



# Supplement to 1/23/2020 MPWMD Board Packet

Attached are copies of letters received between December 10, 2019 and January 10, 2020. These letters are listed in the January 23, 2020 Board packet under Letters Received.

Author	Addressee	Date	Topic
Richard Svindland	David Stoldt	1/2/2020	Notice of Second Event of Default by MPWMD and Monterey One Water under Water Purchase Agreement for Pure Water Monterey Project
Bill Kampe	Water Demand Committee	12/17/2019	Thoughts on Water Demand for the Monterey Peninsula
David Beech	MPWMD Board	12/16/2019	Item 12 – December 16, 2019 Regular Board Meeting – Authorization of Consulting Work – Measure J
Richard Svindland	David Stoldt	12/12/2019	Status Update Regarding Event of Default by MPWMD and Monterey One Water under Water Purchase Agreement for Pure Water Monterey Project

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MPWMD

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January 2, 2020

**VIA UPS OVERNIGHT DELIVERY AND ELECTRONIC MAIL**

David Stoldt, General Manager  
Monterey Peninsula Water Management District  
5 Harris Court, Building G  
Monterey, CA 93940

Paul Sciuto, General Manager  
Monterey One Water (formerly Monterey Regional Water Pollution Control Agency)  
5 Harris Court, Building D  
Monterey, CA 93940

**RE: Notice of Second Event of Default by Monterey Peninsula Water Management District and Monterey One Water under Water Purchase Agreement for Pure Water Monterey Project**

Dear Messrs. Stoldt and Sciuto:

This letter concerns the Water Purchase Agreement for Pure Water Monterey Project, dated September 19, 2016 (the "WPA")<sup>1</sup>, by and among Monterey Peninsula Water Management District ("District"), Monterey Regional Water Pollution Control Agency, now known as Monterey One Water ("M1W"), and California-American Water Company ("Cal Am"). In accordance with Section 20(c) of the WPA, Cal Am hereby provides notice that a second Event of Default by the District and M1W has occurred.

As stated in Section 20(c) of the WPA, failure of the Performance Start Date to occur on or before January 1, 2020 constitutes an Event of Default. The Performance Start Date is the date set forth in a written notice provided by the District to Cal Am upon which the District's performance obligations with respect to the Water Availability Guarantee, the Water Delivery Guarantee, and the Water Treatment Guarantee shall commence, such date not to be more than six months following the Delivery Start Date.

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<sup>1</sup> Terms not otherwise defined in this letter have the meaning given in the WPA.

On December 12, 2019, Cal Am sent you a letter requesting a status update from the District and M1W (together, the "Public Agencies") with respect to the Public Agencies first Event of Default under the WPA for failure to achieve the Delivery Start Date by July 1, 2019. We requested your response be provided by December 26, 2019. As of the date of this letter, and to the best of Cal Am's knowledge, the Public Agencies have not provided a response to Cal Am's December 12 letter, have still not achieved the Delivery Start Date, and have failed to achieve the Performance Start Date.

The purpose of the WPA is to provide for the sale of advanced treated recycled water from M1W to the District and from the District to Cal Am derived from the Pure Water Monterey groundwater replenishment project owned and operated by M1W (the "Project"), and to serve Cal Am's customers within its service area. While it is disappointing that the Public Agencies were not able to meet their contractual obligations, the Project remains an essential component of the Monterey Peninsula Water Supply Project's water supply portfolio. The 3,500 acre-feet of AWT Water that is to be provided by the Project offers many benefits to Cal Am's customers, including increased diversification of water supply sources and more efficient use of our limited resources.

Under Section 20(d) of the WPA, upon the occurrence of an Event of Default by the District and M1W, Cal Am may terminate the WPA immediately upon written notice to the other parties. To be clear, the WPA affords Cal Am the right, but not the obligation, to terminate the WPA due to occurrence of an Event of Default by the District and M1W. Although a second Event of Default has occurred, Cal Am has elected not to exercise its right to terminate the WPA at this time. Instead, Cal Am will continue to monitor the Project's progress as the Public Agencies continue their efforts to achieve the Delivery Start Date and the Performance Start Date. It is important to note that, consistent with Section 29 of the WPA, Cal Am's decision not to terminate the WPA at this time shall in no way constitute a waiver by Cal Am of its ability to exercise its right to terminate the WPA as a result of the second Event of Default at any time, and Cal Am hereby expressly reserves its right to do so until such time as the Performance Start Date has occurred.

Cal Am requests that within 14 days following your receipt of this letter that the Public Agencies provide a written response detailing your plan and proposed timing to achieve the occurrence of the Delivery Start Date and the Performance Start Date. Cal Am looks forward to receiving your written response.

Sincerely,



Richard Svindland  
President  
California-American Water Company

cc (by electronic mail only):

David Laredo, General Counsel, Monterey Peninsula Water Management District  
Rob Wellington, General Counsel, Monterey One Water  
Sarah Leeper, General Counsel, California-American Water Company

## Thoughts on Water Demand for the Monterey Peninsula

Bill Kampe, December 17, 2019

1. The Peninsula is substantially short of water, and will remain so even after PWM expansion
2. Population growth:

	1970	2018	Growth
California	19,953,134	39,747,267	99.2%
Peninsula Cities*	81,215	81,624	0.5%

\*Seaside, Monterey, Pacific Grove, Carmel

3. In the same period
  - a. Capitola and Santa Cruz doubled in population
  - b. Half Moon Bay tripled
4. Questions
  - a. What are the causes of failure to grow on our peninsula?
  - b. What role does lack of water play?
  - c. Is this outcome an achievement or a failure?
5. What does failure of housing supply mean to our cost of living?
  - a. As yet unanalyzed, but supply and demand theory says our rents are inflated.
  - b. It's a consequence of lack of water. Our water will be cheap, but inadequate
  - c. Thus we pay more in total cost of living as a result.
6. I believe this outcome is a persistent failure in leadership. There is blame enough for all. Let's not set the next great milestone of failure in understating water demand.



**Arlene Tavani**

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**From:** Arlene Tavani  
**Sent:** Monday, December 16, 2019 10:25 AM  
**To:** 'David Beech'  
**Subject:** RE: Submission re item 10 of 12/16/19 Board Meeting - typo correction

Mr. Beech: I am not authorized to amend your correspondence. However, this email noting your amendment is the letter will be placed in the correspondence files. Also, this correspondence will be part of the record for agenda Item 12, which I believe pertains to your comments – “Consider Authorization of Additional Consulting and Legal Work in Advance of a Resolution of Necessity.” Thank you for the message.

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

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**From:** David Beech <dbeeche@comcast.net>  
**Sent:** Sunday, December 15, 2019 8:31 PM  
**To:** alvinedwards420@gmail.com; rileyforwaterdistrict@gmail.com; Molly Evans <water@mollyevans.org>; jcbarchfaia@att.net; gqhw1000@gmail.com; dpotter@ci.carmel.ca.us; district5@co.monterey.ca.us; Dave Stoldt <dstoldt@mpwmd.net>  
**Cc:** Arlene Tavani <Arlene@mpwmd.net>  
**Subject:** Re: Submission re item 10 of 12/16/19 Board Meeting - typo correction

Near the end of the para "To illustrate the dangers ...", please replace "the sketchy \$1.1 million" by "the sketchy \$1.1 billion". Can happen to anyone these days.

Arlene - grateful if you could make the correction before making any hard copy or storing the file in your archives.

Thanks, David

On 12/15/2019 3:52 PM, David Beech wrote:

Chair Evans, Directors, and General Manager,

Please accept the following submission relative to item 10 on your 12/16/19 agenda. (Health issues unfortunately prevent me from attending to speak during Public Comment).

When I received notice of the meeting agenda on Friday, December 13, I was deeply concerned by aspects of item 10, and immediately wrote a 200-word letter to the Monterey Herald (below) with subject "Cal Am's depreciated assets". This may or may not have been published before your meeting, but I will expand a little on it here.

The first concern was that there was no major effort proposed to replace the first Raftelis valuation, based on financial documents, with one that was factually grounded on the actual physical state of the major infrastructure assets. A valuation, like any mathematical deduction, is only as strong as its weakest link, and there is a stark contrast in the report between the masses of detailed and apparently precise numbers, and the few hugely influential but soft approximations like a 1.3 multiplier applied to

hundreds of millions of dollars. The treatment of depreciation appears to fall into "soft" territory, and yet in view of Cal Am's less than stellar record of maintenance (e.g. of two reservoirs), this may be a huge factor in avoiding overpayment for a deteriorated system in need of massive repairs and replacements. The report appears to show a depreciation of the pipe system, of about 40 % (Table 13, p. 4-8), although the average age of its 614 miles of various pipes is said to be 48.5 years. Common sense suggests that an engineering check is needed to see whether the actual depreciation might be dramatically worse than this.

My second concern is that the phase 1 estimates were designed to show whether a public buyout was "feasible", and the conclusion that even with very high valuations of Cal Am's assets, or of what assets might be included, ratepayers would still see savings, was strengthened by these pessimistic assumptions of cost. But in phase 2, whose goal is to calculate a buyer's offer price, as the first step of what might lead to a jury trial involving competitive buyer's and seller's valuations, the buyer must begin with their lowest supportable figures, and not with optimistic and generous assumptions. To illustrate the dangers of the present situation, yesterday's Monterey Herald article about this agenda item quoted the MPWMD estimate as being \$513 million, without mentioning the worst case assumptions behind it, and a Cal Am VP recently raised their estimate from the sketchy \$1.1 million of an earlier paid report to "between \$1 billion and 1.6 billion" without explanation. A dose of engineering substance is overdue as we enter phase 2 and need to debate the takeover with supportable figures.

In fact, I am hopeful that when the MPWMD engineering consultants cooperate with Raftelis and take into account Cal Am's severe deferred maintenance and other liabilities, Cal Am's net value may be found to be less than any estimate so far floated.

Herald letter:

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MPWMD has just unveiled its proposed second phase of consultant work on the public buyout of Cal Am. A major error is the absence of any engineering evaluation of the severely depreciated physical assets of Cal Am. (The average age of 614 miles of distribution pipes is 48.5 years!)

The financial consultants Raftelis, in their phase 1 report, wrote a disclaimer that they were not providing any engineering services. Instead they relied for their valuations on the smoke and mirrors of Cal Am's rate case submissions to CPUC. Even though that produced valuations favorable to Cal Am, it was effective in demonstrating feasibility while making it hard for Cal Am to dispute its own figures.

But the situation in establishing an initial bid for a purchase is quite different. To avoid massive buyer's remorse, it is wise to have an expert establish the actual condition, or else assume the worst until proven otherwise (as when buying an aging used car).

So please, MPWMD, direct your engineering consultants to determine a prudent valuation consistent with the actual depreciated state of Cal Am's assets. And do not carry forward the generous CalAm-based estimates of phase 1 for this different purpose.

— *David Beech, Monterey*

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If the phase 1 estimates are at best like a Kelley Blue Book value for that used car, your trusted mechanic is needed to tell you if it needs a new transmission, and how much it would cost. That is something a jury would understand.



Respectfully submitted,

David Beech





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DEC 13 2019

MPWMD

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December 12, 2019

**VIA UPS OVERNIGHT DELIVERY AND ELECTRONIC MAIL**

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Paul Sciuto, General Manager  
Monterey One Water (formerly Monterey Regional Water Pollution Control Agency)  
5 Harris Court, Building D  
Monterey, CA 93940

**RE: Status Update Regarding Event of Default by Monterey Peninsula Water Management District and Monterey One Water under Water Purchase Agreement for Pure Water Monterey Project**

Dear Messrs. Stoldt and Sciuto:

This letter concerns the status of the Pure Water Monterey groundwater replenishment project (the "Project") owned and operated by Monterey One Water ("M1W"). As you know, on July 2, 2019 California-American Water Company ("Cal Am") provided Monterey Peninsula Water Management District ("District") and M1W with notice that an Event of Default by the District and M1W (together, the "Public Agencies") had occurred relating to the Water Purchase Agreement for Pure Water Monterey Project, dated September 19, 2016 (the "WPA")<sup>1</sup>.

On July 16, 2019, the Public Agencies provided a response to Cal Am's notice in which you stated you "have a much better perspective now on the Project's schedule as the final stages of the Project are at hand." In addition, you indicated "we presently anticipate that the Delivery Start Date will occur by mid-October" and that "[w]e will provide you with periodic updates on this proposed date as the Project proceeds toward final completion." As of the date of this letter, and to the best of Cal Am's knowledge, the Public Agencies

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<sup>1</sup> Terms not otherwise defined in this letter have the meaning given in the WPA.

have not commenced delivery of AWT Water to the metered points of delivery and, therefore, the Delivery Start Date has not yet occurred.

In its letter of July 2, Cal Am requested that the Public Agencies provide a written response detailing your plan and proposed timing to achieve the occurrence of the Delivery Start Date. Contrary to your statements in your July 16 response that the Project was in final stages, the Delivery Start Date has not yet occurred. In July, you merely provided general statements (cited above) that you "anticipate" that the Delivery Start Date would occur by "mid-October." At this time, Cal Am requests that you provide a more fully-developed, detailed response as to the timing for the Public Agencies to achieve the Delivery Start Date. In your response, please provide detailed information as to the current status of the Project, including currently anticipated total capital cost, operation and maintenance cost, and purchase water cost per acre-foot compared and shown against the original cost estimate used to develop the WPA. Specifically, please provide an updated version of the Project costs document (revised March 22, 2016) filed with the California Public Utilities Commission, dated April 7, 2016, to reflect currently anticipated costs. In addition, please identify and describe any other construction or operational issues or concerns you have that may further delay the completion, implementation and operation of the Project.

Cal Am requests that within 14 days following your receipt of this letter that the Public Agencies provide a written response detailing the information requested above. Cal Am looks forward to receiving your written response.

Sincerely,



Richard Svindland  
President  
California-American Water Company

cc (by electronic mail only):

David Laredo, General Counsel, Monterey Peninsula Water Management District  
Rob Wellington, General Counsel, Monterey One Water  
Sarah Leeper, General Counsel, California-American Water Company