STUDY ON PRIVATE V. PUBLIC OWNERSHIP OF WATER SYSTEMS

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1. INTRODUCTION:

A water organization/agency can be defined as an organization that operates for the purpose of controlling, treating, acquiring, using or supplying water. The organization can do one or more of these tasks and we have agencies and companies in Monterey County that do some or all of these tasks. There are three principal forms of ownership that such an organization may take:

- A private, for profit company,
- A public agency, or
- A private, not for profit entity, known as a mutual company.

It is assumed that all three would be regulated by the same rules imposed by the state and the federal government for health and safety concerns.

Some general notes on water systems in California.

- There are over 570 California water agencies/ companies listed by the Association of Metropolitan Water Agencies. Less than 30 are private companies, of these about 10 are mutual companies.
- Private companies include Cadiz; Cal Am; California Water Service Company.
- Public agencies include special districts (such as sewer districts), cities (Fresno, San Francisco), counties (Los Angeles), regional (East Bay Municipal Utility District) and irrigation districts (West Side Water District).
- Private companies may cover several/many cities and may own the rights to the water source as well as the distribution system. Others may only be responsible for water delivery.
- Public agencies may or may not own their water supply. For example, the City of Santa Barbara owns its reservoir at Lake Cachuma but also enhances its water supply with water from the California Water Project. Santa Barbara built, with bond funds, the infrastructure to pipe the water , which it buys, from the California Water Project to the coast. Some agencies buy water from other agencies. San Francisco Peninsula cities buy water from the supply at Hetch Hetchy Reservoir, owned by City of San Francisco.

State and Federal Agencies involved with water: CPUC, EPA (Clean Water Act), Interior Department (Colorado River); Federal Bureau of Reclamation (Federal Dams), CalEPA; California State Water Resources Agency (California Water Project) and many more which deal with the environmental impacts of the use of the resource.

The are five public water agencies listed by the Association of California Water Agencies in Monterey County: Marina Coast Water District ,Monterey County Water Resources Agency, Monterey Peninsula Water Management District, Pebble Beach Community Services District, Monterey County Public Works Community Service Area #75 (Salinas). There are public agencies which are not listed as members of the Association but are public, for example: Castroville Water District, Pajaro-Sunny Mesa Community Services District, San Lucas County Water District, and San Ardo Water district.

There are three large private water companies listed by the California Water Association in Monterey County (these are investor -owned utilities):California Water Service Company (Class A, Salinas), California American Water (Class A, Monterey Peninsula), Alco Water Service (Class B Salinas).

Appendix A: Contains a description of the eminent domain process.

Appendix B: Concerns about possible takeover by international corporations
Appendix C: Summarizes the responses to a set of questions sent by the LWVMP committee to water companies/agencies.

2. AGENCIES AFFECTING WATER ON THE MONTEREY PENINSULA

For reference see Table 1 – matrix of water agencies/companies

Groundwater is the primary source of water in Monterey County. Stream percolation is the source of most of the groundwater recharge. Major streams and rivers include the Salinas, Carmel and Big Sur Rivers and portions of the Pajaro River. The following is a list of agencies and companies that have responsibilities (now or in the future) for some aspect of water on the Peninsula.

2.1 Monterey County Water Resources Agency (MCWRA): The MCWRA is a countywide agency formed in the 1990s to manage the water resources of the Salinas Valley and provide flood control protection countywide. It manages, protects, and enhances the quantity and quality of water and provides specified flood control (no water distribution), dam operation, flood protection, and water quality.

State legislation established the Agency and designates the Board of Supervisors as the ultimate decision-making body. The Board of Supervisors appoints a 9 member Board of Directors which has the authority to run the agency. Sec. 48 states, "...The agency shall be governed by a board of directors..."Sec. 52 states, "(a) The directors shall advise the board of supervisors on all matters relating to the agency within the scope of the supervisors' duties. No action shall be taken by the board of supervisors relating to the agency without seeking or obtaining a recommendation from the directors..." Sec. 53 states, "...The directors shall establish long-term and short-term policy objectives for the agency, subject to review by the board of supervisors, and shall oversee the work of the agency to ensure that the objectives established are diligently pursued. The policy objectives shall be consistent with the Monterey County General Plan and its implementing ordinances." The Board of Directors is responsible for preparing the budget that is submitted to the Board of Supervisors and initiating and developing proposals for agency work.

Voters in the Salinas Valley approved the Salinas Valley Water Project in 2003. The project, still in the planning stage, is intended to halt seawater intrusion, balance the Salinas Valley groundwater basin, and provide water supplies to meet demand through 2030. It includes modification to the Nacimiento Dam spillway to increase the flexibility of reservoir operations and allow the reservoir to maintain higher water levels in the winter and spring months. The additional storage would be released along with flows stored at San Antonio Dam for Basin recharge and diversion. The Salinas River would be used to convey water to the proposed diversion facility at Salalchi Ranch Road in the Castroville area. This facility will include an inflatable dam to be operated from April to November. Water would be diverted from the dam to the Castroville Seawater Intrusion Project (CSIP) system for agricultural irrigation. It would supplement the use of CSIP project water and would replace existing groundwater pumping in the CSIP service area. Several permits from State and federal agencies are required before the project can move forward. Additionally, litigation challenging the project is pending.

2.2 The Monterey Peninsula Water Management District (MPWMD): The MPWMD is an

independent, local, special district. It was established by the State legislature in 1977 and approved by the voters in 1978. MPWMD is governed by a seven-member board of directors with five elected by voters by district, one is a member of the Monterey County Board of Supervisors, and one is appointed by the mayors of cities within the County.

The District is mandated by State statute to provide integrated management of all water resources for the Monterey Peninsula including an obligation to ensure that water demand does not harm public trust resources and that all water use is reasonable and beneficial. The District has a duty under the California Constitution and by statute to balance public trust requirements under a doctrine of reasonableness. "Public trust" refers to a legal doctrine originating from Roman Law and means "public rights". The doctrine holds that the State is the guardian or trustee of certain natural resources, and although individuals may obtain a private right to use these resources, those private rights cannot be exercised in violation of the public's interest.

The mission of the District is to manage, augment and protect water resources for the benefit of the community and environment. The District works to ensure that there are adequate supplies of good quality water through developing new water supplies in cooperation with Cal-Am, promoting water conservation, managing ground and surface water and promoting reuse and recycling of storm water and wastewater. The District helps preserve and protect the Carmel River vegetation, fish and wildlife, and safeguard the Carmel River Basin and Seaside Groundwater Basin from seawater intrusion.

Unique functions of the District (not duplicated by other entities) include:

- Local, integrated control of resources, including groundwater
- Computer modeling of water resources system
- Hydrologic monitoring (stream gages, ground water monitoring)
- Metering program for all non Cal-Am wells
- Water connection permits
- Allocation of water to jurisdictions
- Water conservation ordinances and inspections
- Determine drought emergency and impose rationing program
- Carmel River mitigation programs (fish, riparian, lagoon)
- River works (erosion control)
- Approving new water distribution systems and expansions
- Financing of Pebble Beach Reclamation project
- Sales of reclaimed water

The District serves over 110,000 people within the cities of Carmel-by-the-Sea, Del Rey Oaks, Monterey, Pacific Grove, Sand City, Seaside and some unincorporated areas including Pebble Beach and Carmel Valley. The District manages the water resources in an area with more than 30 water distribution systems and over 400 private wells. The largest system is operated by the California-American Water Company (Cal-Am), which serves 95% of the customers in the District and produces over 80% of the water supplied throughout the District.

The District has a staff of about 25 employees comprised of engineers, water conservation specialists, hydrologists, biologists, fishery biologists, environmental planners and managers. The Carmel River Basin supplies nearly 70% of the water used within the District with the remaining pumped from the Seaside groundwater Basin and other areas within the District.

User fees, connection charges, property taxes and a variety of smaller fees, investments and grants fund the District. Annual revenues are between $3 and $4 million with about 45% used for Carmel River environmental mitigations to offset impacts of water use, 45% to water supply augmentation, and 10% to water conservation.

Over the years, the District has worked with Cal-Am to propose water supply projects including dams on the Carmel River. The District has implemented Phase 1 of the Aquifer Storage and Recovery (ASR) for the Seaside Basin. The project includes diverting treated excess Carmel River winter flow via existing Cal-Am pipelines to wells in the Seaside Basin. In addition, it has proposed construction of a desalination plant at Sand City with a capacity of 8,400 AFY.

While the District has the responsibility for managing water resources within its jurisdiction, the MCWRA is the agency with primary responsibility for flood control along the Carmel River.

2.3 Cal-Am: Cal-Am provides water service to approximately 170,000 customers in various areas in San Diego, Los Angeles, Ventura, San Mateo, Santa Cruz, Sonoma, Sacramento, Placer, and Monterey counties. Cal-Am is currently a subsidiary of American Water Works Holding Company, Inc. that is currently owned by RWE Aktiengesellschaft. . Cal-Am is privately owned and is certified and regulated as a public utility by the CPUC. No other water utility can operate in the service area unless there is a demonstration that the current provider's service has been inadequate.

The Cal-Am's Monterey Peninsula District serves about 39,000 customers. The water supply comes from the Carmel River's surface water, wells in the Carmel Valley, and wells in the Seaside basin. This is about 85% of the water supplies for the Peninsula. In 1995, the SWRCB determined that Cal-Am was using some of the Carmel River water without adequate rights to use the water. The resulting constraint on Cal-Am – Order WR95-10 requires to limit its annual use of the Carmel River Water to 14,106 acre feet. Working in concert with the CPUC, Cal-Am's current rate structure for the Monterey area is designed to provide very strong conservation incentives. This is so that Cal-Am will be able to meet the water use limits on an annual basis.

With the restriction of the court ordered limit on the use of the Carmel River water, the CPUC, directed by state legislation (Assembly Bill 1182, 1997) proposed the building of a desalination plant at Moss Landing to meet the requirements of order 95-10. An application to build and operate the project was made by Cal-Am to the CPUC in July, 2005. At this time, the CPUC is preparing an EIR on the project.

RWE, the current owner of Cal-Am is in the process of selling off its water resources. Ed Valejo, the director of American Water's investor relations, has stated that RWE would be completely divested of any interest in U.S. water companies after the 2007 scheduled offering of American Water. American Water, the parent company of Cal-Am, will be a NJ based, U.S. Stock Exchange-traded Company with no international assets and subject to U.S. laws only. Stock will be available to anyone through U.S. stockbrokers. (Any entity desiring to buy more than a 5% holding will require special permitting.) The company will not be subjected to any international trade rules.

2.4 Seaside Groundwater Basin Watermaster Board: The Seaside Groundwater Basin Watermaster Board was established pursuant to adjudication of the Seaside Groundwater Basin. The Board is composed of representatives from the following organizations: The Laguna Seca Subarea; the MPWMD; Cal-Am; Monterey County/MCWRA and the Cities of Monterey, Sand City, Del Rey Oaks and Seaside. The purpose of the Board is to ensure that the Seaside Groundwater Basin is protected and managed as a perpetual source of water for beneficial uses. The Court's Decree calls for the development of a Basin Management Program within one year of the Court's judgment. The program will include monitoring current overdraft conditions and the potential threat of seawater intrusion, development and importation of supplemental water supplies to eliminate Basin overdraft and the threat of seawater intrusion, and establishment of procedures that will be implemented to address seawater intrusion should it occur.

2.5 Monterey Regional Water Pollution Control Agency (MRWPCA): MRWPCA operates the regional wastewater treatment plant and distribution system and the world's largest water recycling facilities designed for raw food crop irrigation. It is a joint powers agency comprised of representatives from the Cities of Monterey, Pacific Grove, Seaside, Del Rey Oaks, Sand City and Salinas and the Moss Landing County Sanitation District, Boronda County Sanitation District, Castroville Water District, Marina Coast Water District and portions of Monterey County. It has an ex-officio member from the United States Army. A nine member Board of Directors appointed by the Board of Supervisors and Mayors governs the agency.

In 1992, the MRWPCA and the MCWRA formed a partnership to build a water recycling facility at the Regional Treatment Plant and a distribution system including 45 miles of pipeline and 22 supplemental wells. This project known as the Castroville Seawater Intrusion project, is intended to reduce the draw of water from the underground aquifers in the Castroville area.

In the future, MRWPCA plans to supply recycled water for parks, roadway landscape and golf courses to the cities of Marina, Ord Community, Seaside, Del Rey Oaks and Monterey. The first phase would produce 1,700 AFY. MRWPCA also plans to use repurified water from the reclamation plant to recharge the Seaside Groundwater Basin with an initial plan for 2,800 AFY. A pilot project is planned for 2006. (Seaside Basin Replenishment Plan).

2.5 Marina Coast Water District: The Marina Coast Water District is responsible for sewer service and water distribution in the City of Marina and the Ord Community. It was organized as a County Water District under provisions of Division 12 of the California Water Code after being acquired from a privately owned company for $950,000 in 1966. Its primary source of water is from the Salinas Groundwater Basin. It also has a small desalination plant and uses recycled water from the Regional Wastewater Treatment Plant for landscape irrigation. It has responsibility for sewer andwater distribution. The Board of Directors is directly elected. It owns its water/waste water collection systems located on Ft. Ord.

2.6 Pajaro Valley Water Management Agency (PVWMA): The PVWMA was formed in 1984 to develop and implement water management practices to protect groundwater in the Pajaro Valley Basin. The Agency covers portions of Monterey, Santa Cruz and San Benito Counties. A seven member Board of Directors governs it that includes four elected representatives and three

appointed representatives including one member appointed by the Monterey County Board of Supervisors. The Agency has plans to import water from the Central Valley Water Project via transmission from the San Felipe Dam. Water from the Central Valley project is limited to agricultural use.

2.7 Pajaro-Sunny Mesa Community Service District: The Pajaro-Sunny Mesa Community Service District was formed from the consolidation of the Pajaro water system (formed in 1986) and the Sunny Mesa water system (formed in 1968) in 1992 by the Monterey County Board of Supervisors to take over operations along with parks and street lighting. The Board of Supervisors appoints its five member Board of Directors. The District is within Monterey County and the PVWMA. It currently has applications before Monterey County Local Agency Formation Commission to takeover water agencies in Moss Landing, Las Lomas and Prunedale. The District is pursing construction of a desalination plant at the National Refractories site in Moss Landing. The District is regulated by both the Monterey County Health Regulations (Sunny Mesa) and by California State Health Regulations (Pajaro).

2.8 Carmel Area Wastewater District: The Carmel Area Wastewater District provides wastewater treatment to the City of Carmel and unincorporated areas of Monterey County including Pebble Beach. It has a directly elected Board of Directors. It has developed a reclamation project in cooperation with the Pebble Beach Community Service District. The reclaimed water is used to irrigate golf courses in the Del Monte Forest.

2.9 State Water Resources Control Board (SWRCB): The SWRCB has authority over "surface water of the State." In July 1995, it determined that 69% of the community's water supply is being taken without a valid right and that 10,730 acre-feet per year must be replaced (WR Order 95-10). This order includes goals for reducing water withdrawals, conservation programs, and continuation of the MPWMD's 5-year Mitigation Program.

2.10 California Public Utilities Commission (CPUC): The CPUC is responsible for regulating Cal-Am as a public utility (water service and rates). It determines how Cal-Am will be compensated for infrastructure improvements, conservation programs, and other operational requirements. Prior to formation of the District, it had the authority to determine water rationing. The CPUC is also responsible for working with Cal-Am to develop a desalination plant to address WR Order 95-10.

2.11 California Department of Fish and Game : The Department prepares quarterly schedules for water production from the Carmel River Basin and the Seaside Coastal groundwater basin and permits river works.

2.12 California Coastal Commission: The California Coastal Commission is responsible for protecting coastal resources. Permits from the Commission are required for all desalination plants.

TABLE 1: AGENCIES AFFECTING WATER ON THE MONTEREY PENINSULA

Agency	State/ Federal	Local/ Regional	Directly Elected	Indirectly Elected/ Appointed	Private	Water Supply	Water Distribtion	Water Management	Other
Monterey County Water Resources Agency		X		X		X			Flood Control
MPWMD		X	X	X		X		X	
Cal-Am					X	X	X		
Seaside Groundwater Basin Watermaster Board		X		X				X	
MRWPCA		X		X		X			Wastewater Treatmnent
Marina Coast Water District		X	X			X	X	X	
PVWMA		X	X			X		X	
Pajaro-Sunny Mesa CSD		X		X		X	X		Parks/Street Lighting
Carmel Areas Wastewater District		X	X			X			Wastewater Treatment
SWRCB	X			X				X	Water Rights
California PUC	X			X				X	Rate Setting
Calif. Dept. of Fish and Game	X			X				X	
California Coastal Commission	X			X				X	Coastal Permitting

3.HISTORY OF WATER DISTRIBUTION AND MANAGEMENT

3.1 Monterey Peninsula[1] (1887-1980) Cal-Am area: The history of water supply and management on the Monterey Peninsula can be viewed in the context of a battle over public v private ownership of water.

In the late 1880's, the Pacific Improvement Company, the developer of the Del Monte Hotel, built the first dam downstream of the current San Clemente dam. Twenty three miles of pipe were laid down Carmel Valley and around the Peninsula coastline to the Del Monte Hotel. The City of Monterey soon hooked up to the hotel's water system. In 1905 the Company drilled six wells under the riverbed near the lower end of the Laureles Ranch and installed pumps with new pipes following. The Del Monte Properties Company run by Samuel Morse purchased the Pacific Improvement Company and build a new larger dam just upstream of the old dam. This is the San Clemente dam still in use. In 1930, Morse sold the company to Chester Loveland who agreed to sell water to the Del Monte Properties at a preferred rate for the next 50 years. Loveland, in turn, transferred ownership to the Central California Water Co, an entity he owned.

A movement calling for a public takeover of the company was organized soon after the transfer, but the measure was defeated in 1935. Subsequently, Loveland transferred ownership of the system to California Water and Telephone Company (CW&T), another company he controlled.

By 1939 the water system was reaching its limits, and in 1947 CW&T proposed building the Los Padres Dam and making improvements to the water delivery system. The SWRCB issued a permit to divert 6,000 AFY of water from the Carmel River with diversions limited to 6,000 AFY. The dam was completed in 1948 but leaked and was repaired.

In 1952 CW&T requested a 43% rate hike from the Public Utilities Commission (PUC) which limited the hike to 25%, agreeing that the earlier deal with the Del Monte Properties was unfair to rate payers who had be subsidizing water to the Del Monte Properties for over 20 years.

A private company, the East Monterey Water Service Company, also provided water, for most of Seaside.

In 1956 another effort was made at a public takeover of the water system. A city funded feasibility study, completed in 1958, concluded that a public take over was feasible. An initiative to form the Monterey Peninsula Water District and take over the CW&T and East Monterey Service water systems was approved by the voters in 1958. Since the water companies were unwilling sellers, the District pursued just compensation hearings before the PUC, which took years to determine the value of the companies. A bond issue to purchase CW&T failed in 1965, and the voters later dissolved the District.

Meanwhile, because CW&T had failed to maintain the water system, water rationing was imposed on some customers. Both water companies had water supply problems in the summer

[1] Based on "Water Over the Dam", Keith Vandevere, 1998

of 1961, and CW&T was granted permission by the City of Seaside to pump water from the Seaside Aquifer but only enough for use by its customers in Seaside. East Monterey Water service continued to deteriorate, and the City of Seaside began steps to establish its own water system. CW&T was sold to American Water Works Company (Cal-Am) in 1965 and East Monterey Water Co. was ultimately consolidated with Cal-Am.

In 1970, Cal-Am announced a water supply plan that included a 240-foot high Cachagua dam yielding 25,000 AFY as Phase I and 350 ft. in the 1980s yielding 42,000 AFY as Phase II. The effort was abandoned in 1971 in favor of a "Super San Clemente Dam". This project was put on hold while the Army Corps of Engineers studied various Carmel River dam alternatives. In 1973 the Corps proposed a multi-purpose dam that included flood control. Cal-Am rejected the proposal in favor of a smaller version of the Super San Clemente Dam to be funded in conjunction with a public agency.

The 1970s resulted in moratoria and water rationing. Because Cal-Am had failed to increase the capacity of its transmission lines from Carmel Valley to the Peninsula, the CPUC issued an order prohibiting Cal-Am from extending water mains to new development. The moratorium was extended in 1975. During the same period, the PUC ordered Cal-Am to implement a conservation program, to construct the transmission lines and to move forward with plans for a dam. In 1977 inadequate water supplies due to the drought joined the lack of transmission capacity as a reason for rationing.

In 1976 the MPWMA was formed. This agency began working with the County to build a dam on the Arroyo Seco River. Other alternatives were considered as well, including a multi-purpose dam with the Corps, getting in line for San Felipe Water, desalination and water reclamation.

Around the same period, the County designated the Monterey Peninsula and Carmel Valley as Zone II and set up an Advisory Committee that included William Gianelli, former director of the California Department of Water Resources. Gianelli suggested forming a water district through State legislation.

Public acquisition of Cal-Am was again considered in large measure due to Cal-Am's failure to build transmission lines. During discussion about forming a water district, Senator Mello, who authored the bill creating the MPWMD, said that the people might want to acquire the Cal-Am water system and should have an agency in place capable of doing that.

The Mello bill was signed by the Governor in September 1977 and approved by the voters in June 1978. The first District Board included Gianelli, John Williams, Nancy McClintock, William Woodworth, Alfred Gawthrop, and one representative each from the cities and County. None of those who were elected actively advocated the construction of a dam. Rather the focus was on continued conservation efforts and other alternatives. John Williams actively opposed construction of the dam. Because of various events that ensued, the District began to focus it efforts to build a dam on the Carmel River, resulting in two defeats at the ballot. In the 1980s there was an advisory vote on a dam that passed and in 1995 a ballot measure was defeated.

In 1995 the SWRCB issued WR Order 95-10 (see section 2.3 and 2.9). Since that time, a search

for a water supply project has focused on developing a desalination project. During the intervening years, an advisory vote (Measure B,:2002 66.0% Yes / 33.9% No) to abolish the District was supported by a majority of voters, but further legislation addressing the governance issue stalled in the State Legislature. During this time frame, a German-owned company purchased Cal-Am (see section 2.3). In 2005 an effort calling for a study of a public take-over of Cal-Am was defeated (Measure W, 37.37% Yes / 62.63% No).

3.2 Additional Notes on History of Water Distribution and Management

Over the past decades, numerous water supply projects have been considered to address groundwater overdraft and seawater intrusion. A coastal aqueduct to supply State Project water to San Luis Obispo and Santa Barbara Counties was considered in the 1970s; however, since the water project did not plan for distribution of water to Monterey County, it was dropped as an alternative. A dam on the Arroyo Seco River to supply water to North County, Fort Ord and the Peninsula was considered by the Board of Supervisors and other local jurisdictions in the 1980s. The Board of Supervisors suspended efforts to refine the project in 1984 because of questions regarding the need for the project. Another major project was importation of water from the San Felipe Project. However, only the Pajaro Basin is within the service area of the Project, and deliveries to remaining North County areas would require classification and certification of the irrigated acreages and modification of the United State Bureau of Reclamation water rights permit. Dams on the Carmel River and a desalination plant have been proposed over the years for the Monterey Peninsula but were rejected by the voters. Projects currently being considered are included in the description of agencies that manage and/or develop water resources.

4, WATER RATES COMPARISON

Part of the discussion on the differences between a private and public utility is in how rates are set and what those rates are. To try to address this, this study has tried to look at a set of water purveyors that are similar in nature to the Monterey Peninsula system. Table 2 shows the water rates of a list of relevant water purveyors in Monterey County, and other purveyors in similarly sized communities on the California coast, particularly where water scarcity is a common condition have been included in this comparison. The rates were current as of October 2006. While most of the water source is from the local area, some Southern California communities have accessed the State Water Project.

Water purveyors base their water rates on size of meter connections, basic fixed monthly cost for service access, tiered rates reflecting water usage, and on type of user (single family residence, multi-family, commercial, etc.). For this study, it assumes that all the connections are the same, a standard residential water meter connections (5/8 to ¾ inch). A benchmark consumption rate of 9 hundred cubic feet (hcf) was also used, since it reflected the understood usage pattern in water scarce communities. For water providers and planners, a basic water unit for storage and supply calculations is ‘acre feet per year’ (AFY). For consumers, the standard unit of measurement for monthly consumption is ‘one hundred cubic feet’ (hcf). The rule of thumb for water use planning with adequate water supply is that one acre foot of water will supply 2 families of four for one year (an average use of about 18 hcf per month). In water scarce areas

like Central California the rule of thumb is that one AFY (acre foot per year) will supply 4 families of four (about 9 hcf per month). In Monterey County, with an ongoing conservation program, the average is nearly 5 families of four per AFY (an average of about 7.25 hcf per month).

All jurisdictions have tiered rate structures sorted into blocks of usage. Lower users pay less per unit of water than higher users. The block/tier separations vary by jurisdiction, and depend on the financing demands of the purveyor, the degree of emphasis on conservation incentives, and local and historical usage patterns.

Of the 19 agencies surveyed, the median monthly rate is $25.30. The average rate for the lowest group is $20.84. The average rate for the highest group is $40.02. Compared to the Monterey Peninsula (Cal Am) rate of $37.92, 14 jurisdictions are lower, and 4 are higher (including another Cal Am service area – Felton).

TABLE 2: WATER RATE EXAMPLES

Location and/or Provider * ‡	Public or Corporate	Number of Connections		Rate Structure: (Base $ + hcf usage tiers @ $/hcf) (hcf = hundred cubic feet = 748 gals = water unit)		Monthly Rate for typical home (based on 9 hcf/mo)
MONTEREY COUNTY: RESIDENTIAL WATER RATES						
Pajaro-Sunny Mesa CSD	Public	1,600		9.13 + ea hcf@1.24		$20.29
Castroville WD	Public	1,500		14.87 + 0-5@.76, 6+@1.40		$24.27
Salinas (CA Water Service Co)	Corporate	27,000		10.30 + ea hcf@1.09		$20.11
Marina Coast Water Dist	Public	4,200		13.63 + 0-12@1.72		$29.11
Monterey Peninsula (Cal Am)	Corporate	38,000		6.89 + special formula §		$37.92 +20% increase 2006
OTHER CA COASTAL (N TO S): RESIDENTIAL WATER RATES						
Half Moon Bay (Coastside WD)	Public	6,000		8.80 + 0-8@2.88, 9-25@3.17		$29.25
Montara Water and Sewer Dist	Public	1,700		28.61 + 0-19@4.48		$55.49
Santa Cruz city	Public	24,500		13.40 + 0-4@1.21, 5-9@3.08		$33.64
Felton (Cal Am)	Corporate	1,300		23.50 + 0-5@3.11, 6-10@3.31		$52.29
Cambria CSD	Public	4,000		10.30 (incl 0-6), 7-15@5.23		$25.99
Morro Bay city	Public	5,500		16.43(0-3) + 4@5.56, + .03/hcf		$50.24
Los Osos CSD	Public	300		25.30 (incl 0-9)		$25.30
Santa Barbara city	Public	25,000		15.64 + 0-4@2.47, 5-20@4.14		$46.22
Carpinteria WD	Public	4,000		4.71 + 0-7@2.38, 8-15@2.29		$24.89
Ventura city	Public	31,000		4.91 + 1-16@1.60		$19.31
Oxnard city	Public	32,000		7.96 + 0-6@1.45, 6-12@1.59		$21.41
Santa Monica city	Public	17,000		5.68 + 1-14@.86		$12.84
Huntington Beach city	Public	52,000		7.743 + ea hcf@1.452		$20.82
Carlsbad city	Public	25,000		9.25 + ea hcf@1.60		$23.65

* CSD: Comm Water District WD: Water District

‡Mainly California Coastal Communities with limited water resources, Aug. 2006

§Cal Am uses a unique formula based on people/household, plus lot size, large animal and summer allowances, called "equivalent consumption units" (ECU), all with a tiered rate structure; plus a service charge on consumption.\

HELPFUL CONVERSIONS

1 acre-foot of water covers 1acre to a depth of 1foot
One acre = 43,560 square feet
One acre foot = 43,560 cubic feet = 325,900 gallons

100 cubic feet (hcf) = 748 gallons
9 hcf/month = 6,720 gals/mo
7.25 hcf/month = 5,425 gals/mo

5. POSSIBLE CRITERIA TO CONSIDER IN EVALUATING A WATER SUPPLIER

The following is a subjective list of a set of criteria that might be considered when evaluating a water supply agency to determine if it is well run. Additionally, as a public resource, water should be delivered to the public in a manner that is the most efficient. This list should not be taken as absolute or complete, but as a guide for readers to use for their own situation.[2]

- The agency is economically efficient for the consumer, i.e., administrative costs are low in comparison to operational costs
- Water resources are protected
- Water infrastructure is maintained and updated through programming and budgeting
- Water quality standards are met
- Environmental standards are met
- Transparent and clear decision making
- Customers have ready access to the agency and mechanisms exist for rapid response to customer complaints
- Well trained staff
- Management is responsive to the public and employees
- There is a program for low-income water users, i.e., the charge for a basic household usage should not exceed 1% of the average household income in the area.
- The rate structure is clear and established in an open process
- The agency has a process or program to address sustainability of water supply through such efforts as water conservation and watershed management

6. DIFFERENCES OF OWNERSHIP: PRIVATE OR PUBLIC

A private company or public agency can be responsible for all or part of a water system. For example, certain services, such as meter reading or the building of a water system, can be outsourced by a public agency to a private company. Second, a private contractor can provide the operation and maintenance of an existing plant that a public agency has oversight for. Third, a private company can be contracted to build and run a new facility, and fourth, a public utility's assets can be wholly sold to an investor-owned utility or vice versa.[3]

A *private, for profit company* exists to create a profit for its owners or shareholders. If it doesn't make a profit, it will cease to exist. Most water resource related decisions are processed

[2] See also C. Cowen, A. Mescher, J. Miller, K. Pettway, B. Pink, "A framework for evaluating water system ownership and management alternatives", Project for Masters Degree in Environmental Science and Management, UCSB, April 2005.

[3] Report of the Committee on Privatization of water services in the United States, Privatization of Water Services in the U.S., An Assessment of Issues and Experience. National Academy of Sciences, 2002.

through CPUC, and all rate setting is ultimately approved by CPUC. If an addition to a supply is found or created, then the company could see an increase in profit. There are a variety of ways to increase the supply, which may or may not be economically attractive to a private company. A private company, because it may be large and cover multiple locations, can sometimes take advantage of its size to provide for more efficient services to the consumer than a local public agency. A private board of directors or owner decides on the direction of the company; for example, whether or not it needs to ask the regulating agency for permission to increase fees; whether or not it thinks it would be economical to find a new supply [Note, a related regulated utility (energy), saw that private companies did not see it as profitable to build more power plants in the late 1990's]. Only those decisions that require approval of a regulating agency are open to public input (for example, rate setting).

A *public agency's* difference from a private company is that "social welfare is substituted for private gain as the major objective of management"[4]. Public ownership removes the problem of ownership change that sometimes occur with private companies. Long range planning is much easier to do if the ownership is not continually changing and where profits are not a necessity. A public agency has a governing body to make decisions with all its deliberative processes required to follow California Open Government rules. The public is invited to participate in the decisions that it makes. Its members may be directly (an elected body) and/or indirectly (an appointed body) seated. A directly elected board is responsible, first, to the public, and an appointed board is responsible to the body that appointed them and only indirectly to the public.

The third option, a *mutual company*, offers some of the benefits of both a private and public organization. It is a private company, but the shareholders are users of the resource and usually property owners. This type of water company is generally a non-profit company and would have rules on how its board of directors is appointed. A concern with such an organization is that it is not generally understood if renters are shareholders in mutual company.

[4] Marshall, R., "The People's Forest", University of Iowa, 1933, reprinted 2002

Comparison of Public and Private Water Operations: Table 3 attempts to simplify the differences between public and private ownership of water systems. Some of the information summarized is from National Academy Report: , Privatization of Water Services in the U.S., An Assessment of Issues and Experience [2002].

TABLE 3: PRIVATE/PUBLIC COMPARISON

	Rate Setting	**Oversight/Transparent**	**Answers to**	**Decision making**
Private	CPUC; regulatory oversight including Division of Ratepayer Advocates	Rate setting – CPUC; Budget setting - none Priority setting – none Projects requiring permits – CPUC/other public agency Publicly traded; SEC requirements	Share-holders Regulatory agencies	Can be quick if no regulatory oversight; May be affected by influences of state and/or local politics
Public	Local Agency Rates may not just be tied water; may include other utilities and always not separate.; No rate regulatory oversight	Local Agency oversight for all decisions Brown Act California Public Records Act Open meetings for most decisions	Public; Directly or through appointing board/s	Public process can be long; Mainly affected by Local Politics

	Customer Service Location	**Profit**	**Resource Protection**	**Employee Standards**
Private	Local or not Local	10% allowed by CPUC; based on capital investment – set by CPUC	Public (State) Regulation/may require additional legislation	Set by private company
Public	Local (could be outsourced)	none	Local policy making	Set by agency

	Water Quality	**Water Reliability**	**Efficiency**	**Capital Funding**
Private	Quality laws enforced by state or county	Dependent on company	Large company can combine services for several areas	Funded by investor or private bonds/loans
Public	Quality laws enforced by state or county	Dependent on agency	Regional systems could be more efficient	Can use tax-free bonds

7. SIGNIFICANT PUBLIC POLICY ISSUES

The public wants an entity whose mission is to provide quality, affordable water to the rate-payers on a continuous basis and cost-effective basis. To achieve the goal, public policy issues that might be considered are:

- Decision making process (Private or Public; governance structure)
    - Public participation – advisory boards, public votes on projects, transparency
- Agency/Company size – geographical area, county, regional, sub-regional
- Rate structure
- Long-term planning, budgeting, maintenance
- Staffing to achieve goal
- Efficiency

APPENDIX A: Eminent Domain

Eminent Domain[5]The power of *eminent domain* is a well-established legal principle. Webster's Dictionary defines it as "that superior dominion of the sovereign power over property within the state which authorizes it to appropriate all or part of the property for a necessary public use, reasonable compensation being made." The hanging point is usually "compensation." How decided? The U.S. Supreme Court stated, "The courts have adopted and have retained the concept of market value...more concisely, 'market value fairly determined'" [*United States v. Miller,* 317 U.S. 369, 373-374]. The California Supreme Court equates market value to"just compensation" as determined by its value in the minds of sellers and purchasers, saying, "The rule is of universal acceptance that the measure of this damage is the market value; that is to say, the highest price estimated in terms of money which the land would bring if exposed for sale in the open market;...buying with knowledge of all of the uses and purposes to which it was adapted and for which it was capable." {*Sacramento etc. R.R. Co. v. Heilbron, supra,* 156 Cal 408-409].[6] To initiate this process, the City could file suit in California superior courts.

The Public Utilities Commission may also function as Court of eminent domain, it having been granted jurisdiction "to fix the just compensation to be paid for the taking of any property of a public utility in an eminent domain proceeding." Pub Util C §§ 1401-1421 specifies the procedure. The condemnor first files a petition, describing the property and requesting the commission to fix the value of the take. The commission conducts hearings and then makes a written finding of just compensation and severance damages. The condemnee may accept the finding and receive the specified amount as just compensation, or may refuse and file in a superior court. However, in this case the superior court can only rule on nonvaluation issues -

[5] From the "Water the City of Claremont 2005", League of Women Voters of the Claremont Area:

[6] Civ. No., 14040. Court of Appeals of California, Fourth Appellate District, Division One. September 15, 1976.

the condemnor's right to take the property, "The finding of the commission, fixing the just compensation to be paid by the political subdivision for the lands, property and rights shall be final and shall not be subject to modification, alteration, reversal, or review by an court of this State." Nevertheless, adjustment of the award is possible after the actual takeover of the condemned property, through supplementary proceedings before the commission. And the law also says that the condemnee may not be denied the right to a jury trial on just compensation. [7]In other words, condemnation proceedings might be very lengthy; a big company could expect to wear down the patience and financial resources of a small local governmental power.
If the case goes to superior court, either of the two litigants may request a jury trial. Usually, we are told, a big corporation requests jury because their experienced and power attorneys expect to be able to persuade a jury of the rightness of their position. The final decision, whether by judge or jury, makes the cost not predictable in advance. A city must be prepared to pay whatever the court decides, plus costs. This might be quite expensive. If, having started the proceedings, a city were to decide to withdraw its suit, they would be required to pay the whole of the court costs. A public official gave the advice that a public entity should never undertake condemnation proceedings unless fully committed to the decision, and prepared to carry through to a purchase, whatever the costs.

Fairness and Equity Water Rates and Debt Repayment[8] Public ownership of a public utility ought to address fairness issues. For water rates, that means that a single person in a condominium without a lawn ought not to pay the same as a large household with expansive lawns and heavy in-house consumption. Fair water rates should reward users for conservation and reduced use of increasingly precious public resources.

A city-owned company might construct a fairer system of allocating charges, basing rates on cost and quantity of water consumed. Debt repayment also should address economic equity issues. Conservation education and incentives for saving water by all consumers are a public responsibility. A water supplier should participate by encouraging the installation of low-flow appliances, or drought-tolerant plantings, or other household methods or business approaches to conservation.

CalAm currently has a tiered water rate system and provides rebates for the purchase of high efficiency clothes washers and toilets.

APPENDIX B: Concern about Takeover by International Corporations:

In the past several years, "privatization" of local water companies, a move under NAFTA trade agreements, has defined water as a valuable commodity, which can be bought and sold like any other commodity. This has made water companies attractive for purchase by multinational corporations seeking new sources of profits. Buy-outs by huge conglomerates allow transfers of

[7] CA Statues §9.79 Practice before Public Utilities Commission. 1. Function as Court of Eminent Domain

[8] From the "Water the City of Claremont 2005", League of Women Voters of the Claremont Area:

assets or operations of the water system to other states or parts of the world. Corporate boards thousands of miles away then make decisions about rates and repairs for local communities. The largest of the corporations operating water for profit are French: *Suez Lyonnaise des Eaux and Veolia Environnement.* There are also [other large companies] - a German-British company, *RWE AG-Thames Water,* a German company, *Siemens,* which last year bought US Filter, and a US company, *Bechtel-Uniteded.* Cities which have had sold their water companies or the management of their water to one of these international business ventures include Stockton, Felton, and Palm Desert, CA; Lexington, KY; Emmaus, PA; Atlanta, GA. In 1998, Atlanta signed a 20-year agreement with a Suez subsidiary, and five years later went to court against the company charging mismanagement, enormously increased rates, poor water quality and service, and fraudulent billings. The other cities listed have had similar experiences and undertaken court action to remedy problems. [9] (See also Section 2.3 on the status of Cal-Am).

APPENDIX C: Summary of Surveys:

(Cal-Am, California Water Services Co., Salinas, Pajaro /Sunny-Mesa, City of Santa Cruz)

1. Water Rates (see Table 2 on rates)
Public – annual rate adjustments; based on cost of service/long term planned maintenance & expenditures.
Private – cost of service + fair return on invested capital; annual inflation adjustments + CPUC approved increases (not regular); Cal-Am also includes funding of MPWMD.

2. Governance
Public - Elected (City Council or separate body) or appointed (via another board that is elected), many times appointed advisory committees. Two public agencies listed here do not have a paid board. Decision authority usually rests with the elected body.
Private – CPUC (under its investor-utility rules) has to approve rate and operating procedures related to customers. Internal decisions on local operations made by local managers.

3. Budget
Public – about 14% of total budget goes to administration; 5-7% for billing; ~70% to operations; 12-30% to capital improvements;
Private – (Ca. Water) %6 administration; 6% billing; 54% operations; 34% capital improvements (Cal-Am did not provide information)

4. Water Supply
Ground water wells; Rivers; Reservoirs;
Santa Cruz has a "modest" water augmentation plan (not specific)
P/SM – desalination plan
Conservation plans wide and varied
P/SM – very limited.

[9] Reclaiming Public Assets: From Private to Public Ownership of Waterworks. Washington, D.C., Public Citizen's Critical Mass Energy and Environment Program, Septermber 2002.

Water Awareness Committee – Monterey County
Cal Water & Cal-Am have complex and detailed conservation plans
Cal-Water works with MCWRA for well monitoring, sea water intrusion

5. Water Quality

All public/private agencies report annually to the consumer on water quality (State Regulation).
Public – monitoring rates were not provided.
Private – Cal. Water monitors it distribution system weekly & sources daily.

6. Environmental Violations

No violations were incurred by Cal-Water, Santa Cruz, or P/SM. Cal-Am did not respond to the question.

7. Water System Improvements

Public – P/SM Planned annually; funded by rates; more generally by state, federal grants; loans for public agencies; Santa Cruz – has a 10 year long range capital improvement & 3 year detailed plans; most funded by rates. Included in budget when necessary.

Private – funded by rates; improvements approved by CPUC; annually plans defined; Cal-Water budgets include 3 years

8. Customer interactions

Public – local staff – bilingual; water chemistry –lab approved by EPA.; immediate handling and resolution of complaints.

Private – Cal-Water has a 1 hour response time for water quality complaints; other 2 hours

9. Staff Training and knowledge

Health Certifications; continuing education plans – annual – similar for public/private