

*Submitted by staff
at 9/4/12 meeting
Item 2*

DRAFT

Potential Responsibilities for Governance Committee

Prepared by Mayor Burnett and MPWMD

(Good ideas are MPWMD, other ideas are Jason's)

September 7, 2012

Notes: This is a DRAFT "straw proposal" framework for providing public participation in the decision making of Cal-Am's desal project in the event that the PUC decides Cal-Am's proposal should move forward. This "straw proposal" should not be seen as an endorsement of Cal-Am's project over alternative projects. The Water Authority and the Water Management District have not yet determined which of the three potential projects they will support. We may have similar discussions about public governance of those projects at an appropriate time.

This document covers governance issues and options. Other documents will discuss options on public financing and public ownership.

Timeline: The PUC Administrative Law Judge Weatherford has set a deadline of October 1st for any submissions from public entities such as the Water Authority and the Water Management District regarding public participation. If no submission is made by October 1st, it is likely we will default to little or no public governance (other than what Cal-Am has already proposed). In other words, inaction by the Water Authority and the Water Management District in the next 3 weeks on this issue will in essence be a decision to forgo public participation.

If the Water Authority desires, Russ McGlothlin would be available to turn any decision into a formal, written proposal. Mr. McGlothlin would need to have direction from the Board by early in the week of September 17th in order to have time to draft and submit a proposal by October 1st.

Composition of Governance Committee

3 Members

Water Authority:	1 Mayor representing the Water Authority
County:	1 Board Member of the Water Resource Agency (?)
MPWMD:	1 Board Member representing the District

Each entity will also provide senior level staff member to work in advance of Governance Committee meetings.

Meet quarterly, or as needed, especially in advance of key Cal-Am decisions.

Function of Governance Committee

The function of the Governance Committee shall be to: (i) in consultation with and assistance from the Project Manager, provide a means to coordinate the design, permitting, construction, operations, maintenance, repairs, and replacements of the components of the Project; (ii) serve as the entity which the Project Manager regularly updates; and (iii) consult with and provide

advice to Cal-Am in connection with the Project. The Members of the Governance Committee shall diligently consider all matters and cause the Governance Committee to timely and promptly make its final recommendations.

In recognition that certain decisions must be made in a timely fashion (without delaying the project) and the concern that the public-nature of the Government Committee could delay decisions, the Government Committee will be given a fixed period of time from the date when Cal-Am announced a decision is needed and when the Government Committee must provide its decision. If this fixed period of time lapses without a decision, Cal-Am shall have the authority to make the decision unilaterally. The fixed period of time will vary depending on the particular decision.

In addition to the decisions below, Project Manager will attend meetings of and consult with the Governance Committee on a regular basis on matters related to cure, cost control, design and/or functional processes, schedule and/or coordination problems in the overall design, construction and permitting of the Project.

Framework: Below a range of decisions are listed. Each decision should be put in one of the following three "buckets:"

- A. The Governance Committee makes the decision after receiving advice from Cal-Am.
- B. The Governance Committee shared the decision making role with Cal-Am (equal votes of three public entities and Cal-Am). Cal-Am may exercise veto rights to override.
- C. Cal-Am makes the decision after receiving advice from the Governance Committee. If Cal-Am does not follow the advice of the Governance Committee, it may need to answer to the PUC at the next rate case.

In addition, the Governance Committee shall be given a specified timeframe in which is need to make any decisions or provide any advice.

Decision Point	Bucket (A/B/C)	Timeframe for Decision
Select an independent Certified Value Engineer (A) to perform Value Engineering (B).	A / B	
Agree to the qualifications and selection criteria for design and engineering contractors.	B	
Review and evaluation of qualified proposals for all contractors.	B	
Select of the design and engineering professionals, consultants and all contractors, especially review and award of the design-build contract.	B	
Monitor the design, engineering, construction and permitting of all elements of the Project. Quarterly.	C	
Review contract terms to be required in all major contracts for Project. (*)	C	
Review material financial terms of the construction and service agreements.		
Review material changes at the various design phases (basis of design (B), 30%, 60%, value engineering, 90%, final (rest are C) prior to construction.	B / C	
Approve major change orders over \$1m.	B	
Prepare and update an overall construction budget for the Project. At least quarterly	C	
Inspection rights and quarterly reporting of invoices to PUC. GC could petition the PUC for an audit.	A	
Review and consideration a detailed plan for acceptance testing, and follow-up reporting.	C	
"Go/No Go Decision" - Governance Committee shall meet to evaluate status of Groundwater Replenishment Project and determine whether criteria have been met. (Subject to State Water Board, CEQA, etc.)	A	
Establish general plan and budget before issuance of CPCN. Create and implement community outreach programs (within budget and consistent with plan).	B	
Determine Project aesthetics (A) within budget. (B) if outside of budget.	A / B	
Annually review O and M budget and rate impacts (operating phase)	C	
Any financing decisions that will be made after the PUC issues its CPCN. (Cal-Am wants to take off list.)		
Rate at which the Seaside basin is replenished. (worked out in advance of issuance of CPCN?)		
Water Authority may want to encourage Water Master to rule.		
Energy for the facility, esp. procurement of waste-to-energy project (A if cost neutral. B if not) Get details in advance so PUC ruling can include. Need grid connection anyway.	A / B	
Permitting	C	
Outfall Agreement	B	
Pipeline construction award(s)	B	