



**DRA**  
Division of Ratepayer Advocates  
California Public Utilities Commission  
State of California

505 Van Ness Avenue  
San Francisco, CA 94102

<http://dra.ca.gov>

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**DATA REQUEST CWP #59  
CALIFORNIA AMERICAN WATER COASTAL WATER PROJECT  
APPLICATION (A.) 04-09-019**

Date: December 12, 2011

Responses Due: December 21, 2011

Please Note: If you will be unable to meet the above deadline, or need to discuss the content of this request, please call the originator or the Project Manager at the number(s) shown below before the due date. Please see additional instructions below.

To: Richard C. Svindland  
Director of Engineering  
4701 Beloit Drive  
Sacramento, CA 95838  
(916) 568-4296

Sarah Leeper  
Vice President, Legal and Regulatory  
Email: [Sarah.Leeper@amwater.com](mailto:Sarah.Leeper@amwater.com)

From: Max Gomberg  
Project Coordinator  
Division of Ratepayer Advocates  
505 Van Ness Avenue, Fourth Floor  
San Francisco, CA 94102  
(415) 415 703-2002  
[mzx@cpuc.ca.gov](mailto:mzx@cpuc.ca.gov)

Data Request No: CWP – 60 MZX  
Subject: Status of Regional Desalination Project

On December 9, 2011, Cal Am provided its quarterly status report to DRA and the CPUC's Division of Water and Audits.

Please Provide:

- 1) Please confirm DRA's understanding from the December 9, 2011 meeting that Cal Am will not seek CPUC approval for any changes to the Water Purchase Agreement resulting from the mediation between Cal Am, Marina Coast Water District, and the Monterey County Water Resources Agency that are not "substantive amendments" as defined by the Water Purchase Agreement.
- 2) Has Cal Am conducted any analysis to determine the financial impact to its customers of the project implementation delays related to the Steve Collins matter and the ongoing mediation? If yes, please provide such analysis.
- 3) If no, is it Cal Am's expectation that its ratepayers will pay for costs associated with the delay?
- 4) At a forum held in Monterey on October 26, 2011, Cal Am discussed alternatives to the Regional Desalination Project. Cal Am described 11 alternatives developed by RBF consulting. Which of those 11 alternatives is Cal Am's preferred alternative and why?
- 5) Does Cal Am support the Regional Desalination Project without "substantive amendments" over its preferred alternative? Please provide a full justification with your answer.
- 6) Have representatives from Cal Am briefed local agencies and elected officials on proposals to modify the Water Purchase Agreement developed during the mediation? If yes, please provide the names of the individuals briefed, the dates on which they were briefed, and the content of the briefing.
- 7) Is Cal Am aware of whether representatives from the Marina Coast Water District or the Monterey County Water Resources Agency have briefed local agencies and elected officials on proposals to modify the Water Purchase Agreement developed during the mediation? If yes, please provide the names of the individuals briefed, the dates on which they were briefed, and the content of the briefing.
- 8) Have any employees of Cal Am or American Water been interviewed as part of the investigations by the Monterey County District Attorney's Office or the Fair Political Practices Commission? If yes, please provide the names and dates those individuals were interviewed.
- 9) How has Cal Am tracked costs it has incurred to participate in the investigations by the Monterey County District Attorney's Office or the Fair Political Practices Commission?
- 10) Does Cal Am share Marina Coast Water District's opinion as stated in its Response to DRA's Response to Cal Am's Petition to Modify CPUC Decision 10-12-016 that the Regional

Desalination Project Agreements are not void or voidable? Provide an analysis supporting your answer.

- 11) Does Cal Am have a preferred project should the mediation prove unsuccessful and the Regional Desalination Project is abandoned?
- 12) Is the mediation open-ended or is there an end-date?
- 13) Please provide an updated project timeline based on a mediation completion date of 12/31/2011.

**Provide three copies of your response, one to the Project Coordinator, one to Monica McCrary and one to Allison Brown ([mlm@cpuc.ca.gov](mailto:mlm@cpuc.ca.gov), [aly@cpuc.ca.gov](mailto:aly@cpuc.ca.gov)), no later than the due date identified above.** If you will be unable to meet the above deadline, or need to discuss the content of this request, please call the Project Coordinator at the number(s) shown above. If you are unable to provide the information by the due date, please provide a written explanation to the Project Coordinator seven calendar days before the due date as to why the response date cannot be met and your best estimate of when the information can be provided. Please identify the person who provides the response and his (her) phone number. Provide electronic responses if possible and a set of hard copy responses with your submittal to the DRA Project Coordinator and the data request originator. If a document is available in Word format, do not send it as a PDF file. All data responses need to have each page numbered, referenced, and indexed so worksheets can be followed. **If any number is calculated, include a copy of all electronic files so the formula and their sources can be reviewed.**

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## CAW Response to DRA Data Request CWP #59

Data Request received – 12/12/11  
Response Due – 12/21/11

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### CAW General Comment and Objections:

As the Division of Ratepayer Advocates (“DRA”) is well aware, California American Water (“CAW”), Monterey County Water Resources Agency (“MCWRA”), and Marina Coast Water District (“MCWD”) are currently participating in a confidential CPUC-sponsored mediation relating to the Regional Desalination Project (“RDP”). CAW, MCWRA, and MCWD (collectively, the “Parties”) have decided the most productive and expeditious manner in which to move forward is to go directly to mediation, which we expect to be the quickest route to a potential solution. The mediation process was approved by the CPUC in Decision (“D.”) 10-12-016 and like most mediations, the process is being conducted confidentially. Accordingly, CAW generally objects to CWP #59 to the extent DRA seeks confidential information that is subject to the mediation. Pursuant to the CPUC Alternative Dispute Resolution Program and Resolution-ALJ 185, any mediation discussions and information arising from the mediation are privileged and confidential and cannot be disclosed. CAW would like to remind DRA that the Parties sought DRA’s participation in the mediation process to discuss and consider potential solutions being considered by the Parties and DRA declined to participate in the mediation process.

- 1) Please confirm DRA’s understanding from the December 9, 2011 meeting that Cal Am will not seek CPUC approval for any changes to the Water Purchase Agreement resulting from the mediation between Cal Am, Marina Coast Water District, and the Monterey County Water Resources Agency that are not “substantive amendments” as defined by the Water Purchase Agreement.**

CAW Response: CAW is not currently in the position to advise DRA as to what it will or will not do upon the conclusion of the mediation process. CAW did commit, as part of its October 14, 2011 Petition for Clarification and Modification of D.10-12-016 (the “Petition”), that upon conclusion of the mediation CAW will file an update with the CPUC regarding the status of the RDP. The Petition further states that if the RDP were modified or replaced with an alternate project, CAW would subsequently file for approval from the CPUC. As stated by CAW during the December 9, 2011 meeting with DRA, CAW’s position remains as stated in the Petition. CAW will make a determination upon conclusion of mediation whether it will seek any further approval from the CPUC. CAW intends to comply with its legal obligations, including the requirements relating to CPUC review and approval set forth in D.10-12-016.

- 2) Has Cal Am conducted any analysis to determine the financial impact to its**

**customers of the project implementation delays related to the Steve Collins matter and the ongoing mediation? If yes, please provide such analysis.**

CAW Response: DRA's request would require the disclosure of confidential information that is part of the mediation and, therefore, CAW will not respond to such request.

**3) If no, is it Cal Am's expectation that its ratepayers will pay for costs associated with the delay?**

CAW Response: DRA's request would require the disclosure of confidential information that is part of the mediation and, therefore, CAW will not respond to such request.

**4) At a forum held in Monterey on October 26, 2011, Cal Am discussed alternatives to the Regional Desalination Project. Cal Am described 11 alternatives developed by RBF consulting. Which of those 11 alternatives is Cal Am's preferred alternative and why?**

CAW Response: As reported at the October 26, 2011 forum held in Monterey, CAW's consultant investigated 11 alternatives in its technical memorandum and recommended a hybrid of Alternative 1 and Alternative 11. A copy of the technical memorandum from RBF Consulting was submitted as part of CAW's Reply to the Responses to the Petition, filed on November 28, 2011. CAW has not yet made a determination as to its preferred alternative should the RDP not proceed as originally authorized by the CPUC.

**5) Does Cal Am support the Regional Desalination Project without "substantive amendments" over its preferred alternative? Please provide a full justification with your answer.**

CAW Response: The question is not applicable – see response to Question #4 above.

**6) Have representatives from Cal Am briefed local agencies and elected officials on proposals to modify the Water Purchase Agreement developed during the mediation? If yes, please provide the names of the individuals briefed, the dates on which they were briefed, and the content of the briefing.**

CAW Response: No.

**7) Is Cal Am aware of whether representatives from the Marina Coast Water District or the Monterey County Water Resources Agency have briefed local agencies and elected officials on proposals to modify the Water Purchase Agreement developed during the mediation? If yes, please provide the names of the individuals briefed, the dates on which they were briefed, and the content of the briefing.**

CAW Response: No.

- 8) Have any employees of Cal Am or American Water been interviewed as part of the investigations by the Monterey County District Attorney's Office or the Fair Political Practices Commission? If yes, please provide the names and dates those individuals were interviewed.**

CAW Response: To CAW's knowledge, no employee of CAW or American Water has been interviewed as part of the investigations by the Monterey County District Attorney's Office or the Fair Political Practices Commission.

- 9) How has Cal Am tracked costs it has incurred to participate in the investigations by the Monterey County District Attorney's Office or the Fair Political Practices Commission?**

CAW Response: The question is not applicable – see response to Question #8 above.

- 10) Does Cal Am share Marina Coast Water District's opinion as stated in its Response to DRA's Response to Cal Am's Petition to Modify CPUC Decision 10-12-016 that the Regional Desalination Project Agreements are not void or voidable? Provide an analysis supporting your answer.**

CAW Response: CAW objects to this question on the ground that it calls for a legal conclusion, the disclosure of which would reveal communications subject to the attorney-client privilege and the work-product doctrine.

- 11) Does Cal Am have a preferred project should the mediation prove unsuccessful and the Regional Desalination Project is abandoned?**

CAW Response: See response to Question #4 above.

- 12) Is the mediation open-ended or is there an end-date?**

CAW Response: DRA's request would require the disclosure of confidential information that is part of the mediation and, therefore, CAW will not respond to such request.

- 13) Please provide an updated project timeline based on a mediation completion date of 12/31/2011.**

CAW Response: The question requires speculation as to the outcome of the mediation. In addition, DRA's request would require the disclosure of confidential information that is part of the mediation and, therefore, CAW will not respond to such request.