

EXHIBIT 12-A

Updated 9/12/26 Unresolved Conditions or Requirements for MPWSP¹ Desalination Plant to Move Forward

Coastal Commission Key Conditions		
Condition or Requirement	Background/Status	Comments
1.Monterey One Water (“M1W”): Coastal Commission permit authorization for construction of modifications to the existing M1W ocean outfall.	The MPWSP anticipates discharging reject brine (highly salty water) from the desalination facility into the M1W ocean outfall. In October 2023, Cal-Am and M1W entered an Outfall Capacity Negotiation, Cooperation, & Funding Agreement (Agreement). The Agreement outlined a series of activities to be completed before Cal-Am and M1W can negotiate a Long-Term Capacity Lease that would allow Cal-Am to discharge brine into M1W’s ocean outfall. The following four major activities are described in the Agreement: 1. Design Outfall Improvements required to accept MPWSP desalination brine; 2. Amend M1W’s National Pollutant Discharge Elimination System (NPDES) Permit to allow discharge of MPWSP desalination brine through M1W’s Ocean Outfall. <i>(See below)</i>; 3. Apply to the California Coastal Commission for an amendment to M1W’s existing Coastal Development Permit for the outfall, which is needed to construct, operate, and maintain the Outfall Improvements; and	On March 30, 2026 M1W Board authorized submitting an application for the Coastal Development Permit. Incomplete letter received April 29, 2026. Expect additional filing 6 months following Regional Board hearing in December 2026 on NPDES permit (see below.)

¹ The term “MPWSP” refers to the Monterey Peninsula Water Supply Project and in this context refers to the proposed desalination project.

	4. Submit an application to amend and extend M1W's State Lands Commission Lease for the Outfall Improvements to allow for MPWSP brine discharge. M1W's existing lease expires 11/30/30 so this creates an opportunity for a long-term extension.	
1.Monterey County: encroachment permit(s) for construction within the coastal zone and County jurisdiction.	Permit 19CP00658 (Grading) has been approved (will need to be extended 6/5/26 if no action) Permit 19CP00902 (Combination) has been approved (will need to be extended 11/21/25 if no action)	Condition satisfied.
1.Cities of Marina, Seaside, and Sand City: encroachment permit(s) for construction and operation of Project within the jurisdiction of these entities.		Condition not satisfied as of 9/12/26.
1.Transportation Agency of Monterey County ("TAMC"): approvals necessary for construction and operation of Project within TAMC rights-of-way.	An "Easement Purchase Agreement" was executed in September 2019 for both a series of temporary construction easements (TCEs) and a Permanent Easement. The permanent non-exclusive easement and right of way for water utility purposes was recorded on August 25, 2020.	Condition satisfied.
1.State Lands Commission (SLC): lease(s) of state tidelands for continued use of the Project's existing and new proposed wells beneath state tidelands.	Cal-Am has applied to the SLC for a "General Lease – Industrial Use." The proposed lease would allow Cal-Am to construct four new subsurface slant wells and convert an existing test slant well into a fifth subsurface slant well. This is part of Cal-Am's first phase, a 4.8-MGD ocean desalination project. The SLC first issued Cal-Am a "General Lease – Right-of-Way Use" to construct and operate a temporary	Condition satisfied 6/23/26.

	exploratory test slant well on December 17, 2014 and has renewed it several times. The SLC held a public meeting on Environmental Justice issues in Marina on December 6, 2024. In 2017, the Coastal Commission and the State Lands Commission negotiated a Settlement Agreement under which CEMEX ceased beach sand mining on its property. The agreement requires CEMEX to eventually transfer the land associated with its former beach sand mining operation to a nonprofit or governmental entity or consortium approved by the Commission in consultation with the City of Marina. This land transfer has not occurred but may occur before or after CEMEX completes mine reclamation required by the Surface Mining and Reclamation Act. Before the land is transferred, it must be placed under a deed restriction “to preserve the open space and habitat values of the property” that allows for public access. The agreement does not supersede or interfere with Cal-Am’s rights or obligations under its existing easement granted by CEMEX.	
1. Central Coast Regional Water Quality Control Board (RWQCB): A National Pollution Discharge Elimination System (NPDES) permit allowing the discharge of effluent through the M1W outfall and approval to modify that outfall.	On September 30, 2024 the M1W Board authorized the Report of Waste Discharge (ROWD) to be submitted to the Regional Water Quality Control Board (RWQCB) to start the permit process. After the RWQCB amends the NPDES permit, the amendment must be authorized by the Monterey Bay National Marine Sanctuary (MBNMS). In 2024, staff from the MBNMS and RWQCB expressed concerns about the	Condition not satisfied as of 9/12/26. Regional Board sent Cal-Am a notice of incomplete application May 1, 2026. Cal-Am supplied items on May 27, 2026. Best case for a hearing is December. Regional Water Board staff will share an Administrative Draft version of the permit with M1W, U.S. EPA, and Monterey Bay National

	proposed outfall modifications and the adequacy of the Environmental Impact Report/Statement (EIR/EIS) for the MPWSP. MIW staff met with staff from MBNMS, RWQCB, CPUC, and Coastal Commission to discuss the EIR/EIS and if/how the additional outfall modifications. MIW staff also met with the same agencies to discuss a broader set of topics, including a Marine Life Mortality Study and other steps in the NPDES permitting process. The RWQCB reviewed the October 2024 ROWD and found it to be incomplete. The Regional Water Board provided comments and requests for additional information in a letter to MIW dated January 31, 2025. MIW and Cal-Am have since worked to identify and select a project alternative to address the Regional Water Board's comments and submitted addenda to its ROWD on July 1, 2025.	Marine Sanctuary (MBNMS) and accept informal comments. When the informal comments have been addressed, Regional Water Board staff will post a Tentative Order NPDES permit amendment for 30-day public comment period. Only formal written comments will be accepted. After the public comment period ends, Regional Water Board staff will review comments received, modify the Tentative Order as needed, and prepare a written Response-to-Comments. The Regional Water Board will schedule a public hearing to adopt the amended NPDES permit. Such hearing is not expected until late-2026.
1.California Public Utilities Commission (“CPUC”): completion of the CPUC’ spending proceeding (A.21-11-024) of water supply and demand estimates for the Monterey Peninsula Water Supply Project (MPWSP) with a determination that there is projected demand for additional water supply beyond the Pure Water Project Expansion		Condition satisfied.
1.Monterey Bay National Marine Sanctuary: authorization from the Sanctuary to allow discharges into Sanctuary waters and drilling and disturbance of submerged lands within the Sanctuary. This is to include any necessary Biological Opinions required.		Condition not satisfied as of 9/12/26.

1.Legal: a final judgment of the pending action entitled <i>City of Marina v. RMC Lonestar, et al.</i>, Monterey County Superior Court No. 20CV001387. The Coastal Commission permit shall not be issued if that judgment or disposition demonstrates that (1) Cal-Am does not have, and cannot feasibly obtain, water rights for the Project or (2) Cal-Am’s project would cause harm to any aquifer that is a source of drinking water to the City of Marina or the Marina Coast Water District.	In its referral, the SWRCB states “We cannot say with reasonable certainty that the amount drawn by the Cal-Am wells <i>will not exceed</i> 500 AFY from any source beneath the CEMEX Property. To the contrary, the evidence strongly supports the conclusion that the amount drawn by the proposed slant wells will significantly exceed 500 AFY from beneath the CEMEX Property.”² Yet 500 AFY is the purported limit under the Annexation Agreement and Groundwater Mitigation Framework for Marina Area Lands (“Annexation Agreement”) originally entered into by the City, Defendant RMC Lonestar and other parties in 1996. In that Agreement, Defendant RMC Lonestar, a predecessor of Defendant RMC Pacific Materials, LLC, agreed (A) to limit all groundwater withdrawals at and under the CEMEX Property to no more than 500 acre feet per year (“AFY”), and (B) to ensure that all extracted groundwater would be used within the Salinas Valley Groundwater Basin. ³ The lawsuit also states that Defendant Cal-Am lacks any right to extract groundwater for the Project at the CEMEX Property or to export this groundwater to users located outside of the Salinas Valley Groundwater Basin.⁴	Condition not satisfied as of 9/12/26. This lawsuit requests determination and relief on two water issues: (i) may Cal-Am extract more than 500 AFY of groundwater from the site, and perhaps whether or not the Lonestar/Cemex limit is valid. (ii) the groundwater extraction contemplated by the Easement for the Cal-Am Project is prohibited by the Agency Act because it violates the export ban and Cal-Am is not entitled to export any water extracted by the wells located on the CEMEX Property directly or indirectly to users located outside of the Basin. However, it is unclear if the water rights issue will be resolved in this legal proceeding. <i>See below.</i> The trial is ongoing with a hearing scheduled for November 12, 2026 so it is unlikely a final decision will be issued until the end of the calendar year.
2.Project Phasing. The Coastal Commission conditional permit authorizes Phase I of the Project. To obtain authorization for		Condition for 4.8 MGD plant satisfied per Coastal Commission application. Unclear if

² Final Report of the Board as Referee in *City of Marina v. RMC Lonestar*, Superior Court of California, County of Monterey, Case No. 20CV001387, prepared by the Administrative Hearings Office, State Water Resources Control Board, June 25, 2025, p. 66

³ Case No. 20CV001387, Second Amended Complaint for Declaratory Relief Under the Annexation Agreement and the Agency Act, p. 2

⁴ *Id.*, p. 3

construction and operation of Phase II in the future, Cal-Am shall submit an application for an amendment that includes all of the following: a) Authorization from the CPUC for the 6.4 MGD facility. b) A detailed description of Phase II. c) An assessment of coastal resource effects from Phase II. and d) Confirmation that Cal-Am has submitted monitoring reports for Phase I. Cal-Am shall not begin operation of Phase II until the following criteria have been met: a) Phase I has been in full operation for a minimum of two years; and b) All required monitoring reports have been submitted, including the Groundwater Monitoring Report, Wetland Monitoring Report, etc., for a minimum two-year period, to demonstrate that the Project's Phase I has not caused any significant adverse effect on local groundwater supplies for the City of Marina and Marina Coast Water District, wetlands or other coastal resources.		CPUC approval for 4.8 MGD plant is required. <i>See below.</i> The District, City of Marina, and MCWD filed a Complaint at the CPUC regarding the revised project size, among other things.
3.Construction Best Management Practices PRIOR TO STARTING CONSTRUCTION ACTIVITIES, the Applicant shall provide, for Executive Director review and approval, Construction Plans that address construction methods and Best Management Practices (“BMPs”) of all project components...		Condition not satisfied as of 9/12/26. Coastal Commission staff indicates not yet received and expect this submittal once the prior-to-issuance conditions are satisfied and before construction begins within the coastal zone.
5.Spill Prevention and Response Plan PRIOR TO THE START OFCONSTRUCTION ACTIVITIES, the Applicant shall submit, for Executive Director		Condition not satisfied as of 9/12/26. Coastal Commission staff indicates not yet received and expect this submittal once the

review and approval, Project-specific Spill Prevention and Response Plans that address potential spills or releases of hazardous materials during both project construction and project operations.		prior-to-issuance conditions are satisfied and before construction begins within the coastal zone.
7.a) Pre-Construction Biological Surveys PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION ACTIVITIES IN SPECIFIED WORK AREAS, Protocol-level surveys shall be conducted for any species that have been previously documented in the work area...		Condition not satisfied as of 9/12/26. Coastal Commission staff indicates not yet received and expect this submittal once the prior-to-issuance conditions are satisfied and before construction begins within the coastal zone.
9.Dune Habitat and Open Space Protection. PRIOR TO THE START OF CONSTRUCTION, Cal-Am shall submit to the Executive Director evidence of existing deed restriction(s) or documentation irrevocably dedicating habitat and open space conservation easement(s) in perpetuity.		Coastal Commission staff indicates a draft received and expects this submittal before construction begins within the coastal zone.

11.Groundwater Protection. Cal-Am shall install the Project’s slant wells to extend at least 1,000 feet seaward of the proposed well head locations and shall screen the wells so they extract water as far seaward as is feasible and without penetrating the 400-Foot Aquifer.		Condition not satisfied as of 9/12/26. However, this condition can only be determined after construction.
12.Monitoring and Remedial Measures to Protect Groundwater. PRIOR TO ISSUANCE OF THE COMMISSION PERMIT, Cal-Am shall provide, for Commission review and approval, a Groundwater Monitoring Plan intended to ensure the Project’s source water pumping does not adversely affect the aquifers that are a source of drinking water to the City of Marina and the Marina Coast Water District.		Coastal Commission staff received a draft groundwater monitoring plan on June 22, 2026 and it is being reviewed by the Commission and MCWD.
13.Wetlands and Vernal Pond Adaptive Management Program. PRIOR TO PERMIT ISSUANCE, Cal-Am shall submit a Wetlands and Vernal Pond Adaptive Management Program, for review and approval by the Executive Director. Cal-Am shall provide the funding necessary to allow the Executive Director to hire one or more independent third-party reviewers.		Coastal Commission staff received a draft wetlands and vernal pond adaptive management plan in April 2024 and provided written comments on February 10, 2026. Coastal staff are awaiting an updated draft plan for review.
16.Low-income ratepayer relief. Cal-Am shall prepare and implement a low-income ratepayer relief program, inclusive of the following: Cal-Am shall submit a low-income ratepayer relief program plan that includes baseline information on the number of low-income ratepayers in the district.		Condition not satisfied as of 7/1/26. Ratemaking is the purview of the CPUC. It is unclear how a \$500,000 and funding the United Way hardship program in perpetuity would not be subject to CPUC approval. Further, with no updated construction cost numbers, the level of subsidy provided by

a) The plan will also include an outreach strategy including a timeline to enroll qualified ratepayers in its Customer Assistance Program. The plan shall explore options to offset the increased costs of desalinated water on low-income ratepayers identified through AB 1550 that are not currently eligible for rate assistance. This may include Cal-Am working with the CPUC or independent of its approval to create new programs or expand income eligibility of existing programs, as detailed in subsection (b) and (c). The Plan shall also provide for annual reporting on the status and success of these programs, consistent with Special Condition 16. b) Cal-Am shall implement the following: i. A \$500,000 grant to the United Way Hardship fund and proposal to continue funding the United Way Hardship fund in perpetuity. ii. A \$10 cap on rate increases per month for ratepayers enrolled in its Customer Assistance Program. The cap shall be in place for the duration of the Project..		regular (non-CAP) ratepayers cannot be projected or analyzed by the CPUC. Further, it is unclear whether Cal-Am intends to seek CPUC permission for the cap and subsidy prior to construction. It is difficult to understand how the CPUC wouldn't require approval prior to commencement of construction.
17.Community Engagement and Public Access Plans and Implementation. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, Cal-Am shall submit a Community Engagement Plan that ensures residents and representatives of the City of Marina will be equitably engaged in development of a revised Public Access and Amenities Plan. It shall include a schedule and agendas for at least five community workshops within the		A community engagement plan was reviewed, approved, and implemented and a community engagement report was submitted in April 2025. The City of Marina also completed its own community engagement and report in April 2025 and provided to Coastal Commission staff. Cal-Am developed a draft Public Access and Amenities Plan (November 2025) based on the results of both their own and the City's community engagement efforts, and Commission staff provided written comments on the draft plan in May 2026.

City to allow community input on preferred public access opportunities and improvements. Upon Coastal Commission approval of the Plan, Cal-Am shall implement to prepare a Public Access and Amenities Plan based on preferences expressed in the Community Engagement Plan. This Access Plan shall include two components: a Public Access and Amenities Plan for the City of Marina and a Plan describing how Cal-Am's project site will be connected into the larger planning effort for the CEMEX site. Cal-Am will provide three million dollars as funding to implement the elements of this Plan. The Plan shall describe the process for Cal-Am's funding of one full-time staff person at the City of Marina with appropriate professional credentials to provide technical oversight regarding the elements of the plan on behalf of the City of Marina, and Cal-Am shall fully fund that position for a period of ten years.		Coastal Commission staff are awaiting an updated draft plan for review. It is difficult to understand how the CPUC wouldn't require approval of the cost impacts of a \$3 million payment to Marina and a fully-funded staff person (paid for by ratepayers) for ten years, prior to commencement of construction.
19. Energy Minimization and Greenhouse Gas Reduction. PRIOR TO THE START OF CONSTRUCTION ACTIVITIES, Cal-Am shall submit, a plan that identifies the expected annual amount of indirect greenhouse gas ("GHG") emissions resulting from the Project's electricity use during its initial year of operations, with provisions to update these expected emissions during each subsequent year of operations.		Coastal Commission staff received a draft plan on August 17, 2026 and it is being reviewed.

20. Visual Resources PRIOR TO CONSTRUCTION, the Applicant shall submit, for Executive Director review and approval, a Visual Elements Plan that illustrates all above-grade elements of Project components within the coastal zone.		Coastal Commission staff received a visual elements plan on March 12, 2026 and it is being reviewed.
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