attend a session to still provide input. The Board will receive all of those messages and will take them into consideration. I look forward to seeing you next week. If you need more information, please let me know.

- Molly
Molly Evans
MPWMD Chair

On Jan 3, 2019, at 11:26 AM, David Beech <dbeech@comcast.net> wrote:

Well, it will be hard to get quality input from the public if they have little information ahead of time, and have to structure quick thinking to fit in three minutes! With ten hours being devoted to these five meetings, it seems worthwhile to make them as productive as possible. Otherwise the end result could well be that "the public had their chance, but there were many assorted comments and no clear pattern of guidance emerged."

If the District plans to focus on certain questions in their presentations, please let us think about them before the meetings.

I will copy Molly Evans as chair, so that she is aware of this difficulty.

David

On 1/3/2019 9:55 AM, Dave Stoldt wrote:
Hi David,

I really do not want the materials out ahead of the meetings, because they will benefit by having context as they are introduced at the sessions.

Regards,

Dave

David J. Stoldt
General Manager
Monterey Peninsula Water Management District
5 Harris Court – Bldg G
Monterey, CA 93940

831.658.5651

From: David Beech <dbeech@comcast.net>
Sent: Tuesday, January 1, 2019 9:05 PM
To: Dave Stoldt <dstoldt@mpwmd.net>
Cc: Arlene Tavani <Arlene@mpwmd.net>; Melodie Chrislock <mwchrislock@redshift.com>
Subject: Re: Agenda for January 7, 8, 9, 10 and 15, 2019 Listening Sessions re development of feasibility study on public ownership of Monterey Peninsula water system

Hi Dave,

It looks as though you don't have a way to stream video of untelevised meetings, but it occurs to me that these 5 public meetings could be much more productive if your presentation and any supporting materials could be made available online at mpwmd.net before this weekend, much as the Board receives a packet for review in advance of a meeting. Maybe Jim Johnson could make Herald readers aware of this, and Melodie could inform her PWN list, if you agree.

Thanks,

David

On 12/31/2018 3:08 PM, Arlene Tavani wrote:

Mr. Beech: The meetings of 1/7, 1/8 and 1/9/19 will be video recorded, but not televised because there is no programming time available. These meetings are not occurring during regularly set aside time-slots for public meetings on the public access channels. DVDs of these meetings will be available upon request. Audio recordings of all 5 sessions will be available to the public upon request.

Arlene Tavani
Executive Assistant
Monterey Peninsula Water
Management District
Phone: 831-658-5652

EXHIBIT 15-D

From: David Beech <dbeech@comcast.net>

Sent: Monday, December 31, 2018 2:56 PM

To: Arlene Tavani <Arlene@mpwmd.net>

Cc: Dave Stoldt <dstoldt@mpwmd.net>

Subject: Re: Agenda for January 7, 8, 9, 10 and 15, 2019 Listening Sessions re development of feasibility study on public ownership of Monterey Peninsula water system

Hello Arlene,

Are any or all of these sessions to be televised, or available via the internet? That would seem a good way of keeping the community well informed, since these venues have small capacity. Perhaps at least the Monday one, which would also be a valuable preview for those intending to attend the later ones?

Happy New Year!

David

On 12/31/2018 11:12 AM, Arlene Tavani wrote:

The Monterey Peninsula Water Management District will conduct five listening sessions to hear from the public on development of a feasibility study on public ownership of the Monterey Peninsula water system. The agenda and list of meeting dates and locations is attached, or can be viewed at this link <http://www.mpwmd.net/wp-content/uploads/January2019Agenda.pdf>.

Contact me if you have questions.

Arlene Tavani

Executive Assistant

Monterey Peninsula Water

Management District

Phone: 831-658-5652

January 9, 2019

To: Molly Evans, Director
From: Jon Hill, resident, New Monterey
Re: Measure J Feasibility Listening Session

What does "feasible" mean to you?

"Feasible" is viable and practical. A "feasible" plan produces a better outcome without extraordinary measures or costs. In this situation, "extraordinary measures" might be costly and slow-moving legal battles, replacement of costly equipment or facilities, or adding CalPERS retirement to staffing costs. With regard to Measure J, it is "feasible" only if it can

- (1) provide water that meets or exceeds consumer demands and State Water Resources Control Board requirements;
- (2) provide water at a cost comparable to existing costs and future private system projections;
- (3) be accomplished with a minimum disruption to current users, both residential and commercial;
- (4) be accomplished with no greater environmental impact than projections for the current system; and
- (5) enhance accountability to local consumers, to state coastal and water resource agencies, and to environmental impacts.

Which measures of feasibility are most important to you?

Adequate water supply. Based on multiple data sources, what are the known and projected needs for water? How is availability impacted or directed by State Water Resources Control Board requirements?

NOTE THAT THIS FEASIBILITY STUDY IS ABSOLUTELY NOT THE APPROPRIATE PLACE TO LIMIT OR MINIMIZE GROWTH BY LIMITING THE AVAILABILITY OF WATER. GROWTH/NO GROWTH IS A SEPARATE DISCUSSION THAT MUST TAKE PLACE SEPARATELY.

Cost. Cost projections must honestly and openly study, analyze and project costs, including short-term and long-term. Information must be based on multiple independent data sources. Because MPWMD is already supported by taxes, costs must include water use charges, tax costs and anticipated bond taxes. With numerous previous government take-overs completed, costs must include all factors including the legal battles, replacement equipment and facilities, and CalPERS retirement costs for public water employees. A safe assumption is that CalAm employees will gravitate to MPWMD at no loss of salary and with vesting in CalPERS.

Water service. "Feasibility" must include practices and procedures that residential and commercial consumers do not experience disruptions to service. Consumers have a right to expect to have water every single day. That must be protected from legal and political wrangling.

Environmental impact. "Feasibility" must include a full and complete environmental impact analysis.

Accountability. "Feasibility" must thoroughly detail consumer protections and all aspects of state and local oversight under both private and public ownership.

What do you see are the benefits of publicly owned water system?

None. I believe local consumers have significantly better leverage to manage the current system than they would have with a publicly-owned water system.

EXHIBIT 15-D

From: [Dave Stoldt](#)
To: [Arlene Tavani](#)
Subject: FW: Monterey Listening Session Follow-up
Date: Thursday, January 10, 2019 12:06:33 PM
Attachments: [Social Security Windfall Elimination Provision.pdf](#)

More correspondence.

From: Jon Hill <dr.jon.hill@gmail.com>
Sent: Thursday, January 10, 2019 10:57 AM
To: alvinedwards420@gmail.com; rileyforwaterdistrict@gmail.com; water@mollyevans.org; jcbarchfaia@att.net; gqhwd1000@gmail.com; district5@co.monterey.ca.us; Dave Stoldt <dstoldt@mpwmd.net>
Subject: Monterey Listening Session Follow-up

January 10, 2019

To: Dave Stoldt, General Manager
Molly Evans, Chair
Members of the MPWMD Board
From: Jon Hill, resident, New Monterey
Re: Measure J Feasibility Listening Session Follow-up

This follows my comments last evening at the Monterey Listening Session.

First, thank you for making the investment in time to listen to the input from the community. I appreciate your carefully planned strategy. I hope it serves us all well later.

This email is to further clarify the impact of bringing workers who are paying Social Security into a government organization where employees become members of CalPERS. It is the agency's decision whether to have employees pay into both Social Security and CalPERS, or to pay only into CalPERS. I understand from Mr. Stoldt's comments last night that MPWMD has the latter arrangement.

Social Security retirees who have "substantial earnings" (greater than \$24,675) from work where they did not pay social security are significantly penalized under the "Windfall Elimination Provision". The two-page Social Security documentation is attached as a PDF to this email.

Let me describe how this works.

I initially worked in Washington and Oregon where I paid into Social Security. Then I worked under California State Teacher's Retirement System (CalSTRS) which is similar to CalPERS. I worked for 19+ years. Then, I moved to Oregon where I paid into Social Security. I worked there 17 years. Then I moved back to California and worked for County of Monterey where I paid into both Social Security and Cal PERS.

EXHIBIT 15-D

Please look at the second page of the PDF, the chart on the bottom right side. According to Social Security, I now have a total of 29 years of substantial earnings paid into Social Security. Therefore, my monthly pension from Social Security is 85% of what it would otherwise be. I could work one more year and receive 90%, but there is no way that I can get the full 100% of my pension based on the payments I made into the system.

My wife's history is similar. She worked approximately 35 years under CalSTRS with 10 years in Oregon where she paid into Social Security. Her pension is 40% of what it would be otherwise would be for someone paying similarly into Social Security.

I believe this poses a significant problem for the employees of CalAM. My understanding is that they pay into Social Security but if they come to work for MPWMD, they will pay only into CalPERS. After earning \$24,675 or more from MPWMD and upon retirement, those employees will lose not less than 10% of their Social Security pension, and perhaps as much as 40%. Even with the benefits of a CalPERS pension, they will experience significant loss of retirement income.

As I understand the system, if MPWMD modified its agreement with CalPERS, and deducted both Social Security and CalPERS, then those same employees would continue paying into Social Security and not experience the loss.

I am not a lawyer nor a CPA. There may be gaps in my understanding that are worth exploring. However, this is the kind of detrimental effects that I believe MPWMD must carefully include within the scope of their feasibility study to ensure that employees are not harmed.

With more than 50 years of experience in government, and as a current MPUSD school board member, I encourage you to consider carefully the cost of CalPERS to the system. Mr. Stoldt stated that the 2012 CalPERS adjustment reduces MPWMD's liability. That is not MPUSD's experience. The school district board has already made significant changes in programs and offerings with very strong evidence that the growing cost of retirement programs will outstrip any increases in revenues. Again, this kind of known financial issue must be carefully included within the scope of the district's feasibility study.

Thank you for your service to the community.

--

Jon Hill
831 737 2374



Windfall Elimination Provision

Your Social Security retirement or disability benefits can be reduced

The Windfall Elimination Provision can affect how we calculate your retirement or disability benefit. If you work for an employer who doesn't withhold Social Security taxes from your salary, such as a government agency or an employer in another country, any retirement or disability pension you get from that work can reduce your Social Security benefits.

When your benefits can be affected

This provision can affect you when you earn a retirement or disability pension from an employer who didn't withhold Social Security taxes **and** you qualify for Social Security retirement or disability benefits from work in other jobs for which you did pay taxes.

The Windfall Elimination Provision can apply if:

- You reached 62 after 1985; or
- You became disabled after 1985; and
- You first became eligible for a monthly pension based on work where you didn't pay Social Security taxes after 1985. This rule applies even if you're still working.

This provision also affects Social Security benefits for people who performed federal service under the Civil Service Retirement System (CSRS) after 1956. We won't reduce your Social Security benefit amounts if you only performed federal service under a system such as the Federal Employees' Retirement System (FERS). Social Security taxes are withheld for workers under FERS.

How it works

Social Security benefits are intended to replace only some of a worker's pre-retirement earnings.

We base your Social Security benefit on your average monthly earnings adjusted for average wage growth. We separate your average earnings into three amounts and multiply the amounts using three factors to compute your full Primary Insurance Amount (PIA). For example, for a worker who turns 62 in 2019, the first \$926 of average monthly earnings is multiplied by 90 percent; earnings between \$926 and \$5,583 by 32 percent; and the balance by 15 percent. The sum of the three amounts equals the PIA which is then decreased or increased depending on whether the

worker starts benefits before or after full retirement age (FRA). This formula produces the monthly payment amount.

When we apply this formula, the percentage of career average earnings paid to lower-paid workers is greater than higher-paid workers. For example, workers age 62 in 2019, with average earnings of \$3,000 per month could receive a benefit at FRA of \$1,497 (approximately 49 percent) of their pre-retirement earnings increased by applicable cost of living adjustments (COLAs). For a worker with average earnings of \$8,000 per month, the benefit starting at FRA could be \$2,686 (approximately 33 percent) plus COLAs. However, if either of these workers start benefits earlier, we'll reduce their monthly benefit.

Why we use a different formula

Before 1983, people whose primary job wasn't covered by Social Security had their Social Security benefits calculated as if they were long-term, low-wage workers. They had the advantage of receiving a Social Security benefit representing a higher percentage of their earnings, plus a pension from a job for which they didn't pay Social Security taxes. Congress passed the Windfall Elimination Provision to remove that advantage.

Under the provision, we reduce the 90 percent factor in our formula and phase it in for workers who reached age 62 or became disabled between 1986 and 1989. For people who reach 62 or became disabled in 1990 or later, we reduce the 90 percent factor to as little as 40 percent.

Some exceptions

The Windfall Elimination Provision doesn't apply if:

- You're a federal worker first hired after December 31, 1983;
- You're an employee of a non-profit organization who was first hired after December 31, 1983;
- Your only pension is for railroad employment;
- The only work you performed for which you didn't pay Social Security taxes was before 1957; or
- You have 30 or more years of substantial earnings under Social Security.

The Windfall Elimination Provision doesn't apply to survivors benefits. We may reduce spouses, widows, or widowers benefits because of another law. For more information, read *Government Pension Offset* (Publication No. 05-10007).

Social Security years of substantial earnings

If you have 30 or more years of substantial earnings, we don't reduce the standard 90 percent factor in our formula. See the first table that lists substantial earnings for each year.

The second table shows the percentage used to reduce the 90 percent factor depending on the number of years of substantial earnings. If you have 21 to 29 years of substantial earnings, we reduce the 90 percent factor to between 45 and 85 percent. To see the maximum amount we could reduce your benefit, visit www.socialsecurity.gov/planners/retire/wep-chart.html.

A guarantee

The law protects you if you get a low pension. We won't reduce your Social Security benefit by more than half of your pension for earnings after 1956 on which you didn't pay Social Security taxes.

Contacting Social Security

The most convenient way to contact us anytime, anywhere is to visit www.socialsecurity.gov. There, you can: apply for benefits; open a *my* Social Security account, which you can use to review your *Social Security Statement*, verify your earnings, print a benefit verification letter, change your direct deposit information, request a replacement Medicare card, and get a replacement SSA-1099/1042S; obtain valuable information; find publications; get answers to frequently asked questions; and much more.

If you don't have access to the internet, we offer many automated services by telephone, 24 hours a day, 7 days a week. Call us toll-free at **1-800-772-1213** or at our TTY number, **1-800-325-0778**, if you're deaf or hard of hearing.

If you need to speak to a person, we can answer your calls from 7 a.m. to 7 p.m., Monday through Friday. We ask for your patience during busy periods since you may experience a higher than usual rate of busy signals and longer hold times to speak to us. We look forward to serving you.

Year	Substantial earnings
1937–1954	\$900
1955–1958	\$1,050
1959–1965	\$1,200
1966–1967	\$1,650
1968–1971	\$1,950
1972	\$2,250
1973	\$2,700
1974	\$3,300
1975	\$3,525
1976	\$3,825
1977	\$4,125
1978	\$4,425
1979	\$4,725
1980	\$5,100
1981	\$5,550
1982	\$6,075
1983	\$6,675
1984	\$7,050
1985	\$7,425
1986	\$7,875
1987	\$8,175
1988	\$8,400
1989	\$8,925
1990	\$9,525
1991	\$9,900

Year	Substantial earnings
1992	\$10,350
1993	\$10,725
1994	\$11,250
1995	\$11,325
1996	\$11,625
1997	\$12,150
1998	\$12,675
1999	\$13,425
2000	\$14,175
2001	\$14,925
2002	\$15,750
2003	\$16,125
2004	\$16,275
2005	\$16,725
2006	\$17,475
2007	\$18,150
2008	\$18,975
2009–2011	\$19,800
2012	\$20,475
2013	\$21,075
2014	\$21,750
2015-2016	\$22,050
2017	\$23,625
2018	\$23,850
2019	\$24,675

Years of substantial earnings	Percentage
30 or more	90 percent
29	85 percent
28	80 percent
27	75 percent
26	70 percent
25	65 percent
24	60 percent
23	55 percent
22	50 percent
21	45 percent
20 or less	40 percent



Securing today and tomorrow

EXHIBIT 15-D

From: [john magill](#)
To: [Comments](#)
Subject: Measure J what is feasible
Date: Thursday, January 10, 2019 11:56:31 AM

submitted by John Magill, P.O. Box 538, Pacific Grove, CA

I have three concerns pertinent to the question of the feasibility of a public takeover of California American Water.

- 1) Certainly any takeover needs to realize lower water costs for all users. This was a central tenant of the advocate's campaign. These lower costs must be implemented immediately and not at some future imagined date. And they must be consequential because the public takeover involves some risk and the benefits of lower rates must be substantial enough to engage in this risk. I would propose that anything less than 15% is not worth the effort or risk of a takeover.
- 2) A feasibility study must look at the existing CalAm infrastructure and the forward costs of maintaining and improving that infrastructure. Recent road repair work has exposed water pipes that are substandard. Perhaps no one knows the extent of substandard water delivery infrastructure but a capital improvement fund must be a part of a pro forma budget that would deliver the rate savings noted in #1.
- 3) I have no expertise in municipal finances but I'm aware that debt encumbrances affect bond ratings and further borrowing capacities. Nothing in this takeover should result in limitations or costs for other non-related borrowing.

1. At Monday's meeting, Mr. Stoldt stated that the Board had discussed the definition of feasibility in closed sessions. He also has stated that the board discussed the scope of consultant contracts in closed session. In my city, such items would not be allowed to be discussed in closed session to prevent a Brown Act violation. I urge you to look for ways to make ALL information available to your and my constituents. It feels as though you are looking for ways to keep information from the public by using broad Brown Act safe harbor excuses to talk in closed session.
2. At Monday's meeting, you really only talked about the initial feasibility analysis process. Please outline the condemnation legal process and risks associated with that process, on the assumption that you find acquisition feasible and you follow Measure J's requirements to condemn. I am not asking you to divulge a legal strategy, if you actually have one, but to describe the legal process. This is important information so your constituents can make informed comments. This should not be a popularity contest about who we like more-----CALAM or the Water Manager Management District.

3. During these hearings, you are repeatedly being told things that are not factually accurate. Will you at the end of these sessions publicly outline the fact based information you are going to consider in this legal process.

4. Monday, Mr. Stoldt indicated that the board was not considering the desal plant in the feasibility analysis. How would you finance a water infrastructure takeover if you have excluded the primary source of water? How would you meet the state board's 95-10 requirements that will come with the ownership of CALAM.

5. If you do not include the Desal plant where will you obtain a quantity sufficient, reliable, draught resistant peninsula water source to forestall the social and economic impacts of the rationing that would be required by 95-10



www.AgLandTrust.org
 Location: 1263 Padre Drive | Salinas, CA
 Mail Address: P.O. Box 1731 | Salinas, CA 93902
 Tel.: 831.422.5868

12 NOVEMBER 2014

AGENDA ITEM 14 – copies provided to staff

TO: The California Coastal Commission

RE: Opposition to Proposed California American Water Company (Cal-Am) Appeal/Application to Acquire a Well Site to Violate Mandatory Policies of the Certified Local Coastal Plan and to Prescriptively Take Groundwater from the Overdrafted Salinas Valley Groundwater Basin

The Ag Land Trust is strongly objecting to the subject appeal and application because Cal-Am and the commission staff are asking the Commission to participate in an illegal project that violates an unprecedented number of coastal protection policies and state laws. The Coastal Commission, if it follows their wrongful advice, will be taking an "ultra vires" act and approving an illegal "test well" which violates CEQA, which fails to address the cumulative adverse impacts of the project as a whole, and which will result in an unlawful "taking" of groundwater rights from the Ag Land Trust and other rights holders.

We are writing this correspondence to you based upon our collective professional experience of over 80 years working in Monterey County on county groundwater rights and legal issues, California Coastal Act issues, agricultural water supply and water quality issues, potable water supplies and public health issues, and based upon our technical expertise in the areas of California groundwater rights law, agricultural regulatory and water supply issues, and environmental and public health issues related to potable groundwater supplies.

The Ag Land Trust of Monterey County (the Monterey County Agricultural and Historic Lands Conservancy) is a 501(c)(3) NON-PROFIT CORPORATION organized in 1984 for the purposes of owning, protecting, and permanently preserving prime and productive agricultural lands in Monterey County and within the California Coastal Zone. It is now the largest and most successful farmland preservation trust in the State of California, and it owns, either "in fee" or through permanent conservation easements, over 25,000 acres of prime farmlands and productive coastal agricultural lands throughout Monterey County and the Central Coast of the state. (**See attached Board of Directors roster – Exhibit 1**). Further, and of more particular importance, The Ag Land Trust has been the farmland conservancy that the California Coastal Commission has sought out to accept the dedications of prime and productive coastal farmlands in Monterey and San Mateo Counties as mitigations for the Coastal Commission's issuance of development permits within those Local Coastal Planning areas.

The Ag Land Trust owns, in fee, the prime and productive coastal farmland (the Armstrong Ranch), and all of the overlying percolated groundwater rights thereunder, that is located immediately adjacent to (within 50 yards of) the California American Water Company's (Cal-Am) proposed well site on the CEMEX

The Ag Land Trust is a 501 (c)(3) non profit organization.
 Donations are welcome and tax deductible,

EXHIBIT 15-D

property. Our ranch was acquired with grant funds from the State of California and the United States (USDA) expressly to preserve its protected and irreplaceable prime and productive coastal farmland from development. We have over 160 acres under cultivation and use our potable groundwater wells for irrigation water.

Our property is in the unincorporated area of Monterey County. Our ranch lies within, and is subject to, the policies and regulations of the certified North Monterey County Local Coastal Plan area. Cal-Am has publicly stated that the huge cone of depression that will be created by its' massive proposed test well, and the excessive duration (two (2) years) of Cal-Am's intended proposed pumping, will result in the contamination of our wells and the unlawful "taking" of our potable groundwater from beneath our property in direct violation of the certified policies protecting our farmland in the North Monterey County Local Coastal Plan (NMCLCP – certified 1982). The appeal/application and the commission's staff analysis are fatally flawed because they have ignored the test well's immitigable operational and environmental violations and failed to address conflicts with the NMCLCP policies that Cal-Am's own documents have disclosed. **The proposed "test well" appeal/application directly violates the following policies/mandates of the certified North Monterey County Local Coastal Plan that the Coastal Commission is required to uphold and enforce:**

"NMCLCP 2.5.1 Key Policy

The water quality of the North County groundwater aquifers shall be protected, and new development shall be controlled to a level that can be served by identifiable, available, long term-water supplies. The estuaries and wetlands of North County shall be protected from excessive sedimentation resulting from land use and development practices in the watershed areas.

NMCLCP 2.5.3 Specific Policies

A. Water Supply

1. The County's Policy shall be to protect groundwater supplies for coastal priority agricultural uses with emphasis on agricultural lands located in areas designated in the plan for exclusive agricultural use.

2. The County's long-term policy shall be to limit ground water use to the safe-yield level. The first phase of new development shall be limited to a level not exceeding 50% of the remaining buildout as specified in the LUP. This maximum may be further reduced by the County if such reductions appear necessary based on new information or if required in order to protect agricultural water supplies. Additional development beyond the first phase shall be permitted only after safe-yields have been established or other water supplies are determined to be available by an approved LCP amendment. Any amendment request shall be based upon definitive water studies, and shall include appropriate water management programs.

3. The County shall regulate construction of new wells or intensification of use of existing water supplies by permit. Applications shall be regulated to prevent adverse individual and cumulative impacts upon groundwater resources."

Cal-Am's proposed illegal pumping and then its "wasting/dumping" of our protected potable groundwater resources will result in significant cumulative adverse impacts, immitigable permanent damage, a continuing nuisance, and irreversible seawater intrusion into the potable groundwater resources and

EXHIBIT 15-D

aquifers that belong to and which underlie the Ag Land Trust's Armstrong Ranch. Further, it will cause irreparable damage to our protected prime coastal farmlands in violation of our certified Local Coastal Plan. Cal-Am has no groundwater rights in the Salinas Valley and the North Monterey County Local Coastal Plan area and, pursuant to California groundwater rights law, is flatly prohibited from acquiring such rights in an overdrafted basin. **Importantly, Cal-Am's proposal, and Commission staff's recommendations directly violate the new mandates of Governor Brown's groundwater legislation that specifically identifies (and prohibits) "significant and unreasonable seawater intrusion" as an "Undesirable Result" that must be avoided in the management of potable groundwater basins, and specifically in the Salinas Valley. (See AB 1739 (Dickinson); SB1168 (Pavley); and SB 1319 (Pavley) signed by Governor Brown in October, 2014). The express legislative intent of these important pieces of legislation, in part, includes "respecting overlying and other proprietary rights to groundwater" by rights holders like the Ag Land Trust as against parties like Cal-Am (a junior, non-overlying, would-be prescriptive appropriator). Further, Cal-Am's proposed "test well", and its operation recommended by Commission staff, directly violates the new definition of "GROUNDWATER SUSTAINABILITY" as embodied in Governor Brown's new legislation.**

By this letter, the Board of Directors of the Ag Land Trust unanimously objects to the proposed coastal permit appeal and the application to the Commission initiated by the California American Water Company (Cal-Am) for a well site on the CEMEX property for Cal-Am's stated and prohibited reasons of wrongfully extracting potable groundwater from the overdrafted Salinas Valley Groundwater basin and our property. A significant portion of the groundwater that Cal-Am has expressly indicated it intends to wrongful "take" with its proposed "test well", without providing compensation for their resultant irreparable damage to our potable groundwater aquifers, belongs to the Ag Land Trust **(See attached Exhibit 2 - MAPS - by Cal-Am showing its' "drawdown" of groundwater by Cal-Am's well pumping on the adjacent Ag Land Trust property; Exhibit Map showing Ag Land Trust property in yellow right next to the proposed "test well"; Exhibit Maps (two copies - original and corrected) of Cal-Am maps misrepresenting the actual location of the proposed "test well" site, misrepresenting the actual impact area of Cal-Am's well pumping "cone of depression"; and failing to identify the closest agricultural well on the Ag Land Trust property which is in the "cone of depression" area.).**

Cal-Am has been denied the prerequisite permits for a ground water well twice by both the City of Marina Planning Commission and the City Council of the City of Marina due, in part, to Cal-Am's failure to produce even one shred of evidence that it has any legal property or water right to pump groundwater from the overdrafted Salinas Valley Groundwater Basin, or that it can overcome its intended express violations of the farmland and groundwater protection policies of the certified North Monterey County Local Coastal Plan (NMCLCP). Unfortunately, these direct violations of existing mandatory NMCLCP protection policies are ignored in your staff report, in spite of the woefully inadequate condition that groundwater within 5000 feet of the well site be monitored for seawater intrusion. Further, there is no evidence produced by Cal-Am or the Commission's staff that the CEMEX well site is entitled to enough groundwater to satisfy Cal-Am's uncontrolled demand even if Cal-Am is successful in acquiring the well permit, and your staff has failed to disclose this issue for public review.

UNDER CALIFORNIA GROUNDWATER RIGHTS LAW, ACQUISITION OF A SURFACE WELL SITE DOES NOT RESULT IN THE ACQUISITION OF WATER RIGHTS TO PUMP GROUNDWATER FROM THE UNDERLYING OVERDRAFTED PERCOLATED GROUNDWATER BASIN. The over-drafted aquifers that are proposed to be exploited and contaminated by Cal-Am's self-serving pumping and dumping are required to be used by the NMCLCP "to protect groundwater supplies for coastal priority agricultural uses". **Has Cal-Am or the Commission staff explained how their proposed project does not violate the mandate to prevent adverse cumulative impacts upon coastal zone groundwater**

EXHIBIT 15-D

resources (North County LCP Sec. 2.5.3 (A) (3))? We can find no reference or consideration of this issue in your staff report. Moreover, the proposed appeal by Cal-Am, which is now being pushed by staff, directly violates the mandates of the certified North Monterey County Local Coastal Plan Sections 2.5.1, and 2.5.2.3, and 2.5.3.A.1-3; and 2.5.3.A.1.6, and 2.6.1; and 2.6.2.1; and 2.6.2.2; and 2.6.2.6. The impacts of the Cal-Am test well, by Cal-Am's own filings, will directly violate these policies in spite of the failure to have evaluated these significant and immitigable adverse impacts. We object to these obvious failures to comply with these mandated coastal protection policies and CEQA.

The Ag Land Trust objects to the Cal-Am appeal and application because Cal-Am, by omission, seeks to deceive the Commission as to its actual intent in pursuing the acquisition of the proposed "test well". Further, Cal-Am knows, but has failed to disclose to the Commission, that it intends to wrongfully and surreptitiously contaminate a potable groundwater aquifer and "take" the real property rights and the potable water rights of the Ag Land Trust, without compensation and in violation of over 100 years of California groundwater rights law. Cal-Am has been advised of this concern for at least eight (8) years by the Ag Land Trust. **(Exhibit 3 - See attached letters of objection from the Ag Land Trust)**. Cal-Am intends to, and has admitted, that it intends to pump water from beneath the Ag Land Trust's property over the objection of the Trust since 2006. **(See Exhibit 2 - attached Cal-Am pumping map)**.

Although our objections are not limited to those enumerated herein, The Ag Land Trust further objects to the Cal-Am proposal to use the CEMEX well site for the following reasons:

1. Cal-Am's assertions that it intends to pump seawater from the proposed "test well" is untrue. Cal-Am has conducted water quality sampling that already shows that its proposed extended pumping of that test well will intentionally and significantly draw water from "fresh", potable aquifers (180 ft. and 400 ft.) that underlie the Ag Land Trust property, and aggravate seawater intrusion below the Ag Land Trust property, thereby implementing a wrongful, uncompensated "taking" of our real property (aquifer storage and our well water) rights for Cal-Am's financial benefit. Cal-Am has disclosed this information to the City of Marina City Council. Moreover, Cal-Am has indicated that it intends to not use, but intends to "dump" the water it pumps from its "test well", including our potable water, back into the ocean, thereby constituting a prohibited "waste of water" and a direct violation of Article X, Sec.2 of the Constitution of California and the Doctrine of Reasonable Use (Peabody v. Vallejo 2 Cal. 2nd 351-371 (1935)). "The use of groundwater is a legally protected property right." (See Peabody). Cal-Am intends to do this to intentionally contaminate the aquifer and our wells so that it can avoid the legal penalties and financial consequences of its plan to illegally, prescriptively, and permanently take control of the groundwater aquifers underlying the Ag Land Trust's productive farmland for Cal-Am's sole economic benefit. Moreover, the granting of this appeal and the issuance of a permit by the Commission, now that this intended violation of the law has been disclosed, will likely expose the Coastal Commission to nuisance claims and "vicarious liability" for the taking of our groundwater rights, and the resultant damages flowing therefrom, along with Cal-Am (See Aransas v. Shaw 756 F.3rd 801 (2014)). Further, granting Cal-Am's appeal will directly violate Governor Brown's landmark groundwater legislative package that prohibits the taking of other parties' groundwater rights and prohibits the intentional contamination of identified potable groundwater supplies.

EXHIBIT 15-D

2. The Salinas Valley groundwater basin has been identified as being in overdraft by the California Department of Water Resources, the California Coastal Commission, and the Monterey County Water Resources Agency (MCWRA) for over 60 years. The sole source of recharge to the aquifer is rainfall and water percolated into the Salinas River from water supply projects paid for, pursuant to Proposition 218 requirements and provisions of the California Constitution, by overlying land owners (assesses) within the basin, including the Ag Land Trust. The overlying water rights holders have paid tens of millions of dollars to protect and restore their groundwater supplies. Cal-Am has not paid anything to protect and preserve the aquifers, and has acquired no groundwater rights in the basin or from those projects.

3. The overdraft was initially identified in Monterey County studies of the basin in the 1960's and 1970's, and has been repeatedly identified by more recent MCWRA hydrologic and hydro-geologic studies (U.S. ARCORPS, 1980; Anderson-Nichols, 1980-81; Fugro, 1995; Montgomery-Watson, 1998). The universally identified remedy for seawater intrusion specified in these studies is the reduction of well pumping near the coast. Further, the overdraft in the North County aquifers has been publicly acknowledged for decades by both the Monterey County Board of Supervisors and the California Coastal Commission in the certified "North County Local Coastal Plan" (1982), the "Monterey County General Plan" (1984 and 2010) and the "North County Area Plan" (1984). The Ag Land Trust and all other land owners within the basin have spent millions of dollars over the last sixty years to build water projects to reverse and remedy the overdraft and recharge the aquifers. Cal-Am has not spent anything to protect the groundwater resources of the Salinas Valley. Unfortunately, Cal-Am, in its continuing wrongful pursuit of "taking" other people's water rights, has failed to disclose to the Commission how it intends to violate the laws of groundwater rights that govern the basin. Moreover, Cal-Am and Commission staff, without any evidence to back up their assertions, now asks the Commission to blindly ignore 50 years of detailed hydro-geologic and engineering studies by independent, impartial public agencies, and asks the Commission to rely on Cal-Am's "voo doo hydrology" that its "test well" pumping results will not aggravate seawater intrusion in the Salinas Valley or "take" our potable water resources and water rights.

4. California law holds that, in an overdrafted percolated groundwater basin, there is no groundwater available for junior appropriators to take outside of the basin. In an over-drafted, percolated groundwater basin, California groundwater law holds that the Doctrine of Correlative Overlying Water Rights applies (Katz v. Walkinshaw 141 Cal. 116 (1902)). In an over-drafted basin, there is no surplus water available for new, junior "groundwater appropriators", except those prior appropriators that have acquired or gained pre-existing, senior appropriative groundwater water rights through prior use, prescriptive use, or court order. The clear, expansive, and often re-stated law controlling groundwater rights in an over-drafted basin has been reiterated by California courts for over a century (Katz v. Walkinshaw, 141 Cal. 116; Burr v. Maclay 160 Cal. 268; Pasadena v. Alhambra 33 Cal. 2nd 908; City of Barstow v. Mojave 23 Cal. 4th 1224 (2000)). This is the situation in the over-drafted Salinas Valley percolated groundwater basin, there is no "new" groundwater underlying the over-drafted Salinas aquifers. Cal-Am is a junior appropriator that has

EXHIBIT 15-D

no rights to groundwater in the Salinas Valley, and can't get any. Moreover, Cal-Am's unsubstantiated assertions that it needs to drill a test well to satisfy the SWRCB ignores the fact that Cal-Am's actual intent and conduct is aimed at avoiding the SWRCB Cease and Desist order on the Carmel River (that has resulted from its constant illegal diversions of water over the past twenty years) by creating an even greater illegal diversion of "other peoples'" groundwater from the overdrafted Salinas Valley. Cal-Am's shameless propensity to violate both the requirements of California water law and the water rights of other innocent property owners is legend, and is the reason that the SWRCB issued its enforcement SWRCB Order 95-10 and the Cease and Desist order against Cal Am.

5. Further, it is important for the Commission to know that the SWRCB is specifically prohibited by the Porter-Cologne Act (1967) from having any jurisdictional authority of non-adjudicated percolated groundwater basins like the Salinas Valley. Moreover, neither the CPUC, nor the Coastal Commission, nor the SWRCB can grant groundwater rights to Cal-Am. Such an approval would be a direct violation of California groundwater rights law. The SWRCB cannot, and has no authority to, order the installation of slant wells so that Cal-Am can wrongfully take other people's water and water rights without a full judicial adjudication of the entirety of the Salinas Valley groundwater basin among all landowners and existing water rights holders therein. Cal-Am's request for a test well site seeks to hide by omission the irrefutable legal impediments to its planned illegal taking of groundwater.
6. The Cal-Am desalination plant, and its proposed test wells and the appeal to which we object, are illegal and directly violate existing Monterey County Code Section 10.72.010 et seq (adopted by the Board of Supervisors in 1989) which states in part:

Chapter 10.72 - DESALINIZATION TREATMENT FACILITY (NMC LCP)

Sec. 10.72.010 - Permits required.

No person, firm, water utility, association, corporation, organization, or partnership, or any city, county, district, or any department or agency of the State shall commence construction of or operate any Desalination Treatment Facility (which is defined as a facility which removes or reduces salts from water to a level that meets drinking water standards and/or irrigation purposes) without first securing a permit to construct and a permit to operate said facility. Such permits shall be obtained from the Director of Environmental Health of the County of Monterey, or his or her designee, prior to securing any building permit.

Sec. 10.72.030 - Operation permit process.

All applicants for an operation permit as required by Section 10.72.010 shall

EXHIBIT 15-D

- A. Provide proof of financial capability and commitment to the operation, continuing maintenance replacement, repairs, periodic noise studies and sound analyses, and emergency contingencies of said facility. Such proof shall be in the form approved by County Counsel, such as a bond, a letter of credit, or other suitable security including stream of income. For regional desalinization projects undertaken by any public agency, such proof shall be consistent with financial market requirements for similar capital projects.
- B. Provide assurances that each facility will be owned and operated by a public entity.

Cal-Am, by its own admission is not a "public entity", as defined under the Monterey County Code and the California Government Code. Cal-Am is a privately owned, for-profit corporation which is a regulated private company and taxed as a private company by the Internal Revenue Service. Further, the California Public Utilities Commission's power of eminent domain, which Cal-Am invoked to pursue its devious acquisition of the CEMEX well site, may not be used or invoked to take actions that are violations of existing state or local laws, ordinances, or regulations. Under California law, eminent domain may not be used to acquire unlimited groundwater pumping rights in an overdrafted basin. Cal-Am is attempting to pursue acquisition of a well site for a project that it is prohibited from owning and operating, and for which it has no groundwater rights. Neither Cal-Am nor the CPUC have pursued an action in declaratory relief. Further, the CPUC cannot grant groundwater rights nor waive the requirements of a local ordinance so as to exercise its power of eminent domain, either directly or indirectly. It certainly cannot grant other peoples' groundwater rights to Cal-Am for the sole financial benefit of Cal-Am. Nor can the SWRCB. Nor can the Coastal Commission. The granting of this appeal and application for the well site expressly to illegally appropriate and "take/steal" tens of thousands of acres feet of "other people's groundwater" from the overdrafted Salinas Valley groundwater basin, for a project that Cal-Am is legally prohibited from owning and operating, would constitute an illegal, "ultra vires" act that may not be facilitated by the Commission.

7. Cal-Am's appeal also fails to disclose to the Commission the legal limitations that will apply to its so-called "test well". The Doctrine of Correlative Overlying Water Rights, as created and interpreted by the California Supreme Court in Katz v. Walkinshaw 141 Cal. 116, and as reiterated for the last 110 years (most recently in City of Barstow v. Mojave 23 Cal. 4th 1224 (2000)), prohibits any land owner in an over-drafted percolated groundwater basin from pumping more than that land owner's correlative share of groundwater from the aquifer as against all other overlying water rights holders and senior appropriators. CEMEX is only allowed to pump a fixed (correlative) amount of water for beneficial uses solely on its' property. Given the size of the small easement pursued by Cal-Am, the Commission must limit the amount of water that Cal-Am may pump annually from that easement to that small fraction of the total available water amount that may be used by CEMEX pursuant to its deed restriction in favor of the Marina Coast Water District and the other land owners in the Salinas Valley basin and pursuant to the Doctrine as mandated by state law. If the Commission were to grant Cal-Am's appeal, it would be necessary to specifically, and in writing, limit the temporary permitted extraction to insure that Cal-Am does not conveniently forget its legal obligations like it has on the Carmel River for the past 20 years.

EXHIBIT 15-D

Uncontrolled pumping of Cal-Am's "test well" can and will reverse years of efforts to recharge and restore our aquifer, violate existing mandatory LCP policies, violate state groundwater law, and leave us permanently without a groundwater supply for our farm.

8. Cal-Am's proposed well and its uncontrolled pumping plan will intentionally contaminate the potable groundwater aquifers beneath the Ag Land Trust property and the potable aquifers of the Salinas Valley in violation of state law. Cal-Am, by its appeal for a well site, intends to intentionally contaminate a potable groundwater supply in violation of multiple state regulations and water quality laws. The California Regional Water Quality Control Board – Central Coast (CCRWQCB) is a division of the SWRCB and created pursuant to an act of the legislature known as the Porter-Cologne Act. One of the duties delegated to the CCRWQCB is the adoption and enforcement of the Water Quality Control Plan for the Central Coastal Basin. The Plan is mandated to meet the requirements of the federal Clean Water Act and the Porter-Cologne Act. It was adopted after numerous public hearings in June, 2011. This Plan is mandated by law to identify the potable groundwater resources of the Central Coast and Monterey County. At Chapter 2, Page II-1, the Plan states, "Ground water throughout the Central Coastal Basin, except for that found in the Soda Lake Sub-basin, is suitable for agricultural water supply, municipal and domestic water supply, and industrial use. Ground water basins are listed in Table 2-3. A map showing these ground water basins is displayed in Figure 2-2 on page II-19." This reference specifically included the potable groundwater supplies/aquifers under the Ag Land Trust property, adjacent to the CEMEX site, which is sought to be exploited by Cal-Am to supposedly pump "seawater". The Plan goes on to quote the SWRCB Non-Degradation Policy adopted in 1968 which is required to be enforced by the CCRWQCB. "Wherever the existing quality of water is better than the quality of water established herein as objectives, such existing quality shall be maintained unless otherwise provided by the provisions of the State Water Resources Control Board Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality of Waters in California," (See **Exhibit 3**) including any revisions thereto. Cal-Am, in pursuing its well site, knowingly has ignored the above stated facts and law and withheld this information from the Commission so as to avoid having to compensate the Ag Land Trust for its irreparably damaged property, wells, and water rights and to avoid further legal enforcement actions against Cal-Am by federal and state regulatory agencies.
9. Cal-Am's flawed and self-serving real estate appraisal of the proposed well site and easement fails to evaluate, quantify, and value the exploitation of groundwater resources and the value of permanently lost water supplies and rights due to induced seawater intrusion into the potable aquifers by Cal-Am's wrongful pumping and its illegal exploitation of the Ag Land Trust's percolated, potable groundwater supply. The full price of Cal-Am's actions and "takings" has been significantly underestimated expressly for Cal-Am's prospective economic benefit.
10. Our wells (two wells) and pumps on our ranch adjacent to the location of the proposed well field are maintained and fully operational. **Cal-Am has failed to identify and disclose in their exhibits to the Commission the location of our largest well (900 ft.) which is located west of Highway 1 and within the "cone of depression" area of Cal-Am's proposed "taking" of our groundwater (See Exhibit 2). Its' water will be taken and contaminated by Cal-Am's actions that are endorsed by Commission staff.** We rely on our groundwater and our overlying groundwater rights to operate and provide back-up supplies for our extensive agricultural activities. Our property was purchased with federal grant funds and the U.S. Department of Agriculture has a reversionary interest in our prime farmland and our water rights and supplies that underlie our farm. Neither Cal-Am, nor the CPUC, nor the Coastal commission can acquire property or groundwater rights as against the federal government by regulatory takings or eminent domain. Cal-Am has intentionally omitted these facts from its appeal so as to avoid uncomfortable environmental questions that would invariably disclose Cal-Am's intended illegal acts and proposed "takings". Cal-Am's proposed "takings", as supported by Commission staff, will

EXHIBIT 15-D

intentionally and wrongfully contaminate our protected potable groundwater supplies, resources, and wells. Cal-Am's and staff's intent on "eliminating our right of use (through "public trust" inspired pumping to protect unidentified marine organisms) is akin to the drastic impact of physical invasion on real property, which categorically warrants compensation" (Loretto v. Teleprompter Manhattan 458 U.S. 419,421 (1982) (physical occupation of property requires compensation). Hence, such an impact on water rights should merit the same categorical treatment. (See Josh Patashnik, Physical Takings, Regulatory Takings, and Water Rights, 51 Santa Clara Law Review 365,367 (2011)).

11. The staff report admits that the test well site is an environmentally sensitive habitat area (ESHA) and that the project is not a resource dependent use. (Only resource dependent uses are permitted in ESHA). That should end the discussion and result in denial of the project. But, the staff report then states that this project qualifies for an exception under the Coastal Act for "industrial facilities." This is not an industrial facility under the Coastal Act. It might be a public works facility, except Cal-Am is not a California public/government agency. Cal-Am is a division of a for-profit, privately owned corporation from New Jersey. The Staff is relying on section 30260 which allows such industrial facilities if alternative locations are infeasible, it would be against the public welfare to not approve the project, and the impacts are mitigated to the maximum extent feasible. That exception is for industrial facilities, not public works facilities. This project is not an industrial facility. It is a privately owned water well. Section 30260 states that industrial facilities may be permitted contrary to other policies in the Coastal Act "in accordance with this section (30260) and Sections 30261 and 30262..." These latter sections concern oil and gas facilities. Public works are addressed in a different Article of the Coastal Act. The staff report at p. 57 characterizes the test well as an industrial activity because "It would be built within an active industrial site using similar equipment and methods as are currently occurring at the site." This is an unsustainable stretch of the definition. The staff report refers to a Santa Barbara County LCP provision regarding public utilities concerning natural gas exploration as support for the notion that the test well is an industrial facility. But, the Santa Barbara County provision notably concerns natural gas. Thus, development of the test well in ESHA would violate the Coastal Act.

12. Finally, Cal-Am touts its "so-called" settlement agreement with a few non-profit entities and politicians as some kind of alleged justification for the Commission to ignore Cal-Am's intended violations of law and approve their illegal taking of our property/water rights. Not one of the parties to the so-called settlement agreement holds any groundwater rights in the Salinas Valley that will be adversely taken by Cal-Am's proposed conduct. None of them have offered to compensate the Ag Land Trust for the "theft" of our groundwater rights that they have endorsed. Cal-Am has a history of unapologetic violations of California's water rights laws. Cal-Am's contrived reliance on "endorsements" by uninformed and unaffected parties to the "so-called" settlement agreement is akin to a convicted thief asserting a defense that his mother and grandmother both agree that he is "a good boy" who really did not mean to steal.

Since 1984, The Ag Land Trust's Board of Directors has been committed to the preservation of California's prime and productive farmland and the significant environmental benefits that flow therefrom. The Trust does not want to "pick a fight" with the Commission staff with whom we have worked cooperatively and successfully for many years. But the Commission staff and Cal-Am have produced no environmental evidence or facts to justify ignoring the mandates of the City of Marina in requiring the preparation of a full Environmental Impact Report (EIR) pursuant to the California Environmental Quality

EXHIBIT 15-D

Act (CEQA) prior to drilling a well meant to knowingly contaminate our water resources and wells. The staff has cited the Santa Barbara LCP to try to rationalize its recommendation, but they have produced no evidence to justify ignoring the multiple mandates of the North Monterey County Local Coastal Plan (just 50 yards from the well) that will be violated. The Commission's review of the test well must comply with CEQA since its' review is the functional equivalent of CEQA review. The staff report does not provide analysis of the impacts of the project on groundwater supply and rights. The Commission must perform analysis of the adverse effects of the project on the groundwater of adjacent overlying land owners and senior water rights holders. The test well is being used in place of environmental review. Its' significant, if not irreversible, adverse effects will not be identified until after the permanent damage to our aquifer and wells is done. This is antithetical to CEQA which requires the analysis to be performed prior to beginning the project. A test well that will operate for two years, without analysis of potential impacts, violates CEQA. Indeed, the City of Marina City Council (which includes three attorneys) recognized this fact when it voted to require an EIR prior to the considering the CDP.¹ Cal-Am and the staff have produced no comprehensive evidence that the damage that will result to protected coastal resources from the proposed "test well" is less than the damage that may be caused by other alternative sources of seawater. Further, Commission staff and the CPUC can no longer intentionally avoid the CEQA mandates of a full alternatives analysis in the EIR of all potential seawater sources, including seawater intakes at Moss Landing as identified as the "preferred site" for all of Monterey Bay (see directives, mandates, and findings of the California Legislature of Assembly Bill 1182 (Chapter 797, Statutes of 1998) which required the California Public Utilities Commission to develop the Plan B project, and the CPUC Carmel River Dam Contingency Plan – Plan B Project Report which was prepared for the Water Division of the California Public Utilities Commission and accepted and published in July, 2002 by the California Public Utilities Commission." "Plan B" identifies the Moss Landing Industrial Park and the seawater intake/outfall on the easement in the south Moss Landing Harbor as the optimal location for a regional desalination facility.) The staff report has chosen to ignore long standing and mandatory coastal protection policies to try to force us to give up our farm's water rights for the sole economic benefit of Cal-Am. This political position by staff is misguided and is a failure of the environmental protection policies and laws that are intended to protect all of our resources from immitigable, adverse effects of improperly analyzed and poorly considered development projects. The Coastal Commission staff simply has to do a lot more than take a political position at the expense of otherwise innocent adjacent land owners with real groundwater rights that are about to be wrongfully taken.

The cumulative impacts section of the staff report ignores the cumulative impacts of drawing more water from an overtaxed aquifer and the loss of prime farmland. This is a violation of CEQA. The cumulative impact analysis only addresses the impacts to dune habitat and it also addresses this cumulative impact in a very localized fashion. This is a special and rare habitat and the impacts to this habitat in the entire dune complex extending down to the Monterey Peninsula should be examined.

Furthermore, an EIR is being prepared by the PUC for the project. The Coastal Commission is approving the test well without really addressing the impacts of the project as a whole. Either the PUC should be the lead agency and finish the EIR, or the Commission should analyze the entire project as one. The

¹ The staff report makes an unwarranted and unfair assertion that the City of Marina set "poor precedent" when the City of Marina denied the CDP without making LCP consistency findings. The reason the findings were not made is because the Council was simply complying with CEQA and requiring adequate environmental review before making a final decision. The Commission's premature assumption of jurisdiction and lack of appropriate and detailed analysis simply thwarts the City's attempt to comply with CEQA, and the Commission's staff report fails to adequately address environmental impacts as the functional equivalent CEQA document.

EXHIBIT 15-D

Commission buries the analysis about the project as whole in the cumulative impacts section. (See p. 60-62). This is illegal piecemeal environmental review pursuant to CEQA.

In the case of Bennett v. Spear (520 U.S.154, at 176-177 (1997)), the United States Supreme Court ruled the following in addressing the enforcement of the protection of species under the federal Endangered Species Act: "The obvious purpose of the requirement that each agency "use the best scientific and commercial data available" is to ensure that the ESA not be implemented haphazardly, on the basis of speculation or surmise. While this no doubt serves to advance the ESA's overall goal of species preservation, we think it readily apparent that another objective (if not indeed the primary one) is to avoid needless economic dislocation produced by agency officials zealously but unintelligently pursuing their environmental objectives." The Ag Land Trust believes that, absent preparation of a full and complete EIR with a full and complete seawater intake alternatives analysis BEFORE any well is permitted or drilled, the staff recommendation violates the laws of California and will result in the unlawful taking of our property rights for the benefit of a private party.

The Ag Land Trust understands that there is a water shortage on the Monterey Peninsula. We have not caused nor have we contributed to that problem. It has gone on for decades. The Ag Land Trust also recognizes that Coastal Commission staff desires an absolute prohibition of seawater intakes for desalination plants. The water shortage that is of Cal-Am making (by its failure to produce a water supply project in over 20 years) does not justify the Commission staff's proposed illegal taking of our groundwater and property rights, and the intentional contamination of our potable aquifers and wells, for the sole and private economic benefit of Cal-Am.

We hereby incorporate by reference all facts, statements, and assertions included in the documents, cases, laws, and articles referred to herein, and included in the attachments and exhibits hereto.

We ask that the Commission deny the Cal-Am's appeal and application and require that a full and complete EIR be prepared before any permit is considered by your Commission and for the other reasons stated herein.

Most Respectfully for the Ag Land Trust,



Marc Del Piero,
Attorney at Law



Richard Nutter, Monterey County

Monterey Co. Agricultural Commissioner (ret.)

cc: California Coastal Commission staff



www.AgLandTrust.org
Location: 1263 Padre Drive | Salinas, CA
Mail Address: P.O. Box 1731 | Salinas, CA 93902
Tel.: 831.422.5868

3 September 2014

To: City Council of the City of Marina

From: Board of Directors of the Monterey County Ag Land Trust

RE: Cal-Am slant well application/Mitigated Negative Declaration

Dear Council members:

The Ag Land Trust owns prime irrigated farmland adjacent to the property where Cal-Am proposes to construct and operate a test well that is designed to remove approximately 8,000.0 acre feet of groundwater from the overdrafted Salinas Valley groundwater basin during its test period. The Ag Land Trust has met with the representatives of Cal-Am and others in an effort to develop a mitigation agreement if and when damage is caused to the Ag Land Trust's property and well water supply by the test well and future well field operation. No agreement has been reached at this time. Therefore, due to the lack of action and mitigation agreement between Ag Land Trust and Cal-Am, the Board of Directors of the Ag Land Trust is forced to re-iterates its opposition to the appeal by Cal-Am of the denial of Cal-Am's slant well application by the Planning Commission of the City of Marina.

We hereby incorporate by reference each and every prior submission provided by our attorneys and us to the City of Marina, and its consultants and staff, as correspondence and/or exhibits in opposition to the pending Cal-Am slant well application. We oppose the Cal-Am slant well application and test wells because these applications fail to comply with CEQA and totally lack any groundwater rights in the overdrafted groundwater basin. We further agree with and incorporate by reference, and adopt as our additional comments, all of the statements included in the letter of objection written to the City of Marina dated September 3, 2014 from the law firm of Remy, Moose, and Manley LLC on behalf of the Marina Coast Water District.

Due to the absence of mitigation agreement the Ag Land Trust continues to object to the application by Cal-Am, in part, based upon the following reasons:

1. The California American Water Company has no groundwater rights in the overdrafted Salinas Valley groundwater basin. As a proposed junior appropriator, and as a matter of both California case law and statutory law, Cal-Am cannot acquire groundwater rights in that overdrafted basin, and is prohibited from exporting any groundwater, including the water pumped from their proposed test well, from that basin. The statutory prohibition is absolute. Cal-Am's so-called "physical solution" is prohibited by statute. The proposed "test wells" are a shame to obfuscate Cal-Am's lack of property/water rights to legally pursue its proposal. Moreover, Cal-Am's application poses grave and unmitigated adverse impacts (including, but not limited to loss of agricultural productivity, loss of prime farmland, loss of existing jobs, loss of potable water supplies and ground water storage capacities, loss of beneficial results from regionally funded and publicly owned seawater intrusion reversal capital projects (i.e. CSIP and the "Rubber Dam"), and intentional contamination of potable groundwater supplies) upon the privately held overlying

The Ag Land Trust is a 501 (c)(3) non profit organization.
Donations are welcome and tax deductible.

EXHIBIT 15-D

groundwater rights, water supplies and resources, and property rights of the Ag Land Trust, other overlying land owners with senior groundwater rights in the Salinas Valley, and of the residents of the City of Marina and the Salinas Valley.

2. The current Cal-Am slant wells/test wells application has identified no mitigation for the groundwater contamination that it will induce into the Ag Land Trust's underlying groundwater resources and storage aquifers. Cessation of wrongful pumping by a non-water rights holder in an overdrafted basin IS NOT MITIGATION FOR THE DAMAGE THAT WILL BE INDUCED TO OUR GROUNDWATER RESOURCES. Failure to identify an appropriate mitigation for the groundwater contamination that will result from the pumping of the 8,000.0 acre feet of groundwater from the test wells is a violation of CEQA. Further, Cal-Am's plan of intentionally inducing seawater into a potable groundwater aquifer that underlies our property is an intentional violation of both the 1968 SWRCB Resolution 68-16, the California Non-Degradation Policy, and the Basin Plan as adopted by the Central Coast California Regional Water Quality Control Board. Such intentional "bad acts" may be prosecuted both civilly and criminally against parties who are complicit in such intentional potable water supply contamination.

3. The 1996 agreement between the City of Marina, the MCWD, the land owners of the CEMEX site, the Armstrong family and the County of Monterey/MCWRA prohibits the extraction of more than 500 acre feet of groundwater annually from any wells on the CEMEX site as a condition of the executed agreement/contract. It further mandates that such water be used only on-site at the CEMEX property, within the Salinas Valley groundwater basin, as mandated by statute. The Ag Land Trust is a third party beneficiary of this 1996 agreement because Ag Land Trust pays assessments to the County of Monterey expressly for the seawater intrusion reversal projects known as CSIP and "the Rubber Dam". Cal-Am is prohibited from pursuing its project because of this prior prohibition and because Cal-Am's proposed acts will cause an ongoing nuisance, will directly injure Ag Land Trust property rights, and will irreparably compromise the beneficial public purposes of the above reference publicly owned capital facilities.

4. The granting of Cal-Am appeal will result in a loss of groundwater resources by the City and MCWD, massive expenses to the residents of Marina, and the effective transfer of water resources to a private company that provides no benefit or service to the City of Marina or its citizens.

We respectfully request that the Cal-Am appeal be denied, and if not, that as a condition of approval, the approval is subject to a signed mitigation agreement between Cal-Am and the Ag Land Trust prior to the construction of any well or wells. Furthermore, we believe that the Marina Planning Commission's denial of the Cal-Am application was well reasoned and correct. If the Council chooses not to deny the Cal-Am application, the Ag Land Trust respectfully requests that a full and complete EIR on the proposed slant wells (and their significant and unmitigated impacts and threats to regional groundwater supplies and the communities of Marina and the Salinas Valley as well as the determination of Cal-Am's groundwater rights) be prepared as mandated by CEQA. Failure to fully and completely require Cal-Am to comply with CEQA by requiring a full EIR will expose the City and its residents to the loss of public funds due to attorney's fees, litigation expenses, damages awards, and costs that provide no benefit to the City or to its citizens.

Respectfully,



Sherwood Darlington
Managing Director
Ag Land Trust

MONTEREY COUNTY AGRICULTURAL AND HISTORICAL
LAND CONSERVANCY
P.O. Box 1731, Salinas CA 93902

August 11, 2011

TO: California Coastal Commission

From: The Ag Land Trust of Monterey County

RE: Groundwater Rights and Submerged Lands

Tom Luster asked the question "Who owns the groundwater in the 180 ft. aquifer under the ocean?"

The answer is that, under California case law which controls the ownership and use of potable (fresh) groundwater rights in our state, each property owner with land that overlies a percolated fresh groundwater aquifer (including the State of California as the "public trust owner" of submerged lands that are overlying the Salinas Valley potable groundwater aquifer that extends into the Monterey Bay National Marine Sanctuary) is entitled only to its correlative share of the safe yield of the fresh groundwater that may be used without causing additional over-draft, adverse effects, waste and/or damage to the potable water resource or to the water rights of the other overlying land owners. (Katz v. Walkinshaw (141 Cal. 116); Pasadena v. Alhambra (33 Calif.2nd 908), and reaffirmed in the Barstow v. Mojave Water Agency case in 2000). The Commission has no right to authorize or allow the intentional contamination and waste of a potable aquifer which is also a Public Trust resource (see below), and such an act would be "ultra vires" and illegal.

The proposed slant "test" wells are intended to violate these laws and significantly induce saltwater and contamination into an overdrafted freshwater aquifer (a Public Trust resource) thereby causing depletion, contamination, waste, and direct and "wrongful takings" of the private water rights of other overlying land owners and farmers. Further, the project proponents, by their own admission, have no groundwater rights in

the Salinas Valley aquifer because they are not overlying land owners. Such a "taking" will constitute a direct and adverse impact and impairment of the public's health and safety by diminishing a potable groundwater aquifer and a Public Trust resource. It will also adversely affect protected coastal priority agricultural enterprises.

In an overdrafted potable groundwater basin, no property owner or user of water is entitled to pump or take any such actions as to waste, contaminate, impair, or diminish the quality or quantity of the freshwater resource. The overdrafted Salinas Valley fresh water groundwater aquifer that extends under the Monterey Bay National Marine Sanctuary is identified as a potable water resource by the State and is governed the SWRCB Groundwater Non-Degradation Policy, which finds its source in the California Constitution:

**CALIFORNIA CONSTITUTION
ARTICLE 10 - WATER**

SEC. 2. It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare.

In other words, the state has determined that the subject Salinas Valley potable groundwater aquifer is a protected natural resource. The state may use the fresh groundwater only to the extent that it has a correlative right that accrues to its public trust lands as against all other overlying land owners that are exercising their rights and using the fresh groundwater for beneficial uses, as mandated and protected in the California Constitution. Further, the 1968 SWRCB Non-Degradation Policy absolutely prohibits the intentional contamination and/or "waste" of a potable groundwater aquifer by any party. (See attached Resolution No. 68-16) The fact that the Salinas Valley aquifer is a potable supply is definitively established in the Central Coast Regional Water Quality Control Board "Basin Plan" for Central California

Additionally, the mandatory requirements of the California Coastal Act also control the conduct, powers, and authority of the Calif. Coastal Commission when addressing these Public Trust resources and this application.

The California Coastal Act - Section 30231 (California Public Resources Code Section 30231) requires of the Commission that:

Sec. 30231 - The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed test wells directly and intentionally violate the mandatory statutory requirements, duties, and obligations imposed upon the California Coastal Commission by Section 30231 of the Coastal Act to protect and preserve and restore this potable water resource and protected coastal resource. The Salinas Valley potable groundwater aquifer, which is proposed to be wrongfully exploited by the project applicants' slant test wells, is a "coastal water", is producing potable water which is used and recognized for human consumption and coastal priority agricultural production, and shall be "protected from depletion" by the express language of the Coastal Act.

Finally, in the landmark Public Trust case of National Audubon Society v. Superior Court of Alpine County (1981), the California Supreme Court confirmed as part of its "Public Trust Doctrine" that the State retains continuing supervisory control over the navigable waters of California and the lands beneath them. This prevents any party from acquiring a vested right to appropriate water in a manner harmful to the uses protected by the Public Trust. (California Water Plan Update 2009, Vol. 4, Page 2 (1)).

The proposed slant test wells are designed to intentionally deplete, contaminate, and waste a protected potable water supply and a Public Trust resource. The project will violate statutory and regulatory mandates of the California Coastal Act, the California Water Code, the

EXHIBIT 15-D

California Public Resources Code, the California Constitution, and over 100 years of case law governing groundwater rights and the Public Trust Doctrine. It will result in the wrongful taking of water rights from farmers who are beneficially using the water for protected, coastal priority agricultural production and for human consumption. Besides that, the project applicants, by their own admission, have no appropriative groundwater rights. They should not even be entitled to a hearing.

This project should be denied, or at the very least continued until the Monterey County Superior Court can rule on the two lawsuits that are pending over these issues.

A handwritten signature in cursive script, appearing to read "Marc DePaulo". The signature is written in dark ink and is positioned below the second paragraph of text.

EXHIBIT 15-D

STATE WATER RESOURCES CONTROL BOARD

RESOLUTION NO. 68-16

STATEMENT OF POLICY WITH RESPECT TO
MAINTAINING HIGH QUALITY OF WATERS IN CALIFORNIA

WHEREAS the California Legislature has declared that it is the policy of the State that the granting of permits and licenses for unappropriated water and the disposal of wastes into the waters of the State shall be so regulated as to achieve highest water quality consistent with maximum benefit to the people of the State and shall be controlled so as to promote the peace, health, safety and welfare of the people of the State; and

WHEREAS water quality control policies have been and are being adopted for waters of the State; and

WHEREAS the quality of some waters of the State is higher than that established by the adopted policies and it is the intent and purpose of this Board that such higher quality shall be maintained to the maximum extent possible consistent with the declaration of the Legislature;

NOW, THEREFORE, BE IT RESOLVED:

1. Whenever the existing quality of water is better than the quality established in policies as of the date on which such policies become effective, such existing high quality will be maintained until it has been demonstrated to the State that any change will be consistent with maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial use of such water and will not result in water quality less than that prescribed in the policies.
2. Any activity which produces or may produce a waste or increased volume or concentration of waste and which discharges or proposes to discharge to existing high quality waters will be required to meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that (a) a pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the State will be maintained.
3. In implementing this policy, the Secretary of the Interior will be kept advised and will be provided with such information as he will need to discharge his responsibilities under the Federal Water Pollution Control Act.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Secretary of the Interior as part of California's water quality control policy submission.

CERTIFICATION

The undersigned, Executive Officer of the State Water Resources Control Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on October 24, 1968.

Dated: October 28, 1968

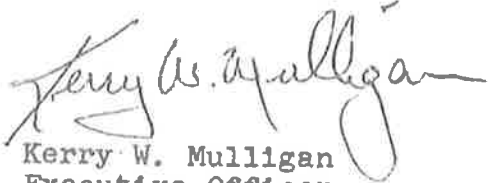

Kerry W. Mulligan
Executive Officer
State Water Resources
Control Board

EXHIBIT 15-D

LAW OFFICES OF
MICHAEL W. STAMP

Facsimile
(831) 373-0242

479 Pacific Street, Suite 1
Monterey, California 93940

Telephone
(831) 373-1214

July 26, 2011

Via Email

Thomas Luster
Energy, Ocean Resources, and Federal Consistency Division
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Dan Carl, District Manager
Michael Watson, Coastal Planner
California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

Subject: Water Rights Issues Related to the Regional Desalination Project;
Downey Brand letter of May 20, 2011

Dear Mr. Luster, Mr. Carl and Mr. Watson:

This Office represents Ag Land Trust, which owns agricultural properties in the Salinas Valley. For years, Ag Land Trust has pointed out that the Regional Desalination Project does not have valid water rights. The environmental documents to date have failed to point to valid groundwater rights for the project, and instead took various inconsistent positions on water rights.

This letter responds to new claims made by Downey Brand LLP, attorneys for the proponents of the Regional Project, in a letter dated May 20, 2011 to Lyndel Melton, P.E., of RMC Water and Environment. The Downey Brand letter was submitted to the Coastal Commission as part of the Regional Project proponents' response to the Commission's incomplete letter.

The Downey Brand letter raises various claims which may have superficial appeal but in reality do not identify any usable water rights for the Regional Project under California law. The claims made in the letter's discussion of "water rights and the groundwater basin" (Downey Brand letter, sec. 1, pp. 1-4) are addressed briefly here. Of the four different Downey Brand claims, none has merit, and none provides the necessary proof of water rights.

Downey Brand's General Claims about Water Rights

Monterey County Water Resources Agency has no groundwater storage rights, no overlying groundwater rights, and no "imported water rights." The Salinas Valley is

Thomas Luster, Dan Carl, Michael Watson
July 26, 2011
Page 2

not an adjudicated groundwater basin. The Salinas Valley Groundwater Basin is severely overdrafted, as demonstrated by the seawater intrusion which has reached inland to within 1500 feet of the City of Salinas, according to the latest (2009) mapping (Historic Seawater Intrusion Map Pressure 180-Foot Aquifer, attached as Exhibit A to this letter.)

The EIR for the Coastal Water Project did not comprehensively or adequately examine the issue of water rights for the Regional Project. The EIR did not include the key admission by Monterey County Water Resources Agency ("MCWRA") that it does not have water rights that would support the pumping of groundwater by the wells for the Regional Project. (See March 24, 2010 letter from MCWRA to Molly Erickson admitting that MCWRA does not have any documented water rights for the Regional Project, and MCWRA General Manager Curtis Weeks' statement that "Water rights to Salinas basin water will have to be acquired" in the Salinas Californian, March 31, 2011 [<http://www.thecalifornian.com/article/20100331/NEWS01/3310307/280M+-desalination-plant-10-mile-pipeline-agreed-on-for-Monterey-Peninsula>].) The Regional Project intake wells would be owned and operated by MCWRA.

The Coastal Commission should not be misled by the claims of Downey Brand, starting with the claim that the source water "will" be 85% seawater and 15% groundwater. (Downey Brand letter, p. 1.) In fact, the EIR's Appendix Q predicted percentages of up to 40% groundwater in the source water throughout the 56-year modeled simulation period, which is two and two-thirds times greater than Downey Brand admits. (Final EIR, App. Q, p. ____.)

The general claims made in the Downey Brand letter about water rights (at p. 1, bottom paragraph) should be disregarded because they are devoid of specific citation to law or to specific water rights. The specific claims made on the subsequent pages are addressed below, in order.

Downey Brand's Claim (a) – The "Broad Powers" of MCWRA

Downey Brand's claim (a) is that MCWRA "has broad powers." (Letter, p. 2) While that may be true, MCWRA's powers do not include groundwater rights that it can use to pump water for the Regional Project. MCWRA holds only limited surface water rights (used for the dams and reservoirs some 90 miles south of the Monterey Bay), but intentionally abandons and "loses management and control" of that surface water when the MCWRA releases the water into the rivers and subsequently lost to percolation. "Management and control" are prerequisites to maintain the use of any right to water. In its letter, Downey Brand mixes inapplicable references to surface water rights and imported water cases. The issue here is native groundwater, not surface water or imported water. Downey Brand's approach is inconsistent with basic California groundwater law which holds that waters that have so far left the bed and other waters of a stream as to have lost their character as part of the flow, and that no longer are

Thomas Luster, Dan Carl, Michael Watson
July 26, 2011
Page 4

what the Regional Project would do. An overlying right is the owner's right to take water from the ground underneath for use on his land within the basin. An overlying right it is based on the ownership of the land and is appurtenant thereto. (*City of Barstow v. Mojave Water Agency, supra*, 23 Cal.4th 1224, 1240.)

Downey Brand's Claim (b) – A Right to "Developed" Groundwater

Claim (b) is that MCWRA has a right to withdraw groundwater "because its water storage operations augment groundwater supplies." (Downey Brand letter, p. 2.) There is no cognizable legal support given by Downey Brand for that claim in the sole case it cites: the California Supreme Court in *City of Los Angeles v. City of San Fernando* (1975) 14 Cal.3d 199. That case dealt with imported water, as is evident from the quote cited ("an undivided right to a quantity of water in the ground reservoir equal to the net amount by which the reservoir is augmented by [imported water]"). Imported water is "foreign" water from a different watershed – in the case of the *City of Los Angeles*, Los Angeles imported water from the Owens Valley watershed. (*City of Los Angeles, supra*, 14 Cal.3d at 261, fn. 55.) Because MCWRA does not import water from a different watershed, MCWRA cannot benefit from the rule that an importer gets "credit" for bringing into the basin water that would not otherwise be there (*ibid.*, at p. 261).

Under California law, rights to imported or foreign water are those rights which attach to water that does not originate within a given watershed. (*City of Los Angeles v. City of San Fernando, supra*, 14 Cal.3d 199, 255-256; *City of Los Angeles v. City of Glendale* (1943) 23 Cal.2d 68, 76-77.) Rights to imported water are treated differently from rights to "native water," which is water that originates in the watershed.

MCWRA's two reservoirs do not contain imported water. The reservoirs store native water from the Salinas Valley watershed. MCWRA argues that when the stored water is released, it recharges the basin. Although it may be true that the released water recharges the basin, MCWRA does not have a unilateral right to get the water back after the water has been released from the reservoirs. "Even though all deliveries produce a return flow, only deliveries derived from imported water add to the ground supply." (*City of Los Angeles, supra*, 14 Cal.3d at 261.)

The *City of Los Angeles* opinion does not help MCWRA, because the opinion applies only to imported water, and MCWRA does not import water. Downey Brand does not cite any other case in support of its claim of "developed" water. The claim fails.

Downey Brand's Claim (c) – the Doctrine of "Salvaged" Water

Thomas Luster, Dan Carl, Michael Watson
July 26, 2011
Page 5

Downey Brand's third claim is that "[t]he doctrine of salvaged water demonstrates that seawater-intruded groundwater is available for the Regional Project." (Downey Brand letter, p. 3.) Under California law, salvaged water refers to water that is saved from loss from the water supply by reason of artificial work. Salvaged water encompasses only waters that can be saved from loss without injury to existing vested water rights. (Wells A. Hutchins, *The California Law of Water Rights* (1956) at pp. 383-385.) Appropriate rights to salvaged water depend on the original source of the water supply. (*Pomona Land and Water Company v. San Antonio Water Company* (1908) 152 Cal. 618.) The salvage efforts of native water supplies are bound by all the traditional considerations that are applicable to the exercise of the salvager's water right and the interests of other vested rights must be protected. (*Ibid.*, at p. 623.)

The Regional Project must respect existing vested water rights. Here, because MCWRA does not have a water right, and because the interests of the existing vested rights – of the overlying property owners in the Salinas Valley – must be protected, and because there is not sufficient water in the overdrafted basin to satisfy those overlying claims, MCWRA's claim to salvaged water fails.

Downey Brand cites the doctrine of salvaged water as discussed in *Pomona Land and Water Company v. San Antonio Water Company*, *supra*, 152 Cal. 618 (*Pomona*), but that case does not help the Regional Project. *Pomona* involved a dispute between two water companies who appropriated water from a creek. The companies had existing water rights and a contractual agreement on how the waters flowing in the creek were to be divided between them. San Antonio Water built a pipeline in the creek and "saved" some water that would otherwise had been lost due to seepage, percolation, and evaporation. When Pomona claimed half of this saved water, San Antonio argued that because Pomona was still receiving the same amount of "natural flow," San Antonio should be allowed to keep the extra amount it saved through its own efforts. The Court ruled for San Antonio, holding that Pomona was entitled only to the natural flow, and that San Antonio was entitled to any amount saved by its economical method of impounding the water.

The Regional Project has no similarities to *Pomona*. The Regional Project does not involve the "saving" of water by implementation of conservation methods. Rather, it involves pumping water from the overdrafted Salinas Groundwater Basin – water which is fully appropriated. Unlike the parties in *Pomona* who held existing rights, MCWRA has no groundwater rights it can apply to the Regional Project.

The doctrine of salvaged water does not help the Regional Project proponents. The claim fails.

Thomas Luster, Dan Carl, Michael Watson
July 26, 2011
Page 6

Downey Brand's Claim (d) – Use of "Product" Water

The claim regarding the use of desalinated water (Downey Brand letter, pp. 3-4) is not material to the issue of water rights. The claim is apparently meant to distract the Coastal Commission from the true issue. The Regional Project must have water rights in order to pump groundwater from the basin and take it to the desalination plant.

The Water Purchase Agreement is merely a contract between the Regional Project proponents and owners. And none of the Regional Project proponents and owners holds groundwater rights that can be applied to the Regional Project. The Water Purchase Agreement does not award water rights to anyone.

Conclusion

None of the Downey Brand claims provide proof of groundwater rights. In an overdrafted basin, proof of water rights is essential before groundwater can be appropriated. The Coastal Commission does not have the authority to grant groundwater rights or to grant approval of a project that relies on the illegal taking of groundwater that belongs solely to the overlying landowners of the Salinas Valley. We urge the Coastal Commission to consult with its own expert water rights counsel with regard to this critical issue.

Thank you for the opportunity to respond to the Downey Brand letter. Feel free to contact me with any questions.

Very truly yours,

LAW OFFICES OF MICHAEL W. STAMP

Molly Erickson

Exhibit A: "Historic Seawater Intrusion Map Pressure 180-Foot Aquifer" showing intrusion as of 2009, dated November 16, 2010 (available at <http://www.mcwra.co.monterey.ca.us/SVWP/01swi180.pdf>)

Exhibit B: Salinas Californian article, March 31, 2011

Exhibit C: Letter from MCWRA to Molly Erickson, March 24, 2010

FAX TRANSMISSION



MONTEREY COUNTY WATER RESOURCES AGENCY
P. O. BOX 930
SALINAS, CA 93902
831.755.4860
FAX: 831.424.7835

FOR IMMEDIATE DELIVERY

DATE: 3/25/10

To: Molly Erickson

From: Daniel Kimbrough

C/O:

FAX: 373-0242

()

Re: PRAR-3/3/10

MONTEREY COUNTY

WATER RESOURCES AGENCY

PO BOX 930
SALINAS, CA 93902
(831) 765-4860
FAX (831) 424-7036

CURTIS V. WEEKS
GENERAL MANAGER



STREET ADDRESS
693 BLANCO CIRCLE
SALINAS, CA 93901-4456

March 24, 2010

Molly Erickson, Esq.
LAW OFFICES OF MICHAEL W. STAMP
479 Pacific Street, Suite 1
Monterey, CA 93940

Re: Your Letter of March 22, 2010

Dear Ms. Erickson:

You were wrong in considering MCWRA's response to your March 3, 2010 Public Records Request as "disingenuous." Consider the following:

At the Board hearing of February 26, 2010, Mr. Weeks addressed the development of basin water; that is water that the proposed Regional Desalination Project will produce. The project will rely upon the removal of sea water, which will most likely contain some percentage of ground water. Whatever percent is ground water will be returned to the basin as part of the project processing. As a result, no ground water will be exported. Mr. Weeks' comment to "pump groundwater," refers to this process. The process is allowable under the Agency Act. See the Agency Act (previously provided) and the EIR for the SVWP, which I believe your office has, but if you desire a copy, they are available at our offices for \$5.00 a disc. In addition, a copy of the FEIR for the Coastal Water Project and Alternatives is also available for \$5.00 a copy. Further, MCWRA intends to acquire an easement, including rights to ground water, from the necessary property owner(s) to install the desalination wells. These rights have not been perfected to date, hence no records can be produced.

As to MCWD, it was previously annexed into Zones 2 & 2A and as such has a right to ground water. These documents are hereby attached PDF files.

As for the reference to "every drop of water that we pump that is Salinas ground water will stay in the Salinas Ground Water Basin," this was a reference to the balancing of ground water in the basin. The development of the Salinas River Diversion Project is relevant, as it will further

relieve pressure on the ground water wells. As such, it is a component of the overall plan to protect and enhance the ground water supply, keep it in the basin, and prevent salt water intrusion. In your letter of March 22nd, you did not consider this project as relevant. Nevertheless these records are available for your review

Looking forward, one additional document is the staff report yet to be finalized for the Board's consideration in open session of the Regional Project. When available, this will be provided.

Very truly yours,



David Kimbrough
Chief of Admin Services/Finance Manager

Encls.

cc: Curtis V. Weeks

EXHIBIT 15-D

AG LAND TRUST

Monterey County Agricultural and Historic Land Conservancy

P.O. Box 1731, Salinas CA 93902

www.aglandconservancy.org

Phone: 831-422-5868 Fax: 831-758-0460

April 25, 2009

TO: Monterey County Board of Supervisors

FROM: Monterey County Ag Land Trust

RE: Opposition to proposed MOU's for Monterey Regional Supply Planning and Coastal Water Project

By this letter, the Board of Directors of the Ag Land Trust unanimously and vehemently objects to the proposed MOUs and the Coastal Water Project that are recommended for your approval by the staff of the MCWRA. These proposed MOUs and the project that they expressly advance are wrongful, illegal acts that propose to take and convert our water and water rights for the benefit of a private company. We hereby incorporate by reference into this letter (as our own) each, every, and all facts, objections, statements, references, legal citations, and assertions located within each and every Attachment herewith attached to this correspondence. **Before your Board takes any action on these matters that will expose you to significant litigation from landowners with senior overlying percolated groundwater rights, you need to ask the question and receive a written answer from your staff, "If the Salinas Valley percolated groundwater basin has been in overdraft for sixty years, whose percolated groundwater and overlying percolated groundwater rights are you proposing that we take without compensation to benefit Cal-Am?"**

1. The proposed MOUs, and the projects which they include, violate and will result in an illegal, wrongful, "ultra vires", and unlawful "taking" of our percolated overlying groundwater rights. Our Trust owns (in fee) the large ranch (on which we grow artichokes and row crops) that lies between the ocean and the proposed "well field" that the California-American Water Company (a private, for profit appropriator) proposes to use to illegally divert percolated groundwater from the overdrafted Salinas groundwater basin. The so-called "environmentally superior alternative" in the Coastal Water Project EIR is based upon the illegal taking of our water rights and pumping of our percolated groundwater for the economic benefit of Cal-Am. The Salinas basin has been in overdraft for over 60 years and California law holds that, in an overdrafted percolated groundwater basin, there is no groundwater available for junior appropriators to take outside of the basin. In an over-drafted, percolated groundwater basin, California groundwater law holds that the Doctrine of Correlative Overlying Water Rights applies, (Katz v. Walkinshaw 141 Cal. 116). In an over-drafted basin, there is no surplus water available for new "groundwater appropriators", except those prior appropriators that have acquired or gained pre-existing, senior appropriative groundwater water rights through prior use, prescriptive use, or court order. This is the situation in the over-drafted Salinas percolated groundwater basin, there is no "new" groundwater underlying the over-drafted Salinas aquifers. Moreover, no legal claim or relationship asserting that water from a distant water project (over 6 miles from the proposed Cal-Am well field to the rubber dam) may be credited for the over-drafted Salinas percolated

EXHIBIT 15-D

groundwater basin can be justified or sustained. California groundwater law refutes such "voodoo hydrology" by holding that "Waters that have so far left the bed and other waters of a stream as to have lost their character as part of the flow, and that no longer are part of any definite underground stream, are percolating waters" (Vineland I.R. v. Azusa I.C. 126 Cal. 486). Not only does Cal-Am have no right to take ground water from under our lands, but neither does the MCWRA. **MCWRA HAS NO PERCOLATED OVERLYING GROUNDWATER RIGHTS THAT IT MAY USE TO GIVE TO CAL-AM FOR EXPORT OUT OF THE BASIN.** Our first objection to this illegal project and conduct was filed with the CPUC and MCWRA on November 6, 2006 (see herein incorporated Attachment 1). Your staff has not responded and our concerns have been ignored.

2. The recommended MOUs before the Board of Supervisors is a project under CEQA and the MCWRA staff recommendations to the Board violate the California Environmental Quality Act and the California Supreme Court decision in the "Tara" case. The California Supreme Court's decision in Save Tara v. City of West Hollywood, Case No. S151402 (October 30, 2008), provides specific direction to public agencies entering into contingent agreements. In this opinion, the Supreme Court held that the City of West Hollywood ("City") had violated CEQA by entering into a conditional agreement to sell land and provide financing to a developer before undertaking and completing environmental (CEQA) review. This is exactly what the MCWRA staff is asking the Board to do. They want you to approve their project without a certified EIR from the CPUC. One of the proposed MOUs even references the fact that it is contingent on the certification of the FEIR by the CPUC. Monterey County abdicated its role as the "lead" agency under CEQA years ago when it agreed to allow the CPUC to prepare the EIR on the Coastal Water Project. Monterey County is now a "responsible agency" and must wait while the CPUC staff deals with the fact that its draft EIR is woefully inadequate because of its failure to address that fact that none of the public agencies in Monterey County have the rights to pump groundwater from an overdrafted basin for the economic benefit of Cal-Am (see Attachment 2). Further, the Draft EIR acknowledges that the proposed MOUs and Coastal Water Project violate MULTIPLE provisions of the Monterey County General Plan, and the North County Local Coastal Plan, and contradicts the express purpose (ELIMINATION OF SEAWATER INTRUSION) of every water development project for which land owners have been assessed and charged (and continue to be charged) by Monterey County and the MCWRA for the past 50 years, including the Salinas Valley Water Project.

3. It is clear that the MOUs and the Coastal Water Project are being advanced by MCWRA staff and Cal-Am jointly as if they are already one entity. In fact, the proposed MOUs advanced by MCWRA staff advocate a governmental structure (JPA) that would be completely immune for the voters' constitutional rights of initiative, recall, and referendum. Moreover, this plan to deny the Monterey County public's right to public ownership of any new water project was also secretly advanced this month in Assembly Bill AB 419 (Caballero) wherein Cal-Am lobbyists got the Assemblywoman to try to change one hundred years of state law by "redefining a JPA with a private, for-profit utility (Cal-Am) member" as a "public agency". (See Attachment 3). These actions by MCWRA staff and Cal-Am to circumvent and "short-circuit" the mandatory CEQA process for the MOUs and the Coastal Water Project are further reflected in Attachment 4 wherein counsel for MCWRA requested an extension of time from the SWRCB (on permits issued to address water shortages in the Salinas Valley) to develop "alternative plans". Although the letter says that "there will be no export of groundwater outside of the Salinas basin", that is exactly what the MOUs and the Coastal Water Project proposes... to pump and export thousands of acre feet of groundwater out of the Salinas basin for the benefit of Cal-Am.

4. Our wells and pumps on our ranch adjacent to the location of the proposed well field are maintained and fully operational. We rely on our groundwater and our overlying groundwater rights to operate and provide back-up supplies for our extensive agricultural activities. MCWRA nor the CPUC has never contacted our Board of Directors that includes farmers (including past

EXHIBIT 15-D

presidents of the Grower-Shippers Assn.), bankers, attorneys, and agricultural professionals to get our input on this proposed taking of our water rights. As a result of this lack of concern for our property rights, we must assume that the County has now assumed an adversary position toward our Land Trust and our groundwater rights. In 2001-2002, MCWRA staff recommended that you include the Gonzales area in the assessment district for the SWWP. The Gonzales farmers objected, your MCWRA staff ignored them, you got sued and the taxpayers ended up paying the bill. From 1999 – 2005, the owner of Water World objected to the conduct of MCWRA staff and was ignored by your staff. Thirty (30) million dollars later, you lost the lawsuit and the taxpayers paid the bill. When will the taxpayers stop having to pay for poorly conceived ideas from MCWRA and Cal-Am?

5. The draft CPUC EIR marginalizes the grave and significant environmental impacts on groundwater and groundwater rights, violations of the General Plan and Local Coastal Plan policies, and the illegal violations and takings of privately owned, usufructory water rights upon which the Coastal water Project depends. **These and the illegal appropriations of thousands of acre feet of groundwater from under privately owned land in an overdrafted basin ARE NOT A LESS THAN SIGNIFICANT IMPACTS! This is the project that the staff of the MCWRA staff wants the Board to approve without a certified EIR.** (see Attachment 5). Further, the Marina Coast Water Agency has used up all of its full allocation of groundwater from the Salinas Valley groundwater basin, and as an appropriator is not entitled to any more water from the overdrafted basin, contrary to the information presented to the Growers-Shippers Association by Mr. Curtis Weeks of MCWRA (see Attachment 6)..

The Ag Land Trust understands that there is a water shortage on the Monterey Peninsula. It has gone on for decades. That shortage does not justify the illegal taking of our water rights for the economic benefit of Cal-Am. We ask that the Board not approve the MOUs or the Coastal Water Project for the reasons stated herein.

Respectfully,



The Board of Directors of the Monterey County Ag Land Trust

CC: CPUC, MCWD, California Coastal Commission, and California-American Water Co.

To: California Public Utilities Commission
C/O CPUC Public Advisor
505 Van Ness Avenue, Room 2103,
San Francisco, CA 94102
Fax: 415.703.1758
Email: public.advisor@cpuc.ca.gov.

April 15, 2009

Comments on Coastal Water Project Draft EIR


Dear Commissioners:

On behalf of the Monterey County Ag Land Trust, we hereby submit this comment letter and criticisms of the draft EIR that your staff has prepared for the Coastal Water Project located in Monterey County. Herewith attached is our letter to your commission dated November 6th, 2006. We hereby reiterate all of our comments and assertions found in that letter as comments on the Draft Environmental Impact Report.

The Draft EIR is fatally flawed because of your staff's intentional failure to address the significant environmental and legal issues raised in our November 6th 2006 letter. The project as proposed violates and will result in a taking of our Trust's groundwater rights. Further, although we have requested that these issues be addressed, it appears that they have been ignored and it further appears that the CPUC is now advancing a project (preferred alternative) that constitutes an illegal taking of groundwater rights as well as violations of existing Monterey County General Plan policies, existing certified Local Coastal Plan policies and Monterey County Environmental Health code.

The EIR must be amended to fully address these issues that have been intentionally excluded from the draft. Further, the EIR must state that the preferred alternative as proposed violates numerous Monterey County ordinances, and California State Groundwater law. Failure to include these comments in the EIR will result in a successful challenge to the document.

Respectfully,


Virginia Jameson
Ag Land Trust

**MONTEREY COUNTY AGRICULTURAL AND HISTORICAL
LAND CONSERVANCY**

P.O. Box 1731, Salinas CA 93902

November 6, 2006

Jensen Uchida
c/o California Public Utilities Commission
Energy and Water Division
505 Van Ness Avenue, Room 4A
San Francisco, Ca. 94102
FAX 415-703-2200
JMU@cpuc.ca.gov

SUBJECT: California-American Water Company's Coastal Water Project EIR

Dear Mr. Uchida:

I am writing to you on behalf of the Monterey County Agricultural and Historic Lands Conservancy (MCAHLC), a farmland preservation trust located in Monterey County, California. Our Conservancy, which was formed in 1984 with the assistance of funds from the California Department of Conservation, owns over 15,000 acres of prime farmlands and agricultural conservation easements, including our overlying groundwater rights, in the Salinas Valley. We have large holdings in the Moss Landing/Castroville/Marina areas. Many of these acres of land and easements, and their attendant overlying groundwater rights, have been acquired with grant funds from the State of California as part of the state's long-term program to permanently preserve our state's productive agricultural lands.

We understand that the California-American Water Company is proposing to build a desalination plant somewhere (the location is unclear) in the vicinity of Moss Landing or Marina as a proposed remedy for their illegal over-drafting of the Carmel River. On behalf of our Conservancy and the farmers and agricultural interests that we represent, I wish to express our grave concerns and objections regarding the proposal by the California-American Water Company to install and pump beach wells for the purposes of exporting groundwater from our Salinas Valley groundwater aquifers to the Monterey Peninsula, which is outside our over-drafted groundwater basin. This proposal will adversely affect and damage our groundwater rights and supplies, and worsen seawater intrusion beneath our protected farmlands. We object to any action by the California Public Utilities Commission (CPUC) to allow, authorize, or approve the use of such beach wells to take groundwater from beneath our lands and out of our basin, as this

would be an "ultra-vires" act by the CPUC because the CPUC is not authorized by any law or statute to grant water rights, and because this would constitute the wrongful approval and authorization of the illegal taking of our groundwater and overlying groundwater rights. Further, we are distressed that, since this project directly and adversely affects our property rights, the CPUC failed to mail actual notice to us, and all other superior water rights holders in the Salinas Valley that will be affected, as is required by the California Environmental Quality Act (CEQA). The CPUC must provide such actual mailed notice of the project and the preparation of the EIR to all affected water rights holders because California-American has no water rights in our basin.

Any EIR that is prepared by the CPUC on the proposed Cal-Am project must include a full analysis of the legal rights to Salinas Valley groundwater that Cal-Am claims. The Salinas Valley percolated groundwater basin has been in overdraft for over five decades according to the U.S. Army Corps of Engineers and the California Department of Water Resources. Cal-Am, by definition in California law, is an appropriator of water. No water is available to new appropriators from overdrafted groundwater basins. The law on this issue in California was established over 100 years ago in the case of Katz v. Walkinshaw (141 Calif. 116), it was repeated in Pasadena v. Alhambra (33 Calif.2nd 908), and reaffirmed in the Barstow v. Mojave Water Agency case in 2000. Cal-Am has no groundwater rights in our basin and the CPUC has no authority to grant approval of a project that relies on water that belongs to the overlying landowners of the Marina/Castroville/Moss Landing areas.

Further, the EIR must fully and completely evaluate in detail each of the following issues, or it will be flawed and subject to successful challenge:

1. Complete and detailed hydrology and hydrogeologic analyses of the impacts of "beach well" pumping on groundwater wells on adjacent farmlands and properties. This must include the installation of monitoring wells on the potentially affected lands to evaluate well "drawdown", loss of groundwater storage capacity, loss of groundwater quality, loss of farmland and coastal agricultural resources that are protected by the California Coastal Act, and the potential for increased and potentially irreversible seawater intrusion.
2. A full analysis of potential land subsidence on adjacent properties due to increased (365 days per year) pumping of groundwater for Cal-Am's desalination plant.
3. A full, detailed, and complete environmental analysis of all other proposed desalination projects in Moss Landing.

On behalf of MCAHLC, I request that the CPUC include and fully address in detail all of the issues and adverse impacts raised in this letter in the proposed Cal-Am EIR. Moreover, I request that before the EIR process is initiated that the CPUC mail actual notice to all of the potentially overlying groundwater rights holders and property owners in the areas that will be affected by Cal-Am's proposed pumping and the cones of depression that will be permanently created by Cal-Am's wells. **The CPUC has an absolute obligation to property owners and the public to fully evaluate every**

reasonable alternative to identify the environmentally superior alternative that does not result in an illegal taking of third party groundwater rights. We ask that the CPUC satisfy its obligation.

Respectfully,

A handwritten signature in cursive script that reads "Brian Rianda".

Brian Rianda, Managing Director

From: mjdelpiero <mjdelpiero@aol.com>

To: M <M@esassoc.com>; Maryjo.Borak <Maryjo.Borak@cpuc.ca.gov>; Karen.Grimmer <Karen.Grimmer@noaa.gov>

Cc: Maryjo.Borak <Maryjo.Borak@cpuc.ca.gov>; Karen.Grimmer <Karen.Grimmer@noaa.gov>; MJDelPiero <MJDelPiero@aol.com>; sdarington <sdarington@redshift.com>

Bcc: stecllns <stecllns@aol.com>

Subject: Fwd: Objection to Cal-Am appeal/application for test slant well

Date: Wed, Mar 29, 2017 12:55 pm

Attachments: BoardofDirectors.pdf (124K), Maps.pdf (562K), NoticeofObjection.pdf (959K), Oppositioncorrespondence.pdf (3558K)

Mary Jo Borak,
CEQA Lead California Public Utilities Commission c/o Environmental Science Associates
550 Kearny Street, Suite 800
San Francisco, CA 94108
Maryjo.Borak@cpuc.ca.gov

Karen Grimmer,
NEPA Lead Monterey Bay National Marine Sanctuary
99 Pacific Avenue Building 455a Monterey, CA 93940
Karen.Grimmer@noaa.gov

First Letter of Objection to Monterey Peninsula Water Supply Project (MPWSP) CalAm's defective and incomplete draft EIR/EIS

Dear Ms. Borak and Ms. Grimmer:

This correspondence and letter of objection (and our subsequent additional letters of objection) to the massively incomplete and defective draft EIR/EIS prepared for the California American (CalAm) De-Salination Project/slant wells are hereby submitted by and on behalf of the Ag Land Trust of Monterey County (Monterey County Agricultural and Historic Lands Conservancy) and its' Board of Directors (Ag Land Trust).

Organized in 1984, the Ag Land Trust is a 501(c)(3) non-profit corporation which holds/owns over 32,000 acres both of fee title and permanent conservation easements to prime and productive coastal agricultural lands that are protected California coastal resources pursuant to adopted and enforceable certified California Local Coastal Plans, state statutes, and federal regulations and legally recorded easements. These real property ownership interests fully include our percolated potable groundwater rights and resources that we have jealously protected, preserved, and conserved for potable use and agricultural irrigation purposes for over 30 years.

For over three decades, the **Ag Land Trust** is and has acted as a multiple grant recipient, agent, and de-facto trustee for both the United States Government (U.S. Department of Agriculture, the U.S. Department of Homeland Security, and the U.S. Department of Defense/National Guard Bureau) and for the State of California (California Coastal Conservancy and California Department of Conservation). The Ag Land Trust acts in this capacity to implement and enforce both legally adopted federal and state mandatory policies and regulations for permanent agricultural land and natural resources preservation, including preservation of potable irrigation groundwater resources for continuing agricultural production of those farmlands that have been federally designated for preservation due to their remarkable productivity. These responsibilities are ongoing contractual obligations between the Ag land Trust and the identified federal and state agencies, and may not be impaired by other private or federal or state agencies. Further, the reversionary property rights (water rights) held by the U.S. Government in the potable groundwater resources of our Armstrong Ranch farm, which CalAm and the CPUC are intentionally polluting with its' slant well, may not be "taken" by either CalAm or the State of California using any kind of "made-up", contrived theory of "salvage water rights" that result from the intentional pollution of the aquifers that is resulting from CalAm and the CPUC's combined actions. The EIR/EIS has failed to even mention, let alone mitigate, that the massive environmental degradation and adverse impacts to our potable aquifers which is being caused by CalAm's CPUC authorized pumping. Again, this demonstrates the bias of the CPUC against the property owners whose property rights are being taken by the combined CalAm/CPUC actions.

The CalAm slant well and CalAm's excessive and wasteful pumping thereof is directly, knowingly, and intentionally contaminating and permanently polluting both our potable groundwater supplies/aquifers and our two agricultural irrigation wells (and the potable water supplies thereof) that underlie our Armstrong Ranch property. Our Armstrong Ranch, to which we own fee title and in which the U.S. federal government holds a reversionary ownership interest (including its' potable groundwater supplies and rights) is immediately adjacent to the CEMEX site upon which CalAm has built its' slant well which is wrongfully exploiting our overlying potable groundwater resources.

EXHIBIT IS-D

CalAm has no groundwater rights in the Salinas Valley aquifers. None. It is undisputed law in California that in an overdrafted groundwater basin, a junior appropriator cannot acquire groundwater rights. Yet CalAm, by its' pumping of its' slant well is causing massive environmental damage, without any mitigation, to our potable groundwater aquifers. The EIR/EIS has systematically ignored the massive and adverse environmental impacts of CalAm's proposed project so as to avoid identifying the necessary and massively expensive mitigations that would be required of CalAm to actually mitigate CalAm's proposed wrongful exploitation of the protected Salinas Valley (coastal) groundwater aquifers and resources.

Loss of prime coastal farmland and its attendant productivity of food crops (due to the unlawful and irreplaceable stealing of potable groundwater supplies and the resultant pollution of the potable aquifers by the excess pumping of the slant wells), along with the permanent and irreplaceable loss of farmworker jobs have not been addressed or mitigated in the draft EIR/EIS. The costs to purchase those prime and productive coastal farmlands and ranches that will have their potable groundwater supplies wrongfully taken by the ultra vires approval of the CPUC, without compensation to the innocent land owners, are not addressed in the EIR/EIS. Nor is the loss of employment and massive displacement of low-income, Latino farmworkers (and their families) who are employed on those farms and ranches even acknowledged, let alone mitigated in the draft EIR/EIS. Although the Ag Land Trust offered to discuss these issues with Mr. Zigas (as well as offered our water quality baseline test results going back to 2007 and our recorded title documents demonstrating the U.S. Government's reversionary interests in our farmland and groundwater rights) during his one visit to our Armstrong Ranch farm, **he never called us back.** This may be because, much to his and CalAm's consternation, we proved that our potable and operational irrigation wells actually existed (he had publicly denied their existence in the press) and that we use them to irrigate our farmland and our dune habitat restoration sites which are mandated by the terms of our federal grants.

(SEE <http://www.montereybaypartisan.com/tag/marc-del-piero/> - **Monterey Bay Partisan (4 articles AND VIDEO included in PUC experts finally track down the elusive Ag Land Trust wells** by ROYAL CALKINS on DECEMBER 16, 2015). The impermissible continuing bias of the EIR/EIS consultants in favor of CalAm and its plans to wrongfully take groundwater to which it has no legal rights, to the massive economic and environmental detriment of landowners that actually own real potable groundwater resources and rights, continues to be demonstrated in the draft EIR/EIS by their ignoring of valid objections and their refusal to fully investigate, characterize, and fully mitigate the massive and adverse environmental impacts that have been identified by the real parties in interest whose property rights are being taken, without compensation by the CPUC.

The first letter of objection the **Ag Land Trust** sent to the CPUC in opposition to CalAm's plans to wrongfully exploit our potable groundwater supplies was in 2006. A copy of the original letter along with significant documentation of the illegality and adverse environmental impacts of CalAm's proposed "taking" (children call it "theft") of our groundwater (which documentation has previously been provided to the CPUC and the California Coastal Commission) is herewith attached. In spite of our objections, with the exception of the single field trip (wherein Eric Zigas finally was forced to acknowledge the existence of our large irrigation wells, although he declined to inspect our federally mandated and protected coastal sand dunes habitat restoration project), the CPUC and its' consultants have never responded in writing to any of our correspondence. .

Moreover, in violation of CEQA notice mandates, the CPUC has never sent the required mailed notices of the CalAm project (and its' massive cone of depression and resulting induced seawater intrusion into the potable aquifers) to the potentially affected real property owners whose potable overlying groundwater supplies and rights will clearly be polluted and compromised by the excessive and uncontrolled pumping by CalAm.

Please accept this e-mail, and all the documents, statements, objections, references, and attachments thereto, as the first of three e-mails from the Ag Land Trust that are intended to demonstrate the massive illegalities of the CalAm project and the defects and failures of the draft EIR/EIS, and the huge legal deficiencies of that draft (that have been "ignored" or "whitewashed") that will subject that document to successful challenge in court unless the EIR/EIS is re-drafted to cure the deficiencies and re-circulated.

Further, by this correspondence, the Ag Land Trust hereby incorporates by reference, (and adopts as our own comments and our own criticisms and our own objections), the criticisms, comments, statements, asserted facts, correspondence, and objections, and all documents and attachments thereto, of the following parties which have submitted comments on the defects, omissions, and inadequacy of the draft EIR/EIS:

1. **The Water Ratepayers Association of the Monterey Peninsula (WRAMP) – Comment letter dated March 17-18, 2017, and all other comment letters submitted by WRAMP commenting on the EIR/EIS.**
2. **Comment Letter by Mr. Larry Parrish dated February 23, 2017 and all of the unanswered questions therein regarding unmitigated environmental impacts that have not been addressed in the draft EIR/EIS.**
3. **All comment letters and objections from Mr. David Beech (including Beech-1, Beech-2, Beech-3, Beech-4, Beech-5, and Beech-(5a)), dated Feb. 20, 2017 et seq..**
4. **Comment letter by Mr. Michael Baer dated February 24, 2017, and all additional comments and objections filed by Mr. Michael Baer regarding the draft EIR/EIS.**

EXHIBIT 15-D

5. All correspondence and objections submitted by Nancy Selfridge, including but not limited to her e-mailed correspondence and objections dated February 22-23, 2017 sent by Mr. Steven Collins.
6. All correspondence from Kathy Biala, resident of Marina, Citizens for Just Water ("Just Water") - including but not limited to her correspondence, objections, and attachments dated 02.23.17.
7. All correspondence and comment letters from "Water Plus", including all correspondence and objections signed by George Riley, and including his correspondence dated 20 February 2017.
8. All comments and objection letters from and filed by Ms. Myrleen Fisher.

The draft EIR/EIS is fatally flawed because of the bias of the consultants, the deficiencies in its' content, and their refusal to acknowledge, investigate, and document the identified significant adverse environmental impacts of the proposed project. The failure to acknowledge and fully characterize, and mitigate, these significant adverse environmental impacts will cause these documents to be over turned in court, unless they are fully and factually revised and recirculated in compliance with CEQA and NEPA.

I will forward additional comments under a separate cover.

Most Respectfully, For the Ag Land Trust of Monterey County,

Marc Del Piero, Director

(SEE BELOW - Background environmental documents)

-----Original Message-----

From: MJDelPiero <MJDelPiero@aol.com>

To: sarahcoastalcom <sarahcoastalcom@yahoo.com>; zimmerccc <zimmerccc@gmail.com>; mmccclureccc <mmccclureccc@co.del-norte.ca.us>; cgroom <cgroom@smcgov.org>; Gregcoastal <Gregcoastal@sdcounty.ca.gov>; tom.luster <tom.luster@coastal.ca.gov>; tluster <tluster@coastal.ca.gov>; virginia.jameson <virginia.jameson@gmail.com>

Sent: Mon, Nov 10, 2014 7:09 am

Subject: Objection to Cal-Am appeal/application for test slant well

TO: The California Coastal Commission (Please Distribute/Forward This to All Members and Staff)

FROM: Monterey County Agricultural and Historic Lands Conservancy (THE AG LAND TRUST)

RE: Opposition to Proposed California American Water Company Appeal/Application to Acquire a Well Site to Violate Mandatory Policies of the Certified Local Coastal Plan and to Prescriptively "Take" Groundwater from the Overdrafted Salinas Valley Groundwater Basin and our Farm

Herewith enclosed, please accept this notice/letter of opposition to the appeal/application by the California American Water Company, along with the herewith attached EXHIBITS A, B, AND C.

Notice of Objection to proposed Cal-Am "test" slant well (11 pages)

Exhibit A - Board of Directors bios.

Exhibit B - Maps (showing induced seawater intrusion area and undisclosed A.L.T. wells)

Exhibit C - Prior objections correspondence (2006 - present)

The flawed Cal-Am appeal/application proposes to directly violate multiple mandatory Local Coastal Plan policies and state groundwater rights laws, and proposes an illegal "taking" of private property/groundwater rights, to economically benefit the privately held California American Water Company at the expense of the Ag Land Trust.

The application even fails to identify one of our agricultural groundwater wells on our farm property (the "Big Well"), which is the closest to the so-called Cal-Am "test well" and which will be the first to be permanently and irreparably contaminated by Cal-Am's illegal conduct. The proposed environmental review is incomplete and flawed.

EXHIBIT 15-D

No Coastal Commission staff review of these reasonably anticipated, immitigable adverse impacts on our protected coastal agricultural groundwater resources and farmland has been conducted or presented to the Commission in anticipation of this appeal hearing. The failure to even identify these unmitigated adverse impacts in the staff report, we assume, is because the Commission staff has relied exclusively on the flawed (by omission) Cal-Am appeal/application that has tried to "downplay" its intended "taking" of our groundwater supplies and its adverse environmental effects on our prime farmland. Coastal Commission staff has not contacted our Ag Land Trust in spite of our prior correspondence (see Exhibit C).

We anticipate presenting testimony pursuant to our attached Letter of Opposition and Exhibits at your Wednesday meeting in Half Moon Bay.

Please distribute our full comments and all attachments to each and all commissioners prior to the day of the meeting so that they may fully understand and consider the potential consequences of their actions.

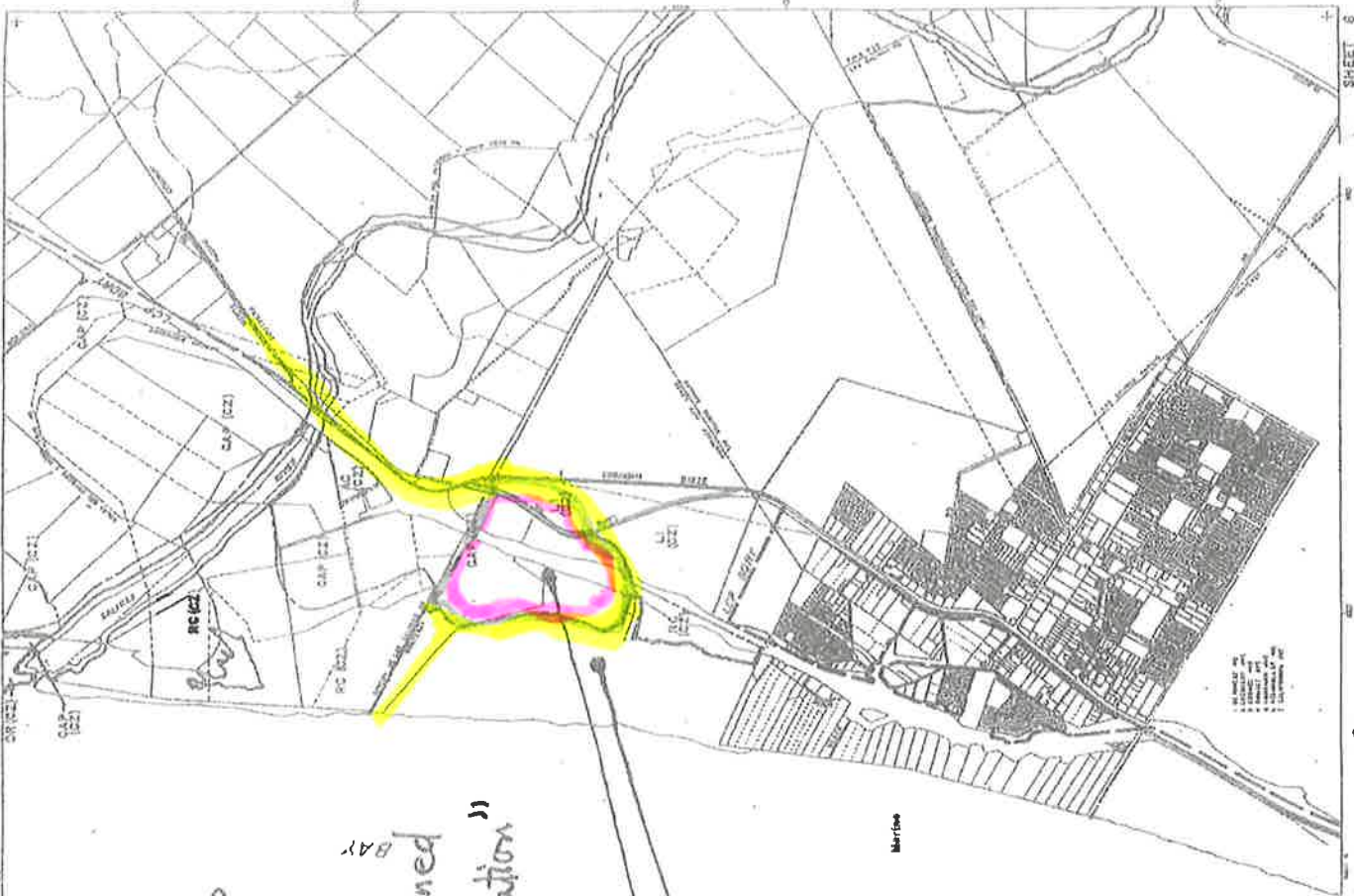
Most Respectfully, Marc DeI Piero, Director

Exhibit 2 – Ag Land Trust Exhibits

Maps

- A. Map of North Monterey County LCP area (yellow) and Ag Land Trust farm (Armstrong Ranch zoned “Coastal Agricultural Preserve” CAP) outlined in RED. Proposed Cal-Am “test well” site shown in black. Ag Land Trust “Big Well” shown in black.**
- B. Ag Land Trust Armstrong Ranch in YELLOW; early proposed alternate seawater wells locations by Cal-Am**
- C. Cal-Am map that misrepresents the proposed location of the “test well” and the “drawdown” contours of the “cone of depression” from the “test well”. Map fails to identify Ag Land Trust “Big Well” west of Highway 1 and within cone of depression and subject to seawater contamination from Cal-Am’s proposed pumping.**
- D. Cal-Am map with notation of corrected location for “test well” and location of Ag Land Trust “Big Well”. Adjusted “cone of depression” covers 75% of the Ag Land Trust property and shows seawater intrusion into “Big Well”.**
- E. Cal-Am map that falsely indicated Ag Land Trust property as within the designated “Project Area”. Insert is not to scale.**

North Monterey County LCP
SECTION 6 OF THE ZONING PLAN OF THE COUNTY OF MONTEREY



A. North Monterey County LCP
boundaries in yellow

Ag Land Trust property zoned
"Coastal Agricultural Preservation"
outlined in "RED"

Ag Land Trust "Big Well"
Proposed Cal-Am
"test well"

A.

AGENCY:
1/27/88

SCALE: 1" = 100'

MONTEREY

MONTEREY

SCALE: 1" = 100'



(B)

EXHIBIT 15-D



Yellow— Ag Land Trust (Monterey County Agricultural and Historic Land Conservancy) properties.

Pale Blue and Brown -- potential sea water wells and pipeline locations as extracted from Coastal Water Project FEIR Revised Figure 5-3.

NOTE: EIR Revised Figure 5-3 provides only a generalized representation of the sea water well areas with no references to properties included within their boundaries. Precise spatial data was not provided by the applicant or available from the EIR preparer.

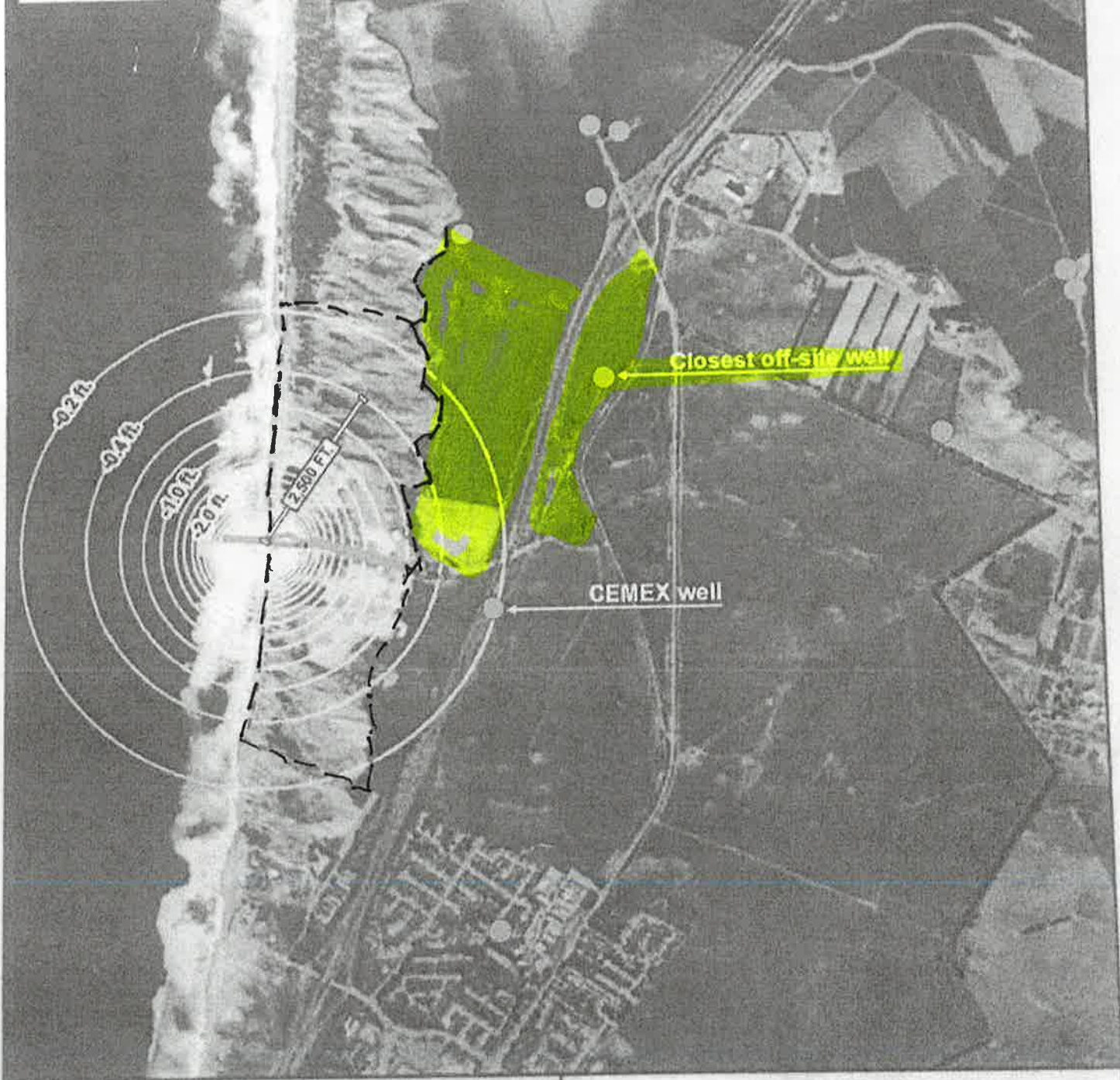
This document was professionally prepared by a GIS Professional, using spatially accurate imagery, known physical features and property lines to provide a reliable representation of the Conservancy properties as they relate to the proposed sea well areas. Lack of access to the spatial data, if any, used in Revised Figure 5-3, has required some locational interpretation, which was performed using professional best practices.

C.

Incorrect Mapping

EXHIBIT 15-D

- Project Area
- CEMEX Parcel Boundary
- 0.2 ft Drawdown Contours after 6-Months of Pumping Test Slant Well at 2,500 GPM
- Wells



Ag Land Trust Property and Wells



Source: GEOBOSNICE Support Services, Esri/Map, SRI, DigitalGlobe, GeoEye, iSatellite, USDA, USGS, AEC, GeoMapping, Aerogist, IGN, IGN, earthstar, and the GIS User Community

SWCA
ENVIRONMENTAL CONSULTANTS

Drawdown Contours Map
California American Water
Slant Test Well Project

(D.) Corrected Map EXHIBIT 15-D

Project Area
 CEMEX Parcel Boundary
 -0.2 ft. Drawdown Contours after 6-Months of Pumping Test Slant Well at 2,500 GPM
 Wells



AgLand Trust 'Big Well' //

Actual Well Site for Cal-Am Test

0 0.25 0.5 Miles
 Source: GEOSCIENCE Support Services, Inc.
 Screenshot: ESRI, DigitalGlobe, GeoEye, iSatellite, USDA, USGS, AEX, GeoMapping, AeroGRID, IGN, IGP, swisstopo, and the GIS User Community

SWCA
 ENVIRONMENTAL CONSULTANTS
Drawdown Contours Map
California American Water
Slant Test Well Project

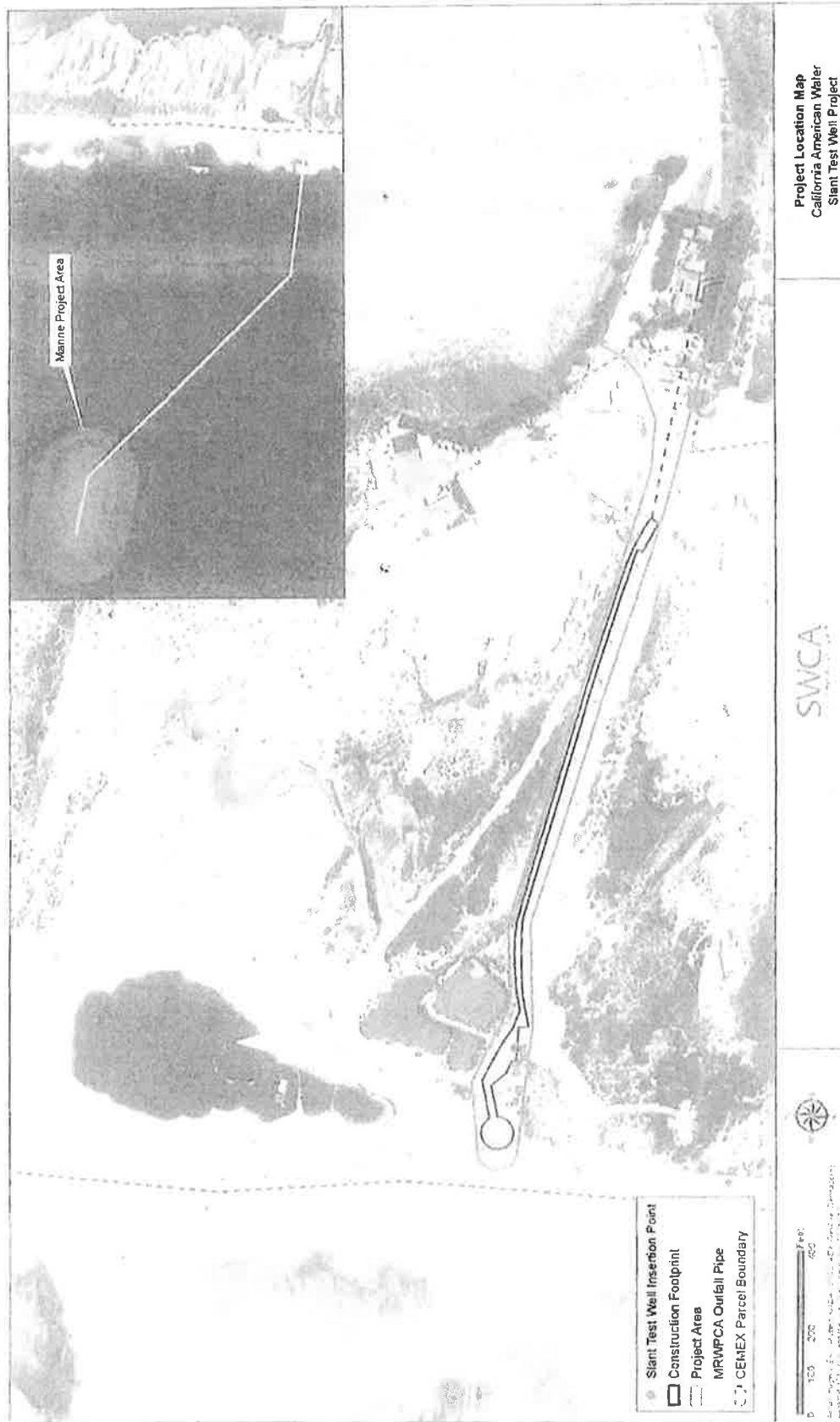


Figure 2. Project Location Map

E.

Right to Take — In the Public Interest

1. Failure since 1995 to
develop and secure a new water source.

2. COP's, low interest rates

3. Valuation must take into consideration
lack of water rights & supplies.

"Buying a dairy farm that has
NO Cows!"

4. Lack of water supply explains (in part)
why Cal-Am's financing comes from
American Water.

EXHIBIT 15-D

From: [Stephanie Locke](#)
To: [Arlene Tavani](#)
Subject: Fwd: Input Re public takeover of Cal-Am
Date: Friday, January 11, 2019 7:33:03 AM


Hi,

He replied just me. This is an amendment to his previous comment.

Steph

Begin forwarded message:

From: "mikelino2u@juno.com" <mikelino2u@juno.com>
Date: January 11, 2019 at 6:52:02 AM PST
To: <locke@mpwmd.net>
Subject: Re: Input Re public takeover of Cal-Am

*Hello Stephanie,
Hope you can add a missing word (dedicate) in the top line of the last paragraph.
Also please call me "Michael". I don't use my academic title, except when I feel I need to "impress" the readers in favor of my argument.
Thanks for your help. Michael *

----- Original Message -----

From: Stephanie Locke <locke@mpwmd.net>
To: "mikelino2u@juno.com" <mikelino2u@juno.com>
Subject: Re: Input Re public takeover of Cal-Am
Date: Thu, 10 Jan 2019 22:56:50 +0000

Dr. Lubic,

Thank you for your comments.

Kind regards,

Stephanie Locke

On Jan 9, 2019, at 10:49 PM, "mikelino2u@juno.com" <mikelino2u@juno.com> wrote:

----- Forwarded Message -----

From: "mikelino2u@juno.com" <mikelino2u@juno.com>

To: comments@mpwmd.net

Subject: Input Re public takeover of Cal-Am

Date: Thu, 10 Jan 2019 06:37:53 GMT

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT]

Input: Feasibility study listening session

1. Meaning of "Feasibility"

In the context of the designated study, the "F word" signifies a fact-based overview and analysis of the multifaceted water management functions and itemized comparison with the Cal-Am performance record in order to assess the proposed public agency's ability to more successfully manage the same and do so at the lower water rates to the local consumers.

A number of caveats should be integral to the methodology if the study is to be performed in a fair and objective manner. It is of paramount importance that the study be an honest, fact-based effort and include relevant projections of the future water rates following the trajectory of rate increases under Cal-Am in the past so that valid figures are used when compared with those anticipated under public management. Special attention should be paid to the water conservation function, stewardship being an essential element for responsible management of this precious resource. Equally significant is the financial impact of the transition of water management on the local economy, the possibility of public financing for the benefit of the local economy and the like. Accordingly, the methodology ought to combine fact-finding and impartial examination of the historical record in order to furnish valid baselines for the conclusion to be made. Put simply, the study ought to provide the grounds for the choice between the public management of water resources at cost or continuation of the status quo, namely water management by a for-profit monopoly corporation.

2. Most Important Measure of "Feasibility"

Selection of a single measure of feasibility (considering the complexities around water, as a resource, and the fundamental difference in purpose and emphasis that guide private business as opposed to the public agencies) is pretty much an academic exercise. To comply with the question, however, I would choose the financial and conservation aspects as the most inclusive. They would generally answer the questions of whether we can afford to pay for it and for

EXHIBIT 15-D

how long there'll be water... to drink.

3. Benefits of a Publicly Owned Water System

Without the overarching burden to realize the highest levels of profit, a public agency would be mandated to **dedicate** all its resources to the pursuit of objectives emanating from the customer-centered system and, in consequence, be evaluated by standards of efficient management, solid engineering, effective public education, good stewardship, and distribution of water.

Recognizing water as a precondition for life on our planet, it is fair to conclude that water ought to be treated with spacial care, and not just like another commodity. The best illustration was furnished by Cal-Am dealing with successful water conservation results 2 years ago. Cal-Am added \$20. of monthly surcharge per customer because "people did not consume enough."

Michael Lubic, Ph.D.
208 chestnut St.
Pacific Grove
(831)373-6968

Judge Judy Steps Down After 23 Years Over This Controversy

glance-hality.com

<http://thirdpartyoffers.juno.com/TGL3132/5c36e86dc3603686d441fst02vuc>



EXHIBIT 15-D

January 9, 2019

Dear Board Members and Staff of the Monterey Peninsula Water Management District,

Thank you for requesting public input about feasibility. An acquisition of Cal Am needs to be financially feasible and beneficial for local residents. I think it will be financially feasible if:

- We can buy out Cal Am in 30 years or less by issuing bonds and paying them off with income generated by a nonprofit, publicly owned water company.
- The portion of income used for bond payments consists primarily of the portion of revenues historically used for Cal-Am's expenses such as payments to shareholders, taxes, expenses of non-local operations, and other items and payments not needed to maintain and operate the facilities of a local, publicly owned nonprofit water provider.
- Note that, as a nonprofit, the district could potentially finance bonds at lower rates than a for-profit company, and may at times be eligible for grants, incentives, and other cost savings.

I do not expect my water bills to decline much if at all. We will soon need to replace much of the water being taken from the Carmel River and other natural sources. The new water, recycled water and possibly also some de-sal, may cost more to produce, so costs for consumers may increase -- but probably by less than they would under Cal Am. There will also be other many public benefits:

- Unlike Cal-Am's choices on several occasions, the Monterey Peninsula Water Management District will adopt well-researched, realistic budgets and pursue well-researched options that are the least expensive available options that are also legally sound and environmentally responsible.
- There will be greater transparency in operations, more of the jobs will be local, there will be more input from local residents and ratepayers, and decisions will not be driven by a profit motive.
- Under a nonprofit water provider, rates should no longer rank as some of the very most expensive in the country in comparison to communities using similar sources of water.
- A public water district is also more likely to encourage all customers to conserve water in times of drought, rather than favoring special interests.
- Local oversight can also result in greater health and safety as the district maintains its facilities diligently to assure adequate supplies of water that meet water quality standards.
- The entire community can also benefit when revenues are retained in the local economy (as recently noted in *Our Towns*, a book about small to mid-size communities all across the US).

I hope that a fair evaluation of feasibility and public benefits will allow the establishment of a locally controlled, nonprofit public water company that will help today's residents and future generations achieve the benefits listed above and have greater control over their water, a vital resource.

Thank you.

Sincerely,

Marli Melton

Marli Melton, 7 White Oak Way, Carmel Valley, CA 93924

Thank you Board members for asking for the input from the ratepayers on “How do we define FEASIBLE”.

I am Pat Venza, President of the Monterrey Vista Neighborhood Association. We are the second largest neighborhood association in Monterey.

Last summer the Monterey Vista Neighborhood Assoc. board voted to endorse Measure J. Many of us, within the association, also worked to get it passed.

Now we want to let you know what we consider “FEASIBLE” when it comes to if Cal Am stays or goes.

1. We expect public ownership to be financially feasible. Our feasibility calculation puts more weight on the long term. We anticipate seeing an actual savings over time. Where as we expect Cal Am costs to only increase as history tells us. For us the long term savings will out weigh any initial cost burdens that the feasibility study might show.
2. Local control is also important to us as association members. We believe in local involvement and control. We have tried expressing ourselves to the CPUC with little response. We want to be part of this process and having a say, through our vote for our board member and also attending meetings to let you know how we feel about specific items of interest.
3. We expect a long term improvement in getting projects done with a public agency. We feel that over time a public agency will have more incentive to get a long term regional water supply done, it will cost less and will take into consideration the wishes of the ratepayers and our neighboring city, Marina.

The Monterey Peninsula is a unique place, but not so unique that we should have the highest water rates in the United States, just to line the pockets of shareholders, Over 85% of the nations water districts are publicly owned for a reason. That reason is that water is a requirement for life and no one should be profiting off of it.

EXHIBIT 15-D

From: [Thomas Reeves](#)
To: [Comments](#)
Subject: Measure J Listening Session Comments
Date: Wednesday, January 9, 2019 5:04:36 PM
Attachments: [Measure J Feasibility Discussion.docx](#)

Thank you for the opportunity to provide comments relating to the potential takeover of the California American Water system. Attached are my comments and concerns. I have attempted to address all the questions that are posed on your web site.

I attended the first listening session which was held at the Seaside City Council chambers. At that meeting, MPWMD staff handed out two questionnaires. I chose not to fill out either questionnaire. The reason I chose not to fill out the questionnaires is important to note. The problem with answering questions such as those posed in the questionnaires is that the answers are dependent upon the results of the "feasibility" study. For example, if the study shows that the cost of taking over the Cal Am system is going to result in costs that are well over what we're already paying, then game over in my opinion. It doesn't matter to me if the expenses are spread out over decades so that the pain of paying for isn't perceived as being all that much. What you have before you is a daunting task to say the least. To do this correctly, you need an apples-to-apples comparison. So as a retired City Engineer, I think the best way to go about this is to try to get all of the costs rolled back to present worth for both Cal Am's continued ownership as well as for a publicly owned and operated system. Please present to the rate payers an easy comparison of costs (not easy to do, I know).

After the rate payers know the costs, then there needs to be another vote so that the rate payers can express what is feasible at the ballot box. The rate payers, way more than will ever attend the listening sessions, will let you know if it's feasible. The initial marketing of measure J prior to a judge prohibiting such claims was that we will have cheaper water if the system is publicly owned. Let's see if that's true. Let the proponents handle the payment options marketing spiel (it reminds of stepping into the "closing office" at a car dealership).

I want transparency. That means that I don't want obfuscation of costs thinking that the inevitable upgrades will be a future cost and not accounted for in the feasibility cost analysis. Playing with rate structures trying to get the pill down the throat of one group of rate payers at the expense of another group is just going to cause confusion.

Please, we need another vote prior to proceeding with any condemnation efforts.

Thank you,

Tom Reeves
844 Pine Street
Monterey, CA

EXHIBIT 15-D

What is my definition of "feasible"?

1. It must not cost more than the alternative of staying with Cal Am. And all costs need to be taken into account (staff time, study costs, legal costs such as for bond counsel and fighting law suits, capital costs, debt costs, operations, maintenance and management costs, capital replacement cost to name but a few)
2. There must be adequate water supply to fill the existing and future needs of the communities.
3. All water sources must be stable, in other words, not subject to the political winds of the District and there must be a reliable and sustainable source of water within the jurisdictional boundaries of the District. What's the District's plan for where the water will come from?
4. It must be the rate payers and voters that get to answer the question of what they feel is feasible by holding a vote prior to any condemnation proceedings after all of the cost data is available. Let the voters determine what is feasible.

What's most important?

Allowing the voting rate payers to cast their votes and express their opinion prior to any condemnation proceedings.

What do I see as the benefits of a publically owned water system?

Other than perhaps more transparency, I don't see too many benefits but I do see some possible pit falls such as:

1. Public employees and the costs associated therewith.
2. Inheriting an old and crippled water system while losing much of the institutional knowledge that goes with it.
3. Injecting politicians directly into the water supply of our region.
4. A potential for a "cash cow" mentality to flourish amongst the member entities as the water supply system could now become a revenue enhancer. Even though Proposition 218 prohibits making a profit, there are inventive ways in which local governments can include costs such as including parts of their existing overhead.
5. There's considerable risk associated with proceeding with eminent domain in that the District may lose the case and then be liable for paying the legal costs to California American Water.
6. With respect to future costs and rate increases, what if the rate payers don't agree and fail to pass the required Proposition 218 approval?
7. If there aren't sufficient sources of water within the District's boundaries, can the District condemn sources outside of its' boundaries such as Cal Am's proposed desalination facility? If not, will we be held hostage to negotiate with the same Cal Am for our water?

To: MPWMD Board of Directors
5 Harris Ct., Bldg. G
Monterey, CA 93940
<http://www.mpwmd.net>

P.O. Box 85
Monterey, CA 93942-0085

From: Tim Sanders
25075 Pine Hills Dr.
Carmel, CA 93923

January 8, 2019

RE: FEASIBILITY OF PUBLIC/PRIVATE OWNERSHIP OF THE PENINSULA WATER SYSTEM

I have **two comments**: one concerning **existing facilities and the overall issue of ownership**, and the second concerning the special circumstance of a proposed **major project being pursued under threat of a regulatory deadline**.

1. Private ownership by Cal Am is infeasible according to any reasonable standard of feasibility

First, the feasibility study must be viewed as a **comparative feasibility study**: Is it feasible to remain with CAW (Cal Am, California American Water) as owner of the water system? And, in comparison, is public ownership feasible? Any **rigorous study**, using consistent standards and knowledge of CPUC behavior and decisions, **would have found CAW ownership less feasible than public ownership** at, say, **any time since the year 2000**. An obvious pattern of costly delays, cost-overruns, failure to meet regulatory deadlines, excessive ratepayer charges, etc., would **not** have been **tolerated** by a management working **under direct local oversight** rather than one tied to the persistent corporate incentives of agency-protected and ever-growing

investment demands by owners – CAW investors – whose locations and preferences are remote from the issues affecting a local water acquisition and delivery system.

Only if, for example, the **highest water rates in the nation** were considered **appropriate** here, in this unlikely small coastal water district, **could private CAW ownership be deemed feasible**. It has the highest rates, and they certainly are **not appropriate**. CAW ownership **has not in fact been feasible**, and local ratepayers have had to pay the **excess costs of this infeasibility**. That is why 55% of district voters said, “We **no longer are willing to support the pretense** that CAW ownership of our water system is feasible.”

In recent judicial decisions on private/public water system ownership, **public ownership** has been deemed **decisively “more necessary”** (the precise term used in the decisions) **than private**, in both the district and the state supreme courts (Montana). For the Monterey Peninsula public ownership, by those reasonable standards, similarly would be deemed the “more necessary” or more feasible option.

A principal standard for “feasibility” must be the comparative **acceptability of the existing or available alternative**.

2. For desalination plants, public ownership is the California Standard

Second, the unusual circumstance in this case that a major and expensive water **project is in process** at the time when the ownership decision was brought forward by the public’s vote, **adds complexity to the assessment of options**. However, several **critical factors weigh heavily in favor of public ownership** of any and all of the pending desal system proposals. One of these

is that **state law requires public ownership**, but CAW was unwisely awarded a **waiver** allowing private ownership of its proposed facility (still somewhat undefined). The **reasons for the law** against private ownership are **sound** and the **waiver should be rescinded**. A significant **effect** of the waiver would be to **raise substantially** the **consumer rates** for the desalinated water by perhaps as much as 30% (because of provisions for profit and corporate taxes) **relative to** the price under **public ownership**. This is a high percentage on **extremely expensive water**, and would constitute very large dollar increases. It is **entirely unacceptable** and **argues decisively against private ownership** of the desal facility.

The desal project, whatever form it may take, is **infeasible under reasonable California state rules**, that are applied to the rest of Californians; it is artificially made to **appear feasible** only through **corporate lobbying** for special and **unwarranted treatment** by a **waiver of enforcement** of the law for the CAW desal project.

Experience and evidence show clearly that **private CAW operation** of the water acquisition and delivery system, and its planning and execution for a desal project on the Monterey Peninsula, **is distinctly infeasible**, by existing and reasonable standards. The **costs of operating that infeasible system** have been and are **borne by ratepayers** who have **not** been **properly and effectively protected by the Public Utilities Commission**.

Public ownership of all aspects of the water system is distinctly “more necessary” (i.e., more feasible) than private ownership

10 Jan. 2019

The feasibility study is extremely important, a really vital first step.

The message from the ballot vote is that public ownership IS widely viewed as feasible and desirable, or the majority wouldn't have voted for it.

My sense is, it's got to be more feasible than continuing with Cal Am.

Even before the feasibility study is done, all the indicators point to a positive conclusion.

Will Cal Am try to make it not-feasible? You bet they will.

I won't say that's the urgency behind their building a desal plant, but adding a huge desal plant to the company's assets certainly increases the cost of buy-out. Especially with the technical and legal uncertainties of Cal Am's version and their guaranteed 10% profit on capital projects.

If we can possibly avoid its being part of the package, we should. With the new resources being developed by the Water District, we can meet our needs and can meet what's required by the Cease & Desist Order.

We don't need a desal plant now.

If it emerges that a small desal plant could be a useful part of our equation, it can be built by our publicly owned utility, as the law intended, less expensively, and on an appropriate scale.

Thank you.

Vicki Pearce
Pacific Grove

EXHIBIT 15-D

From: [Alan Estrada](#)
To: [Comments](#)
Subject: Public Water [J]
Date: Wednesday, January 16, 2019 8:48:49 AM

Dear Verily Important MPWMD Reader~

Consider locally-owned water here making public sense over time . . . over East Coast private interest, that is. Dollars would stay here, not sent to New Jersey.

Thank you for accepting this general and specific thought.

Alan Estrada
Carmel
[831-585-8195](tel:831-585-8195)

waynesbiz@live.com

From: waynesbiz@live.com

Hello my name is Anna Thompson and I live in Carmel.

I think that the feasibility study includes two major components: Getting a realistic appraisal of CalAm's water system and the identification of all the future benefits that community ownership offers vs. what we can expect from CalAm, a for profit corporation. To determine a fair and realistic purchase price, it's critical that the appraisal evaluation be done by a very competent and respected firm who has experience with this type of appraisals.

I personally think we cannot afford to keep CalAm at any price. What benefit has CalAm provided so far or could provide in the future that we wouldn't get with public ownership? So far, no one has ever given us a good reason why we should keep CalAm? You think that after more than 50 years of CalAm's ownership of the system there would be some benefit one could point to. In fact the opposite is true: CalAm has provided no new water supply (still pumping from the river) and the highest average water costs per household in the nation. During my canvassing for YES on measure J, I asked the reason why he or she was against measure J and the prevailing answer was: "Because it's a government takeover". One other reason was: "CalAm is building a desal plant that would give us all the water we need and PWN is against it". I wonder how or where they got that idea. Maybe those large ads on the Pine Cone calling us anti-water thieves or fascists might have had something to do with it. It's true that we oppose the desal plant that CalAm wants to build in Marina, but that's because there are many legal and environmental issues that have not been addressed so far. It is the most costly and risky alternative to pursue. It will be very costly to us and could cause irreparable harm to the Marina's water basin and the environment. If CalAm doesn't care about the harmful impact of their desal plant, we should. It is not just for one group of people to benefit at the expense of another. There are safer and less expensive alternatives available, but we have no say on the matter. Like for example: The Pure Water Monterey expansion proposal. But, CalAm wouldn't even consider this alternative and we don't have any say on the matter. That is why I believe that we cannot afford keeping CalAm

CALAM is not

The only reasons

I have heard is

costly

but

as it's our community

is based on what is most profitable for the company not for our benefit.

The most precious resource water

Monterey Peninsula Water Management District
Listening Session
Tuesday, January 15, 2019
Carpenter Hall, Sunset Center, Carmel

My name is Barbara Evans, I rent in Carmel and own a house in Pacific Grove.
I've come to 4 of the 5 listening sessions

Most important to me is my belief that all living things need water and water simply should not be a for-profit business. Period.

In trying to determine what is feasible and of public benefit, most of the comments and focus is on the numbers, the money.

Feasible to me, of course means that the numbers have to work out within our means.
A couple of comments about the numbers:

I hope your data is verified and double checked.

Remember: the only real numbers are the year end profit and loss, income and expense, balance sheet and tax returns. All else in the study is, at best, informed and knowledgeable analyzers, but the result is speculative.

Beware: statistics are manipulated

I believe it is overall more desirable to be locally controlled and overseen, to build community participation, leadership, service and shared community values. We're in this together.

Whatever entity runs the business of providing water, we all need to remember the reality that we are faced with real challenges in having sufficient, unpolluted water resources.

Assuming we take local control, I would not expect to get immediate savings. More than focusing on the cost, I want the entity that practices good stewardship of the land and resources, that is aware of the collateral damage done by operations, cleans up after itself, does good work in providing service and maintaining infrastructure. To always improve and refine services.

Remember we are making choices and decisions for a silent majority who does not come to these rooms, or fathom the complexity of issues, or vote, but who are people who must have water to survive.

MPWMD Listening meeting notes
Brian LeNeve

My name is Brian LeNeve, I was born in Carmel and still live in Carmel.

I will not be able to complete our comments in 3 minutes so the woman behind me will read our remaining comments.

1: This process must be open-minded, impartial and objective. I have grave concerns that this process may not be any of the above.

On your board you now have a member who was the lead in bringing Measure J to the ballot. That board member has not recused himself.

It was widely publicized that your General Manager made critical comments to a person opposing Measure J and the General Manager is the one selecting what information sees the light of day.

Either man could be a better person than I am but the perception is that neither is impartial or objective.

While you are making a good start by listening to the public, it is imperative you somehow convince the public this is a fair process, otherwise, if and when you decide to proceed with an attempted takeover, there will always be a cloud over this board and the final decision. A lot of people now believe your mind is already made up.

2: To be feasible the District must be capable of running a water distribution system which you have never done.

Part of the District's job is to obtain enough water to meet the demands of the peninsula. To date you have not done that job. You have developed some new water but not nearly enough.

Why should we believe you can now complete your primary function and still take on something new; something you have no expertise with? To be feasible you not only have to convince the public you can do both jobs but you also must convince the courts.

3: We are here tonight to determine what the word "feasible" means.

If no one knows what feasible means, there is no way the voting public knew what they were voting for. Measure J was simply a vote expressing the frustrations of the peninsula and not a vote on dollars and cents.

Not only did Measure J not define feasibility, it gave the District power to commit the residents and businesses of the peninsula to millions of dollars of debt based on the District's determination of feasible.

For this to be a real open-minded, impartial and objective process you should go back to the voters after it is determined what the costs will be and let the voters decide if they want to proceed based on those costs. I do not want the District making that decision for me.

4: Possibly the most important point is: to be feasible any savings must be immediate and continual. To say that there will be savings in the future is something you can only guess at and not guarantee.

When the bond issues for the bridges over San Francisco Bay were first proposed, people said once they were paid off there would be a considerable decrease in bridge tolls. Bridge tolls never went down. The construction costs are paid for but again this year bridge tolls went up. It seems that politicians always find uses for money that becomes available.

You did the same thing with the Prop. 218 funding. That funding was to replace the fee on the Cal Am water bill when it was declared illegal. A court case determined the fee was legal and now it is back on the Cal Am bill but the Prop. 218 funding remains on our property tax bill. Where are the savings?

EXHIBIT 15-D

To be feasible all costs must be paid for now and no claims of future savings can be guaranteed. To say that future generations will thank us is bogus.

5: To be feasible all costs must be shown on the current water bill.

We the public need to know the true cost of a takeover and how long it will take to pay back the debt.

To do what Felton did and put a large increase on property tax bills is deceiving and people are still arguing what the takeover in Felton cost.

To put some or all of the cost on property tax bills is also not taking responsibility for your actions. If I were to own a large apartment building on the peninsula (which I do not) and you put an increase on my property tax bill, I would have to either eat the cost in which case I would be burdened with a proportionally larger part of the cost or I would have to increase rents and I would be blamed for being a greedy landlord and your responsible would be hidden.

Show true leadership and have all costs on the monthly bill.

6: To be feasible you must put an allowance in your determination for how much it will cost if you start and fail.

My understanding is that if this whole issue goes to a court or jury trial and either the court or the jury decides that it is not in the best interest for the District to buyout Cal Am or that the District does not have the expertise to run a distribution system, then not only will the District (and the ratepayers) have to pay the District's attorney fees they will also have to pay Cal Am's attorney fees. Those fees will more than likely run into the millions.

7: To be feasible it must not interfere with the State Water Board's Cease and Desist Order.

Several people on your board and in your management have expressed interest in stopping the desal plant. While the Cease and Desist Order is on Cal AM, it is the residents and businesses of the peninsula who will suffer if the CDO is not complied with or if a milestone is not met. There is no way this whole takeover process will be complete before the date Cal Am is to be down to its legal limit of water and the next milestone is this September.

Nothing can jeopardize compliance with the CDO and since the takeover will happen after it is complied with, you MUST incorporate the cost of the desal plant in your analysis.

Measure J did not require you to take your decision back to the voters, good leadership says you should.

EXHIBIT 15-D

MEASURE J FEASIBILITY STUDY COMMENTS

WHAT DOES FEASIBLE MEAN TO YOU?

Feasibility is not measured directly by the current water rates charged by CalAm. Feasibility means that in the long run ratepayers will pay reasonable rates for their water as opposed to the current rates which are amongst the highest in the nation. This will be achieved through economic goals which are defined by the public good rather than how to achieve the greatest return to the shareholders. The profit now removed from the system will allow for its purchase and for the investment needed to produce a SUSTAINABLE water supply. Feasibility does not mean that water rates will be immediately reduced or that they will not rise but that the rates projected by a poorly run company will not be sustained in the future and that a patently unfair tier system will be replaced by reasonable measures to encourage conservation. In addition the costs of loans through a publicly owned system will be substantially lower. Costs associated by failed projects such as the Carmel river dam, the pilot desal plant, or the extremely risky regional desal project will be avoided. Another important factor is freedom from CPUC decisions that invariably fail to regulate a monopoly. Time and again the CPUC has failed to address the needs of the ratepayers; If we own the system, our needs will be heard through the ballot box.

WHAT MEASURE OF FEASIBLE IS MOST IMPORTANT TO YOU?

The key to feasibility is a FAIR assessment of the value of the water system. Clearly CalAm will overstate its value as a bargaining tactic. So the economic value must be fairly established unfortunately this will most likely be argued in the judicial system. The value of local ownership, however, goes beyond monetary concerns just as the value of home ownership is not just in the assessed value or mortgage payment. Ownership entails local freedom of action and responsibility. Access to clean potable water is a human right absolutely necessary to life. The best assurance that future generations will have this right is local ownership and control.

WHAT DO YOU SEE ARE THE BENEFITS OF A PUBLICLY OWNED SYSTEM?

The benefits of a publicly owned system are many for example:

- Lower water cost no profit, no taxes, reduced overhead
- Lower cost of financing through a publicly owned system
- Avoidance of a costly lawsuit and delay by cooperating with the Marina Coast Water District rather than violating their water rights.
- No CPUC fees
- Local control and transparency and accountability
- Benefit to ratepayers not shareholders of an international corporation
- No corporate monopoly over an essential human right WATER
- Possibility for easier regional planning and cooperation
- More local jobs including retention of operational employees
- More sensitivity and concern of local environmental issues to include the Seaside basin and the Carmel River Watershed
- More of the water revenues stay in the local economy
- ETC

EXHIBIT 15-D

On a more philosophical note the Principle of Subsidiarity holds that social and political problems should be dealt with at the most immediate level capable of a solution. This principle is clearly consistent with the democratic foundations of our republic. It's our problem. We have the responsibility to solve it in an equitable and environmentally sustainable manner. If we do not exercise our rights we are in danger of losing them. Local control is exercising our right to clean, potable, sustainable water for future generations as well as ourselves.

Thank you for soliciting and considering my views on the implementation of Measure J.

Sincerely,

Robert McGinley
1505 Ord Grove Avenue
Seaside, CA

RECEIVED

JAN 14 2019

MPWMD

Coalition of Peninsula Businesses

A coalition to resolve the Peninsula water challenge to
comply with the CDO at a reasonable cost

*Members Include: Monterey County Hospitality Association, Monterey Commercial Property Owners' Association,
Monterey Peninsula Chamber of Commerce, Carmel Chamber of Commerce, Pacific Grove Chamber of Commerce,
Monterey County Association of Realtors, Associated General Contractors-Monterey Division,
Community Hospital of the Monterey Peninsula*

January 14, 2019

Molly Evans, Chair, and Members
Board of Directors, Monterey Peninsula Water Management District
Dave Stoldt, MPWMD General Manager
P. O. Box 85
Monterey, CA 93942

Dear Chair Evans, Board Members and General Manager Stoldt:

The following letter is being submitted by the Coalition in response to the 'public ownership feasibility listening sessions' scheduled between January 7 - 15, 2019.

As you are well aware, an adequate water supply is critical to the business community and essential for the long-term viability of our entire community.

We are extremely concerned that the concept of "feasible" be clearly defined and that it covers both the business community and the residents of the water district. We want to ensure our community is not ultimately put in a position of bearing the burden of covering of extreme costs including legal fees or miscellaneous fees, which may be unintentional consequences in weighing the issue of whether or not our community will be better served with our water and its systems under public ownership.

Attached are a list of questions we want to have taken into consideration and answered as part of the due diligence needed in order to finalize the feasibility assumptions. Our request is based purely on trying to ensure that every rate payer of the Cal Am district is protected as the MPWMD navigates through this very complex problem of determining the feasibility of public ownership.

Sincerely,



Bob McKenzie, Consultant

1. What are the key feasibility definitions and assumptions; will you articulate the boundaries and definitions of feasibility before you initiate the study or perform data collection?
2. Will the entire feasibility study RFP be made available to the public?
3. Will you ask the feasibility consultant(s) to identify an upper valuation that would make purchase infeasible?
4. Will the entire feasibility analysis be made public before any Board vote on a finding of feasibility?
5. What is the source of the \$400,000 to \$700,000 estimated cost of a feasibility study? If reserves, what was the source of the reserve fund - property tax? or water bill surcharges?
6. Will the entire acquisition plan be made public?
7. What 'public necessities' will be claimed to justify a taking?
8. Would any employees of MPWMD hired to actually operate the system be required to be part of the CalPERS retirement system? What is the District's current unfunded CALPERS liability? What is the plan/source of funds to cover that unfunded liability?
9. Will district staff recommend a public vote after the feasibility study and an acquisition plan are completed? Or if not at that point, at the point of issuing bonds or certificates of participation?
10. How will you fund the legal fees required to prove public necessity? What is your estimate of those fees?
11. If you lose the bench trial on public necessity, what will be the source of funds to pay Cal Am's legal fees?
12. If a decision is made to go forward and a judge finds a public necessity and a jury determines the transaction value of the assets, will you redo a feasibility study with the actual numbers before proceeding and will you call for a full public vote before proceeding?
13. Will there be a citizen's advisory panel and/or a technical advisory committee to assist the Board before, during and after the feasibility study?
14. Will the District commit to FULL transparency of all documents prepared using public funds?
15. If MPWMD decides to proceed on the assumption, as has been stated several times, that the feasibility study does not have to include the desal plant, how will its cost to Cal Am be handled?

EXHIBIT 15-D

From: [Carter Filion](#)
To: [Comments](#)
Subject: Input on Measure J Feasibility Study
Date: Monday, January 14, 2019 10:55:39 AM

We have been residents of Pebble Beach for 27 years.

- **We want the Cal Am desalination plant to be built.**
- **We do not want any costs for a Cal Am buyout to be added to our property taxes.**
- We do not consider a public buyout of Cal Am “feasible” unless there would be bill savings within a year.

Thank you,

Graham and Carter Filion
1010 Wranglers Trail
Pebble Beach, CA 93953

EXHIBIT 15-D

From: [Greg Thompson](#)
To: [Comments](#)
Subject: Comments on Cal Am takeover feasibility
Date: Wednesday, January 16, 2019 10:29:27 AM

I live in Carmel Valley with my wife. We are very conservative with water, we harvest rain water, and we route gray water to the landscaping. Our monthly Cal Am bill is usually less than \$50, and we are very satisfied with the water quality and taste. We have neighbors with palm trees and extensive landscaping that no one sees - their monthly water bills are over \$700 and they complain about it.

"Feasible" to me is that my water bill and water quality will remain unchanged. "Feasible" is **NOT cost sharing**, such that my bill increases so that others may save while continuing to abuse their water rights. It would NOT be feasible if I have to pay for others' overuse. If you overuse, you should overpay, no matter who is supplying your water.

People of the Monterey Peninsula need to stop blaming Cal Am for their water bills and start conserving and embracing the new reality, which is an ongoing shortage of clean water. MPWMD will not magically produce new sources of water that have not already been considered.

How about a community effort to conserve and recycle, rather than misguided rabble rousing.

Resident of Carmel Valley

From: [Molly Evans](#)
To: [Dave Stoldt](#); gqhwd1000@gmail.com; [Arlene Tavani](#)
Subject: Fwd: Financial Feasibility Factors
Date: Monday, January 14, 2019 11:09:04 AM

Dave,

This comment was sent to Gary and me. Please include this in the next submission of public comments that you send to the Board. Thank you.

- Molly
Molly Evans
MPWMD Chair

Begin forwarded message:

From: HELGA FELLAY <puma2012@comcast.net>
Date: January 14, 2019 at 10:31:55 AM PST
To: gqhwd1000@gmail.com
Cc: water@mollyevans.org
Subject: **Financial Feasibility Factors**
Reply-To: HELGA FELLAY <puma2012@comcast.net>

Dear Mr. Hoffman:

As I am not certain that I will be able to attend tomorrow evening's meeting at Carpenter Hall, I wanted to make a few comments. Immediately below, (in italics) is a list that Public Water Now (PWN) has sent to its members as talking points (emphasis added). Below that list (not in italics) I questioned a few of their points.

Financial Feasibility Factors

• *Lower Water Cost – No profit, **no taxes, reduced overhead**
Publicly owned water in California costs an average of \$385 a year for 60,000 gallons.*

Our cost is \$1202 a year.

- *Lower cost over time compared to Cal Am*
- *Lower cost public financing of new projects with lower interest rate*
- *Lower cost refinancing of Cal Am's debt at lower interest rate*
- *Stop costly environmental damage*
- *Eliminate CPUC fees*
- *More cost effective solutions without profit motive*
- *Avoid financial risks like building a desal plant with no water rights or harming Marina's water supply*
- ***Avoid cost of failed projects:***

EXHIBIT 15-D

Carmel River Dam, \$3.5 million

Pilot desal at Moss Landing, \$12 million

Failed regional desal project, \$20 million

Why is a Buyout in the Public Interest?

- *Lower cost and a **sustainable water supply***
- *Local control & transparency – Public has no say with private ownership*
- *Local Leadership, accountability and integrity – All decisions are made locally*
- *Eliminates corporate monopoly control of a fundamental human resource*
- *Eliminates corporate profit incentive on future projects*
- *Focuses on benefit to ratepayers, not shareholders*
- *Eliminates the California Public Utilities Commission (CPUC)*
- *Eliminates Regulatory Capture*
- *Local public process and input on rate setting*
- *New water supply projects can be regional with shared costs*
- *New water projects and repairs don't have a profit markup*
- *Incentive to protect our natural resources in the interest of our community*
- *Responsible environmental management of the Carmel River and the Seaside Basin*
- *Retains operational employees who run the system now*
- *Creates new local jobs by relocating outsourced services*
- *Water revenue stays in local economy*

My own questions and responses to a few of the claims made by PWN (highlighted above)

No Taxes Taxes we pay support public services, which will still have to be collected from the public. Those millions collected by Cal Am as sales taxes will have to be collected some other way, in other words, we will still be paying them, only not on our water bill, probably added to the taxes we are already paying on our property taxes, added onto the taxes now billed under MPWMD. If not that, another sales tax or local income tax will be imposed. So I consider that a moot point.

Reduced Overhead. How and why. While the individual heading the organization will probably be paid less than CalAm's CEO, that's only one position. The thousands of workers currently employed by CalAm - what about them? Are we planning to reduce their wages? The countless CalAm trucks will cost just as much to run and maintain as they do under CalAm. There seem to be no concrete data to support the claim of reduction in overhead.

Our cost is \$1,202 a year. I presume this is an average. Which means that the water wasters, who claim to be paying hundreds a month or more, are offset by a majority of folks like myself who are making serious efforts at water conservation. My bill is consistently under \$40 a month, less than half of my

electric bill.

I have been with PWN since at least 4 years ago, and the biggest complaint I have heard over time is the **steep tier system**. While nobody talks about this publicly, I fear that the first thing PWN wants to accomplish is do away with the tier system altogether. The tier system seems to have been challenged in court in another jurisdiction in California and they won. It is silently planned to challenge Cal Am's tier system in Monterey County's court, using this as a precedent. If PWN wins this case as well, it would have two consequences: First, the majority of financially challenged consumers like myself would see a steep increase in our own water bills, while the minority, the water wasters, would see a steep reduction in theirs. And secondly, it would encourage the water wasters to waste more water, which in turn would be detrimental for the Carmel River.

Avoid cost of failed projects: Carmel River Dam, \$3.5 million

Members of PWN have consistently accused CalAm of removing the San Clemente dam in order to make more profits. However, it was the Army Corps of Engineers which examined the condition of this dam (which was completely filled with silt and no longer served its purpose) and found that the dam was structurally unsound and posed a danger to the public. It found that an earthquake of four point something on the Richter Scale could break the dam, releasing a wall of silty water threatening the lives and properties of residents living near the river only 3 to 4 miles downstream. I don't know if they ordered CalAm to remove the dam, or merely advised to do so, but it was a sound decision, especially considering that small earthquakes like this are quite common in this area.

A sustainable water supply While Pure Water and water recycling may have provided some relief for the present, it does not for the future. The need for housing, especially affordable housing, will persist and become more urgent with time. There is also the challenge of developing the former Ft. Ord, which requires a drought independent solution, especially considering rapid climate change that cannot depend on annual rainfall. While PWN calls the water recycling system a "**sustainable water supply**," it is not as it still depends on annual rain fall, which is not guaranteed. PWN is dead set against the building of any kind of desal plant because it would drive up costs and thus not help the feasibility study results in their favor. This may be unrealistic.

Sincerely,

Helga and James Fellay

15 Paso Hondo

EXHIBIT 15-D

Carmel Valley, CA 93924

(831) 659-5116

EXHIBIT 15-D

From: [John Sherry](#)
To: [Comments](#)
Subject: Monterey needs a cistern
Date: Tuesday, January 15, 2019 2:17:53 PM

Hi All,

I had this out of the box idea and wanted to present it for your consideration.

Monterey should consider engaging Elon Musk's Boring Company to create a cistern or possibly a network of cisterns, or man-made aquifers, of several hundred acre feet to collect rainwater runoff. This could completely fix our water shortage on the Monterey Peninsula and serve as a model for coastal cities throughout California. The hundreds of thousands of gallons of water that escape to the ocean could instead be captured and used. A one time, albeit substantial, expense to create an underground water supply would be far superior to the construction of a desalinization plant that would require vast amounts of costly energy to operate.

I'm interested to hear your thoughts.

Best,
John

It's never too late to be what you might have been

John Sherry
<http://johnsherry.com>
(831) 905-1708

EXHIBIT 15-D

From: [Jacquelyn Woodward](#)
To: [Comments](#)
Subject: comments on measure j
Date: Monday, January 14, 2019 12:04:07 PM

My name is Jacquelyn Woodward. PO Box 3911 Carmel CA 93921 624-3982
I have lived in Carmel since 1957.

As a full-time, year-round resident for 62 years, I've seen my water bills climb to become a higher percentage of my overall expenses. However, the amount of my water bill is not how I judge the feasibility of publicly owned water. ***Even if*** the feasibility study determined that public ownership would end up costlier than CalAm ownership, I'm willing to pay an even higher amount for water if it means having our water supply under local control.

The most important measure of feasibility to me—and the greatest benefit of publicly owned water—is ***protecting this resource that is vital to all people***, and not allow water to be treated largely as a means of producing corporate profits.

Water ownership is a serious global issue. We still have a voice here in Carmel, and the opportunity for our local citizens and government officials to help protect our water for future generations.

For the MPWMD Feasibility Study to Purchase Cal-Am Water CompanyFrom Dictionary.com:

Feasible is defined as:

1. capable of being done, effected, or accomplished: a feasible plan.
2. probable; likely: a feasible theory.
3. suitable: a road feasible for travel.

From Accounting .com:

Definition: Feasibility study is the initial design stage of any project, which brings together the elements of knowledge that indicate if a project is possible or not.

From Investopedia.com:

<https://www.investopedia.com › Investing › Financial Analysis>

May 25, 2018 - A *feasibility study* is an *analysis* used in measuring the ability and likelihood to complete a project successfully including all relevant factors.

From businessdictionary.com:

www.businessdictionary.com/definition/feasibility-study.html

An *analysis* and evaluation of a proposed project to determine if it (1) is technically *feasible*, (2) is *feasible* within the estimated cost, and (3) will be profitable.

From Wikipedia:

A feasibility study aims to objectively and rationaly uncover the strengths and weaknesses of an existing business or proposed venture, opportunities and threats present in the natural environment, the resources required to carry through, and ultimately the prospects for success.^{[1][2]} In its simplest terms, the two criteria to judge feasibility are cost required and value to be attained.^[3]

From LinkedIn:

A Feasibility Study is a formal project document that shows results of the analysis, research and evaluation of a proposed project and determines if this project is technically feasible, cost-effective and profitable. The primary goal of feasibility study is to assess and prove the economic and technical viability of the business idea. A project feasibility study allows exploring and analysing business opportunities and making a strategic decision on the necessity to initiate the project. For each project passing through the Initiation Phase, a **feasibility study** should be developed in order for investors to ensure that their project is technically feasible, cost-effective and profitable. A thorough feasibility study can give you the right answer before you spend money, time and resources on an idea that is not viable. It must therefore be conducted with an objective, unbiased approach to provide information upon which decisions can be based.



What Makes a Buyout of Cal Am Feasible and in the Public Interest?

We have the most expensive water in the country. Our costs on the Peninsula are more than three times the average of publicly owned water in California.

Public Water Now would like to see a reduction of water costs. While we think savings of any amount over time makes a public buyout of Cal Am feasible, our research from CPUC financial filings tells us that Cal Am's annual profit and corporate taxes of approximately \$19 million should cover the purchase price, and also lower the cost to customers.

Publicly owned water systems are more affordable because there are no profits, no taxes, and overhead is reduced. These factors plus the ability to finance new water supply projects and debt at significantly reduced interest rates all contribute to the financial feasibility of a buyout. In addition, more cost effective solutions are possible without the profit motive.

The feasibility analysis should look at savings or cost increases over time compared to the cost of staying with Cal Am. Staying with Cal Am ownership is NOT feasible.

Cal Am has taken financial risks resulting in \$34 million of unnecessary costs from failed projects. And now they face legal challenges on their proposed desal project over water rights. We expect a more financially responsible approach from a public agency that avoids costly environmental damage.

A buyout of Cal Am is in the public interest for many reasons.

Local control of a community's water system and resources is fundamental. Local control and lower costs are the main reasons that 87% of the water in the U.S. is provided by publicly owned agencies.

With local control, decisions are made here, not in San Francisco or New Jersey. We would also be free of CPUC oversight. Rates and projects would be approved locally. The CPUC is supposed to "protect the public interest", but in practice they consistently protect Cal Am's interests and profits.

When profit is NOT the driving motivation, both the community and the ratepayer benefit. The lack of profit motive allows problem solving that is more cost effective, and makes regional solutions possible. It drives policy and projects that are truly in the public interest.

Public Water Now understands that we need a new water supply to replace water being illegally drawn by Cal Am. We expect MPWMD to pursue options that are less expensive than Cal Am's proposed profit-driven solutions, and to make sure that they are both legally sound and environmentally responsible.

Melodie Chrislock
Managing Director
Public Water Now



ISSUES FOR FEASIBILITY STUDY ON TRANSFER OF WATER SYSTEM OWNERSHIP

As preparation for the voter-mandated (56% to 44%) feasibility study to examine transfer of the Monterey Peninsula's Cal Am water facility to public ownership, Public Water Now has compiled the following inventory of issues that have generated the need and demand for the transfer.

FRAMEWORK for this inventory of issues: CEQA perspective on feasibility analysis, except that here existing conditions must be mitigated; the *intent of the action to be taken* (transfer of ownership) and to be analyzed, is to accomplish the mitigation itself – that is, to *eliminate, rectify, avoid or minimize the adverse existing conditions* or circumstances, i.e., to remove avoidable defects.

CEQA meaning of "FEASIBLE": "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors."

ACTION whose feasibility is to be examined: Transfer of ownership of the privately held California American (Cal Am) water system to public ownership.

GOAL OF PROJECT: PUBLIC OWNERSHIP OF MEANS OF ACQUIRING AND DISTRIBUTING WATER TO THE MONTEREY PENINSULA COMMUNITY

SPECIAL CIRCUMSTANCES: CDO & Carmel River restrictions; "NEW" water (see final item below).

SPECIFIC OBJECTIVES:

- **ALIGN MANAGEMENT INCENTIVES WITH PUBLIC (RATEPAYER) INTERESTS**
- **IMPROVE EQUITY AND FAIRNESS IN RATES AND POLICIES**
- **REDUCE LONG-TERM COSTS TO COMMUNITY OF PRIVATE OWNERSHIP**
- **RETAIN IN LOCAL ECONOMY REVENUES FROM WATER ACQUISITION AND DELIVERY SERVICE**
- **REPLACE PROFIT AND CORP TAX COSTS WITH LONG-TERM INTEREST PAYMENTS UNTIL BONDS MATURE; THEREAFTER, ELIMINATE THOSE COSTS (*PRINCIPAL FINANCIAL TEST OF FEASIBILITY*)**
- **MAINTAIN OR REDUCE BILLING RATES THROUGHOUT AS PRACTICABLE**
- **ELIMINATE CONFLICT OF INTEREST BETWEEN INVESTORS AND RATEPAYERS, AND ELIMINATE REGULATORY BUREAUCRACY (CPUC) REQUIRED TO MONITOR THAT INHERENT CONFLICT**
- **ELIMINATE OR MITIGATE DEFECTS IN MANAGEMENT AND FINANCING**
- **ELIMINATE INSTABILITIES CREATED BY POTENTIAL TRANSFERS OF PRIVATE OWNERSHIP**

EXHIBIT 15-D

- **PLACE VITAL RESOURCE AND DELIVERY UTILITY (WATER DELIVERY) UNDER CONTROL AND MANAGEMENT OF COMMUNITY BEING SERVED**
- **PLACE PUBLIC TRUST (WATER RESOURCES) UNDER LOCAL PUBLIC CONTROL AND MANAGEMENT**
- **MITIGATE ADVERSE IMPACTS OF PRIVATE OWNERSHIP AND CONTROL EXHIBITED BY EXISTING AND PAST PRIVATE OWNERS**

PRINCIPAL ISSUES UNDER ANALYSIS:

- **CAPACITY OF PUBLIC TO MANAGE WATER ACQUISITION AND DISTRIBUTION SYSTEM:**
- **FAIR ASSESSMENT OF EXISTING PRIVATE SYSTEM'S VALUE**
- **ADEQUACY OF PROSPECTIVE REVENUE TO SUPPORT NONPROFIT PUBLIC BUYOUT**

ADVERSE IMPACTS OF EXISTING CONDITIONS, AND OF EXISTING PATTERNS AND PRACTICES; (THE FIRST TWO CATEGORIES COVER GENERAL PUBLIC INTEREST, AND THE THIRD FOCUSES ON FINANCIAL MATTERS):

EXISTING MANAGEMENT DEFECTS: STRUCTURAL:

1. Misalignment of objectives and incentives, between private profit and public need
2. Profit maximization prioritized over services to ratepayers; profit motive distorts incentives for future investment in system
3. Inadequate prioritization of public benefits, including public health, safety and welfare for ratepayers/users of water system
4. Access to water rate decision-making process is unnecessarily remote and complex, making equity in rates difficult to monitor and affect by the public.
5. Remote location of complaint/question desk (Illinois – often could as well be India or Indonesia) is inefficient/ineffective and sometimes frustrating since the locus of all customer and service issues is local.
6. Current offsite services (call center, billing, lab services) can be repatriated and become local sources of jobs.
7. Information about the status and conduct of the system is not consistently delivered to all relevant local parties. Studies of the system, whether conducted for or by owners, consultants, jurisdictional agencies or otherwise are fundamentally local; initiation, progress reports and final reports are local matters.
8. Retention of “proprietary information” prevents public understanding, assessment of, and suitable action concerning, system status and operations.
9. What should be local public process, including hearings and deliberations, frequently is replaced by CPUC procedures that are unnecessarily complex and remote (e.g., San Francisco) customers and ratepayers
 - a. Concern critical issues such as rate-setting, decisions on facilities
 - b. May be inaccessible in practice, e.g. closed-door sessions in San Francisco
 - c. Ordinary local public participation is discouraged by formality of CPUC hearings and too-frequent need for legal advice, including that for navigating CPUC rules
10. Decision makers live far from the area served and the locus of relevant facilities, and cannot be adequately familiar with specifically local conditions or sensitive to pertinent local issues

EXHIBIT 15-D

11. Normal democratic mechanisms for local selection and change of decision-makers is not available for matters controlled by CPUC; CPUC is immune to local elections, local judgments of competence of appointees
12. . Cal Am itself is not directly accessible through democratic process, and is even less responsive to community issues than CPUC
13. CPUC has no stake in local impacts.
 - a. Has no local representation
 - b. Gets all its input from Cal Am, unless local agencies incur costs and are proactive
 - c. Local public agencies contribute unknown extra expenses not tallied in water costs; can water agency time/costs that engage CPUC/CalAm procedures be avoided/saved? Is there an estimate?
14. Being subject to CPUC traps ratepayers into byzantine (complex) sub-agencies, decision processes
 - a. Ratepayers advocates analysis (generally helpful to utility and necessary)
 - b. Administrative judge system
 - c. Commission decisions
15. CPUC process obscures and renders unpredictable the outcomes to be expected of submitted issues
16. PUC requires considerations in silos – prevents review of cumulative impacts on costs, environment, partnerships, narrowly defined problem solving.
 - a. Cannot comment outside narrowly defined issues decided ahead of time.
 - b. Based on applicant determined scope, not expandable for related interests
 - c. SCDam example –
 - i. Proceeding ALJ (manager) decided on limited cost and profit
 - ii. Appeal by applicant reversed ALJ, and awarded maximum return and profit
17. Inadequacy of CPUC/Cal Am management scheme caused need for and creation of MPWMD, expanding bureaucratic complexity, resolving some specific problems but not dealing with fundamental issues arising from private ownership of a public water utility
18. Private ownership generates continuing tax, regulatory, accounting and related costs that public ownership does not

EXISTING MANAGEMENT DEFECTS: PRACTICES:

1. Inadequate planning to assure continuous, reliable, long-term sustainable water supply
2. Inadequate capital investment and expenditure on infrastructure
3. Grossly excessive ratepayer-financed opposition to public expression of ownership; Cal-Am failed to consult ratepayers concerning political expenditures
4. Excessive deferred maintenance
 - a. means crumbling infrastructure
 - b. means more expensive needs in the future
 - c. means not extending the life of existing infrastructure
 - d. sometimes especially egregious, as with dam removal
5. Inadequate response to government orders, such as
 - a. Overutilization of Carmel River basin resources (23-year delay and counting)
 - b. Cease and Desist Order
6. Inadequate coordination/integration with other public/government services
 - a. Street maintenance
 - b. Fire protection
 - c. Land use planning and development

EXHIBIT 15-D

- d. Environmental concerns
7. History of environmental damage:
 - a. over pumped Carmel River, which caused riparian and river damage, threatened Steelhead, caused SWRCB CDO
 - b. over pumped Seaside Basin, caused adjudication, caused creation of oversight Water master agency at new public cost
8. Use of rate structure to favor particular groups/industries, thereby cultivating distorted support and endorsement for water company actions and positions.
9. Excessive promotional advertising
 - a. System is monopoly, so new sales are irrelevant
 - b. Increased sales are irrelevant since scarcity and external factors (e.g., drought) demand conservation
 - c. Significant Cal Am record of conveying false and misleading assertions in public meetings and printed material
 - d. Political advertising has been largely false and misleading; was unwarranted and unsuccessful;
 - e. Ratepayers pay for PR propaganda against their own interests
 - f. More annoying to ratepayers than useful when not strictly informational and correct
10. Promoting conservation, then quietly getting approval to collect for undelivered water. No belt tightening, no change in costs, only continued buildup of WRAM.
11. Lack of transparency:
 - a. books, maintenance records,
 - b. More opportunity to see cost/contract/planning docs
12. Invasion of neighboring water jurisdiction to extract water for its own use
13. Proceeding WITHOUT WATER RIGHTS – front loaded risks and costs, later risks and costs
14. Corporate interests buy influence with donations, charitable contributions and memberships using revenues from ratepayers
15. Rate increases have been erratic and not subject to local review: CPUC/CalAm history confirms
16. Cal Am shielded consultant Dennis Williams from conflict of interests, until exposed; a result unlikely scrutiny of a local public agency with oversight and transparency rules.
17. CalAm's desal returned-water plan requires an unusual/unnecessary subsidy, cost, and headache to ratepayers
18. Failed Regional Desal Project resulted in no penalties or personnel changes, no public embarrassment, nor changes/demotions/transfers/reprimands for key managers or decision makers
19. Exporting of jobs from service area for corporate scaling and convenience
20. Financial risks – invading neighbor MCWD
21. Failed projects charged to ratepayers:
 - a. New Carmel River Dam 1997-2004
 - b. Pilot desal at Moss Landing 2004-2007
 - c. REPOG Regional Desal 2007-2010

SPECIFIC EXISTING FINANCIAL, ECONOMIC DEFECTS:

1. Highest cost water in USA, per FWW national study
2. Stranded cost history - Three tries, 3 stranded costs, all on ratepayers, none on shareholders

EXHIBIT 15-D

- a. New Carmel River Dam 1997-2004, \$3.5 million
- b. Pilot desal at Moss Landing 2004-2007, \$12 million
- c. REPOG Regional Desal 2007-2010, \$20 million
3. Cost of environmental damage from past overdraft practices
 - a. NOAA penalty agmt, \$2+?? million per year, Carmel River mitigations by MPWMD
 - b. Water Master for SGWB, \$1 million per year
4. Arsenic dumping – fined \$300,000?
5. Cal Am costs that can be saved:
 - a. CPUC fees
 - b. attorney costs imposed by CPUC procedures
 - c. public relations
 - d. Intervenor reimbursements
 - e. Franchise fees?
 - f. donations and memberships
 - g. litigation of CPUC actions,
6. Millions are exported for overhead, corporate services, lab, call center, billing. (Fluff & services) that could and should be spent locally.

SPECIAL CIRCUMSTANCES:

Additional issues for this water system result from special local circumstances, in particular,

1. SWRCB order 95-10 and subsequent Cease and Desist order to *curtail withdrawals* of water from the Carmel River, and
2. The *methods proposed to comply with those orders*, including proposed and partially approved desalinization efforts.

The general framework and elements used above can be applied to these circumstances to generate an inventory of critically important further issues. Since many specific relevant considerations are substantially more technical than we are equipped to assess thoroughly, we leave to the MPWMD and its consultant(s) the details of developing a suitable further inventory of issues for these concerns.

For example, mechanism and standards for responding fully and in a timely way to regulatory mandates, and for developing reasonable and publicly available criteria for the acquisition and introduction of new water sources are needed but not present. The Byzantine character and remoteness of the CPUC render it unsuitable to meet these needs, as recent experience demonstrates.

A year after hurricane Maria devastated Puerto Rico, water and electricity service has been restored to nearly all areas. In order to address the costs, a move is afoot to make private Puerto Rico's educational and public utilities. To an extent, with regard to water, we are there our public resource in control of CalAm and come hell or no water it makes a ten percent profit. Doubtless, none or few of the shareholders observe a blighted neighborhood; many residents must choose to put food on the table above using water on landscaping.

Full page ads, numerous flyers (PG&E, CalAM) with one purpose -to assure the public what good friends they are. With funds assigned to maintain a gas pipeline diverted to shareholders, a totally neglected dam (e.g. nonfunctioning fish ladder) a liability made public.

A person paraded before the public media to express what an onerous deal the residents of Felton entered to make it's water public. No one from the public media at the time investigated the story. (As a former Brookside Dr. resident of Felton, I questioned residents on the street, grocery store, hardware store, house of worship, fire station in Steve Allen fashion. All shook their heads incredulous of her motive despite their unanimous content brought about by the accomplishment and terms of control of public water.)

What explains a particular group of commercial, influential customers of CalAm to obtain water at a lower rate than the general public's? With premeditation, CalAm divided public opinion in order to reduce or prevent agreement and engender fealty of the particular business group's support through monetary reward. Overdue is the favored party to realize the entire community will benefit from public water, lest the insidious effect upon neighborhoods of the nation's highest water cost, will dissuade visitors come to an area that assumes the characteristics from where they are trying to get away.

The proposed desalination plant lay at a site about a mile from the Salinas River, at the terminus of a vast aquifer with more water flowing through it than in the river to the Monterey Bay. Just a rudimentary knowledge of physics will reveal the fraudulent claim by CalAm that brackish water pumped will not differ much than the spotty operation of the shoreline test well. Eight proposed wells will pump significantly more, possibly several times fresher water (supply for the Marina Water District) than seven percent. Further, maintenance expense will be extreme.

A scientist in the study of the effects of climate change on glaciation describes the rate of melt of the Greenland glacier as "astonishing." A rising sea will arrive sooner and will be higher than only recently anticipated. To build anything on the Cemex site will likely upon an extreme weather event be destroyed. This site lies in the area of the most severe erosion on the entire California coastline. A new "Stillwell Hall."

For all life on earth the most pressing problem is for the human population to learn to arrive at the sorts of spiritual understanding necessary to cooperate and build mechanisms to stop environmental degradation, fossil fuel consumption. In the anguish our materialism will cause, slim chance our direction will change. The era of the Ohlone, Chumash will not return and as well the natural state of the Carmel River. Do not tie our water supply to the energy practices the route of our decline. A small population of steelhead (sorry Jonas) will be better served by increasing the storage on the Carmel River and likewise water quality on the Salinas River will be improved with a link between Nacimiento and San Antonio reservoirs. Please, if you have not, read Tom Stienstra's article on the Los Vaqueros reservoir (only local body of water at capacity in the last dry spell) in the SF Chronicle archives. Please, for the long term total benefit of this community, do not reward the deceit of CalAm, the fraud and folly of the proposed desal project. Don't make the expedient decision; look at a bigger picture for the sake of future generations.

Very truly yours,

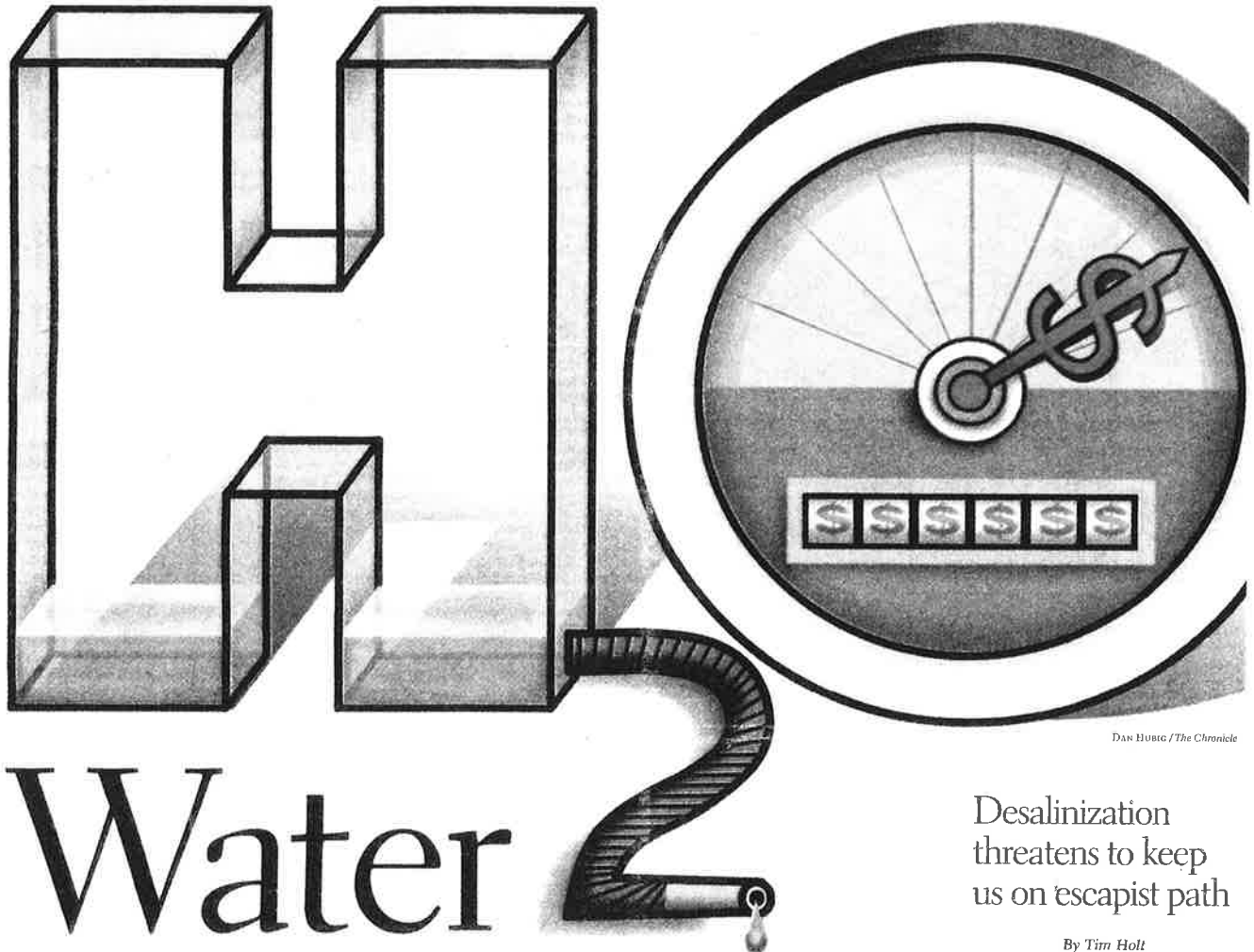
Mark Magruder Eckles
Pacific Grove, Ca

INSIGHT

IDEAS • OPINION • COMMENTARY

"Everybody needs beauty as well as bread, places to play in and pray in, where nature may heal and give strength to body and soul alike"

John Muir



DAN HUBIG / The Chronicle

Water Wars

California's 'liquid gold' shouldn't be entrusted to private conglomerates

By Joseph W. Cotchett

You are driving down the California coast to Monterey, looking out over the blue Pacific, and your view is interrupted by tugboats pulling what appear to be huge plastic bags the size of football fields going south. The bags are filled with water from Northern California rivers that has been sold to thirsty Southern California and Arizona residents.

Does this sound far-fetched? No, and if it weren't for the objections of two different North Coast communities, plans for exactly such a scheme — known as "water bagging" — would be in place and the tugs would be passing the Golden Gate on a regular basis, raising the question of who owns the river water.

Proposals for water bagging populate on-

ly one of many fronts in a war that threatens to explode in the next decade. The war is over who owns the water, and it will determine who owns what is arguably California's and the Earth's most important resource.

Fortune Magazine calls water the oil of the 21st century: "the precious commodity that determines the wealth of nations." The Central Intelligence Agency says that by 2015, access to drinking water could be a major source of international conflict around the world.

All signs point to a growing water crisis that will only worsen in the coming decades.

▶ WATER: Page E6

Desalinization threatens to keep us on escapist path

By Tim Holt

Having virtually exhausted its supplies of fresh water, California is preparing to dip its straw into the Pacific Ocean. At least two dozen proposed desalinization plants have surfaced in the last two years and are under review by local water boards and the California Coastal Commission.

One would tap into the waters of San Francisco Bay. Ten more would be sited in the environmentally sensitive Monterey Bay National Marine Sanctuary. Altogether, the proposed plants would provide water for approximately 170,000 households.

That's probably just the beginning, as technological advances make desalinization increasingly cost-effective and as the cost of importing fresh water to cities increases.

The proposed plants would be located primarily along the southern portion of the California coast, from those clustered at Monterey Bay — where inland cities are chronically strapped for fresh water supplies — to one at Huntington Beach, which, if built, would be the largest in the United States and help nurture Orange County's sprawl.

The timing here is unfortunate: The seductive promise of limitless supplies of water from an untapped resource comes just at a time when

▶ DESALT: Page E6



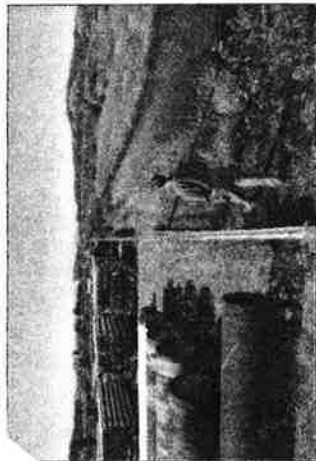
High price of water wars

► **WATER**
From Page E1

World population, now at 6 billion, is estimated to hit 9 billion by 2050. California will jump from today's 34 million to at least 50 million at the same time. The United Nations estimates that at our current usage rates, almost 3 billion people will face severe water shortages by 2025.

Around the world, water supplies are being siphoned up. Several major rivers, including the Colorado, which supplies much of California's water, the Yangtze, and the Nile barely reach their respective seas, if at all. Last year, then-U.S. Environmental Protection Agency chief Christie Whitman warned that water quality would be "the biggest environmental issue we face in the 21st century."

Of the world's water supply, only 1 percent is usable for domestic purposes (i.e., household and agriculture). The rest is either salt water or locked up in ice caps. Ironically, the global warming trend will make things worse. Whether you blame humans or not, there is no doubt the planet is getting warmer, according to the U.S. National Oceanic and Atmospheric Administration. As our atmosphere warms, ice and snow packs crucial for the steady release of water into rivers and lakes, will shrink. More rain will wash direct-



Calson, Arica / The Chronicle 2002
Proposed site for a desalination plant in Marin County near the Marin Rod and Gun Club is shown in this 2002 photo.

Easy water leads to overpopulation, overconsumption

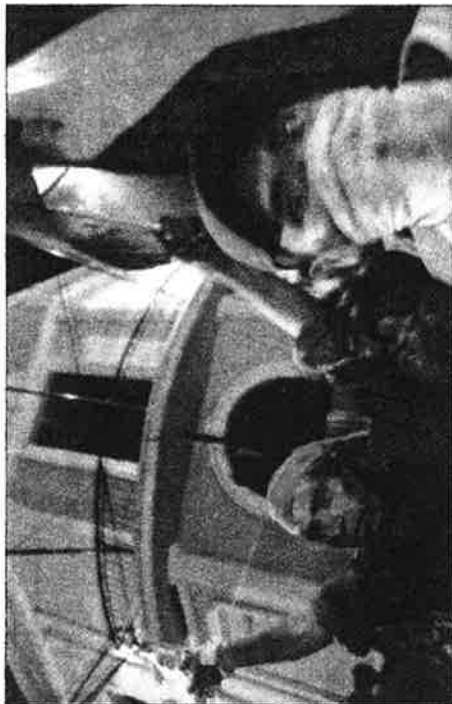
► **DESALT**
From Page E1

Southern California is coming to grips with its water limitations, actually leading the state in water conservation measures. Introducing desalination to the arid south is like offering booze to a recovering alcoholic. Even the diehard farmers of the Klamath region in the north

the cost of desalinating continues to decline.

At least six of the proposed facilities would be privately owned or under joint private-public ownership. And turning water from a resource to a profit-generating commodity will inevitably lead to growth and expansion pressures.

Warns the Coastal Commission's staff: "When monetary



Jeff Schonberger / Associated Press 2000
Professors celebrate after officials in Cochabamba, Bolivia, announced the withdrawal of a water rate increase by a subsidiary of S.F.'s Bechtel in April 2000.

come, public funds for infrastructure such as water maintenance will be hard to come by and measured directly against other public funding needs. Proponents of privatization say the best source of funds is private capital, enticed by the prospect of profits. Not surprisingly, the Republican-led Congress is encouraging privatization

high as the national average. These comparisons are starting to register with elected public officials, and despite the difficult economic climate for local governments, several municipalities are working to reclaim their water utilities from private hands. In the Bay Area, the small San Mateo County coastal towns of

has twice tried unsuccessfully to bag water from our rivers and tug it to Southern California. In recent years, Mendocino County citizen groups denied his play for water from the Albion and Gualala rivers. He then changed his company name and went one county north. He proposed bag-

ging Mad River water that was di-

ment, Environment and Security in Oakland.

But the promise of desalination threatens to put us back on an escapist path. And it may well be a step toward more sprawl, further loss of open space and farmland, and worsening air quality.

No comprehensive studies have been done on desalination's effect on the ocean environment, but we do know what its general impacts are.

Most seawater processing systems trap and kill every living organism they suck in. Fish are trapped, injured and killed as they're slammed against intake screens by high-velocity water. Further filtering and processing destroys the remaining smaller organisms.

This is not the case with submerged pipes employed in some systems, which suck water from "beach wells" and use the ocean floor as a natural filter. However, submerging pipes under the ocean floor limits water intake.

Only one-fourth of the proposed plants are even considering using this more benign system, according to an August report by the Coastal Commission's staff.

A major byproduct of the desalination process is brine, a combination of concentrated salt, other minerals and organic matter. It is not readily soluble in seawater, and, once discharged, would probably float offshore in a concentrated mass, contributing to the growth of harmful algae colonies like red tide.

Desalination brings with it the very real prospect of control of municipal supplies of water by private companies, especially as

desalination could remove what may be the single largest constraint to growth, a limited supply of potable water," its report notes. "In turn, this additional supply of water could result in new and unanticipated pressures on local populations and infrastructure."

The push for desalination is another example of resource escapism, a more technologically sophisticated alternative to those bizarre proposals to ship huge water bags down the coast to Southern California.

But both are cries for help, not real solutions to the challenge of resource limitation. There is no such thing as an infinite resource. We know this intellectually, but our lifestyles deny it.

Somewhat, we've deluded ourselves into believing that we can keep increasing the human population while promoting a consumer lifestyle that requires larger cars, larger homes.

We try to believe, desperately, in the miracle of the technofix, convincing ourselves that genetically modified foods, electric cars and hybrid engines — and now desalination — will allow us to keep overpopulating and over-consuming.

The only infinite resource seems to be our capacity for denial, and even that must one day confront the hard reality of the Earth's finite resources.

Tim Holt, who lives in Siskiyou County, is an environmental writer and the author of "Songs of the Simple Life," a collection of essays.

WORLDWIDE SUCH AS FRANCE'S VEVE Universal, and Germany's RWE swallow up smaller, locally owned utilities around the world.

But should basic economic principles such as the law of supply and demand apply to water? Is water a basic right to which everyone, rich or poor, deserves access?

In South Africa, the post-apartheid constitution explicitly says so, but the city had to issue at least four "boil water" advisories to warn citizens against contaminants. Finally, the city of Atlanta negotiated a return of the system to public hands following the disastrous experiment with privatization.

Fact: Our water systems are in dire need of repair and upgrading, as our population walls.

San Francisco's Hetch Hetchy reservoir within Yosemite National Park, will get a \$1.6 billion upgrade over the next decade or so, financed with public money approved by San Francisco voters, even though they knew their water bills would triple by 2015.

But there's a catch: The state is overseeing the enormous project because San Francisco has a bad habit of frittering away bond money. If a state audit shows similar practices on this project, one scenario brought up by Sacramento lawmakers has the state seizing control of Hetch Hetchy.

The arguments against privatization are documented, yet people continue to push privatization in the name of profit. Under private control, water companies are subject to constant shareholder pressure for profits, not public service. A study by U.S. News and World Report showed that most customers of private water companies pay higher rates — sometimes twice as

stakeholders and a certain parent corporation — but through a court-supervised settlement, the Montara Sanitary District was able to purchase the system, although at a very steep price. The dilapidated water delivery system serving about 1,650 connections went for a whopping \$11.1 million. Similar groundings about private ownership are being heard in other Northern California communities, including Monterey.

Internationally, the rallying cry for such citizen revolts is "Cochabamba," the name of the Bolivian town where deadly riots forced the government to cancel a 40-year contract with a subsidiary of San Francisco giant Bechtel Corp. Soon after signing the contract, the water company jacked up rates enormously, to levels that represented a significant percentage of people's monthly wages. The locals revolted.

Such contracts, in which governments cede control to private corporations, are often the result of pressure from international financial institutions. International loans to cash-strapped countries come with conditions: Privatize state assets or no loan. With the ratification of regional and global trade pacts, asset seizures like the canceled contract in Cochabamba can end up in court. Bechtel and its partners are now suing Bolivia for multimillions of dollars in lost future profits — the sum the company estimated it would have made had it kept the contract for a few years. It's somewhat as if Enron had sued the state of California.

In our own backyard, the fish coastal rivers of Northern California, Ric Davidge, an Alaskan businessman and former Reagan-era Department of Interior official,

complications, ceding local control of local water is dangerous. A Eureka Times-Standard editorial noted that the Trinity River has been, and will be, tapped by the rest of California for homes and cities for years to come. When the river's fishery declined, a plan to restore higher flows was put in place and a lawsuit resulted, spawning problems for all North Coast rivers.

To Californians, who own the water is nothing new. Just ask the people of the Owens Valley, or the once-plentiful Los Angeles orange growers. Or rent the classic film "Chinatown," which depicts the chicanery of Los Angeles civic leaders nearly a century ago to divert water to L.A. and create a megalopolis.

Water wars have always been waged behind the scenes, played out in boardrooms, legislatures and council meetings. Citizens typically become aware of the struggles when the water bills shoot through the roof, when the water service taken for granted is contaminated or interrupted, or when environmental damage becomes too dire to ignore.

We need to understand who owns the water, who is profiting from it, and whether that ownership is good for the people who rely on the water supply every day.

If you liked the energy crisis of a few years ago, you will love the coming water crisis in California.

Joseph W. Colchert is a San Mateo County trial lawyer. He has served as chairman of the California State Parks Commission. He is the author of "The Coast Time Forgot," a piece on the history of the San Mateo County coastline.

EXHIBIT 15-D

From: [Peter H Hiller](#)
To: [Comments](#)
Subject: re CalAm buyout
Date: Saturday, January 12, 2019 9:49:16 AM

Dear members of the Monterey Peninsula Water District Board,

Please find this as my comments about the potential CalAm buyout - an acknowledgement of receipt is appreciated.

I live in the unincorporated part of Carmel and am currently a CalAm customer. I voted for and am in support of a CalAm buyout to take place as quickly as possible.

I would like to see a publicly owned system in place that is designed to cover all costs without a profit motive.

I am in support of working with all water agencies in Monterey County to coordinate water use with the intent of serving the greater good for all.

I am in favor of exploring all water alternatives such as desalt, again without compromising any community.

Please find these comments in lieu of attending any of the community meetings - January 8 - January 15.

Thank you,

Peter Hiller
26541 Willow Place
Carmel, CA. 93923

EXHIBIT 15-D

From: [Dave Stoldt](#)
To: [Arlene Tavani](#)
Subject: FW: Measure J Feasibility Study Comments
Date: Wednesday, January 16, 2019 12:53:11 PM

More

From: Robert Ellis <burlybob4@gmail.com>
Sent: Wednesday, January 16, 2019 12:51 PM
To: Comments <Comments@mpwmd.net>; gqhwd1000@gmail.com; district5@co.monterey.ca.us; Dave Stoldt <dstoldt@mpwmd.net>
Subject: Measure J Feasibility Study Comments

My name is Robert Ellis and I am a Carmel Valley resident (District 5).

I am a professional engineer specializing in the planning, design and construction of water facilities. I have been responsible for over \$ 3 billion in projects for major water utilities throughout the western US.

I attended the listening session on January 8 at the District headquarters. I agree with your general approach to the feasibility study outlined at the meeting. I have the following additional comments.

Items that need to be addressed in the financial feasibility step include :

1. Establish and document the baseline for CALAM projected rates over the next 20 years whatever reasonable timeframe is established by MPWMD and the consultants.
2. Determine whether or not the Desalination Project will be included in the baseline. This project has significant technical, environmental, and financial risk and may never be constructed. It may be appropriate to do analyses with and without this project.
3. A comprehensive condition assessment of all existing facilities must be completed as part of the valuation study. Many facilities are in need of repair and this will impact their valuation as well as capital budgeting going forward.
4. Based on my experience, it is not likely that rates will drop initially. However, the financial feasibility test should be realization of significant savings over the next 20 years or so compared to continued ownership and operation by CALAM.

If financial feasibility is established and well documented, the next steps should include :

1. How will operations staff be transferred and integrated into the MPWMD ? What gaps will need to be filled with external recruiting ?

EXHIBIT 15-D

2. How will administrative, financial and management functions be integrated into MPWMD to remain cost-effective ?

3. How will MPWMD organize to respond to the new state and federal regulatory requirements unique to delivery of municipal and industrial water supply ?

I appreciate the opportunity to provide input to your feasibility study and look forward to reviewing the results.

EXHIBIT 15-D

From: [Elsberry, Russell \(Russ\) \(CIV\)](#)
To: [Comments](#)
Subject: Comments related to the feasibility of public water company versus Cal Am Water
Date: Saturday, January 12, 2019 5:54:53 PM

My comments presume that a public water company would not be subject to the California Public Utility Commission (PUC) regulations, which have allowed Cal Am to earn about 8.5% annually on its capital base. According to a letter in the Carmel Pine Cone, Cal Am was thus permitted in 2017 to have a 10.8% return to its stockholders. All of us Cal Am customers know that Cal Am did go to the California PUC at the end of the recent drought and was allowed to greatly increase their water rates to cover their costs and pay their stockholders. In this PUC regulation arrangement, there had been no reason for Cal Am to have a flexible or efficient infrastructure in those drought years when water usage was further restricted by the State of California. Cal Am could pay workers, management, and executives anything they wanted (and according to Cal Am's advertisements prior to the November vote, be a "good citizen by donating hundreds of thousands of dollars to schools and charities).

My first point is that the feasibility decision should be based on what a totally re-designed work and management staff would cost for a public water company that efficiently serves our area that alternates between long droughts and then one or two wet years. Such a new design should avoid the crisis in retirement system costs that California local governments are presently facing by having a minimal permanent staff and by using contractors for flexible needs. Another suggestion is to explore a pay system widely used in East Asia in which a base salary is paid with a twice a year bonuses given depending on the (water) service actually provided.

My second point is the cost of acquiring Cal Am, and the future Cal Am water rates, will critically depend on that PUC-allowed 8.5% return on the Cal Am capital base if or when the desalination plant is built. I strongly suspect that the Cal Am's own cost estimate of more than a billion dollars is based on their investments thus far and the anticipated cost of building that desalination plant. Thus it is important that the feasibility decision regarding a public water company must be made before Cal Am begins the desalination plant, because the public water company will not require an 8.5% return on its capital base since it will get bonds at a lower rate and does not have stockholders to pay.

My final point is that the feasibility of the slant-pipe desalination plant to produce the specified peak water amounts on a long-term basis without violating the water rights of adjacent land owners needs to be re-examined. My thought is that the digging of the slant pipe will create a "channel in the underground river" that will draw water farther and farther inland during each successive summer when the peak water is to be drawn. Essentially, it will be analogous to a broadening of the Salinas River during peak winter rains. Whereas the draw of ocean water into the slant pipe is constrained by the depth of the sand above the pipe, each summer it will become easier to pull water from the land side via the broadening channel in the underground river. Since the water rights of the land owners have precedence, less and less water will be produced by the desalination plant, and the water rates will go up and up. I

EXHIBIT 15-D

submit that the short tests of the slant-pipe design have not addressed the potential effect of sustained heavy draws by the desalination plant during the dry months of April to November. Such an eight month test should be required with measurements of the extent and magnitude of the draw from the landward side. In my view, the slant-pipe design is basically flawed, and the only alternative is a pipe on the ocean floor with screens to prevent the entrapment of the little ocean creatures that the California Coastal Commission is dedicated to protecting at the expense of humans. However, if a slant-pipe desalination plant is the only option, it will be far better for it to be built by a public water company than by Cal Am with its guaranteed annual 8.5% return on its capital base.

Bottom line: I am more concerned with stopping the PUC-guaranteed water rate increases than requiring any specific amount of cost savings, which I strongly believe will be possible with a public water company.

Russell L Elsberry, Emeritus Distinguished Professor of Meteorology, Naval Postgraduate School

EXHIBIT 15-D

From: [Tim Smith](#)
To: [Comments](#)
Subject: Feasibility
Date: Tuesday, January 15, 2019 2:09:06 PM

Board Members,

I write to share my particular view on feasibility as I've not been able to attend any of the listening sessions.

The passage of measure J indicated the communities willingness to explore the feasibility of replacing Cal-Am with local ownership of the water resource. For me this is the highest good against which any feasibility discussion should be measured. Without local control of our resource, we're destined to be controlled, one way or the other, by parties having no interest in preserving the character, environment and habitat of the Carmel River, principal source of our area's water.

Additionally, the coming environmental crisis precipitated by global warming will present us with many issues that must be locally addressed and decided. Leaving the resource in the hands of a for-profit, non local firm puts us at risk. We have already born the costs associated with poor management by Cal-Am, and these costs are likely to increase more rapidly given the uncertainty of the environmental impact of global warming. We will be better served, even if prices do not significantly decline, by an organization that is responsible to us, not outside shareholders nor market whims.

These factors should be considered in determining feasibility, and whether or not reasonable cost increases are justified. Assuming that we can save money, its all the more critical that we look at the entire picture, not just the dollars.

Thank you,

T.L. Smith
101 Calle de Quien Sabe
Carmel Valley, CA 93924