



**CALIFORNIA
AMERICAN WATER**

California American Water Monterey District

Feasibility Countdown: Things to Consider

June 2019

Joe A. Conner & George Soneff

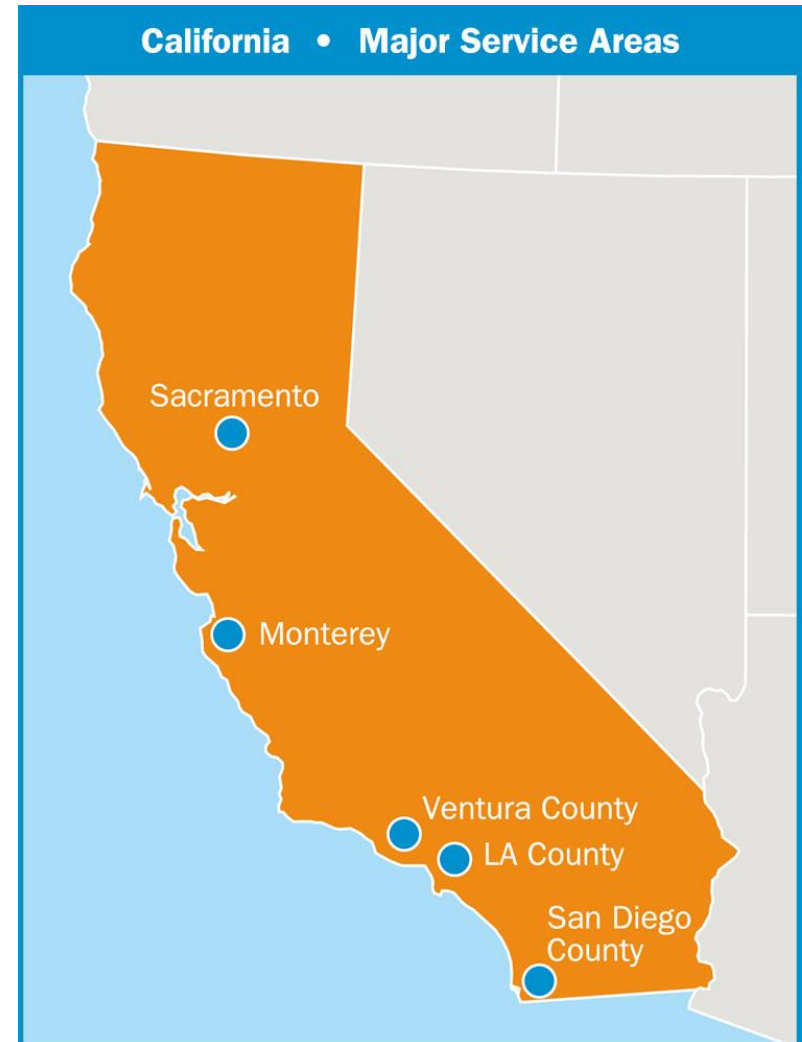


California American Water

- American Water -- parent company
- 100% common stock on NYSE
- 133 years of service
- 14 million people in 46 states

Facts about the California system:

- 50 communities
- 170,000 connections (approx.)
- 675,000 population
- 280 employees



Monterey District Facts & Assets

Description	Monterey*
Communities Served	13
Service Area	55+ square miles
Connections	40,000
Water Mains	600+ miles
Fire Hydrants	3,000+
Water Source	36 active wells groundwater/surface water/desal
Storage Tanks	100+ (35 mg)
Pump Stations	70+
Employees	100
Dam	Los Padres

*Numbers Rounded

Plus

- Real Property & Easements
- Water Rights
- Intangible Assets
- Regulatory Assets
- CWIP
- Desalination Plant
- Severance Damages

February 2019: MPWMD Meeting

- **Report on 5 listening sessions in January.**
 - Cost savings key to feasibility.
 - Campaign promised transparency & ownership without raising costs, and that if price is “too high” the takeover will be deemed “not feasible”

The Measure J feasibility study will determine if we can afford to buy Cal Am. If the price is too high there would be no buyout. The process would stop right there. There is no blank check. MPWMD will hold public hearings soon after the initiative passes to define “feasible” and then hire expert consultants to do the study. The feasibility study would be paid for by MPWMD out of their reserves.
- **Study might be paid for by water supply charge (Ord. 152)**
- **MPWMD eminent domain attorneys say: District ownership must result in early cost savings**
- **Vote to hire three consulting firms. Details “held in confidence”**

March 2019

- **March 5, 2019: Closed meeting of consultants, condemnation lawyers, and MPWMD**
- **MPWMD lawyers emphasized need to demonstrate early savings in cost of service**
- **March MPWMD Meeting: “Set the standard for “feasible” to be the combination of cost, quality of service, and governance that could successfully demonstrate “public necessity” in a bench trial, in the opinion of the consulting team.”**

Severance Damages: Cutting Your Nose Off to Spite Your Face

“(iv) While the District only has eminent domain jurisdiction over the facilities within its boundaries, the Cal-Am Monterey District includes satellite facilities such as wastewater in Oak Hills, Carmel Valley Ranch, Spreckels, etc and water facilities in Toro, Garrapata, Chualar, Ralph Lane, etc — **the disposition of those will completely affect the cost, severance damages, and so forth.** The business strategy of how to approach those assets would have to be defined now in a feasibility study and **may bear no resemblance to the ultimate outcome...**”

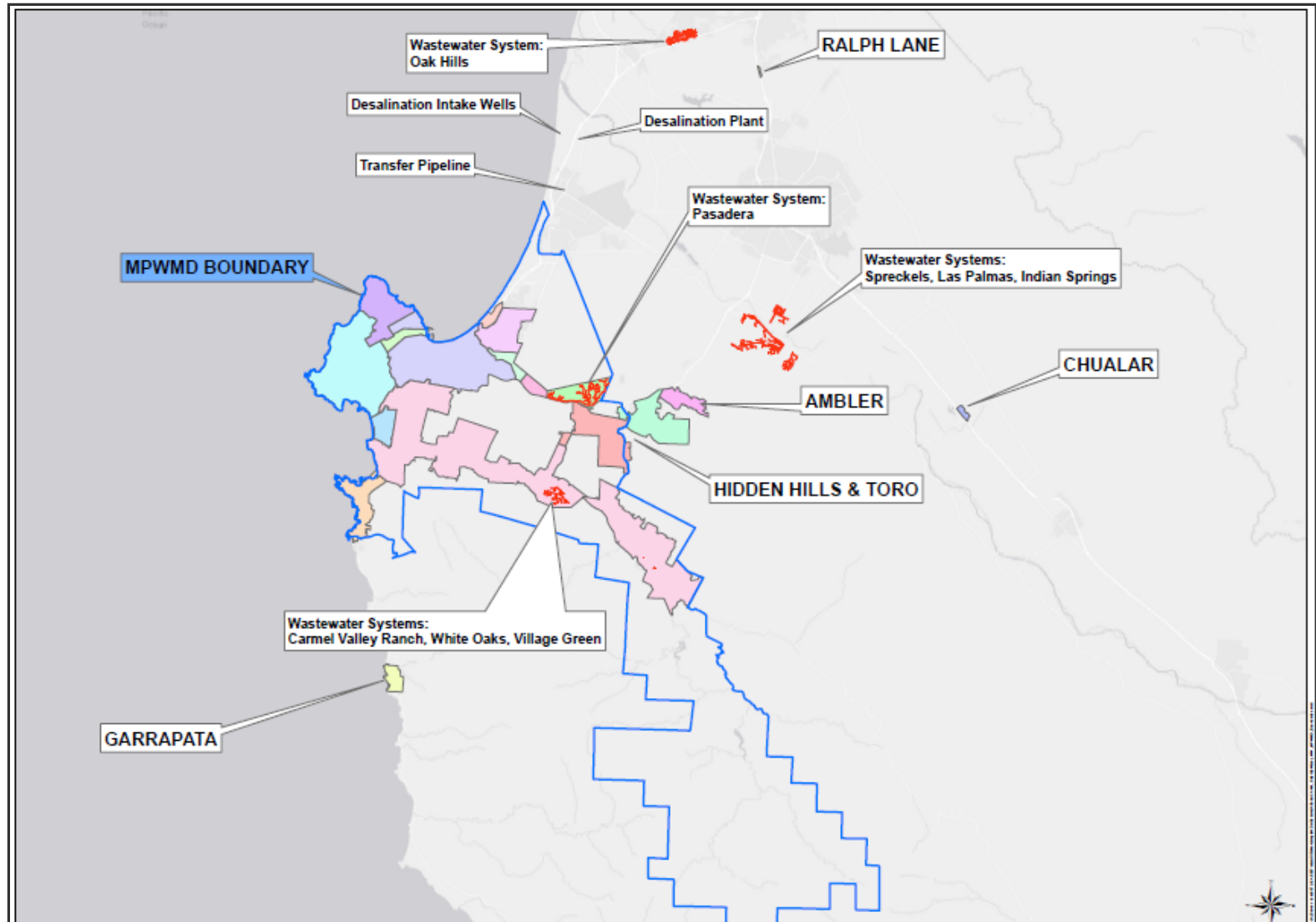
March 2018 MPWMD FAQ's



Significant assets subject to potential severance damages

- **Ambler**
- **Ralph Lane**
- **Chualar**
- **Hidden Hills/Toro**
- **Las Palmas Ranch Wastewater**
- **Pasadera/Laguna Seca Wastewater**
- **Carmel Valley Ranch Wastewater**
- **Indian Springs Wastewater**
- **Spreckles Wastewater**
- **Oak Hills Wastewater**
- **White Oaks Wastewater**
- **Village Green Wastewater**
- **Desalination plant, slant wells, & pipeline**

Monterey District Systems and MPWMD Boundary



Severance Damages May Include

- Reduction in value of property not taken
- Increased operating expenses
- Loss of economies of scale
- Loss of use of property
- Pending repairs
- Excess capacity – stranded assets
- Expenses incurred in developing alternative water source

Right to Take Not Absolute in California

Water company may rebut the presumption of necessity at trial.

City of Claremont v. Golden State Water Company (2016)
(Superior Court December 2016):

“Judge Rejects Claremont’s Bid for Local Water Control”

Claremont Courier
November 17, 2016

“Water Co. Wins 7.6M After Calif. City Loses Takeover Bid”



March 14, 2017

Mere Ownership is Not “Public Necessity”

“Public acquisition by eminent domain **cannot be justified by the fact that, after fair compensation is paid, the public entity will own a valuable asset.** If that were the case, public acquisition could always be justified as an investment strategy. The statutory scheme instead requires that the **acquisition be ‘required’** in ‘the public interest and necessity’ and be **‘a more necessary public use.’** The public acquisition must provide a **significant public benefit** apart from the value of the assets that are paid for in the eminent domain process.”

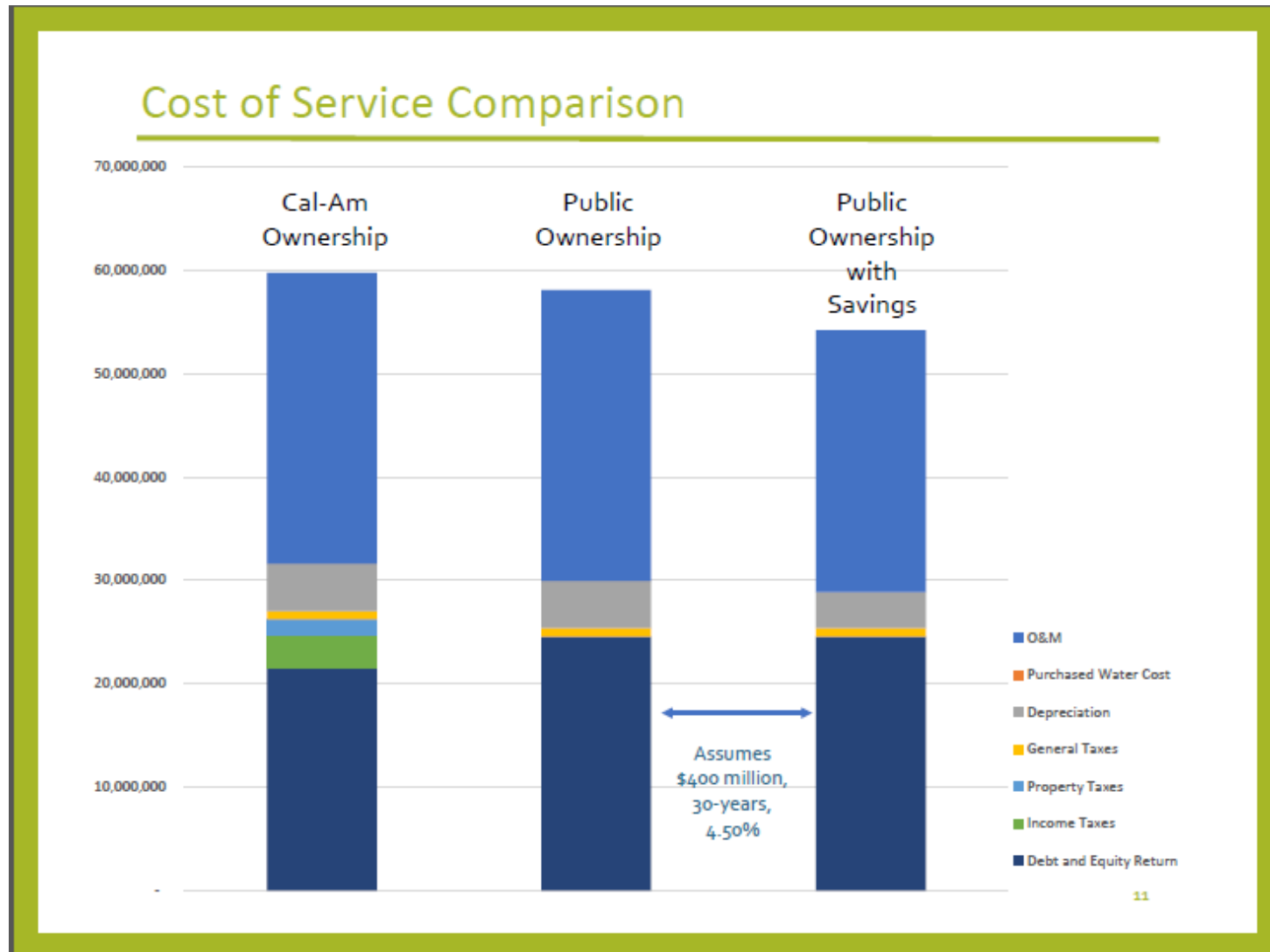
City of Claremont v. Golden State Water Company, Case No. BC 566125, (Superior Ct. Dec. 2016).

Tax “Savings” Are Not Savings

“The Court does not agree with the premise that an eminent domain acquisition of a private utility provides a benefit because the utility under municipal operation will not pay taxes. The tax loss caused when income or property taxes are avoided is merely shifted other taxpayers and they pay more in taxes; **tax avoidance is a cost of the acquisition.**”

(Claremont)

MPWMD Assumptions – “Listening Sessions”



Rates Subject to Prop. 218

- No low-income subsidies
- Tiers must be justified
- Commercial divisions questionable

Source: *MPWMD Slides From Listening Sessions*

A Waste of Public Funds

City of Claremont Trial Outcome:

**Total incurred for attorneys and consultants: \$14M +
Condemnation rejected, City ordered to pay \$7,602,781.23**

Settlement:

- \$2 million to Golden State Water up-front
- \$2.8 million to Golden State Water in interest over 12 years
- Plus \$5.8 million should City of Claremont try to condemn again within 12 years

Claremont Councilman Sam Pedroza:

“We did everything that we could. A lot of lessons learned – a lot of expensive lessons – but today’s decision ends this chapter.”

Final Thoughts

- Should MPWMD launch the largest eminent domain fight in California history, of \$1+ billion?
- “Bet the company” litigation for Cal-Am, and “bet the district” litigation for MPWMD
- What would be the impact on MPWMD if the court rejects condemnation, or price is too high?
 - Reasonable to expect combined spending of at least \$25 million. MPWMD could be ordered to pay that full amount if condemnation is not successful
- Hiding financial and operational analyses under the attorney privilege cloak is unwise in this context – transparency needed
- Regardless of outcome, this will dominate MPWMD activities & finances for years
- Ancillary litigation
- District’s financial issues likely to continue....
 - Unfunded Pension liability -- \$5.2M
 - Unfunded OPEB (retiree medical benefits, etc.) – \$4.1M

Questions?



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