



Ian C. Crooks
Vice President, Engineering
655 W. Broadway, Suite 1410
San Diego, CA 92101
(619) 446-4786
ian.crooks@amwater.com

November 22, 2019

Brian McMinn
Public Works Director
City of Marina GSA
211 Hillcrest Avenue, Marina CA 93933
bmcminn@cityofmarina.org

Re: City of Marina’s Groundwater Sustainability Plan for the Marina GSA Area of the 180/400 Foot Aquifer Subbasin

Dear Mr. McMinn

These comments are submitted on behalf of the California American Water Company (“CalAm”) and address the City of Marina’s (“City”) Groundwater Sustainability Plan for the Marina GSA Area of the 180/400 Foot Aquifer Subbasin (“MGSA GSP”).

CalAm 1

The City made it abundantly clear during its groundwater sustainability agency (“GSA”) formation hearing (and since) that its sole objective in exercising authority under the Sustainable Groundwater Management Act (“SGMA”) is to stop CalAm’s Monterey Peninsula Water Supply Project (“MPWSP” or “Project”). CalAm previously expressed its concern that the City will leave no stone unturned in acting on its bias against the Project. (See, CalAm April 25, 2019 letter attached hereto as **Attachment A.**) Comments from the City at the recent Coastal Commission hearing regarding the MPWSP further confirmed the City’s bias against the Project. (See, Latham & Watkins November 21, 2019 Memorandum attached hereto as **Attachment B.**) The content of and significant deficiencies in the MGSA GSP, which the City hurriedly cobbled together at the eleventh hour, are further evidence of the City’s myopic and misguided efforts to thwart the MPWSP, a project that science demonstrates will be beneficial to the Salinas Valley Groundwater Basin (“SVGB”).¹ As detailed in comments on the MGSA GSP submitted by the Hydrogeologic Working Group (“HWG”),² which are attached hereto as **Attachment**

¹ The Project’s impact on seawater intrusion is well documented in the California Public Utilities Commission’s (“CPUC”) and Monterey Bay National Marine Sanctuary’s Final Environmental Impact Report/Environmental Impact Statement (“EIR/EIS”) for the Project. (See, e.g., Final EIR/EIS, pp. 4.4-91 to 4.4-92 [explaining that “the MPWSP would not exacerbate seawater intrusion, and groundwater extraction from the coast, as part of project operations, would be expected to retard future inland migration of the seawater intrusion front. The proposed project would facilitate the reduction of seawater intrusion in the long term”].)

² The HWG arose out of a settlement agreement related to the MPWSP that the CPUC approved as part of its review of the Project. The parties to the settlement agreement agreed that hydrologists and technical teams representing CalAm and the Salinas Valley Water Coalition would collaborate with other experts to develop a joint workplan for the MPWSP’s proposed source water intake sites. The HWG, which was developed to serve as an internal peer review group, reviewed data and analyses and prepared investigation documents related to the MPWSP.

C, the MGSA GSP suffers from numerous and significant technical deficiencies. Further, the MGSA GSP suffers from the broader deficiencies discussed below.

CalAm 2

- As detailed in CalAm’s August 12, 2019 comment letter on the City’s initial groundwater sustainability plan (“GSP”) preparation notification, the Salinas Valley Basin Groundwater Sustainability Agency (“SVBGSA”) is the exclusive GSA for the 180/400 Foot Aquifer Subbasin (“180/400 Subbasin”), including the area covered by the MGSA GSP (“MGSA Area”). Thus, the City is not a GSA and does not have the authority to adopt a GSP.

CalAm 3

- The SVBGSA’s Salinas Valley 180/400-Foot Aquifer Subbasin Groundwater Sustainability Plan (“SVBGSA GSP”) already covers the 180/400 Subbasin, including the MGSA Area. Thus, the MGSA GSP is unnecessary, suggests GSP overlap in the 180/400 Subbasin, and given its deficiencies, increases the likelihood of State intervention in the 180/400 Subbasin.

CalAm 4

- The MGSA GSP incorrectly asserts that the City is an exclusive GSA for the MGSA Area. As noted above, the SVBGSA is the exclusive GSA for the MGSA Area (and beyond). Further, to the extent overlap is deemed to exist in the 180/400 Subbasin because of the City’s improper SGMA efforts in the MGSA Area, CalAm understands that the County of Monterey plans to exercise its authority pursuant to Water Code section 10724 to become the exclusive GSA for the MGSA Area. As such, the City will not have authority to adopt a GSP for or take any SGMA related actions in the MGSA Area.

CalAm 5

- The MGSA GSP conflicts with SVBGSA GSP in significant ways relating to the hydrogeologic conditions in the 180/400 Subbasin, sustainable management criteria for the 180/400 Subbasin, and the potential management projects and actions. For example, the MGSA GSP does not include a seawater intrusion barrier project, one of the SVBGSA’s most important management projects. These significant conflicts, as well as the lack of coordination between the two GSAs and their GSPs, prevent MGSA GSP and SVBGSA GSP coordination as required by SGMA. (See, Wat. Code §§ 10727(b)(3), 10727.6, 10733(b); 23 Cal. Code Regs. § 357.4.) The MGSA GSP does not make any attempt to address these significant conflicts or lack of coordination with the SVBGSA GSP

CalAm 6

- The MGSA GSP is based on the flawed premise that groundwater potentially subject to use by the MPWSP can be beneficially used (without desalination) by other groundwater users and that CalAm’s extraction of that groundwater as part of the MPWSP will adversely impact the 180/400 Subbasin. The MGSA GSP disregards sound science, data and information relating to the MGSA Area, including information relating to the hydrogeologic setting and the MPWSP (i.e., its operations and impacts). Instead, the MGSA GSP improperly describes the MPWSP and its impacts, as well as the hydrogeologic conditions in the MGSA Area and elsewhere, and relies on incorrect and invalid hydrogeologic studies and/or interpretations that have been rejected by various peer reviewers, regulatory agencies, and the courts. As a result, the MGSA GSP includes

inappropriate and unsupported sustainable management criteria and otherwise does not comply with SGMA.

CalAm 7

- The MGSA GSP improperly, and without an adequate scientific basis, attempts to link purported groundwater-related issues occurring outside of the MGSA Area with activities within the MGSA Area in an attempt to justify SGMA implementation actions in the MGSA Area.

CalAm 8

- The MGSA GSP does not adequately describe management actions and objectives, as required by SGMA, and improperly identifies “measurable objectives” as triggers for action rather than as goals for maintaining or improving groundwater conditions, and fails to establish interim milestones for the sustainability indicators. (See, Wat. Code § 10727.2 (b); 23 Cal. Code Regs. §§ 351(q) and (s), 354.30, 354.44(a).)

CalAm 9

- Despite the fact that the Deep Aquifer is the only aquifer in the MGSA Area that is not severely seawater-intruded, and that groundwater pumping (by Marina Coast Water District) is expected to increase therein, the MGSA GSP largely does not address the Deep Aquifer to ensure sustainable groundwater management therein (e.g., set minimum thresholds and measurable objectives in an attempt to protect the aquifer). Instead, the MGSA GSP focuses entirely on the seawater-intruded aquifers from which the MPWSP may draw water, and is not focused on improving groundwater conditions in the MGSA Area.

Based on the above, it is clear that the MGSA GSP is part of the City’s continuing biased efforts to stop the MPWSP by any means necessary. As discussed herein and detailed in the HWG’s comment letter, the MGSA GSP suffers from significant deficiencies that cannot be remedied. Therefore, the City should cease all GSP development efforts, withdraw its GSA notice for the MGSA Area, and allow the SVBGSA to manage the 180/400 Subbasin pursuant to the SVBGSA GSP.

Respectfully,



Ian C. Crooks
Vice President, Engineering
California American Water

cc: Taryn Ravazzini, Department of Water Resources
Eileen Sobeck, State Water Resources Control Board
Kathryn Horning, California American Water Company
Robert E. Donlan, Ellison, Schneider Harris & Donlan

ATTACHMENT A

FIRM / AFFILIATE OFFICES

Beijing	Moscow
Boston	Munich
Brussels	New York
Century City	Orange County
Chicago	Paris
Dubai	Riyadh
Düsseldorf	San Diego
Frankfurt	San Francisco
Hamburg	Seoul
Hong Kong	Shanghai
Houston	Silicon Valley
London	Singapore
Los Angeles	Tokyo
Madrid	Washington, D.C.
Milan	

April 25, 2019

VIA EMAIL AND FEDEX

Mayor Delgado and Honorable Councilmembers
City of Marina City Council
211 Hillcrest Avenue
Marina, California 93933

Deborah Mall, Deputy City Attorney
Wellington Law Offices
857 Cass St., #D
Monterey, CA 93940

Re: April 30, 2019, Special Meeting of Marina City Council, Appeal of Planning Commission Resolution 2019-06 (Denying Coastal Development Permit for Monterey Peninsula Water Supply Project): Request for Recusal of Mayor Bruce Delgado, Councilmember Lisa Berkley, and Councilmember Gail Morton

Dear Mayor Delgado, Honorable Councilmembers, and Ms. Mall:

On behalf of California-American Water Company (“Cal-Am”), we request that Mayor Bruce Delgado, Councilmember Lisa Berkley, and Councilmember Gail Morton recuse themselves from consideration of Cal-Am’s appeal of the Marina Planning Commission’s denial of a local coastal development permit (“CDP”) application for those portions of the Monterey Peninsula Water Supply Project (“MPWSP” or “Project”) within the City of Marina’s Coastal Zone.

Unfortunately, Mayor Delgado and Councilmembers Morton and Berkley have demonstrated resounding and ongoing bias toward the MPWSP that confirms they cannot act as impartial decisionmakers and necessitates their recusal from this matter. It is well understood that constitutionally mandated principles of fairness and due process prohibit biased decisionmakers from participating in matters in which they are unable to be impartial. Having directly opposed the MPWSP in many forums, as evidenced below, Mayor Delgado and

Councilmembers Morton and Berkley have displayed a long and indisputable record of bias that precludes them from considering Cal-Am's CDP application for the MPWSP.¹

In the interests of fairness and good government, we therefore insist that Mayor Delgado, and Councilmembers Morton and Berkley, take absolutely no part in the City Council's consideration of Cal-Am's appeal of the Planning Commission's denial of the CDP application. We recognize that the recusal of these three Councilmembers means that the City Council will not be able to maintain a quorum to consider the appeal. Accordingly, as described further herein, the City must treat the Planning Commission's denial of the CDP application as the City's final action and send a final local action notice ("FLAN") to the Coastal Commission.

I. BACKGROUND

On September 13, 2018, after years of comprehensive environmental review under the California Environmental Quality Act ("CEQA"), the California Public Utilities Commission ("CPUC") approved the MPWSP as a 6.4 million gallons per day facility, which is a reduced capacity alternative in the CPUC's Environmental Impact Report/Environmental Impact Statement ("EIR/EIS"). The CPUC determined that the MPWSP is critically needed to replace water supplies for Cal-Am's Monterey District in response to a Cease and Desist Order ("CDO") issued by the State Water Resource Control Board requiring Cal-Am to cease unauthorized diversions from the Carmel River by December 31, 2021.² The CPUC arrived at its decision to approve the MPWSP after "actively engag[ing] with the City of Marina" and numerous other stakeholders.³

Cal-Am proposes to locate the MPWSP's subsurface intake slant wells in a retired portion of the CEMEX sand mining site in northern Marina. To comply with the California Coastal Act and the City's Local Coastal Program ("LCP"), in June 2018, Cal-Am filed with the City its application for a local CDP for the construction and operation of those subsurface slant wells and other Project components located in the City's Coastal Zone, including associated infrastructure and water conveyance pipelines. The environmental impacts of each of these Project components were comprehensively analyzed in the EIR/EIS, that the CPUC certified as lead agency on September 13, 2018.

Under the LCP and the City's Coastal Zoning Ordinance, the Planning Commission is responsible for issuing CDPs for development within the City's Coastal Zone, such as the

¹ The issue of City of Marina officials' bias against Cal-Am and the MPWSP is well documented. On February 8, 2019, we sent a similar letter on behalf of Cal-Am to the Planning Commission requesting that Commissioner Biala and Chair Burnett recuse themselves from consideration of the CDP application. Prior the February 14, 2019, Planning Commission hearing, Commissioner Biala and Chair Burnett recused themselves in the Commission's consideration of the MPWSP, but both provided commentary on the Project during the hearing.

² See CPUC, Decision (D.) 18-09-017, Decision Approving a Modified Monterey Peninsula Water Supply Project, Adopting Settlement Agreements, Issuing Certificate of Public Convenience and Necessity and Certifying Combined Environmental Report, pp. 165–193 (Sept. 20, 2018). On February 5, 2019, the CPUC issued Decision (D.) 19-01-051, modifying D.18-09-017 and denying two applications for rehearing filed with the CPUC. D.19-01-051 is available at: <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M262/K004/262004679.PDF>.

³ CPUC, D.18-09-017, Appendix J.

Project.⁴ Further, the City is a responsible agency under CEQA regarding the Project's certified EIR/EIS.⁵ On February 14, 2019, the Planning Commission voted to deny Cal-Am's CDP application and directed City staff to return to the Commission on March 7, 2019, with a resolution denying the CDP containing findings. On March 7, at a special meeting, the Planning Commission adopted Resolution 2019-06, denying the CDP.⁶ On March 13, 2019, Cal-Am timely appealed that denial to the City Council. Cal-Am is concerned that the substantial bias demonstrated by multiple members of the City Council, which is evidenced in more detail below, will interfere with Cal-Am's due process rights and its ability to receive an impartial hearing by the City Council on its appeal.

II. CAL-AM'S DUE PROCESS RIGHTS DEMAND A FAIR TRIBUNAL

When the City Council performs quasi-judicial functions, such as by considering a CDP application on appeal, the Federal and California Constitutions guarantee due process of law and obligate the City Council to provide a fair tribunal to the applicant.⁷ "[T]he undeniable public interest in fair hearings in the administrative adjudication arena, militate in favor of assuring that such hearings are fair."⁸

To that end, procedural due process requires that the City Council's hearing on Cal-Am's appeal be conducted "before a reasonably impartial, noninvolved reviewer."⁹ If there are "concrete facts" establishing "an unacceptable probability of actual bias on the part of those who have actual decisionmaking power over [the] claims," the law is unambiguous that *those decisionmakers must recuse themselves from participating in the decisionmaking process*.¹⁰ An unacceptable probability of actual bias is present where decisionmakers are "personally

⁴ Marina Municipal Code, section 17.41.090.B.1; Marina Local Coastal Implementation Plan ("LCIP"), pp. 9–11, <https://www.ci.marina.ca.us/DocumentCenter/View/4491>.

⁵ CEQA Guidelines, § 15381.

⁶ On March 12, 2019, pursuant to the LCIP and the Marina Municipal Code, the City sent Cal-Am, the Coastal Commission, and interested parties a memorandum notifying the recipients of the Planning Commission's denial of the CDP and attaching Resolution 2019-06.

⁷ *Morongo Band of Mission Indians v. State Water Resources Control Bd.* (2009) 45 Cal.4th 731, 737 (citing *Withrow v. Larkin* (1975) 421 U.S. 35, 46); see also U.S. Const., 14th Amend.; Cal. Const., art. I, § 7, subd. (a). The Planning Commission actions on Cal-Am's local CDP application is quasi-judicial in nature, because the matter involves the determination of facts specific to an individual case—the MPWSP—rather than the adoption of rules of general application on the basis of broad public policy. *Nasha v. City of Los Angeles* (2004) 125 Cal.App.4th 470, 482 (quoting *Beck Development Co. v. Southern Pacific Transportation Co.* (1996) 44 Cal.App.4th 1160, 1188). Marina's procedures for issuing a CDP include the review of specific facts and a hearing. See LCIP, pp. 9–11, Flow Chart 2.

⁸ See *Nasha, supra*, 125 Cal.App.4th at 483 (quoting *Nightlife Partners, Ltd. v. City of Beverly Hills* (2003) 108 Cal.App.4th 81, 90).

⁹ *Burrell v. City of L.A.* (1989) 209 Cal.App.3d 568, 582; *Woody's Group, Inc. v. City of Newport Beach* (2015) 233 Cal.App.4th 1012, 1022–1023; *Nasha, supra*, 125 Cal.App.4th at 483 (quoting *Gai v. City of Selma* (1998) 68 Cal.App.4th 213, 219).

¹⁰ *Today's Fresh Start, Inc. v. Los Angeles County Office of Education* (2013) 57 Cal.4th 197, 219 (quoting *Morongo Band of Mission Indians, supra*, 45 Cal.4th at 737).

embroiled”¹¹ in a particular matter or have become involved in dispute such that they would be impermissibly reviewing their own case if they were to participate in the decisionmaking process.¹² By analogy, it would be improper for a judge, while a case was pending before the court, to write an article favoring one side, let alone judge a case in which he or she was a party. In essence, an “unacceptable probability of actual bias . . . sufficient to preclude [a decisionmaker]” is present any time the decisionmaker would be unable to serve as a “reasonably impartial, noninvolved reviewer[.]”¹³ Courts reverse agency decisions when biased decisionmakers participate in those decisions.¹⁴

Importantly here, in *Mennig v. City Council* (1978) 86 Cal.App.3d 341, the Court of Appeal used this same rubric to invalidate a city council’s decision to reject a lower administrative body’s disciplinary recommendation and terminate a police chief, when the record made clear that the councilmembers were biased against the police chief.¹⁵ Under *Mennig*, where a city council hears an appeal or recommendation from a lower administrative body with decisionmaking authority acting in a quasi-judicial capacity, and where the majority of the councilmembers are unable to be impartial due to evidence of actual bias, the councilmembers cannot render a valid decision on the lower body’s action.¹⁶ The result is that the lower administrative body’s decision must be deemed final.¹⁷

As described below, the same approach must apply here, where the overwhelming evidence shows that in advocating against Cal-Am and the MPWSP, a majority of Councilmembers—Mayor Delgado, Councilmember Berkley, and Councilmember Morton—bear actual bias in opposing Cal-Am’s local CDP application. Therefore, they must recuse themselves in this matter, and the Planning Commission’s decision must stand because the City Council is unable to act.

¹¹ *Mennig v. City Council* (1978) 86 Cal.App.3d 341, 350; see also *Applebaum v. Bd. of Directors* (1980) 104 Cal.App.3d 648, 657.

¹² See *Woody’s Group, Inc.*, *supra*, 233 Cal.App.4th at 1016.

¹³ *Today’s Fresh Start, Inc.*, *supra*, 57 Cal.4th at 219.

¹⁴ See, e.g., *Woody’s Group, Inc.*, *supra*, 233 Cal.App.4th at 1022; *Nasha*, *supra*, 125 Cal.App.4th at 484.

¹⁵ *Mennig*, *supra*, 86 Cal.App.3d at 350–351 (reversing a city council decision where the entire Council was personally embroiled in a conflict with the Chief of Police); see also *Cohan v. City of Thousand Oaks* (1994) 30 Cal.App.4th 547, 558–559 (reversing a city council decision where the city council, acting as a whole, acted in a biased manner).

¹⁶ *Mennig*, *supra*, 86 Cal.App.3d at 351–352; see also *Cohan*, *supra*, 30 Cal.App.4th at 561.

¹⁷ *Mennig*, *supra*, 86 Cal.App.3d at 351–352; see also *Sabey v. City of Pomona* (2013) 215 Cal.App.4th 489, 498 (holding that if a decisionmaker is personally embroiled in the controversy to be decided, the decisionmaker must be disqualified from the matter, and that “[i]n that situation, **it is appropriate to allow the recommendation of an inferior decision maker to stand as the final decision.**”) (emphasis added, citing *Mennig*).

III. THE CITY COUNCIL IS INCAPABLE OF IMPARTIALLY HEARING CAL-AM'S APPEAL BECAUSE A MAJORITY OF COUNCILMEMBERS MUST BE RECUSED

As set forth herein and demonstrated in the evidence attached as exhibits to this letter and included in electronic format on a disc accompanying this letter, a majority of the City Council is incapable of impartially hearing Cal-Am's appeal of the Planning Commission's CDP denial. Specifically, Mayor Delgado and Councilmembers Morton and Berkley are openly biased against the MPWSP and Cal-Am will be denied its rights to due process and ability to receive an impartial hearing if they are permitted to participate in any way in the City Council's consideration of the pending appeal.

*Such bias is blatantly obvious and of public knowledge, as Mayor Delgado and Councilmembers Berkley and Morton are members of Citizens for Just Water ("Just Water").*¹⁸ Just Water is a local group that seeks to prevent the MPWSP from being constructed despite the significant benefits that will accrue from the Project to communities in the Monterey Peninsula.¹⁹ Among other things, Just Water's website alleges that MPWSP will illegally take Marina's water and harm Marina, and encourages the public to vigorously protest the Project.²⁰ In opposition to the MPWSP, Just Water has filed briefs challenging the CPUC's EIR/EIS, actively opposed the Project in CPUC hearings, submitted opposition letters to the CPUC, and organized public forums to criticize the Project.²¹

For example, in filings with the CPUC, Just Water alleged that the CPUC's decision to approve the MPWSP was "a violation of both Marina's Local Coastal Plan and its community values,"²² "[t]he project is neither just nor reasonable"²³ and that Cal-Am's operations would be "unjust and unlawful."²⁴ Just Water also has sponsored a petition on change.org noting that "[k]ey permit applications are fast approaching" and that decisionmakers must "STOP THIS ENVIRONMENTALLY HARMFUL, ILLEGAL, AND COSTLY PROJECT!"²⁵ In addition,

¹⁸ Monterey County Weekly, *Marina residents gather in opposition to Cal Am's proposed desal project* (April 18, 2018) (*Opposition to Desal Project*), http://www.montereycountyweekly.com/blogs/news_blog/marina-residents-gather-in-opposition-to-cal-am-s-proposed/article_d269c294-435d-11e8-932e-87158f342af9.html, attached hereto as Exhibit A; see also <https://www.facebook.com/justice4water/>.

¹⁹ See Citizens for Just Water website, <https://www.c4justwater.org/>, relevant excerpts attached hereto as Exhibit B; Citizens for Just Water Motion for Party Status (filed with CPUC on Nov. 11, 2016), attached hereto as Exhibit C.

²⁰ See Exhibit D attached hereto.

²¹ See <https://www.c4justwater.org/what-has-citizens-for-just-water-done.html> (summarizing Just Water's extensive opposition efforts), attached hereto as Exhibit E.

²² Citizens for Just Water, Response to the Application for Rehearing of Decision 18-09-017, pp. 6-7 (filed with CPUC on October 29, 2018), attached hereto as Exhibit F.

²³ *Id.*

²⁴ Comments of Citizens for Just Water to Joint Statement of Issues, p. 3 (filed with CPUC on July 10, 2017), attached hereto as Exhibit G; see also Citizens for Just Water, Opening Brief Regarding Monterey Peninsula Water Supply Project Final Environmental Impact Report/Final Environmental Impact Statement, pp. 13-14 (filed with CPUC on April 19, 2018) (stating that "[t]here is NO industrial project that would be in alignment with [the Local Coastal Plan or dune habitat restoration goals]"), attached hereto as Exhibit H.

²⁵ See <https://www.change.org/p/stop-cal-am-s-flawed-desal-project>, attached hereto as Exhibit I.

most recently, on January 30, 2019, Just Water co-hosted an event entitled “Can CalAm STEAL Marina’s Groundwater?,” during which the organization grossly mischaracterized Cal-Am’s actions and the MPWSP’s proposed operations.²⁶ Moreover, on at least two occasions, the City also opened its City Council chambers for Just Water to hold public forums in which Councilmembers openly participated as speakers.²⁷

A. Mayor Delgado’s Bias Against Cal-Am and the MPWSP

For many years, Mayor Delgado has been a vocal leader of the opposition against Cal-Am and the MPWSP and has spoken and presented at many events in direct opposition to the Project.²⁸ As a member of Just Water and in his personal capacity, Mayor Delgado has presented public comments in opposition to the MPWSP at Coastal Commission meetings, CPUC hearings, Regional Water Quality Control Board (“RWQCB”) meetings, and privately to members of state and Federal legislatures. Documents obtained through Public Records Act requests show that Mayor Delgado has been in frequent contact and met regularly with members of Just Water, KP Public Affairs (the public relations firm hired by the City to advocate against the MPWSP on behalf of the City),²⁹ and Marina Coast Water District (“MCWD”) officials in conference rooms at City Hall to discuss strategy for opposing the MPWSP.³⁰ In one email,

²⁶ See <https://www.c4justwater.org/> (last accessed Feb. 4, 2019) (flyer for Just Water event), attached hereto as Exhibit J.

²⁷ See Citizens for Just Water, Marina/Fort Ord water: CODE RED (“Code Red Video”) (April 17, 2018), 27m55s, https://www.youtube.com/watch?v=C_FtUvkkeCw; Flyer for Just Water meeting (Nov. 27, 2018), attached hereto as Exhibit K.

²⁸ See, e.g., CODE RED, *supra* note 27, 27m55s; Marina v. Cal Am Video, How the Outcome Will Impact Your Cal Am Bill (“Marina v. Cal Am Video”) (June 21, 2018) 1hr2m5s, <https://www.youtube.com/watch?v=UIDSoQYv5Os>; Agenda for April 2018 Just Water Public Forums (April 11, 17, 2018), attached hereto as Exhibit L.

²⁹ On June 6, 2017, the City Council approved a resolution authorizing the City Manager to execute a contract for \$80,000 with KP Public Affairs “to assist in the advocacy, public relations services, collaboration with partners, coalition building, grassroots outreach and transparency of the Project to citizens” regarding the City’s position that “the Draft EIR/EIS for the Project . . . is legally inadequate in many critical subject areas and fails to meet the requirements of CEQA AND NEPA[.]” (City of Marina City Council Resolution No. 2017-56, A Resolution of the City Council of the City of Marina Authorizing the City Manager to Execute a Contract with KP Public Affairs for Public Relations and Advocacy Services (June 6, 2017) (“Resolution No. 2017-56”), attached hereto as Exhibit M.) In an email to Mayor Delgado, KP described its work as:

[C]ontinuing to push on the Cal Am issue through a variety of avenues. . . As you know we’re setting up meetings with key influencers, we’ve put together recommendations for social media and digital advertising, sent out information and prepared new letters for decision-makers, we’re pursuing new opportunities with the [environmental justice] issues including the Attorney General’s office and other third parties, and are seeking out new media opportunities.

(Email between KP Public Affairs, Mayor Bruce Delgado, Councilmember Gail Morton, City Manager Layne Long, and other KP employees (Nov. 26, 2018), attached hereto as Exhibit N.)

³⁰ See, e.g., Emails between KP Public Affairs, Mayor Delgado, City Manager Long, and Just Water Founder Kathy Biala (Nov. 29, 2018), attached hereto as Exhibit O. On the City’s behalf, as directed by the City Council, KP has prepared opposition flyers bearing the City’s seal for circulation at public meetings as well as a wealth of other opposition material. (See Exhibit P; transmittal email from KP Public Affairs to MCWD and City of Marina

Mayor Delgado wrote, “I think the synergy between C4JW, City, and KP(public relations firm) could be much more effective,” before planning to meet collectively on December 13, 2018.³¹

Additionally, Mayor Delgado has authored numerous articles in the Monterey Herald, San Francisco Chronicle, and Capitol Weekly, all unambiguously stating his opposition to the MPWSP. Mayor Delgado also uses social media to advertise his attacks on the MPWSP.³² Some examples of Mayor Delgado’s biased statements include:

- In a December 4, 2017, San Francisco Chronicle article, Mayor Delgado wrote, “[the MPWSP] would ignore the groundwater act’s environmental protections, deplete scarce water resources, and allow further seawater intrusion into the aquifer. . . . [T]he proposed project would set a horrible precedent on many levels.”³³
- In a February 2, 2018, Monterey Herald opinion column entitled “Cal Am’s proposed desal plant bad idea and bad for Marina,” Mayor Delgado wrote, “This project poses a substantial threat to our local groundwater supply and the coastal ecosystem, not just in Marina, but across much of the Monterey Peninsula.”³⁴
- At a March 20, 2018, Marina City Council Meeting, Mayor Delgado, speaking in his official capacity stated, “I will admit, that what I do understand is that Marina has been on the short end of the stick when it’s come to the whole proposal for Slant

attaching flyer (July 6, 2018), attached hereto as Exhibit Q; Email from KP Public Affairs to Mayor Delgado transmitting opposition materials (Nov. 27, 2018), attached hereto as Exhibit R.) One of the documents makes a wide range of allegations regarding the MPWSP including, but not limited to, claiming that the MPWSP is a “threat to [the] coastal ecosystem” and “would jeopardize Marina’s drinking water,” and that “Marina will suffer long term environmental harm from the project, with no benefit or strategy to mitigate the impacts.” (Opposition flyers attached hereto as Exhibit P.) KP has also allegedly organized meetings between Mayor Delgado, City Manager Long, and various state and Federal leaders. (Emails between KP Public Affairs, Mayor Delgado and City Manager Long (Dec. 21, 2018), attached hereto as Exhibit S.) In addition, KP is responsible for authoring Just Water’s standard form letters opposing the Project, which are posted on Just Water’s website. (See <https://www.c4justwater.org/code-red-what-can-we-do.html> (last accessed Feb. 4, 2019), attached hereto as Exhibit D.) The metadata from two of these form opposition letters show Tom van der List, a KP employee, as their primary author, a fact which is openly discussed in City emails. (See Exhibit T [the Word documents are also available on the disc enclosed with this letter. By viewing the file properties of these documents, the name of the author—Tom van der List in two instances—is visible]; email from KP Public Affairs to City Manager Long and Mayor Delgado (April 5, 2018), attached hereto as Exhibit U.)

³¹ See, e.g., Emails between KP Public Affairs, Mayor Delgado, City Manager Long, and Just Water Founder Biala (Nov. 29, 2018), attached hereto as Exhibit V.

³² See, e.g., Mayor Delgado Facebook Posts, attached hereto as Exhibit W.

³³ Bruce Delgado, *A test of California’s commitment to groundwater sustainability*, San Francisco Chronicle (Dec. 4, 2017) <https://www.sfchronicle.com/opinion/openforum/article/A-test-of-California-s-commitment-to-12405228.php>, attached hereto as Exhibit X.

³⁴ Bruce Delgado, *Cal Am’s proposed desal plant bad idea and bad for Marina*, Monterey Herald (Feb. 2, 2018) <http://www.montereyherald.com/opinion/20180202/bruce-delgado-cal-ams-proposed-desal-plant-bad-idea-and-bad-for-marina>, attached hereto as Exhibit Y.

- Wells that will hurt us but not help us” and that Marina would “not leave any stone unturned . . . to protect our sacred water that others are dipping their straws into.”³⁵
- On April 11, 2018, at a Just Water public forum held in the City Council chambers, Mayor Delgado stated that “[o]ur overall goal is to protect the sacred water for the City of Marina,” that the MPWSP “is a classic environmental injustice,” and that “Cal-Am will not make us whole, Cal-Am refuses to make us whole.” He asked “what kind of future, what kind of reputation, what kind of quality of life would that be, in the City of Marina and the Ord Community” if the MPWSP were to be constructed. He then asked that those gathered be the voice of opposition against the MPWSP.³⁶
 - In an April 16, 2018, Monterey Herald opinion column, Mayor Delgado catalogued alleged failures of the MPWSP’s environmental review process, maintaining in the face of CPUC’s thorough analysis that, “the [EIR] fails to adequately evaluate the harmful impacts to Marina—it disregards our serious concerns related to groundwater depletion, saltwater intrusion, damage to the coastal ecosystem and more.”³⁷
 - At an April 17, 2018, public forum organized by Just Water, Mayor Delgado stated that fighting against the MPWSP was “fighting for justice,” and that “we’re doing all we can to fight for our sacred water.” Mayor Delgado went on to say that Marina would plan to “oppose this project, in any way we can.”³⁸
 - On June 21, 2018, Mayor Delgado presented at another public forum in opposition to the MPWSP saying that, “the insult to injury that Cal-Am’s industrial facilities would add to Marina is a poster child for environmental injustice,” “Cal-Am’s science is wrong,” and that “we are doing what we can to challenge them.”³⁹
 - At a July 13, 2018 Coastal Commission meeting, Mayor Delgado claimed that the MPWSP “would violate Marina’s local coastal plan” and “reduce the quality of life and community values of Marina[.]” He stated that the Commission should not allow Marina to be “serve[d] up for Cal-Am to degrade[.]”⁴⁰

³⁵ Marina City Council Meeting (March 20, 2018) 37m20s, https://videoplayer.telvue.com/player/m_3HX6961GRMsvkqSCdwmGeJ8rwpRZrR/media/337345?autostart=true&showtabssearch=true.

³⁶ Citizens for Just Water Public Forum in City Council Chambers (April 11, 2018), <https://www.youtube.com/watch?v=xN-sFEzujc>.

³⁷ Bruce Delgado, *When it comes to water, be a good neighbor*, Monterey Herald (April 16, 2018) (Be a good neighbor), <https://www.montereyherald.com/2018/04/16/marina-mayor-bruce-delgado-when-it-comes-to-water-be-a-good-neighbor/>, attached hereto as Exhibit Z.

³⁸ Code Red Video, *supra* note 27.

³⁹ Marina v. Cal Am Video, *supra* note 28.

⁴⁰ California Coastal Commission Meeting (July 13, 2018) 7m55s, <http://cal-span.org/unipage/?site=cal-span&owner=CCC&date=2018-07-13>.

- On September 14, 2018, in a televised interview on KSBW Action News 8, Mayor Delgado stated that the CPUC’s decision to approve the MPWSP was “the wrong decision,” that “our water will be contaminated and our water will be reduced [by the MWSP],” and that Cal-Am was “victimizing the Marina residents.”⁴¹
- In an October 2, 2018, Capitol Weekly article Mayor Delgado wrote, “the project ignores important environmental protections, tramples on the rights of Marina residents, and allows further seawater intrusion into the local water supply.” In the same article, Mayor Delgado analogizes the MPWSP’s impact on Marina to the water contamination crisis in Flint, Michigan.⁴²
- Mayor Delgado, who is also a Board member with the Central Coast RWQCB, recused himself from hearing public comments at a December 6, 2018 Central Coast RWQCB meeting where members of Just Water presented. Nevertheless, Mayor Delgado spoke during public comment as the capstone to Just Water’s presentation, again calling the MPWSP a “classic example of environmental injustice.”⁴³
- At a April 11, 2019 Coastal Commission meeting, Mayor Delgado spoke during public comment, stating that the MPWSP would damage public access to the coast and environmental sensitive habitat areas, damage local groundwater, and create greenhouse gas emissions. Mayor Delgado concluded by stating that the Coastal Commission would be “on the right side of history” by voting against the MPWSP.⁴⁴

In sum, *Mayor Delgado has made no secret of his public opposition to Cal-Am and the MPWSP and his inability to consider Cal-Am’s local CDP application appeal with legally required impartiality could not be more evident.* The overwhelming evidence detailed above demonstrates that Mayor Delgado is far from “reasonably impartial.”⁴⁵ Rather, the evidence demonstrates that he is a vocal Project opponent and a leader within one of the primary groups seeking to prevent the development of the MPWSP. Accordingly, Mayor Delgado must be recused from participating in the City Council’s consideration of Cal-Am’s appeal of the Planning Commission’s CDP denial.

⁴¹ KSBW Action News 8, Marina city leaders not happy over Cal-Am water desal plant on its shores (Sept. 14, 2018), 31s, 1m15s, 1m52s, <https://www.youtube.com/watch?v=Ql8WDe6MKUg>.

⁴² Bruce Delgado, *Marina bears heavy burden in desalination dispute*, Capitol Weekly (Oct. 2, 2018), <http://capitolweekly.net/divisions-desalination-monterey-peninsula/>, attached hereto as Exhibit AA.

⁴³ Public Forum Audio of Central Coast Regional Water Quality Board (December 6, 2018) 1m37s, 32m40s (Water Quality Board Audio), https://www.waterboards.ca.gov/centralcoast/board_info/agendas/2018/december/audio/item7_audio.mp3.

⁴⁴ California Coastal Commission Meeting (April 11, 2019) 30m50s, <http://cal-span.org/unipage/?site=cal-span&owner=CCC&date=2019-04-11>.

⁴⁵ *Nasha, supra*, 125 Cal.App.4th at 483; *see also Today’s Fresh Start, Inc., supra*, 57 Cal.4th at 215–216.

B. Councilmember Berkley's Bias Against Cal-Am and the MPWSP

Councilmember Berkley is also biased and must be recused. Like Mayor Delgado, Councilmember Berkley is a member of Just Water and has an extensive record of openly opposing the MPWSP. Until December 2018, Councilmember Berkley was Just Water's official representative before the CPUC. In that capacity, she cross-examined Eric Sabolsice, Pacific Grove Mayor Bill Kampe, John Narigi, and Ian Crooks at CPUC evidentiary hearings on October 26, 2017 and October 30, 2017, during which the administrative law judges repeatedly sustained objections to her mischaracterization of witness testimony and argumentative lines of questioning.⁴⁶ Moreover, Councilmember Berkley has appeared at numerous public forums to voice her opposition to the MPWSP.⁴⁷ Examples of her biased statements include:

- At July 14, 2017, Coastal Commission meeting, Councilmember Berkley stated that “Cal-Am has no water rights,” and implored the Commission to prevent the MPWSP from being possible: “[D]o not allow Cal-Am to seek appeals or support from the Coastal Commission for this enormously flawed project.”⁴⁸
- Nearly a year later, at a July 11, 2018 Coastal Commission meeting, Councilmember Berkley demonstrated her continuing bias by stating that the MPWSP would result in “illegal pumping of Marina’s groundwater” and that “this project makes no sense at all, yet government agencies are continuing to turn a blind eye to the fact that it’s basically illegal, [and] the science that says it’s dangerous to the environment[.]” She concluded, by once again asking the Commission to “not grant [Cal-Am] permits.”⁴⁹
- Councilmember Berkley also prepared testimony to present at a September 20, 2018, Central Coast RWQCB meeting, stating that “Cal-Am ignored thousands of public comments”—misconstruing Cal-Am’s role in the environmental review process—and asking the RWQCB to “[p]lease help us protect and responsibly manage our own water resource by challenging the science of Cal-Am’s limited understanding of our basin and the gross illegitimacy of this project in the face of SGMA mandates.”⁵⁰
- At a November 7, 2018 Coastal Commission meeting, Councilmember Berkley discussed the environmental justice impacts that would allegedly accrue to Marina should the MPWSP be built, asking “why prepare an EIR at all” if the impacts to Marina were going to be ignored.

⁴⁶ Excerpts of CPUC Evidentiary Hearing Transcript, A1204019_102617_EH22, pp. 3684–3692, 3777–3778 (Oct. 26, 2017), attached hereto as Exhibit BB; Excerpts of CPUC Evidentiary Hearing Transcript, A.1204019, October 30, 2017, Volume 23, pp. 3877–3878, 3910–3911, 4052–4069 (Oct. 30, 2017), attached hereto as Exhibit CC.

⁴⁷ See, e.g., Code Red Forum Agenda (Nov. 27, 2018), attached hereto as Exhibit DD.

⁴⁸ California Coastal Commission Meeting (July 12, 2017) 56m24s, <http://cal-span.org/unipage/?site=cal-span&owner=CCC&date=2017-07-12>.

⁴⁹ California Coastal Commission Meeting (July 11, 2018) 11m15s, <http://cal-span.org/unipage/?site=cal-span&owner=CCC&date=2018-07-11>.

⁵⁰ Prepared Comments to RWQCB (Sept. 20, 2018), attached hereto as Exhibit EE.

In sum, these statements demonstrate that Councilmember Berkley's position on Cal-Am's local CDP application is a foregone conclusion and as a result of her clear bias, she must be recused.

C. Councilmember Morton's Bias Against Cal-Am and the MPWSP

Councilmember Morton also bears significant bias against the MPWSP and must be recused. Councilmember Morton has a long history of participating in Just Water forums opposing the MPWSP.⁵¹ Her participation has earned praise from Just Water's founder Kathy Biala, who wrote in an April 18, 2018 email to Councilmember Morton, "[O]ur collective efforts and ability to reach out to the public in our entire region has been an amazing feat of commitment! Only by all of us pooling our efforts and seeing ourselves as invested in this common goal do we have this chance to prevail. I am so appreciative of our ability work together like this! Thank you, thank you! The two [Just Water] forums had great attendance and we collected many signed letters."⁵²

Commenting on one of Mayor Delgado's anti-MPWSP opinion pieces, Councilmember Morton offered the following advice in an email to City Manager Long, "WE NEED the public to hear and understand the threat to their property is no water, or water at an unreasonably high cost in the future. The taking of water by CalAM threatens MDWD [sic] ability to continue to provide a long-term sustainable water supply for Marina and all of the Fort Ord developments at a REASONABLE PRICE. So much of the material is talking over the heads of the public audience."⁵³

During an April 11, 2018, public forum in the City Council Chambers – before Cal-Am had even applied for a CDP from the City – Councilmember Morton even went so far as to engage in coaching members of the public on how they can better advocate against the MPWSP.⁵⁴ Councilmember Morton instructed the audience, point-by-point what they should write to the CPUC. For example, Councilmember Morton stated that "each and every one of us need to be saying" that "Cal-Am has no water rights in the Salinas Valley Groundwater Basin" and that "approval of the project will inflict unmitigated harm on our city."⁵⁵ She went on to say that:

the key point I want all of you to write in your letters to the CPUC is that the Rosemary Knight study may not be the silver bullet to

⁵¹ See, e.g., Email from Just Water Founder Biala to Keith Van Der Maaten (Jan. 1, 2017) (listing as moderator "Marina city councilmember Gail Morton"), attached hereto as Exhibit FF; David Schmalz, *Marina residents unite against Cal Am desal project*, Monterey County Weekly (Feb. 2, 2017), http://www.montereycountyweekly.com/news/local_news/marina-residents-unite-against-cal-am-desal-project/article_bc71d538-e8d4-11e6-8426-bb4a4aa40ed8.html, attached hereto as Exhibit GG.

⁵² Email from Just Water Founder Biala to Councilmember Morton (April 18, 2018), attached hereto as Exhibit HH.

⁵³ Email from Councilmember Morton to City Manager Long (April 8, 2018), attached hereto as Exhibit II.

⁵⁴ Citizens for Just Water Public Forum in City Council Chambers (April 11, 2018) 2m25s, <https://www.youtube.com/watch?v=xJ3YrkG-CoE>.

⁵⁵ *Ibid*.

stop this but I want you to let them know that the hydrogeologist studies that were done by Cal-Am and the proponents is not conclusive, it is controversial as well, there is conflicting evidence, conflicting interpretations, and that conflict when you're dealing with water, and long-term water supply that you are going to sacrifice [should consider all sides].⁵⁶

Councilmember Morton's presentation demonstrates her unmistakable bias against the MPWSP, rendering incapable of providing impartial review of Cal-Am's local CDP application. As a result, she must be recused.

D. The City is Institutionally Biased Against Cal-Am and the MPWSP

In addition to the bias of the three above-referenced City Councilmembers, the evidence is also clear that the City as a whole continues to maintain an institutional bias against the MPWSP and Cal-Am's efforts to develop it.⁵⁷ As described in detail above, this bias is obvious and of public knowledge, as City officials, including Mayor Delgado and City Manager Layne Long, have worked closely with KP to coordinate on opposition strategy to the MPWSP and produce opposition materials, among other outreach efforts.⁵⁸

Moreover, Marina opposed the MPWSP as a party in the CPUC proceedings, including with testimony, briefs, and other filings. Marina submitted – and engaged outside counsel and consultants to submit – extensive comments criticizing the Draft and Final EIR/EIS. Finally, Marina has filed a Petition for Writ of Review with the California Supreme Court challenging the CPUC's approval of the MPWSP.

Just yesterday, at a public hearing before the Monterey County Planning Commission regarding proposed permits for the desalination plant component of the MPWSP, the City submitted a letter opposing that Commission's potential approval of Use Permits for the Project, which Marina City Planner David Mack read into the Planning Commission's record.⁵⁹ Among other things, the letter states that “the City of Marina does not believe that the desalination plant meets the Use Permit standards [in the County Code] because of its potential serious impacts on the social, economic, cultural and environmental values of the City's residents, many of who reside or work in close proximity to the plant.”⁶⁰ At the hearing Mr. Mack also specifically requested that the County Planning Commission continue their consideration of the desalination plant until after the City's separate process on the CDP is complete.⁶¹ Mr. Mack provided no

⁵⁶ *Ibid.*

⁵⁷ See footnote 29 *supra*.

⁵⁸ See footnote 30 *supra*.

⁵⁹ See Letter from City Manager Layne Long, on behalf of the City, to Monterey County Planning Commission (April 23, 2019), attached hereto as Exhibit JJ.

⁶⁰ *Id.* at p. 3.

⁶¹ Mr. Mack stated, “the City of Marina is not outright requesting a denial of this application, but is merely desiring a continuance until the appeal through the City of Marina and additional administrative remedies have been exhausted with the City coastal development permit process.” See Monterey County Planning Commission Hearing

legal basis for such a continuance, and indeed it would only subject MPWSP to further delay. The City's letter also tries to assert that its pending Petition challenging the CPUC's approval of the EIR/EIS should be considered by the County, despite CEQA's requirement that the County treat the EIR/EIS as valid.⁶²

In sum, based on all of the evidence provided herein, Marina has demonstrated itself to be institutionally biased against Cal-Am and the MPWSP. The law requires that decisionmaking bodies that show "an unacceptable probability of actual bias" such that they will be unable to act as "reasonably impartial, noninvolved reviewer[s]" recuse themselves and treat a lower body's decision as final.⁶³

IV. THE CITY MUST TREAT THE PLANNING COMMISSION'S DENIAL AS ITS FINAL ACTION

Irrefutable and abundant evidence makes clear that a majority of the City Council is biased against Cal-Am and the MPWSP. Accordingly, the City Council is incapable of having a quorum that could provide Cal-Am with a fair tribunal for its appeal of the Planning Commission's CDP denial. Given these factual circumstances, the appropriate action is for the City to treat the Planning Commission's resolution denying the CDP application as the City's final action on the CDP. As discussed above, the Planning Commission is authorized by the City Code and the LCP to decide CDP applications.⁶⁴ While Cal-Am appealed the Planning Commission's decision to the City Council, this was in order to exhaust its administrative remedies and to comply with the LCP's general requirements.⁶⁵

However, given the bias that has been demonstrated by a majority of the City Council as well as the City as a whole, Cal-Am has no choice but to protect its constitutional rights and ensure that such bias is addressed on the record. Similar to the circumstances in *Mennig*, where the court treated the city's civil service commission's decision as final in light of the city council's bias against the police chief, here the City must treat the Planning Commission's denial as final because the City Council cannot act due to its inability to maintain a quorum over the

(April 24, 2019) 1hr32m32s at http://monterey.granicus.com/player/clip/3759?view_id=14. The County Planning Commission approved the desalination plant at its April 24 hearing and did not continue the item.

⁶² Pub. Resources Code, § 21167.3, subd. (b).

⁶³ *Mennig*, *supra*, 86 Cal.App.3d at 351–352; see also *Sabey*, *supra*, 215 Cal.App.4th at 498.

⁶⁴ See Marina Municipal Code, § 17.41.090.B.1.; LCIP, pp. 9–11.

⁶⁵ *Ibid.*

appeal.⁶⁶ Accordingly, the City also must issue a FLAN to the Coastal Commission recognizing the Planning Commission's denial as the City's final action.⁶⁷

V. CONCLUSION

The Federal and California Constitutions require that the City Council provide Cal-Am with a fair and impartial appeal of its CDP application. Because a majority of Councilmembers are actually biased against the MPWSP And Cal-Am, if the City Council hears that appeal, Cal-Am will be deprived of due process and the City Council will be unable to meet its constitutional obligations. As a result, the City should follow the same rationale as in *Mennig* and (1) require Mayor Delgado and Councilmembers Berkeley and Morton to recuse themselves, and (2) treat the Planning Commission's decision as the City's final action.

We hope the City takes seriously the concerns set forth in this letter.

Very truly yours,



Winston P. Stromberg
of LATHAM & WATKINS LLP

Attachments and Enclosure

cc: Christy Hopper, Planning Services Manager, City of Marina (w/o enclosure)
David Mack, Senior Planner, City of Marina (w/o enclosure)
Tom Luster, California Coastal Commission (w/o enclosure)
Mike Watson, California Coastal Commission (w/o enclosure)
Erin Chalmers, California Coastal Commission (w/o enclosure)
Richard Svindland, California-American Water Company (w/o enclosure)
Ian Crooks, California-American Water Company (w/o enclosure)
Sarah Leeper, California-American Water Company (w/o enclosure)
Kathryn Horning, California-American Water Company (w/o enclosure)
DJ Moore, Latham & Watkins LLP (w/o enclosure)
Anthony Lombardo, Anthony Lombardo & Associates, Inc. (w/o enclosure)
Jerae Carlson, CEMEX (w/o enclosure)

⁶⁶ *Mennig*, *supra*, 86 Cal.App.3d at 351–352; see also *Sabey*, *supra*, 215 Cal.App.4th at 498. In addition, any claim by the City that the “rule of necessity” applies to the City Council’s consideration of the appeal and allows one or more biased Councilmembers to consider the appeal is entirely without merit. “The rule of necessity permits a government body to act to carry out its essential functions *if no other entity is competent to do so.*” (*Lexin v. Superior Court* (2010) 47 Cal.4th 1050, 1097 [emphasis added].) However, as in *Mennig*, the rule of necessity is not pertinent here. (*Mennig*, *supra*, 86 Cal.App.3d at 351.) That is because the City Council is not the only decisionmaker capable of acting on Cal-Am’s CDP application. (See *id.* at 351–352.)

⁶⁷ *Mennig*, *supra*, 86 Cal.App.3d at 351–352; see also Cal. Code Regs., tit. 14, § 13571.

Index of Exhibits

Exhibit No.	Description
A.	Monterey County Weekly, <i>Marina residents gather in opposition to Cal Am's proposed desal project</i> (dated April 18, 2018)
B.	Citizens for Just Water Website, <i>Code Red . . . Please Read</i> (dated September 24, 2018)
C.	Citizens for Just Water Motion for Party Status (filed Nov. 11, 2016)
D.	Citizens for Just Water Website, <i>What can we do! Code Red Alert! We Need Your Voice!</i>
E.	Citizens for Just Water Website, <i>Citizens for Just Water highlights for 2017</i>
F.	Citizens for Just Water, Response to the Application for Rehearing of Decision 18-09-017, (filed October 29, 2018)
G.	Comments of Citizens for Just Water to Joint Statement of Issues (filed July 10, 2017)
H.	Citizens for Just Water, Opening Brief Regarding Monterey Peninsula Water Supply Project Final Environmental Impact Report/Final Environmental Impact Statement, (filed April 19, 2018)
I.	ChangeOrg Petition, <i>Stop CalAm's FLAWED desalination project!</i>
J.	Citizens for Just Water Website, <i>The CalAm Desalination Project: Can CalAm STEAL Marina's Groundwater?</i>
K.	Citizens for Just Water meeting flyer, (Nov. 27, 2018)
L.	Agenda for April 2018 Citizens for Just Water public forum, (April 17, 2018)
M.	City of Marina City Council Resolution No. 2017-56, A Resolution of the City Council of the City of Marina Authorizing the City Manager to Execute a Contract with KP Public Affairs for Public Relations and Advocacy Services, (June 6, 2017)
N.	Email between KP Public Affairs, Bruce Delgado, Gail Morton, and Layne Long (Nov. 26, 2018)
O.	Emails between KP Public Affairs, Bruce Delgado, Layne Long, and Kathy Biala (Nov. 29, 2018)
P.	Flyers opposing MPWSP, prepared by KP Public Affairs on behalf of the City
Q.	Email from KP Public Affairs transmitting flyers opposing MPWSP (July 6, 2018)
R.	Email from KP Public Affairs transmitting multimedia materials and strategy memoranda (Nov. 27, 2018)
S.	Email between KP Public Affairs, Bruce Delgado, Layne Long (Dec. 21, 2018)
T.	Metadata from Form Opposition Letters Authored by Kathy Biala. (Word Versions of letters included on enclosed disc; authorship viewable in metadata through checking file properties.)
U.	Email from Alison MacLeod to Layne Long and Mayor Delgado (April 5, 2018)

V.	Emails between KP Public Affairs, Mayor Bruce Delgado, City Manager Layne Long, and Just Water (Nov. 29, 2018) (discussing synergy)
W.	Mayor Delgado Facebook Posts
X.	San Francisco Chronicle, <i>A test of California's commitment to groundwater sustainability</i> (Dec. 4, 2017)
Y.	Monterey Herald, <i>CalAm's proposed desal plant bad idea and bad for Marina</i> (Feb. 2, 2018)
Z.	Monterey Herald, <i>When it comes to water, be a good neighbor</i> (April 16, 2018)
AA.	Capitol Weekly, <i>Marina bears heavy burden in desalination dispute</i> (Oct. 2, 2018)
BB.	A.12-04-019, CPUC Evidentiary Hearing Transcript (dated Oct. 26, 2017)
CC.	A.12-04-019, CPUC Evidentiary Hearing Transcript (dated Oct. 30, 2017)
DD.	Citizens for Just Water, Code Red Forum Agenda (Nov. 27, 2018)
EE.	Lisa Berkley, Prepared Comments to Regional Water Quality Control Board (Sept. 20, 2018)
FF.	Email from Kathy Biala to Keith Van Der Maaten (Jan. 1, 2017) (listing Gail Morton as a moderator)
GG.	Monterey County Weekly, <i>Marina residents unite against Cal Am desal project</i> (Feb. 2, 2017)
HH.	Email from Kathy Biala to Gail Morton (April 18, 2018)
II.	Email from Gail Morton to Layne Long (April 8, 2018)
JJ.	Letter from Layne Long to Monterey County Planning Commission (April 23, 2019)

EXHIBIT

A

http://www.montereycountyweekly.com/blogs/news_blog/marina-residents-gather-in-opposition-to-cal-am-s-proposed/article_d269c294-435d-11e8-932e-87158f342af9.html

Marina residents gather in opposition to Cal Am's proposed desal project.

David Schmalz Apr 18, 2018



Marina resident and Citizens for Just Water co-founder Kathy Biala has been a key player in raising awareness

about the potential impacts of Cal Am's desal project.

Nic Coury

About 40 residents gathered at the Marina Public Library April 17 for a forum put on by Citizens for Just Water, a Marina activist group that was formed last year to oppose Cal Am's proposed desal project.

The event was titled "Marina/Fort Ord water: CODE RED."

The deadline for comments the project's final environmental impact report is April 19, and Just Water had two different form letters for attendees to send off to the California Public Utilities Commission and the Monterey Bay National Marine Sanctuary, the state and federal lead agencies on the project.

But before Just Water co-founder Kathy Biala made a pitch for attendees to sign them, four speakers, starting with Biala, spoke about their concerns over Cal Am's proposed project.

Biala went first, and spoke to her social justice concerns, arguing Cal Am doesn't have a clear water right to pump the brackish source water under the beach in Marina, and that the matter should be considered before any approvals are considered.

Under Cal Am's proposal, they will return whatever percentage of freshwater they pump back into the Salinas Valley Groundwater Basin—per state law—but it will go to Castroville, not Marina.

Biala likened that proposal to someone stealing your car from your garage, and promising to park it in your neighbor's garage.

"The train is heading for a brick wall, and it really needs to be slowed down before it's too late," she said.

Marina Mayor Bruce Delgado, who popped in briefly as a City Council meeting was taking place, came next, and said the final EIR is "just as inadequate as draft EIR."

He argued that not only would Marina's near-term water supply be affected by the project, but that it would prevent Marina Coast Water District from being able to comply with the state's 2014 Sustainable Groundwater Management Act, which requires MCWD to ensure a "sustainable yield" to its groundwater supply by 2040.

"Nothing is more important to us here in Marina than the air and water we need to live," Delgado said.

MCWD General Manager Keith Van Der Maaten came next, and gave a detailed presentation as to how the project, in the the view of Marina Coast Water District, would harm the district's water supply by both taking its freshwater and exacerbating seawater intrusion.

"The project, today, is not a feasible project," he said.

Van Der Maaten says MCWD has been trying to negotiate solutions, but that so far, there have been no offers from Cal Am that have been acceptable to Marina Coast.

Litigation if the project is approved—which has been widely anticipated for many months—would a likely possibility if all other options are exhausted.

George Riley is co-founder of Public Water Now, the Peninsula activist group that put forth a proposed ballot measure that would force a feasibility study for a public buyout of Cal Am. He spoke last.

Riley praised the fact that, in all his 20 years living locally, he said he'd never seen such great leadership in public water officials, a nod to Van Der Maaten, Monterey Peninsula Water Management District General Manager Dave Stoldt, and Monterey One Water General Manager Paul Sciuto.

"They're smart, energetic, and they work together, they work together," Riley said.

"The more we stay together, stand together and stay on same agenda, we're gong to get there," he added. "We don't need Cal Am's desal, and we don't need it [in Marina]."

David Schmalz

EXHIBIT

B

Current Updates!

Code Red... Please Read

9/24/2018

A local Marina resident made sending a notice to the commissioners regarding the unfair CalAm desalination plant that threatens our ground water so much easier!

You can click on the link below and visit the site to let the commissioners know what you think about this project. **The Public Utilities Commission is planning to approve by September 13 so don't delay.**

Sign the petition

Citizens for Just Water

Information posted here reflects current issues found in the public domain and serve to inform about the complex issues of water on the Monterey Peninsula

PLEASE NOTE THIS PETITION IS NOW CLOSED AS THE CPUC HAS APPROVED THE PROJECT

Many thanks for the residents who responded to the community sponsored petition



Public Forum on expansion of Pure Water

9/24/2018

August 14, Public Water Now held a very important forum at MIIS with Monterey One Water, Paul Scuito, and Jonas Minton, Planning and Conservation League who talked about an expansion of a regional recycled water project that can serve as a more affordable, equitable, and viable “Plan B” to the Cal-Am Slant Well Desalination Project. Remember that the Peninsula ratepayers, under CalAm, are paying the highest rate of water in the COUNTRY, even without the \$300M plus for the proposed Desalination Project!

The issue of environmental injustice to Marina of Cal-Am’s Project was discussed as litigation will likely occur should the project be approved. Although, the CPUC’s “proposed decision” has been to advance the Project for a vote at a CPUC regular meeting in S.F. (possibly Sept. 13), ***the Project has NOT been issued a building “permit” (CPCN) yet.***

On Aug. 22, all official "parties to the proceeding", including the City of Marina, Marina Coast Water District, Citizens for Just Water, and Public Water Now and several others, will get their first opportunity to be heard before the CPUC in S.F. This is very late in a process that will be possibly approved in mid September.

At the August 14 Forum, individuals were urged to exercise their right to

Archives

[September 2018](#)

[June 2018](#)

[April 2018](#)

[March 2018](#)

Categories

[All](#)

 [RSS Feed](#)

contact the CPUC Commissioners regarding the Cal-Am Slant Well Project. The CPUC has many barriers to public participation and comment, so this is perhaps the last opportunity to speak up before the final decision is made.

If ever there was a more urgent time for Marina and Ord communities to write a comment, it is NOW.

Here are the email addresses:

CPUC President Michael Picker

mp6@cpuc.ca.gov

Commissioner Carla Peterman

cap@cpuc.ca.gov

Commissioner Liane Randolph

liane.randolph@cpuc.ca.gov

Commissioner Martha Guzman Aceves

mga@cpuc.ca.gov

Commissioner Cliff Rechtschaffen

cr6@cpuc.ca.gov



Tweet

California Coastal Commission still needs to hear from you!

9/24/2018

Recently, the Coastal Commission held its July 11 through 13th meeting in Scotts Valley.

Several car pools of persons from Marina, Seaside, Monterey and

Carmel Valley presented on each day of the public comment portion to educate the Commissioners about environmental issues associated with the CalAm Slant Well Desalination Project in Marina, CA.

Talking points included:

- Protection of the Western Snowy Plover (a threatened species), our ground water, and the sensitive coastal natural habitats.
- Encourging the CCC to apply good science in their decision making and permitting process along with incorporating new information such as the Stanford AEM study, instead of relying entirely on old studies that are no longer relevant.

CalAm had 2 pro-slant well project speakers on July 11th that both receive direct monetary benefit from the approval of this project, but not one unaffiliated citizen speaking in favor. What does this tell you?

Now is the time to speak out against this project! The Coastal Commission will be responsible for issuing permits to build the slant wells on the CEMEX property that will take up our groundwater reserves.

[See letter writing campaign for addresses and sample letters.](#)



Tweet

Updates on the CPUC

9/24/2018

Citizens for Just Water attended last weeks hearing as one of the 27 parties to the proceeding. We were able to voice our concerns about the narrow review of feasibility about this ill-conceived project for 3 minutes to the 5 commissioners. Although this is a miserly amount of time to address all of the complexity of the project, we focused on the omission of a fair evaluation of our community values and needs, and the inherent environmental injustice of siting this project in our water supply. We asked that they deny the Certificate of Convenience and Public

Necessity (CPCN) because the CPUC has failed to protect the water supply of a diverse, low-income community. We added our support to expansion of the Pure Water Monterey recycled water project by Monterey One Water.

Here are some agreements that were stated by several of the parties that oppose approval of this project:

1. Postpone approving the Certificate of Public Convenience and Necessity (CPCN) for Cal Am's proposed desal plant.
2. Expand Pure Water Monterey to provide water sooner and at a lower cost than the Desal plant to peninsula users.

Further, MCWD wants the CPUC to:

3. Order a complete review of groundwater rights by the California State Water Resources Control Board regarding the take of water from the Salinas Valley by CalAm's project where it has no water rights.
4. Include the geophysical information developed by Stanford University in the current EIR.
5. Order the proposed Cal Am desalination project to find a different source of feedwater.



Tweet

Marina vs. Cal Am - How the Outcome Will Impact YOUR Cal Am Bill

6/15/2018

Presented by Bruce Delgado, Kathy Biala and Tom Moore

Thursday, June 21 at 7:00pm

MIIS, Irvine Auditorium

499 Pierce St., Monterey

If you thought Cal Am's proposed desal project would take water from the ocean, you may be surprised. Instead Cal Am plans to draw brackish

water from Marina's groundwater. Marina has a big problem with this. They claim Cal Am's desal feeder wells will damage their groundwater and produce further seawater intrusion. Marina's claim is backed by science from Stanford University.

Cal Am has no water rights to Marina's groundwater. Marina will not likely be bullied into submission on this issue. Litigation looks inevitable. This is a David and Goliath battle. The threat to Marina's water supply and its future are serious. What are they supposed to do?

But here's why you should care if you are a Cal Am customer on the Peninsula. You are already paying for the most expensive water in the country. Desal water is expensive to begin with, but Cal Am's scheme to pump water from Marina's groundwater will lead to extreme costs, far beyond typical desal water costs. Litigation will likely cause further delays and once again Cal Am customers on the Peninsula will face the ongoing problem of no new water supply.

Get the whole story from presenters Bruce Delgado, Mayor of Marina, Kathy Biala, Just Water (Marina citizens advocacy group for water justice) and Tom Moore, President, Marina Coast Water District Board of Directors.

Cal Am is spending millions of YOUR dollars on this desalination project. Know what you are paying for. Join us to hear what the future consequences for all of us will be.

PWN Forums are Free and Open to the Public.

Do RSVP

[www.publicwaternow.org/marina_v_cal_am?](http://www.publicwaternow.org/marina_v_cal_am?utm_campaign=marina_v_calam_outcome_impct_p&utm_medium=email&utm_source=publicwaternow)

[utm_campaign=marina_v_calam_outcome_impct_p&utm_medium=email
&utm_source=publicwaternow](http://www.publicwaternow.org/marina_v_calam_outcome_impct_p&utm_medium=email&utm_source=publicwaternow)



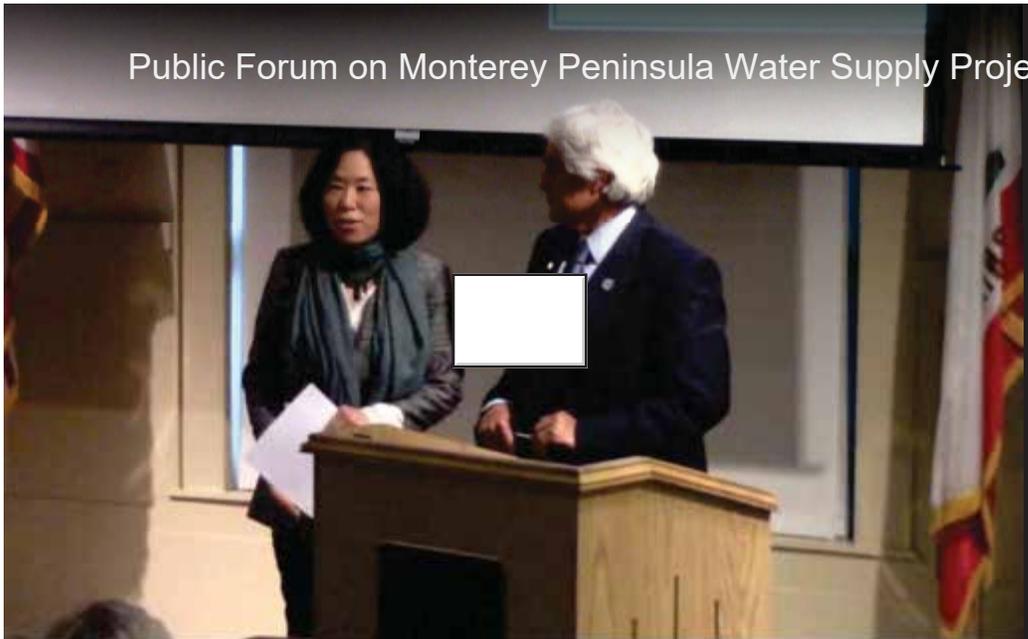
Tweet

Public Forum April 17 Recap

4/29/2018

If you missed our last forum - you can get a recap of the event on YouTube. Folks can still send comments to the CPUC and the MBNMS

about this project - the agencies just won't be required to respond during the review period.



Tweet

Public Forums April 11 & 17

3/30/2018

Mark Your Calendar for a discussion on the MPWSP

Announcing Two FREE Public Forums about Cal-Am's Slant Well project on the CEMEX Property

Join us for a discussion on the MPWSP EIR

- Flaws of the Cal-Am Slant Well Project at CEMEX site
- Dr. Knight's final groundwater survey results
- How Marina and MCWD will challenge this project

Wednesday, April 11

6:30-8:30 pm

Marina City Hall at 211 Hillcrest Ave

Tuesday, April 17

6:30-8:30 pm

Marina Library at 190 Seaside Circle

The Slant Well Desalination project on the CEMEX property is closing in on approvals. It will unfairly harm ground water resources and the public water agency in Marina, and raise water rates for all.

The Public Comment period ends April 19!

Come find out What You Can Do!



justwater_april11_17_flyer_web.pdf
Download File



Tweet

March 29th, 2018

3/29/2018

Final EIR/EIS has been released

Just a heads up that the joint "Final Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the Proposed Monterey Peninsula Water Supply Project" has been released.

Many have received a mailer recently on this very same subject. This is the last chance that the public can comment on a very flawed project. Public comments close on April 19th - this is a very short window.

Why is it important to comment? From here, should this project get the green light, any public comments become part of the public record. Our voices need to be heard; that it is an injustice to allow a for profit

company to take our water, that this project has no cost ceiling or accountability for salt water intrusion damages to the aquifer, that there are other solutions that will provide water sooner and at a lower cost.

Water "at any cost" is not a regional solution.

Link to Final EIR/EIS and Appendices for online review

http://www.cpuc.ca.gov/Environment/info/esa/mpwsp/comms_n_docs.html

CD's can be requested by emailing MPWSP-EIR@esassoc.com

Lead agencies have hard copies in their offices for review.

Paul Michel, Superintendent & NEPA Lead

Monterey Bay National Marina Sanctuary

Pacific Street, Bldg 455a

Monterey, CA 93940

montereybay@noaa.gov

John Forsythe, Sr. Environmental Planner & CEQA Lead

California Public Utilities Commission

c/o Environmental Science Associates

550 Kearny Steet, Suite 800

San Francisco, CA 94108

MPWSP-EIR@esassoc.com



Tweet

Your City Council in action! Holding the line on water!

3/21/2018

Everyone, tonight I just witnessed our City Council in a courageous and

surprise move to protect Marina's water! They voted unanimously to submit an application to become a Groundwater Sustainability Agency (GSA) for the 180/400 foot aquifer that lies beneath the Cemex plant where the proposed Cal-Am slant wells are to be built (areas not within MCWD's water jurisdiction). The agricultural interests expressed strong opposition to the City's motion, but Bruce Delgado so articulately said that Marina was not part of the decision-making that would take our water and give it all to the Peninsula. He said if the reverse were true, i.e. that Marina decided to take Carmel's water, this would never be permitted! Marina is left with all the harms while Cal-Am reaps all the benefits and we have to do however much it takes to save our water supply. Gail Morton's incisive comments deflated the attempt to position the City's action as not collaborative; the offer for the City to be on the Salinas Valley Groundwater GSA's "advisory committee" is hardly a genuine gesture to rectify the city's lack of true representation! We should all be proud that our local city government is standing up to forces that clearly intend to take advantage of us!

If you would like to view the Council Meeting AMP has posted the entirety here. Discussion of the GSA begins at 16.43.

[Click Here](#)



EXHIBIT

C



FILED
11-15-16
04:59 PM

**BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

*Application of California-American Water Company
(U210W) for Approval of the Monterey Peninsula Water
Supply Project and Authorization to Recover All Present
and Future Costs in Rates*

Application 12-04-019
(Filed April 23, 2012)

**MOTION FOR PARTY STATUS OF CITIZENS FOR JUST WATER (“JUST
WATER”)**

November 15, 2016

Dr. Margaret-Anne Coppernoll
Citizens for Just Water (“Just Water”)
3012 Crescent Street
Marina, California 93933
(831) 578-7877
mcopperma@aol.com

**BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

*Application of California-American Water Company
(U210W) for Approval of the Monterey Peninsula Water
Supply Project and Authorization to Recover All Present
and Future Costs in Rates*

Application 12-04-019
(Filed April 23, 2012)

**MOTION FOR PARTY STATUS OF CITIZENS FOR JUST WATER (“JUST
WATER”)**

I. Introduction

Citizens for Just Water (“Just Water”) respectfully moves for party status in the proceeding for Application 12-04-019 in accordance with Section I.4 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure.

II. Interest in this Proceeding

- A. Citizens for Just Water (“Just Water”) consists of citizens of the Monterey Bay region who have a common interest to preserve and to

protect an affordable and long-term water supply for the Marina and the Fort Ord communities with equity among competing interests.

CalAm's responses to the CEQA statutory sections of Chapter 9, Sections 9.1 (Significant Unavoidable Environmental Effects) and 9.2 (Significant Irreversible Changes) failed to identify additional serious unavoidable environmental effects that the project will have on coastal subsurface ground water system aquifers by causing more seawater intrusion into the freshwater aquifers, which in turn, will bring about quality of water deterioration and risk future loss of precious resources for potable water and water for agricultural irrigation.

We, as individual citizens, have participated widely in many meetings locally, including public participation hearings held by the CPUC about the Monterey Peninsula Water Supply Project (MPWSP, A1204019). We have individually delivered oral and written comments to local agencies, to the CPUC, and during the EIR comment period managed by the CPUC contractor, Environmental Science Associates. We have recently organized into a new group entitled Citizens for Just Water ("Just Water") to help focus our message for various agencies. We designed Citizens for Just Water ("Just Water") as a grass roots community organization to explore

solutions for just and equitable use of regional water resources.

Citizens for Just Water (“Just Water”) has been working with Stanford University’s Dr. Rosemary Knight and her research team to bring forth the scientific findings that assess the Monterey Bay subsurface topography. The technique of Electrical Resistivity Tomography (ERT) is an effective tool to assess both the sustainability and viability of our ground water basins and aquifers; Electrical Resistivity Tomography (ERT) produces MRI-like images that have been shown to reveal specific and accurate details beyond the mere data obtained from sporadic sentinel wells. This technology exists; has met scientific scrutiny; is cost efficient; and is capable of reducing uncertainty as to the impacts of the MPWSP project on the Salinas Valley Groundwater Basin.

Citizens for Just Water (“Just Water”) seeks to prevent the unintended inequities implicit in the current plans for Cal-Am’s proposed project within the area of the Cemex property and the 180 foot aquifer of the Salinas Valley Groundwater Basin.

The MCWD serves approximately 30,000 regional customers and is dependent upon the 180, 400 and 900 foot aquifers with minimization of salt water intrusion for the continued delivery of fresh water now

and in the future. This water source is also the same water source that the agricultural lands in the Salinas Valley are dependent upon.

Critical verification must be made that there will be no negative impact of the MPWSP upon the communities of Fort Ord and

Marina's water source, or, at the very least, the clear defining of the scientific levels of uncertainty associated with such water extraction.

The high stakes of potentially jeopardizing another district's water source demands this. Best practices of the Electrical Resistivity

Tomography (ERT) mapping have *not* been considered in the EIR

modeling, or in evaluating the test slant well data, or in establishing an accurate baseline of hydro-geologic subsurface features to predict

potential impacts of salt water intrusion, especially as it relates to any fissures in the clay aquitards which function as an impermeable

geologic control against sea water intrusion. Current ERT data reveal

existing fissures in the clay aquitard, and dipping of the horizontal continuous clay aquitard line, demonstrating that the integrity of the

clay aquitard has already been compromised in some places, permitting seawater intrusion.

Citizens for Just Water ("Just Water") respects the legal water rights of local jurisdictions, and supports their fair and appropriate use.

Citizens for Just Water (“Just Water”) serves to provide information to help educate the Marina and the Fort Ord communities regarding evidenced based scientific management of the area’s groundwater supplies through scientific hydrogeological research and adequate, statistically valid data.

- B. Citizens for Just Water (“Just Water”) promotes just, equitable use and development of sustainable ground water without adverse consequences to the needs and rights of others on the Monterey Bay. All citizens residing and/or working on the Monterey Bay are entitled to potable water now and in the long-term future; equitable water means one group’s interests and rights are not sacrificed for another’s, but rather science should dictate the safety of any site for procuring water. Current scientific findings irrefutably link the presence of fissures in aquitards with accelerated saltwater intrusion along the Monterey Bay through the use of a geo-physiologic method called the Electrical Resistivity Tomography (ERT). The inference from this mapping suggests that similar conditions exist along the proposed MPWSP site area due to the presence of known detected faults along the Monterey Bay. Furthermore, desalination project options must be expanded beyond the MPWSP, after

inclusion and analysis of additional subsurface Electrical Resistivity Tomography (ERT) imaging. As a result of such studies, further exploration of more equitable and just regional solutions may be indicated beyond the MPWSP.

Citizens for Just Water (“Just Water”) intends to provide: a) compelling evidence for utilizing additional scientific state-of-the-art subsurface mapping techniques, i.e. Electrical Resistivity Tomography (ERT); and b) documentation of relevant regional water rights; and c) comparative analysis of alternative desalination projects that create less adverse impacts upon another region’s water sources, and do not compromise jurisdictional water rights. Citizens for Just Water (“Just Water”) will submit this information in a filing once party status is granted.

iii. **Notice**

Services of notices, orders, and other correspondence in this proceeding should be directed to Citizens for Just Water (“Just Water”) at the address set forth below:

Dr. Margaret-Anne Coppernoll

Citizens for Just Water (“Just Water”)

3012 Crescent Street

Marina, California 93933

(831) 578-7877

mcopperma@aol.com

IV. Conclusion

Citizens for Just Water (“Just Water”)’s participation in this proceeding will not prejudice any party and will not delay the schedule or broaden the scope of the issues in the proceeding. For the reasons stated above, Citizens for Just Water (“Just Water:”) respectfully requests that the CPUC grant this Motion for Party Status filing.

Dated: November 15, 2016

Respectfully submitted,

/s/ Margaret-Anne Coppernoll

Margaret-Anne Coppernoll, Ph.D.

Representative

Citizens for Just Water (“Just Water”)

Tel: (831) 578-7877

mcopperma@aol.com

EXHIBIT

D



What can we do!

CODE RED ALERT! WE NEED YOUR VOICE!

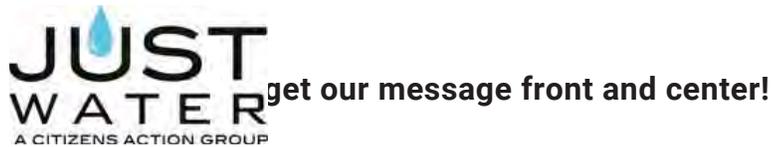
Your voice Could Make the Difference

Letter Writing Campaign to the Coastal Commission

Written Public Comment:

The California Coastal Commission approved three key permits that allowed the illicit Cal-Am Slant Well Desalination Project in Marina, CA to advance. We anticipate further permitting actions by the CCC in the near future. We wish to communicate the following points:

- Good Science has been overlooked and not applied in the issues of:
- Dramatic decline of Western Snowy Plover at closest sites to the Cal-Am test slant wells at the Cemex site!
- Harm to the Salinas Valley Groundwater Basin from which Cal-Am plans to illegally take water!
- Violates Marina's Local Coastal Plan to protect and preserve wildlife habitats along our shores!



Copy and paste into an email or fax to:

- **CA Coastal Commission**
45 Fremont St. #2000, San Francisco, CA 94105
FAX: 415-904-5400
(415)-904-5202
John.Ainsworth@coastal.ca.gov
[\(mailto:John.Ainsworth@coastal.ca.gov\)](mailto:John.Ainsworth@coastal.ca.gov)

If you can't make the Coastal Commission meeting use current letter below to tell the California Coastal Commission they have failed to protect our coastline from the proposed Cal Am slant well project.
We need to get our message front and center!

Email, fax or send to:

- **CA Coastal Commission**
45 Fremont St. #2000, San Francisco, CA 94105
FAX: 415-904-5400
(415)-904-5202
John.Ainsworth@coastal.ca.gov
[\(mailto:John.Ainsworth@coastal.ca.gov\)](mailto:John.Ainsworth@coastal.ca.gov)

Copy and paste into an email or use the downloadable Word format below

To: California Coastal Commission Date:

RE: The environmental impacts of the Cal-Am Slant Well Desalination Project in Marina, CA



ed to the proposed Cal-Am slant well desalination project in Marina, CA for the following reasons:

1. **COMMUNITY VALUES:** Placing an industrial facility of a 10 slant well desalination project on the Cemex property which, last year, the CA Coastal Commission hailed a big victory over the sandmining operations at this very site is inconsistent with regional community values. The CCC with a cease and desist order to stop the sandmining operations, designated this property to be transferred to a public agency (agencies) for conservation purposes in perpetuity. This was with the collective voices of residents all across the Monterey Bay who value our natural beauty and the sensitive habitats of our coastline.
2. **ENVIRONMENTAL INJUSTICE:** Community values of equity and fairness to the residents in Marina and Ord communities must be addressed as this section of the Monterey Bay will be subjected to significant damaging environmental impacts. This project is the clearest kind of environmental injustice as it gives precedence to a private, for-profit corporation privatizing water resources at the expense of a small socio-economically challenged community of Marina and forces further rate increases to the Peninsula and Seaside customers who already pay the highest water rates in the country.
3. **SNOWY PLOVER WILL NOT BE PROTECTED:** The Final Environmental Impact Report states: "The impacts to the Western Snowy plover and habitat from construction of the nine subsurface slants wells and the test well may have lasting effects on snowy plover behavior and would be significant" and "Maintenance of the subsurface slant wells every five years would result in the permanent loss of approximately 6 acres of potential western snowy plover habitat." This is unacceptable at the very site that has been designated by the CA Coastal Commission for conservation in perpetuity after the cessation of the sand mining operations in 2020. WSP populations on 3 Marina sites have plummeted since the construction and operation of the one test slant well three



ago! Furthermore, Cal-Am's desalination project is unnecessary in
ing the Carmel River Cease & Desist Order; other viable recycled
water sources are currently available that will provide the Peninsula with
water for the next 10 years!

4. **USE BEST SCIENCE AVAILABLE:** CalAm falsely asserts that the AEM (Airborne electro-magnetics) subsurface imaging data by Stanford University provides no significant additional information to the evaluation of "no harm". In choosing a technology with grossly limited data as the preferred methodology to evaluate the risk to an entire basin, while refusing data from an already available and completed state-of-the-art AEM study, the public has been denied assurance that a robust scientific investigation has been used to evaluate this project's risk to the Salinas Valley Groundwater Basin.
5. **UNACCOUNTED COSTS:** The "feasibility" of the project is not only the issue of physical harm to a region's water supply, but also includes harm to ratepayers who must pay for the exorbitant costs of a for-profit corporation that stands to reap significant financial benefits of owning a new experimental technology, yet having paid nothing for its research and development. Additionally, there has been no mandates to mitigate future OR even the current damage to the environment and the already visible harm to the Western Snowy Plover. This factual data should not be minimized and excused while further damage will be allowed to occur in the future should this project be approved.
6. **VIOLATIONS OF THE MARINA LOCAL COASTAL PLAN:** Although Cal-Am acknowledges that their project would be "inconsistent with the City of Marina LCLUP policies governing protection of Primary and Secondary Habitats, a significant and unavoidable impact", Cal-Am is counting on the CCC to make exceptions for secondary circumstances outlined in the CA Coastal Act. However, the main concerns of environmental protection are from:



CA Coastal Act: “it is necessary to protect the ecological balance of coastal zone and prevent its deterioration and destruction” (Section 30000).

- The CA Coastal Commission mission: “protecting and enhancing California’s coast and ocean for present and future generations. It does so through careful planning and regulation of environmentally-sustainable development, **rigorous use of science**, strong public participation, education, and effective intergovernmental coordination”.
- The City of Marina’s Local Coastal Plan: “Primary habitat areas shall be protected and preserved against any significant disruption of habitat values and only uses dependent on those resources shall be allowed within those areas.”

Print name: _____ Signed: _____

Address: _____



(/uploads/9/9/6/7/99678170/ccc_sample_letter_for_website.docx)

ccc_sample_letter_for_website.docx

Download File (/uploads/9/9/6/7/99678170/ccc_sample_letter_for_website.docx)

Continuing Letter Writing Campaign for the FEIR

There is also still time to comment on the Final Environmental Impact Report to other decision makers before September 2018!

Three letter forms are provided below.

The first letter goes to:



California Public Utilities Commission (CPUC)

MPWSP-EIR@esassoc.com (mailto:MPWSP-EIR@esassoc.com)

- **The Monterey Bay National Marine Sanctuary (MBNMS)**

montereybay@noaa.gov (mailto:montereybay@noaa.gov)

We need to get our message front and center!

Copy and paste into an email or use the downloadable Word file format below

To: California Public Utilities Commission (CPUC) MPWSP-EIR@esassoc.com (mailto:MPWSP-EIR@esassoc.com)

The Monterey Bay National Marine Sanctuary (MBNMS)
montereybay@noaa.gov (mailto:montereybay@noaa.gov)

RE: Response to the Final Environmental Impact Report for the MPWSP

Date: _____

Many valid concerns were voiced by the public regarding the Cal-Am slant well desalination project proposed in Marina, CA in the DEIR/EIR in 2017. The CPUC and the MPMNS have concluded that our concerns will not require any changes of significance to the 2018 FEIR/EIS. I am registering my complaints here.

I agree with all the content of the Citizens for Just Water response that includes these criticisms of the FEIR:

1. **COMMUNITY VALUES:** The FEIR fails to address community values of equity and fairness to the residents in Marina and Ord communities that will be subjected to the most damaging environmental impacts and risks of this project. At every opportunity, Cal-Am has sought to deemphasize the location and its impact on Marina water users and has failed in public outreach to the communities most affected by the slant wells.



are currently alternative regional solutions already available and available!

2. **ENVIRONMENTAL INJUSTICE:** This project is the clearest kind of

environmental injustice as it gives precedent to a private, for-profit corporation privatizing water resources at the expense of a small socio-economically challenged community of Marina and forces further rate increases to Peninsula and Seaside customers already paying the highest water rates in the country. This project is *not* a regional water solution.

3. **BRACKISH WATER IS GROUNDWATER:** This project has been changed from its original permit obligation of a “subsurface ocean intake” to an illegal groundwater take from another water jurisdiction. Now the false claim is that brackish water is “useless” and can therefore be taken by Cal-Am, disregarding the fact that brackish water is still groundwater to which Cal-Am has no legal water rights.
4. **SNOWY PLOVER WILL NOT BE PROTECTED:** As stated in the FEIR: “The impacts to the plover and habitat from construction of the nine subsurface slants wells and the test well may *have lasting effects on snowy plover behavior and would be significant*” and “Maintenance of the subsurface slant wells every five years would result in the *permanent loss of approximately 6 acres of potential western snowy plover habitat.*” This is unacceptable as this very same site has been designated by the CA Coastal Commission for conservation in perpetuity after the cessation of the sand mining operations in 2020.
5. **SEAWATER INTRUSION:** The FEIR concludes that this project will “reverse” seawater intrusion yet no scientific proof has been offered for this opinion that goes contrary to all accepted science of seawater intrusion and mitigation strategies. This large experimental project has the potential for devastating impacts in the region, and as such, requires rigorous academic third party research to prove that there will be *absolutely “no harm”*. No mitigation measure will make Marina whole again.



BEST SCIENCE AVAILABLE: The FEIR falsely asserts that the AEM surface ground imaging data by Stanford University provides no significant additional information to the evaluation of “no harm”. By choosing a technology with limited data as a preferred methodology in the face of an already available and completed state-of-the-art science study, the CPUC has denied public reassurance that the a robust investigation has been used to evaluate this project.

- 7. **UNACCOUNTED COSTS:** The “feasibility” of the project is not only the issue of *physical* harm to a region’s water supply, but also includes harm to ratepayers who must pay for the exorbitant costs of a for-profit corporation that will reap financial benefits of advancing a new technology. Additionally, costs for mitigation must be figured in which means identifying upfront money for proactive **protection against harm** NOT merely paying to rectify harm done in the future!

Further, as a resident of Marina, Ord communities, the Peninsula or Seaside, I will be affected by Cal-Am’s MPWSP, I support the efforts of the City of Marina, Marina Coast Water District, Public Water Now, and Water Plus and thereby incorporate, by reference, every comment, criticism, and deficiency related to the FEIR identified by these entities. I am opposed to the Cal-Am slant well desalination project (MPWSP).

Print Name:_____ Signed:

Email:_____ Address:



(/uploads/9/9/6/7/99678170/jw_region_letter_feir_.doc)

jw_region_letter_feir_.doc

Download File (/uploads/9/9/6/7/99678170/jw_region_letter_feir_.doc)



to send to the Monterey Bay National Marine Sanctuary and the

- **Paul E. Mitchell, Superintendent**

Monterey Bay National Marine Sanctuary

montereybay@noaa.gov (<mailto:montereybay@noaa.gov>)

- **John Forsythe, Senior Environmental Planner**

California Public Utilities Commission

MPWSP-EIR@esassoc.com (<mailto:MPWSP-EIR@esassoc.com>)

Copy and paste into an email or use the downloadable Word file format below

Paul E. Michel

Superintendent; NEPA Lead

Planner; CEQA Lead

Monterey Bay National Marine Sanctuary

Commission

Pacific Street, Bldg 455a

Associates

Monterey, CA 93940

montereybay@noaa.gov (<mailto:montereybay@noaa.gov>)

San Francisco, CA 94108

MPWSP-EIR@esassoc.com (<mailto:MPWSP-EIR@esassoc.com>)

John Forsythe

Senior Environmental

California Public Utilities

c/o Environmental Science

550 Kearny Street, Suite 800

Date:

Dear Mr. Michel and Mr. Forsythe,

I am writing as a concerned resident of the City of Marina regarding the release of the Environmental Impact Report for the Monterey Peninsula Water Supply Project; I hope you take my comments into consideration.

The residents of Marina have expressed a number of serious concerns with this



particularly the use of the slant wells, and how it will disproportionately harm our community and way of life. And yet the Final EIR fails to provide an adequate discussion of these harmful impacts or appropriate mitigations.

Marina is already home to the regional landfill as well as the regional sewage treatment plant. This proposed desalination project would saddle our community with another operation that only benefits the interests surrounding us, while posing extreme threat to our groundwater and coastal ecosystem. The following outlines my most serious concerns, among the many others.

1. The Salinas Valley Groundwater Basin (SVGB), from which the project seeks to draw its water, is the same source that Marina residents rely on as our sole source of drinking water. Installing up to 10 slant wells into the basin will further deplete this source, cause saltwater intrusion, and leave Marina residents without a reliable drinking source.
2. The Marina community worked for years to end the CEMEX sand mining operation that was destroying this area's coastal habitat. Allowing Cal Am to now drill water wells in this exact same location furthers industrial use in an area that should be protected, and undermines local sustainability efforts.
3. Cal Am has no water rights to draw from this source. Allowing this project to move forward based on speculation that water rights will 'likely' be established is irresponsible. This project is also shockingly inconsistent with the intent of California's Sustainable Groundwater Management Act, which aims to finally put in place protections for critically overdrafted groundwater basins like this one.
4. Other options are available to meet the true water supply needs of the region. Expansion of the Pure Water Monterey recycled water project as well as other collaborative solutions could adequately address regional water demand while ensuring that Marina isn't left behind with long-term harm.

The EIR disregards or trivializes this project's clear environmental injustice, lack of water rights, violation of the Sustainable Groundwater Management Act, and



Marina's sole source of drinking water. I encourage the Public Commission to provide a more fair analysis of the project's harm to the City of Marina and potential mitigations or alternatives that could avoid this.

As a resident of the area potentially impacted by Cal-Am's MPWSP, I support the efforts of the City of Marina, Marina Coast Water District, Citizens for Just Water, Public Water Now, and Water Plus and thereby incorporate, by reference, every comment, criticism, and identified deficiencies related to the FEIR identified by these entities.

Print Name: _____ Signed:

Email: _____ Address:



(/uploads/9/9/6/7/99678170/jw_marina_feir_letter_.doc)

jw_marina_feir_letter_.doc

Download File (/uploads/9/9/6/7/99678170/jw_marina_feir_letter_.doc)

This form may be filled out with any comments that you may have. Please send to the Monterey Bay National Marine Sanctuary and the CPUC

- **Paul E. Mitchell, Superintendent**
Monterey Bay National Marine Sanctuary
[montereybay@noaa.gov \(mailto:montereybay@noaa.gov\)](mailto:montereybay@noaa.gov)
- **John Forsythe, Senior Environmental Planner**
California Public Utilities Commission
[MPWSP-EIR@esassoc.com \(mailto:MPWSP-EIR@esassoc.com\)](mailto:MPWSP-EIR@esassoc.com)

Print out the pdf and fill out your comments or use the downloadable Word file format below



(/uploads/9/9/6/7/99678170/comment_card_feir.pdf)

comment_card_feir.pdf

Download File (/uploads/9/9/6/7/99678170/comment_card_feir.pdf)



ds/9/9/6/7/99678170/comment_card_feir.doc)

nt_card_feir.doc

oad File (/uploads/9/9/6/7/99678170/comment_card_feir.doc)

We thank you for your citizen involvement!

Please send us **your contact info** (</sign-up-for-updates.html>) through our web page for critical updates.

Write a comment to other deciding Agency Contacts

1. California State Water Board, District 3:

- **Eileen Sobeck, Executive Director**
eileen.sobeck@waterboards.ca.gov
(<mailto:eileen.sobeck@waterboards.ca.gov>)
- **Felicia Marcus, Chairperson of the Board**
felicia.marcus@waterboards.ca.gov
(<mailto:felicia.marcus@waterboards.ca.gov>)

2. California State 17th Senate District

- **Senator Bill Monning**
senator.monning@senate.ca.gov
(<mailto:senator.monning@senate.ca.gov>)

3. Monterey Bay National Marine Sanctuary (one of two lead agencies for the approval of the Final Environmental Impact Report):

- **Karen Grimmer**
karen.grimmer@noaa.gov (<mailto:karen.grimmer@noaa.gov>)
- **Bridget Hoover**
bridget.hoover@noaa.gov (<mailto:bridget.hoover@noaa.gov>)

4. California 29th Assembly District



Stone, Assemblymember

Stone's office (<mailto:erica.parker@asm.ca.gov>)

5. California Public Utilities Commission

- CPUC Comissioners

public.advisor@cpuc.ca.gov (<mailto:public.advisor@cpuc.ca.gov>)



(/uploads/9/9/6/7/99678170/dear_state_water_board_official.doc)

dear_state_water_board_official.doc

Download File (/uploads/9/9/6/7/99678170/dear_state_water_board_official.doc)



(/uploads/9/9/6/7/99678170/dear_senator_monning.doc)

dear_senator_monning.doc

Download File (/uploads/9/9/6/7/99678170/dear_senator_monning.doc)



(/uploads/9/9/6/7/99678170/dear_monterey_bay_national_marine_sanctuary_official.doc)

dear_monterey_bay_national_marine_sanctuary_official.doc

Download File

(/uploads/9/9/6/7/99678170/dear_monterey_bay_national_marine_sanctuary_official.doc)



(/uploads/9/9/6/7/99678170/dear_mark_stone.doc)

dear_mark_stone.doc

Download File (/uploads/9/9/6/7/99678170/dear_mark_stone.doc)



(/uploads/9/9/6/7/99678170/dear_cpuc.doc)

dear_cpuc.doc

Download File (/uploads/9/9/6/7/99678170/dear_cpuc.doc)

6. California Coastal Commissioners

- Jack Ainsworth, Executive Director:

john.ainsworth@coastal.ca.gov (<mailto:john.ainsworth@coastal.ca.gov>)

- Carole Groom, Commissioner:

carole.groom@coastal.ca.gov (<mailto:carole.groom@coastal.ca.gov>)

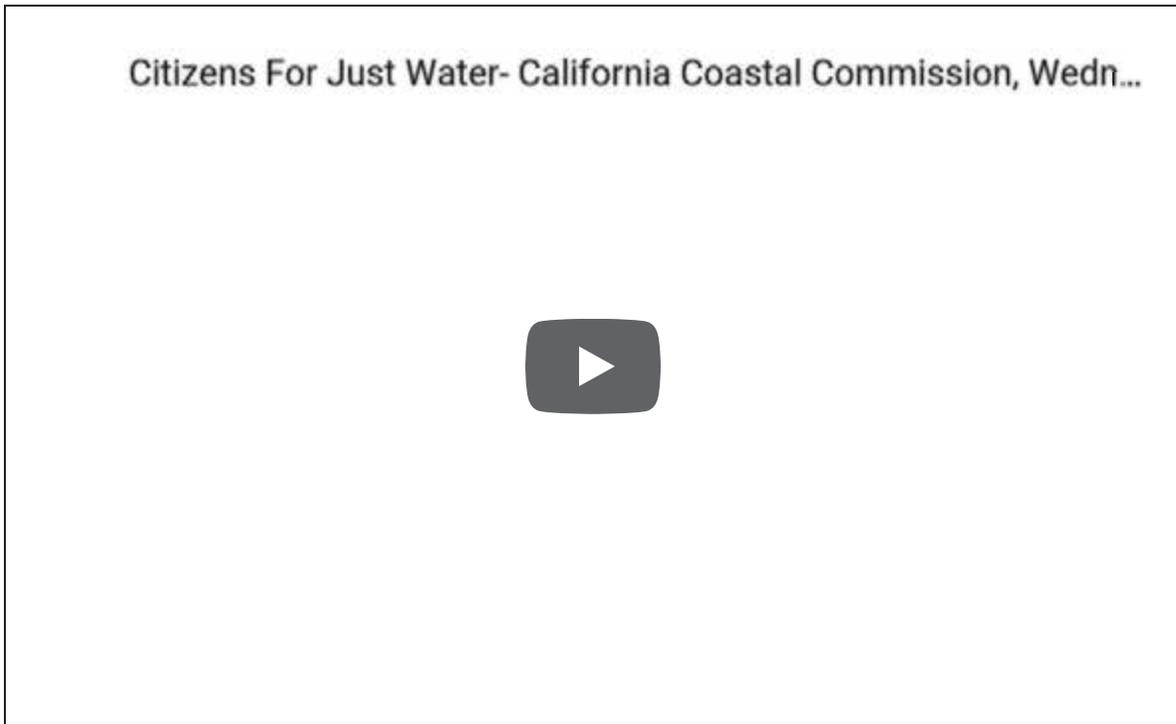


JUST WATER
A CITIZENS ACTION GROUP

/6/7/99678170/coastal_commissioners_letter_03_16_18_c4jw.doc)
sioners_letter_03_16_18_c4jw.doc
/6/7/99678170/coastal_commissioners_letter_03_16_18_c4jw.doc)

Share our Memes on Social Media!

[memes for social media \(/gallery.html\)](#)



(//facebook.com/c4jw) (mailto:justwater@justwater.com)

Proudly powered by [Weebly \(http://weebly.com\)](http://weebly.com)

EXHIBIT

E



Citizens for Just Water highlights for 2017

Public Education: 1,600+ signatures

Citizens for Just Water held 4 public forums in Marina with several area experts speaking to educate the public on the current state of our local water resources.

Topics included:

- California American Water (Cal-Am)'s progress in establishing a test slant-well for a potential desalination plant at Marina's coastline, despite not having any water rights there;
- trends in sea water intrusion to Marina Coast Water District's and other local wells;
- how the water decisions being made now could impact our future water supply and property values.



...al forums, canvassing door-to-door, petition signing at local
Just Water was able to gather over 1600 signatures in letters and
petitions, as a public response to the second Monterey Peninsula Water Supply
Project (MPWSP) Draft Environmental Impact Report (DEIR).

These petitions and letters were forwarded to the following nine public agencies who have decision making or political influences on the Cal-Am Slant Well Project:

1. **Marina City Council**
2. **Monterey County Supervisors**
3. **NOAA Sanctuary Advisory Council**
4. **California Coastal Commission**
5. **Monterey County Water Resources Agency (MCWRA)**
6. **Monterey Peninsula Water Management District (MPWMD)**
7. **State Water Resources Control Board**
8. **Fort Ord Reuse Authority (FORA)**
9. **Marina Coast Water District (MCWD)**



PETITION TO KEEP COMMUNITIES WITH MARINA COAST WATER DISTRICT (MCWD) UNDER THE FORA GSA.

We, the undersigned, demand that support Marina Coast Water District Groundwater Sustainability Agency GSA, for one or more of these reasons:

- Marina Coast Water District (MCWD) has provided safe and maintain the infrastructure
- MCWD has applied to become (GSA) for the Grid Community capable in meeting the state's Groundwater Management Act
- An overlapping claim has been Salinas Valley Basin GSA. This is King City that will also serve Valley. These interests are not Grid community.
- All the GSA for the Grid Community would be ground-water people has these structures in place: no pump within the for Grid. They and system to water Community would have no GSA had authority in the Grid Community.

FORA must honor the agreements allow another agency that has no manage the required groundwater communities.

JUST WATER PETITION TO KEEP OVERSIGHT AND FEE DETERMINATIONS OF GRID COMMUNITIES WITH MARINA COAST WATER DISTRICT (MCWD) UNDER FIVE YEAR.

We, the undersigned, demand that FORA (MCWD) to represent us as the Groundwater Sustainability Agency (GSA) for the Salinas Valley Basin GSA. FORA (FORA) agreements made with the US Army as infrastructure or service history to be planning of the Grid communities.

PRINT NAME WITH PHONE NUMBER BELOW	SIGNATURE
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	

Citizens for Just Water, members of the State of California, are hereby petitioning the State of California to...

Your Address: _____
 Date: _____

California Public Utilities Commission
 c/o Environmental Science Associates
 550 Kearny Street, Suite 800
 San Francisco, CA 94108

Karen Grimmer, NSPA Lead
 Monterey Bay National Marine Sanctuary
 99 Pacific Avenue, Building 455a
 Monterey, CA 93940

Re: Monterey Peninsula Water Supply Project (MPWSP)

Dear Commissioners:

I request the CPUC deny approval of the draft Environmental Impact Report (EIR) and deny certification for the Monterey Peninsula Water Supply Project (MPWSP) for the following reasons:

- Cal-Aer's claim will prove it and just want water as they have promised to the public. Cal-Aer's claim will not be in the EIR, quality, amount of water for the region, and they have studied this (1/10/17)
- Current land claim will create more greater than predicted groundwater, rather than more water, has been shown from the water table. This is taking previous water quality that belong to the Salinas Valley Groundwater Basin.
- Unilateral intrusion has degraded the quality of the supply water; we need to know precisely where all shortages of water are and how to fix them and the "ERT" strategy can provide this much needed information. The approval of the environmental review should not be done until we have this ERT study completed.

Additional Comments:

Thank you for your kind attention to this matter.

Sincerely,

 (Print Name)

cc: Monterey City Council, Monterey County Supervisors, MWA, Monterey Advisory Council, California National Commission, Monterey County Water Resources Agency (MWRMA), Monterey Peninsula Water Management District (MPWMD), State Water Resources Control Board, Fort Ord Base Authority (FOBA), Marina Coast Water District (MCWD), Mayor Water Authority Group.

Collected signatures have been received by the CPUC, Parties the Proceeding, Bill Monning's office and the Coastal Commission.

Public Education: Films

We held showings of the National Geographic 2017 documentary **Water & Power: A California Heist** in Marina and East Garrison -- providing context to our local water issues through seeing the historical and very complex water law and water transmission issues in California. Each session entailed a panel of local experts on water.

JUST WATER
A CITIZENS ACTION GROUP

**Water and Power:
A California Heist**

This very riveting documentary of California water raises the possibility of a few major for-profit companies doing something Californians consider something they should consider. Discussion will follow afterwards.

2 Showings

**SATURDAY
June 17 • 7-9 pm**

**THURSDAY
June 29 • 6-8 pm**

Marina Library
190 Seaside Circle
From Hwy 1, exit Reservation Road, right at first signal, left on Seaside Circle

**Marina/Fort Ord Water:
CODE RED**

**Friday, February 17,
5:30-7:00 pm**

Marina Library
190 Seaside Circle
From Hwy 1, exit Reservation Road, right at first signal, left on Seaside Circle

FREE PUBLIC FORUM

Join us for an evening of information and discussion

- Danger to Our Water
- Regional Water Issues
- What you can do!

**Seawater Intrusion
1944-2013**



Hosted by Citizens for Just Water • www.justwater.org • CJWater@gmail.com • [Facebook](https://www.facebook.com/justwater)

Party to the Proceedings.

In November, 2016, Citizens for Just Water was granted Party to the Proceeding by the Administrative Law Judge's ruling for the Application of Cal-Am Water Company Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates. Three of our members gave Prepared Testimony before the California Public Utilities Commission (CPUC) at the evidentiary hearings held in San Francisco in Fall of 2017. This testimony presented our concerns from many perspectives, including community values of environmental justice and ethics. As an official party to the proceeding, Just Water representatives are participating in a mediated regional Settlement Negotiations group.

NextDoor

Conversations on the MPWSP, CEMEX, Cal Am slant wells and Community Values have been presented on Next Door to get the message out to inform our



These issues affect each and everyone and needs to be part of a conversation in our community.

“ Community Values of Marina

Our awesome city of Marina, with it's rich history and incredibly diverse population seems to be in a stage of redefining itself. Between such things as protecting our water and land from Cal Am's proposed desal plant, to the work being done in the adhoc committee for our downtown vitalization project, it is crucial that today and tomorrow's city of Marina reflect our diverse richness, unique character, and what we consider valuable. What do you think? How do you envision the future of our city? What are our community values? What reflects the values of our city?

21 Jan · 8 neighborhoods in General

Ground Water Management

Just Water raised public awareness about the 2014 California Sustainable Groundwater Management Act (SGMA) and recent formation of Groundwater Sustainability Agencies (GSAs). Locally, the overlapping application of the Marina Coast Water District GSA and the Salinas Valley Basin GSA was in play during the summer of 2017. Marina Coast Water district has historically been the manager of the aquifer/groundwater in question and having Salinas Valley interests and influences may not be in the best interests of MCWD and the greater Monterey Peninsula water needs going forward. We are the only location with such a GSA conflict/overlap on the Monterey Peninsula.

FORA

Just Water members offered public comment at multiple FORA meetings (Fort Ord Reuse Authority), including presenting a petition signed by residents of East Garrison, asking FORA to formally communicate to the State of California



orsement of Marina Coast Water District's Groundwater Sustainability Agency Application as submitted. Since Fort Ord communities receive their water service from MCWD but are not officially annexed into

MCWD, those customers have only FORA as their official representation in water related matters - Ord community customers cannot vote for the Board of Directors of MCWD.

FORA's subsequent decision to NOT support MCWD's bid for a status as the exclusive Groundwater Sustainability Agency (GSA) for the Fort Ord Communities was disappointing, but also a point to consider in moving forward in citizen based actions.

Valuable Science

The Stanford University ERT (Electrical Resistivity Tomography-precursor to AEM) and AEM (Airborne Electro-magnetic) imaging groundwater study done by Rosemary Knight and team, has added valuable new data which we would like to see included in the formal scientific analysis/assessment of the test slant well project. Three Just Water representatives traveled to Stanford to discuss the ERT and AEM studies when these subjects became critical to understand for the issues of harm to our groundwater basin. Just Water coordinated and hosted a public viewing of the AEM helicopter lift-off at the Marina Airport in May of 2017 with an educational session immediately following by a Ph.D. hydrogeologist associated with the AEM!

California Coastal Commission Public Comments

Public Comments were made by three of our members at the December California Coastal Commission in Dana Point, requesting a formal agendized public discussion at a future CCC meeting regarding the approval of Cal-Am's extended permit for the test slant well de-salinization project. Again the CCC did not change its action upon hearing from us, another data point as we realize the David vs. Goliath aspect of the challenges that lay ahead.



Representatives of Just Water traveled to Cambria for a CA Coastal meeting to present slide presentations on the illegal nature of the Cal-Am Slant Well Project and the significant impacts of the test Slant Well upon Marina's population of the Western Snowy Plover, a threatened species listed under the federal Endangered Species Act.



Engaging with Public Officials and Non-Profits

Just Water held multiple direct meetings with various non-profits, state agencies, and local and state politicians regarding Cal-Am's test Slant well desal plant on Marina's coast, and protecting our local water resources and water rights.

Labor Day Community Engagement

We sought to educate and include the public in our outreach efforts at the Marina Labor Day Parade/Festival by having people star in short videos about our water situation.



Solving Regional Water Issues

We are part of the recently organized mediation group seeking to air and resolve regional water issues with the parties that have been part of the October 2017 proceeding with the CPUC. Current mediations have resulted in cooperative efforts of the public water agencies to increase ground water replenishment and recycled water project capacities that will provide water affordably, sustainably and sooner than the Cal Am desal project.

(//facebook.com/justwater) (//email:justwater@justwater.com)

Proudly powered by [Weebly \(http://weebly.com\)](http://weebly.com)

EXHIBIT

F



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

FILED
10/29/18
04:59 PM

*In the matter of the Application of
California-American Water Company
(U210W) for Approval of the Monterey
Peninsula Water Supply Project and
Authorization to Recover All Present and
Future Costs in Rates.*

Application No. 12-04-019
(Filed April 23, 2012)

**CITIZENS FOR JUST WATER (“JUST WATER”) RESPONSE TO
THE APPLICATION FOR REHEARING OF DECISION 18-09-017**

Juli Hofmann
Representative
Citizens for Just Water (“Just Water”)
3201 Martin Circle
Marina, California 93933
Tel: (831) 883-1957
E-mail: jhofmann@redshift.com

Dated: October 29, 2018

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

*In the matter of the Application of
California-American Water Company
(U210W) for Approval of the Monterey
Peninsula Water Supply Project and
Authorization to Recover All Present and
Future Costs in Rates.*

Application No. 12-04-019
(Filed April 23, 2012)

**CITIZENS FOR JUST WATER (“JUST WATER”) RESPONSE TO
THE APPLICATION FOR REHEARING OF DECISION 18-09-017**

This reply is consistent with CPUC rules, and is submitted within the deadline.

INTRODUCTION

Citizens for Just Water is comprised of groups and individuals who receive potable water from the Marina Coast Water District (MCWD) and CalAm and who share a common interest in preserving and protecting a long-term water supply with equity among competing interests. Just Water promotes the fair and equitable use and development of sustainable groundwater without adverse consequences to the needs and rights of any party. Its mission is to educate the community on water issues and to advocate for regional water justice.

COMMUNITY VALUES

Citizens for Just Water supports for the City of Marina for Rehearing of Decision 18-09-017 in whole and in particular, Section III “THE COMMISSION HAS NOT REGULARLY PURUSED ITS AUTHORITY BECAUSE IT HAS FAILED TO COMPLY WITH APPLICABLE LAW.

A. The Commissions’ Grant of a CPCN for the Project Violates Sections 1001 and 1002 That Serve as the Authority for the Commission of Review and Grant CPCNs. A. D.18-09-017 Wrongly Ignores and Fails to Follow the Express Terms and Applicable Statutory Construction of Sections 1001 and 1002 (a). a. D.18-09-017 Fails to Identify or Properly Apply the Law Governing Application of Sections 1001 and 1002 (a).

Public Utilities Code Section 1002 (a) reads:

“(a) The commission, as a basis for granting any certificate pursuant to Section 1001 shall give consideration to the following factors: (1) Community values (2) Recreational and park areas.”

The Proposed Decision unfairly applies differing standards for community values—between the communities that the project intends to serve (the Monterey Peninsula) and the community where the project will be built (Marina).

Marina is a small city of 21,000 people. It is one of the most ethnically diverse communities in California for a city of this size. More than 55% of our residents are minorities and 10% claim two or more races. Some 15.3% live below the poverty level, exceeding the state average of 14.3%. The CalEPA analytical tool identifies large portions of Marina in the category of 81-90% level of a disadvantaged community. Our community is the site of two major regional industrial plants that serve the *entire* region including Marina: the solid waste landfill and the regional

sewage treatment facility. Although the CalAm project is yet another industrial facility siting in Marina, this incursive project unfairly imposes an industrial plant that uses our ground water to exclusively serve only the **Monterey Peninsula** water needs while subjecting Marina to all the harm and risks of a lost water supply. This exclusion of our communities needs and values demonstrates the typical disparities that occurs to marginalized communities by well funded corporate interests, as the CalAm Desalination project is not collaborative, nor provides any benefits at all for Marina. The CPUC denied due process of the clear environmental injustice inequities of this project in the course of the evidentiary hearings to favor CalAm.

The right to clean, affordable water for all IS a community value, contrary to the ALJs opinion that parties presented “arguments over water resources as opposed to community values” in their arguments for the MPWSP. In fact, water is so fundamentally a human right for all communities that state agencies create and refine environmental justice policies to protect disadvantaged communities to ensure “that all communities equitably share environmental benefits and burdens.” (California State Lands Commission Draft Environmental Justice Policy August 2018). The access to clean, affordable water is so essentially a part of this that is hard to imagine that ‘**arguing for one’s own water source**’ is not regarded by the ALJs as **advancing environmental justice as a community value**.

The CPUC found that in CalAm Director of Engineering, Ian Crook’s Testimony, a secure water supply was a “Community Value,” but did not apply this same value to the city of Marina.

Q48. Can you address community values with respect to the project?

A48. Yes. Water supply is a critical issue for the Monterey community because water supply constraints in one form or another have affected the Monterey county district since at least the 1970’s.¹

¹ A1204019 Direct Testimony of Ian Crooks. September 15, 2017, pg. 31

A supporting argument by the ALJs that became the basis for the CPCN approval stated the following regarding community values: **Others opposed to the project did not present credible evidence or arguments to persuade us that the project is not needed.** This statement is highly remiss since the water extraction and damages will NOT be to the Cal-Am's water district who purportedly "need" water from this project. The more appropriate and relevant query is whether Marina does not need its own water. With such an inquiry, the CPUC approval of this project could never be given.

Further, in clear bias of the eventual approval of the CPCN, the ALJs opined: **"We agree with Cal-Am and find the MPWSP consistent with the values of the community that the project will serve." This statement completely misrepresents how the issue of community values must be applied.** The critical distinctions are who does this project serve and who does it NOT serve. The project is intended to serve Cal-Am's jurisdiction and so the community values of the benefactors would be served. The-community that will bear all the risks and harm of this project must be the PRIMARY evaluation of community values. Marina, as opposed to the Monterey Peninsula, is the jurisdiction *in which community values will be violated.* This violation forms the basis of environmental injustice everywhere where disadvantaged communities are exploited.

The justification for approval of this project is focused only upon whether the Monterey Peninsula has water needs, rather than focused equally on whether Marina has water needs. The approval does not fairly examine the mass extraction of groundwater from Marina's aquifers. In the FEIR and Evidentiary hearings associated with the project, volumes are written analyzing the water demand needs of the CalAm customer jurisdiction, but no like analysis has ever been presented about Marina's current and future water demand needs. It is completely negligent to bypass analysis of water needs equally from where the water is to be taken.

Given that the Salinas Valley Groundwater Basin is among the 21 critically over drafted Basins in California, water is of major importance to all communities in the area. The Monterey County Supervisors declared a recent moratorium for pumping voted by the on June 26, 2018 (Agenda No. 17). Yet, the intrusion of Cal-Am into the Salinas Valley Groundwater Basin, without any current water rights, presents an existential threat to an already seawater intruded region that is struggling to meet agricultural and potable water needs. It is egregious that the CPUC elected to not independently review the Stanford University Aerial Electromagnetic groundwater study to understand the specific harms of the CalAm project to the groundwater.

Water from Marina Coast Water District is affordable to Marina residents today. No adequate compensations to Marina have been identified when harms to the water source result from the project and no study has been conducted as to what impact Cal-Am's project will have upon the cost of Marina's water now and in the future for its residents. The disparity of concerns for Marina's welfare over the wealthier communities of the Monterey Peninsula has been repeatedly evidenced in the entire Evidentiary Hearing and proceedings.

Additionally, the PD failed to explore viable options that will satisfy the Monterey Peninsula water needs without the harm to the City of Marina and MCWD that this proposed water extraction will entail. The CPUC failed in its responsibility to give support for regional community based solutions that would have provided water to the peninsula economically, cooperatively, and sooner than the experimental slant well project.

Cal-Am has counted on Marina's ignorance, its inability to organize and to travel to meetings in distant locations. Many of Marina's residents' face everyday challenges with limited incomes and, language barriers both in speaking and in writing. Complex legal proceedings are daunting

when a population lacks education and experience with community activism, and feels powerless to impact governmental processes. And therefore, Cal-Am could propose and advance an unthinkable and unjust water grab in Marina. This violation, by omission, of a fair evaluation of our community values and needs, forms the basis of environmental injustice where marginalized communities are victimized. This is precisely the impetus for state agencies to adopt environmental justice policies.

FAILURE TO PROTECT SENSITIVE HABITATS AND ECOSYSTEMS, RECREATIONAL AND PARK AREAS

Citizens for Just Water agrees with the City of Marina Application of the City of Marina for Rehearing of Decision 18-09-017,

C. The Decision Unlawfully Adopted The Final EIR's Wholly Inadequate Significance, Mitigation Measures And Other Determinations In Subject Areas Including Habitats And Sensitive Ecosystems, Land Use Plans and Policies, Terrestrial Species, Groundwater Resources, Marine Biological Resources, Cultural and Paleontological Resources, Growth-Inducing Impacts, Air Quality Impacts, Impacts From GHG Emissions, And Socioeconomic And Environmental Justice Impacts. (pg. 60).

Marina has long embraced an environmental commitment to conservation, preservation and protection of sensitive habitats and its wildlife. The shoreline of Marina is home to several threatened species, including the Western Snowy Plover. The City has adopted the WSP as an official city symbol, seasonal downtown banners display images of the WSP, ads for new homes in Marina feature this bird in recognition of the pristine nature of Marina's beaches, and the local environment group has the WSP as its mascot.

The FEIR predicted permanent loss of approximately *seven acres of ESHA and the temporary loss of approximately two acres of ESHA* and does assert that this, indeed, is a significant impact². The decision to approve a CPCN and FEIR despite acknowledgement of permanent damage is a violation of both Marina's Local Coastal Plan and its community values.

Additionally, the one test slant well in operation since January, 2015, has not been subjected to any review in terms of impact on the populations of Western Snowy Plovers at the CEMEX site. A severe decline in Marina's WSP populations is documented by Point Blue in its annual reports during the test period from 2015, 2016 and 2017. This data was NOT utilized in the FEIR when such data has been available at the time of the FEIR and CPCN approvals. Adding seven more slant wells without this analysis spells disaster for long-term conservation of this species.

Again, the bias of this CPUC project approval allows damage to occur on the sensitive habitats of Marina in favor of the needs of the Monterey Peninsula. Marina citizens see this damage to our environment as completely inconsistent with our community values. The approval of this project has denied our community autonomy to implement existing Land Use Planning and engage city policies for the closure of the CEMEX site where the CalAm project has been chosen to be sited despite our objections. Our community efforts to cultivate this parcel for "conservation in perpetuity" has now been completely undermined and dismissed in favor of the incompatible CalAm industrial desalination/groundwater intake pipes.

It is noteworthy that the permanent loss of a threatened species and its habitat is acceptable to the CPUC because the harm is **not to Monterey Peninsula, a wealthier, politically connected area**. Marina's beaches are public and affordable recreational open spaces shared by visitors and peninsula residents alike. Our beaches are pristine compared to many peninsula beaches and

² Final EIR/EIS, Chapter 4, Section 4.6 Terrestrial Biological Resources, p. 4.6-197

should be protected as unique coastal zones for conservation. Federally protected plants and animals on the proposed site are irreplaceable yet this loss is found “acceptable”. This is a disturbing pattern of bias regarding permanent impacts to Marina’s park and recreation areas that are deemed irrelevant in the approvals for this project.

CONCLUSION

To paraphrase the CPUC Code 1001: “If there are complaints from a public agency that may be injuriously affected by another agency’s interference or construction plans, it is the DUTY of the commission to arrive at terms and conditions that are just and reasonable”.

This project is neither just nor reasonable. We feel a request for a rehearing is justified and must be administered promptly. A rehearing is imperative to correct the fundamental biases of the project approval that included no groundwater rights, inequitable distribution of environmental impacts, employed differing standards for community values, ignored AEM science that showed harm to a critically over-drafted basin, and sets precedence for corporate interference into a public water agency’s ability to manage groundwater for its community.

Respectively submitted

/s/ Juli Hofmann

Juli Hofmann
Representative
Citizens for Just Water (“Just Water”)
3201 Martin Circle
Marina, California 93933

Dated: October 29, 2018

EXHIBIT

G



FILED
7-10-17
04:59 PM

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

*Application of California-American Water
Company (U210W) for Approval of the
Monterey Peninsula Water Supply Project
and Authorization to Recover All Present
and Future Costs in Rates.*

Application No. 12-04-019
(Filed April 23, 2012)

**COMMENTS OF CITIZENS FOR JUST WATER (“JUST WATER”)
TO JOINT STATEMENT OF ISSUES**

Margaret-Anne Coppernoll, Ph.D.
Representative
Citizens for Just Water (“Just Water”)
3012 Crescent Street
Marina, California 93933
Tel: (831) 578-7877
E-mail: mcopperma@aol.com

July 10, 2017

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

*Application of California-American Water
Company (U210W) for Approval of the Monterey
Peninsula Water Supply Project and
Authorization to Recover All Present and
Future Costs in Rates.*

Application No. 12-04-019
(Filed April 23, 2012)

**COMMENTS OF CITIZENS FOR JUST WATER (“JUST WATER”)
TO JOINT STATEMENT OF ISSUES**

I. Introduction

Pursuant to the Administrative Law Judge’s Ruling of June 9, 2017, Requesting Parties to Identify Issues for further Evidentiary Hearing (the “Ruling”), and in accordance with Rule 6.2 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure (“Rules”), the Citizens for Just Water (“Just Water”) submits comments to the Joint Statement of Issues (“Joint Statement”) in compliance with the comment period ending July 11, 2017.

II. Comments

Specificity of references to the “Joint Statement”, Exhibit A:

5A

California American Water (Cal-Am) Statement of Issues: “The feasibility and costs of the desalination plant being constructed in modular increments, with the potential for the Commission to authorize a smaller plant now”.

Citizens for Just Water (“Just Water”) Comment/Objection to 5A:

Although Just Water appreciates the necessity of exploring the actual costs of the original slant well project as proposed, securing an agreement or issuing a Certification of Public Convenience and Necessity, at this juncture, would bypass due process of the DEIR to complete an evaluation of feasibility. If the DEIR cannot prove “no harm” with a high degree of certainty then any sized slant well would logically be determined “infeasible.”

Similarly, the burden of proof falls to Cal-Am to prove it can acquire any groundwater rights to the critically over drafted Salinas Valley Groundwater Basin, whose protection and preservation have been assured through the California Sustainability Groundwater Management Act introduced into law in 2014, as well as through other pertinent federal and state laws and agreements, such as the Agency Act and the California Constitution. These laws and agreements must be honored to protect, conserve, and preserve the groundwater that sustains the community of Marina and the Ord Communities.

Per the DEIR, the question of project feasibility is tied to Cal-Am’s ability to prove it has groundwater rights to the Salinas Valley Groundwater Basin. According to the DEIR, Chapter 2.6, Water Rights:

“...if Cal-Am did not possess legal rights to use feedwater for the MPWSP desalination plant, then the desalination plant simply could not operate and the project would not go forward. That is why water rights factor in as a key project feasibility issue.”

Normally, water rights is not a DEIR issue, but it was included, according to the CPUC’s ESA consultants, due to the question of feasibility of the project. The substantial significance of this issue relates to the Cal-Am public deception that the slant well feedwater is taken from the sub-surface ocean water. In actuality, the slant well feedwater comes directly from the Perched Dune Sand Aquifer and the 180-Foot Aquifer. This water rights aspect of the project must be resolved before any project approval or certification takes place: Citizens for Just Water (“Just Water”) (**Joint Statement of Issues, 7A, 8A and 9A**). The Evidentiary Hearings should allow truthful discussion and testimony on this Cal-Am misrepresentation to the public as it affects every aspect of the project.

52A

Monterey Peninsula Regional Water Authority (MPRWA) Statement of Issues: “MPRWA President and City of Pacific Grove Mayor, Bill Kampe, may submit testimony on the subject of demand forecast and the relation to project sizing.”

Citizens for Just Water (“Just Water”) Comment/Objection to 52A:

Although Just Water recognizes the necessity of analyzing the actual demand need and sizing of the slant well project by MPRWA, any changes to the slant well project design as currently

proposed in size, capacity, or construction should bring the project back to the DEIR review process. The essential concerns brought up in response to the current DEIR need to be addressed first. To parallel track agreements or issue a Certificate of Public Convenience and Necessity within the Evidentiary Hearing process without a full DEIR review would be inexcusable and unjust. To ensure regional justice and to protect the public trust, the CPUC has a fiduciary responsibility to make sure CEQA requirements and DEIR approval are met prior to any certification of the project.

14A-22A

Citizens for Just Water (“Just Water”) Comment/Agreement to 14A-22A:

Citizens for Just Water is in agreement with the City of Marina’s Statement of Issues.

24A-51A

Citizens for Just Water (“Just Water”) Comment/Agreement to 24A-51A:

Citizens for Just Water is in agreement with the Marina Coast Water District’s Statement of Issues.

67A

Citizens for Just Water (“Just Water”) Comment/Agreement to 67A:

Public Water Now (PWN) Statement of Issues: “Community Values: Regional Justice.

Evidentiary testimony should be allowed to discuss Cal-Am invasion, uninvited, to take water from a neighboring water jurisdiction.”

Citizens for Just Water is in agreement with Public Water Now's Statement of Issue 67A. The Cal-Am taking of the City of Marina's only water supply source, with the intention of exporting that water to the Monterey Peninsula, without regard for the water needs and demands of the local citizenry of Marina and the Ord Communities, is unjust and unlawful. The Evidentiary Hearing should allow for testimony and discussion of this issue.

62A

Citizens for Just Water ("Just Water") Comment/Agreement to 62A:

Public Water Now (PWN) Statement of Issues: "Water rights. AgLandTrust has federal contract rights that have not been acknowledged in prior hearings."

Citizens for Just Water ("Just Water") agrees with the Public Water Now's Statement of Issue 62A. The AgLandTrust has overlying water rights to the Salinas Valley Groundwater Basin, and holds federal and military contracts to preserve, to protect and to conserve the percolated potable water and agriculture irrigation water per its water rights. It would be to the advantage of all parties to acknowledge the existence of these federal water rights contracts, and include them in discussion and testimony during the upcoming Evidentiary Hearings. To ignore this important factor in the CPUC process constitutes regional injustice; to ignore this important factor is a disregard of the public good.

III. Conclusion

Citizens for Just Water ("Just Water") finds that several critical and fundamental issues of social and economic injustice identified in both the Evidentiary Hearing Joint Statement of

Issues, and in the DEIR, must be addressed before any consideration of a down-sized or incremental modular component slant well/desalination project takes place. No agreements should be made through the Evidentiary Hearing process before the approval and certification of the DEIR, as this would be unjust, and would circumvent a fair and full evaluation of a seriously flawed project. Most significantly, Citizens for Just Water respectfully asserts that to do otherwise becomes an unjust regional water solution favoring the proponents of the MPWSP over the community that bears all the risks to quality of life, while receiving no benefits. It is vital that the CPUC conduct a fair and thorough review of the project's impacts on the most adversely affected communities, namely the City of Marina and the Ord Communities, which was glaringly absent from the DEIR.

For the reasons presented herein, Citizens for Just Water sincerely and respectfully requests the CPUC ALJ include for the Evidentiary Hearings, the Exhibit A: Joint Statement of Issues, Citizens for Just Water Statement of Issues 6A-13A, which are in compliance with the Ruling's stipulations that parties may submit issues on subject matter that parties consider necessary for the Commission to make an informed decision.

Respectfully submitted,

/s/ Margaret-Anne Coppernoll
Margaret-Anne Coppernoll, Ph.D.
Representative
Citizens for Just Water
Tel: (831) 578-7877
E-mail: mcopperma@aol.com

Dated: July 10, 2017

EXHIBIT

H



FILED
04/19/18
04:59 PM

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

*Application of California-American Water
Company (U210W) for Approval of the
Monterey Peninsula Water Supply Project
and Authorization to Recover All Present
and Future Costs in Rates.*

Application No. 12-04-019
(Filed April 23, 2012)

**OPENING BRIEF REGARDING
MONTEREY PENINSULA WATER SUPPLY PROJECT
FINAL ENVIRONMENTAL IMPACT REPORT/
FINAL ENVIRONMENTAL IMPACT STATEMENT**

Juli Hofmann
Representative
Citizens for Just Water ("Just Water")
3201 Martin Circle
Marina, California 93933
Tel: (831) 883-1957
E-mail: jhofmann@redshift.com

Dated: April 19, 2018

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

*Application of California-American Water
Company (U210W) for Approval of the Monterey
Peninsula Water Supply Project and
Authorization to Recover All Present and Future
Costs in Rates.*

Application No. 12-04-019
(Filed April 23, 2012)

**OPENING BRIEF REGARDING
MONTEREY PENINSULA WATER SUPPLY PROJECT
FINAL ENVIRONMENTAL IMPACT REPORT/
FINAL ENVIRONMENTAL IMPACT STATEMENT**

Administrative Law Judges Weatherford, Haga and Houck ruling dated March 28, 2018 called for opening briefs by April 19, 2018, and replies by May 3, 2018. In accordance with CPUC rules, this opening brief is submitted by Citizens for Just Water, consistent with the prescribed outline.

I. Introduction..... pg 1

II. FEIR/FEIS Issues

- A. Water Demand, Supply and Water Rights..... pg 1
- B. Project Description pg 6
- C. Environmental, Setting, Impacts and Mitigation Measures.....pg 10
- D. Alternativespg 15
- E. Other.....pg 16

III. Present and Future Public Convenience and Necessity of Project –
Environmental Factors

- A. Public Utilities Code Section 1002(a)(4) and Other Law.....pg 18
- B. Otherpg 18

IV. Conclusionpg 19

1. Introduction

Citizens for Just Water appeals to the CPUC to re-evaluate the statement in section ES.4.5 that states “Public and agency comments on the Draft EIR/EIS did not require changes in the conclusions of the Draft EIR/EIS that resulted in any new or substantially more severe impacts for the proposed project”. Many response comments of substantial and compelling issues were dismissed, insufficiently explained or relegated to approving bodies’ “preferences” to omit important information.

Just Water makes the following comments to the FEIR and supports the efforts of the City of Marina, Marina Coast Water District, Public Water Now, and Water Plus and thereby incorporate, by reference, every comment, criticism, and deficiencies related to the FEIR identified by these entities.

II. FEIR/FEIS Issues

A. Water Demand, Supply and Water Rights

Citizens for Just water objects to the siting, building and operation of the proposed desalination plant. This project FEIR has neglected to fairly review the harm and damages to a community that will be imposed on by a project that will be sited outside of CalAm’s service area.

In the FEIR 8.6 Organizations Comments and Responses, page 8.6-604 it is stated:

MCWD is not in CalAm’s service area and therefore, not included in either the future water forecast, or the analysis of growth policies.

But the MPWSP clearly impacts the area and jurisdiction. This is a major omission. The current and future needs of the region in which the MPWSP will draw groundwater have not been fairly reviewed. By this omission, any mitigation and/or costs are entirely excluded and not accounted for in the project.

The CPUC has stated (2.6 Water Rights) it will not decide the water rights issue, but will leave this for the courts to decide. By approving this project without *first* obtaining a determination of legal water rights, the CPUC has forced the spending of unnecessary dollars by the City of Marina to defend its own water source. This project imposition will affect residents of Marina, the Ord communities, Marina Coast Water District and the ratepayers of the Peninsula and Seaside.

Granting approval of this project creates a precedent that places an undue economic burden on small communities. By allowing the “appropriative” or “developed” take of incorrectly defined “brackish water” outside of Cal-Am’s service area, the CPUC and the MBNMS open a path to use appropriative take in ANY coastal community where a large corporation desires to privatize water resources. The parent company of CalAm, American Water, has published public information regarding their tuck-in strategies to buy up small community owned water districts.

For a small community like Marina, it is an undue burden to sustain legal challenges to protect one’s own water resources against a major corporation. This project and all of the unfair consequences forced upon the community—is the very definition of environmental injustice. Lawsuits drain limited public agency resources while CalAm can easily sustain multiple and lengthy lawsuits against smaller entities.

The FEIR in 2-20 *CH 2. Water Demand, Supplies, and Water Rights* concludes that water rights are not required because: 1) No Harm will occur; 2) Brackish water is unusable; 3) Incidental fresh water will be returned to basin; 4) Project will put water to a higher use; 5) No active groundwater use by MCWD

No Harm:

The argument has been made that water rights depends upon the proof of “no harm” as outlined in a communication to Cal-Am by the SWRCB (CalAm Monterey Peninsula Water Supply Project 8.2-18). The very narrow focus of data modeling utilized for the project, cannot

be considered objective in considering the question of ‘no harm’ which will have devastating consequences to Marina and the Ord communities. The AEM (airborne electro-magnetics) groundwater imaging that is currently completed and available contradicts the report conclusions regarding “no harm” to the hydrology of the area impacted. The issue of harm obviates any other criteria for obtaining appropriative rights. The deciding agencies must also evaluate AEM data to balance the critical information missing in Cal-Am’s limited pilot well data model.

As discussed above, in developing a new water source Cal-Am must establish no other legal user of water is injured in the process. SWRCB Final Review 2013 pg. 38

Therefore, Figure 4.4-17 illustrates the MPWSP's contribution to redirecting or reversing the inland advance of seawater intrusion. Because there are many stresses in the basin, the MPWSP project **would not necessarily draw the leading edge of the seawater intrusion line back towards the coast to the extent shown by the particle-tracking output**, but it does indicate that the MPWSP provides a benefit for the basin. FEIR 4.4-91

Assurances are given that this project will reverse seawater intrusion. Yet the above passage explains that “many stresses in the basin”, might not draw to the predicted extent shown. By only using 8 monitoring wells, not including effects of users in the region, and excluding AEM findings there is biased and inaccurate prediction of regional effects. Seawater intrusion is a regional effect.

To date, there are decades of substantiation that show that increased pumping from aquifers results in further seawater intrusion. The most effective and proven mitigation measure is the curtailing of pumping and replenishment of the aquifers. But this report, based on a limited scope of data collection from eight vertical wells, refutes all historical foundations, claiming that this new technology is the solution to regional seawater intrusion by pumping greater volumes of aquifer water at the shore.

Without the inclusion of the far superior AEM data, FEIR concludes:

2.6.2 Project Water Rights. Applying the thresholds stated above, the analysis concludes that the MPWSP would not result in a significant impact to groundwater resources. It would not reduce, or affect at all, the availability of fresh water (only brackish water) from the Basin projected to be drawn into the MPWSP supply.

The chosen modeling used in the conclusion of this project does not include data from other users in the region, historical pumping, use an established regional baseline, or, cover a focus of MCWD or FORA use and therefore is insufficient in explaining impacts of a regional nature.

The AEM study confirms freshwater in the Marina area in a layer called the Dune Sand aquifer and a far greater presence of freshwater in the 180' aquifer that was completely overlooked by Cal-Am's science in its assessment of our groundwater Basin.

The Dune Sand fresh aquifer also provides a valuable function of keeping seawater intrusion at bay by replenishing the next underlying water layer (called the 180' aquifer) and also pushing back on the ocean movement landward, thereby slowing saltwater intrusion into the Basin. Any CPUC decision must take a cautionary stance as the FEIR conclusions are based on a flawed super model and does not adequately prove "No Harm."

Brackish Water

The FEIR outlines definitions of fresh, ocean and brackish water:

"Fresh water: water that originated in a groundwater basin through precipitation or rivers and streams; in the context of the MPWSP, fresh water is water that originated within the Salinas Valley Groundwater Basin, identified as containing total dissolved solids (TDS) concentrations of less than 500 milligrams per liter (mg/L), consistent with the secondary drinking water standards established by the SWRCB in Title 22 California Code of Regulations,

section 64449, as recommended levels of TDS.1 TDS is the quantity of dissolved materials in a water sample and is used to quantify the amount of salts in a sample (it is a test for salinity)."

Brackish water: water that is a combination of seawater and fresh water, and thus contains TDS levels between 500 mg/L and 33,500 mg/L. CalAm Monterey Peninsula Water Supply Project 8.2-2 ESA / 205335.01 Final EIR/EIS March 2018

As defined in the FEIR, this leaves the definition of brackish water that Cal-Am labels as "useless" to a huge margin of tds levels of between 500mg/L and 33,500 mg/L. Yet, the federal standards state that below 1,000 mg/L is potable water, and, between 1,000-3,000 mg/L is "useful" water for irrigation and other uses. This is a HUGE inaccuracy applied to the most critical definition of water usability. Using the state standards for potability increases the percentage of freshwater that is actually being drawn into the slant wells as "source water." The FEIR also uses the term "source water" yet no definition is given to describe what this constitute in terms of TDS levels. The MPWSP cannot be approved based on a differing standard of groundwater.

Return Water

A component of the MPWSP will "return" a portion of water back to the "basin" but the area of return is in Castroville, a part of the Salinas Valley Groundwater Basin nine miles from Marina. The FEIR relies heavily on the 2014 State Water Resources Control Board document that IF there is no harm to the SVGB basin, it allows an "appropriative" take of the groundwater.

Furthermore, as discussed in EIR/EIS Section 2.6.3 and included as EIR/EIS Appendix B2, the SWRCB opined on page 40 of its Final Review of California American Water Company's Monterey Peninsula Water Supply Project ("Report") that because "the Project as proposed would return any incidentally extracted usable groundwater to the Basin ... , it does not appear that the Agency Act or the Ordinance [3709] operate to prohibit the Project. (8.2.3.3 Authority and Expertise of SWRCB to Opine on Water Rights pg. 8.2-7)

The key word here is "opined" as the SWRCB letter as above was not a legal ruling on the use of any groundwater for this project. There is no "conclusion" in the document that this project meets all the listed criteria. In that letter the SWRCB used such language as: "*CalAm must establish no other legal user of water is injured in the process* (SWRCB Final Review 2013 pg 38).

Furthermore, Marina Coast Water District has determined that the return water proposed is grossly underestimated and there is no proof that return water to the basin nine miles away, on the north side of the Salinas River, will have any restorative effect on the MCWD service area. These two factors support the concern that both the volume of extracted water and the return water represent harm to Marina and MCWD.

B. Project Description

Subsurface Open Intake - Misrepresentation of the project

In the previous DEIR/EIS the project was described subsurface ocean intake. DEIR/EIS 2017 pg. 2-30 stated that the MPWSP is "**designed to take supply water from the ocean via underground slant wells that draw water from the earth underneath the ocean**".

In the DEIR/EIS p. 3-15 stated that the "source water" is from "**the submerged lands of the Monterey Bay National Marine Sanctuary**"

In response to the many citizen comments that this was not a true 100% subocean intake as described in the DEIR, the report has been simply altered to read:

3.2.1.1 Subsurface Slant Wells Pg. 3-17

The source water intake system would include 10 subsurface slant wells at the coast (eight active and two on standby at any given time) **that would draw water from aquifers that extend beneath the ocean floor**, for treatment at the MPWSP Desalination Plant.

This a significant change in the original project description and violates public trust that a fair evaluation will be given by the lead agencies. This is water that is legally defined by the SWRB as “groundwater” not ocean water. This change creates a project with significant legal issues and conflicts that will require more time and money to resolve.

The MPWSP states that the project will draw “mostly seawater” i.e. 92% seawater versus an 8% take of groundwater. ***This 8% groundwater intake (based on the downsized project of 6.4 mgd) represents more than half of the entire year’s take of groundwater by MCWD that currently serves 33,000 people.*** This anticipated additional volume of water withdrawn from the area requires exhaustive analysis—more than has been provided in the FEIR regarding the long term impact to the ENTIRE interconnected groundwater resources that MCWD is required to manage in the region.

As early as 2014, Cal-Am promoted the MPWSP concept of a safe “subsurface ocean intake” to influence the environmentalist support that is concerned about sea life entrainment with deep ocean intake desalination. The DEIR (exhibit 1) chart below represents that deception to the MBNMS that positions the slant well pipe as mostly under the ocean.

In the DEIR and FEIR the actual positioning of the slant wells illustrates that the vast majority of the slant well pipe falls beneath the ground (groundwater) and NOT under the ocean floor:

Figure 4. Slant Test Well – Representative Illustration (Not to Scale)

exhibit 1

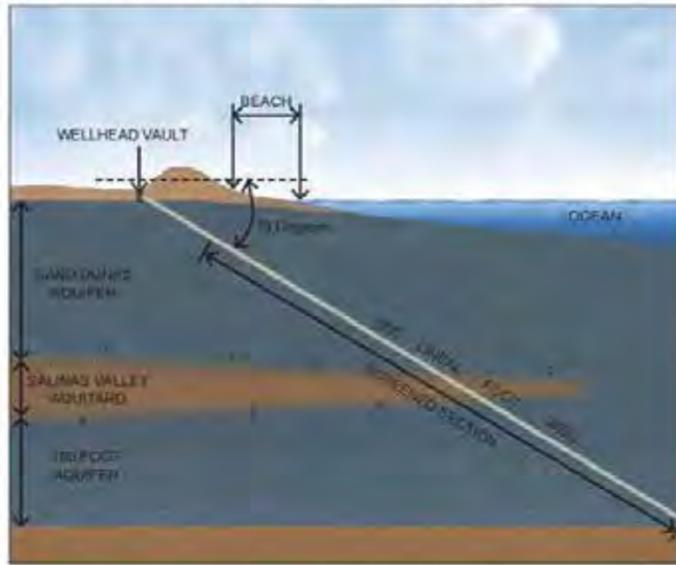


exhibit 2

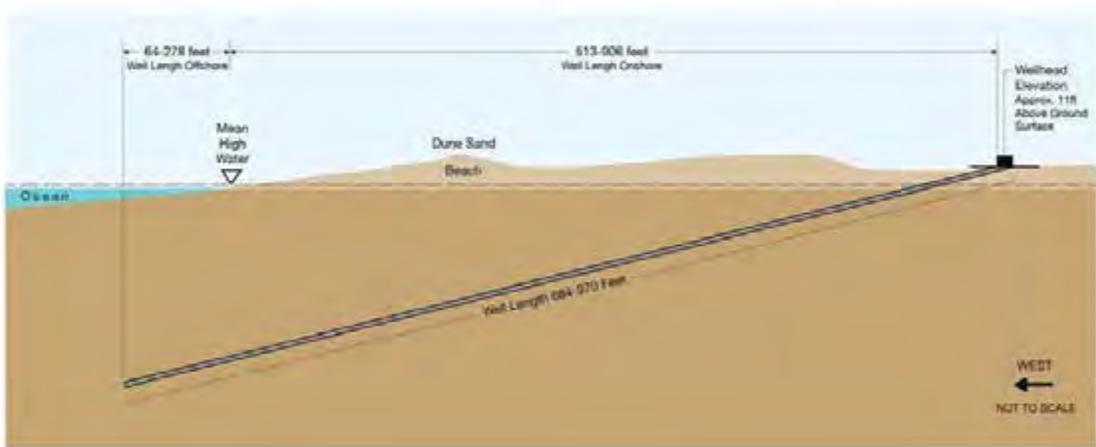
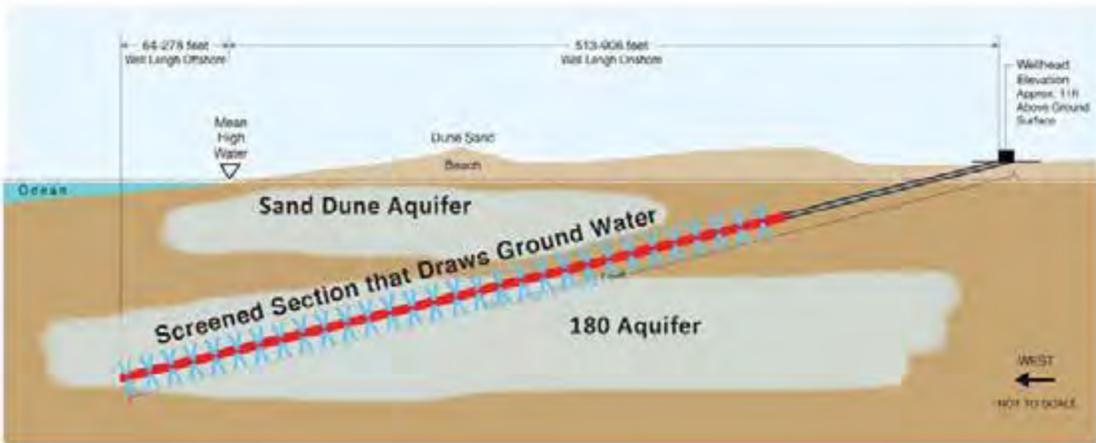


exhibit 3



Also, (in exhibit 2) the chart is deceptive and does not show how the screened intake along the vast majority (970 feet as shown) of the pipe lies ***under the land surfaces***. Viewing this graphic, most would assume that the intake is like a straw and this creates the notion of a safe intake at the pipe end that is located *under the ocean*. A further flaw of the graphic for the layperson is that there is no representation of the the groundwater resources in relation to the slant well.

Citizens for Just water has modified the DEIR/FEIR graphic (exhibit 3) to show where the groundwater is and how the slant well takes up groundwater. The truth is that the slant wells are more economically efficient when a portion of the “source water” contains groundwater. The screened slant well is designed to pull up water from groundwater aquifers under the land subsurface - not from under the ocean and this will be without legal rights to do so.

Of further concern, in the evaluation of this project, is the omission of information regarding the costly problems encountered during installation of the slant well. The current test well does not match the original permit parameters of location on the dune or the final length of the pipe. There were issues with removing the well casing that have permanently occluded a portion of the screen and interferes with the uptake of groundwater - the same well from which data provides the foundation for feasibility for this project. The passage below was taken from the MPWMD TAC Meeting, 7/6/2015, item No. 2, Item Page 26, Packet Page 32.

Due to concerns about coastal margin erosion and sea level rise, the test slant well at then CEMEX facility starts nearly 600 ft inland from coastline. Consequently it barely reaches coastline where it is at a depth of approximately 200 feet (Figure 1b). Drilling and construction of the test slant well was challenging and the drill rig was unable to retract a portion of temporary casing, which remains in the ground and limits flow into a 150-ft-length of the nearly 600-ft-long well screen (Figure 1c). However based on more than one month of test pumping at 2000 gpm (e.g. Figure 2-10, Geoscience, 16 June 2015), the test slant appears to be capable of producing the design flow rate of ~2100 gpm. Review of Subsurface Intakes Monterey Peninsula Water Supply Project DEIR 24 June 2015 Page 2

Because the slant wells are experimental and do not have any historical facts on feasibility of long term operation, there is a high probability that other problems will be encountered during construction. There must be a more comprehensive accountability to the rate payer for the likelihood of further unanticipated costs due to the untested nature of the slant wells.

C. Environmental, Setting, Impacts and Mitigation Measures

The City of Marina should be a main focus in this section of Operations and Facility Siting Impacts of the FEIR and is notably absent. Areas of lesser impacts are considered under this section while the area of greatest direct impacts is omitted.

4.10.1 Setting/Affected Environment, that states the “proposed project would be located *along the northern coast of Monterey County*” ... and **‘although the cities of Castroville and Marina are outside of the Monterey District, these cities could be affected by construction activities’**.”

4.20-18: Operational and Facility Siting Impacts: “development and operation of the proposed project would result in higher water rates for most ratepayers within CalAm’s Monterey District, which includes the identified low-income populations in Sand City, Seaside, and downtown Monterey”

4.20.2.3: Several programs that “would reduce the burden of increased prices on low-income households in the Monterey District” and further describes CalAm’s return water at discounted rates to the Castroville Community Services District (CCSD) as beneficial “because it (CCSD) would receive higher-quality water for the same price that pumping degraded water otherwise would cost.”.

Impacts to Snowy Plover

CalAm Monterey Peninsula Water Supply Project 8.2-18 MBNMS is awaiting a Biological Opinion from USFWS regarding the proposed project and its effects on subject listed species and designated critical habitats under Section 7(a)(2) of the Federal Endangered Species Act.

The 400-acre area that makes up the CEMEX sand mining operations includes some of the best preserved dune habitats in the state. Animals found on-site include the federally threatened western snowy plover, the federally endangered Smith's blue butterfly and black legless lizard. Several threatened or endangered species include Yadon's wallflower, sand gilia, and Monterey spineflower (LandWatch, Monterey County 2001). As the original dune system has been reduced and fragmented from various impacts, the risk of extinction has increased for some of these species. For this reason, evaluation of potential impacts to these fragmented population remnants needs to be considered at the site specific to long-term impacts before issuing approvals for this project.

The FEIR reports benign acceptance of the damage that will be done to the sensitive habitat and to the WSP populations on the City of Marina jurisdiction. The project was not supported nor welcomed into Marina's jurisdiction and this special feature of the City is being jeopardized by the insertion of this industrial project. Mitigation measures that discount the impact to Marina, in favor of other areas where the birds may nest, hatch and fledge because of unfavorable or destroyed habitats in the Marina area is yet another example of environmental injustice.

The impact to plover habitat and behavior from construction of the nine subsurface slant wells and conversion of the test well to a permanent well may have lasting effects on snowy plover behavior and would be significant. (4.6.5-136)

Construction during the snowy plover wintering season (October 1 through February 28) could directly or indirectly adversely impact individual birds if present within or

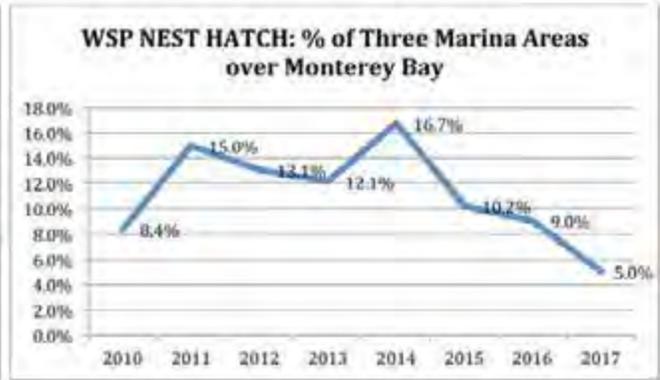
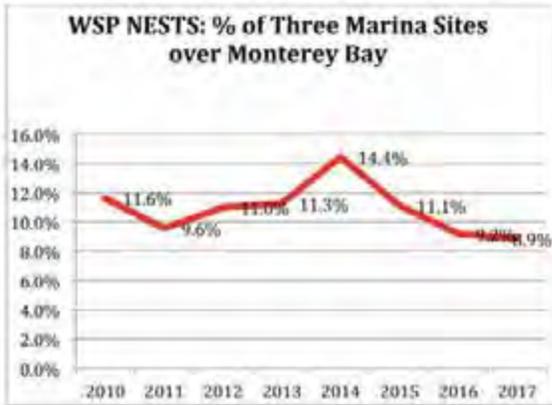
adjacent to the construction area. Human presence and construction noise and activities can cause roosting plovers to fly and disturb resting or foraging activities. This would be significant. (4.6.5-136)

Construction work within the western end of the proposed Source Water Pipeline would result in temporary habitat impacts (since the construction area would be returned to pre-construction conditions) to approximately 0.2 acre of potential habitat (some of this area may overlap with the impact area for the subsurface slant wells as described above), which would be a significant impact. (4.6.5-142)

Although birds may be initially disturbed and temporarily displaced during construction, and there is some potential for nest abandonment and failure, the site would be returned to pre-construction conditions and birds would be able to utilize the site following construction. However, the net impact on the western snowy plover is anticipated to be significant. (4.6.5-143)

In an informal, citizen review of the status of the WSP, specifically related to the three Marina sites closest to the project site, the sites have been impacted since 2014. The CalAm test slant well was approved in Dec. 2014, construction began Jan. 2015 and was completed March, 2015 and continued operating until Feb. 2018. The CCC issued a permit extension in Dec. 2017 to allow the slant well to not be dismantled per the original permit and to continue to operate at a maintenance mode.

Source of data: Preliminary Reports NESTING OF THE SNOWY PLOVER (Charadrius nivosus) IN THE MONTEREY BAY AREA, CALIFORNIA IN 2010, 2011, 2012, 2103, 2014, 2015, 2016; Point Blue Conservation Science Publication, Point Blue Conservation Science; pending release of final reports.



Additionally, the City of Marina’s Local Coastal Plan recognizes the importance of protecting and preserving Federally listed threatened and endangered species. The City as a whole has used the WSP in its downtown banner as part of the City’s unique identity, that currently lines the city streets: Further, The Dunes a large residential development community, currently selling homes, has depicted this important draw of pristine beaches with wildlife habitats in their marketing.

The Marina Local Coastal Plan is dismissed as irrelevant

“Much of the Marina Coastal Zone either is environmentally sensitive because of the presence of rare and endangered species or has the potential for supporting a rare and endangered species”. (City of Marina, Local Coastal Plan, Vol. II, pg. 5)

Current agreements are in place to close the CEMEX sand mining operation, and, include plans to restore dunes habitat. There is NO industrial project that would be in alignment with this goal. Yet, the FEIR outlines that there will be permanent damage four acres of habitat, and, 15 acres of habitat would be “temporarily impacted” over an 18-20 month period of construction time. The chart from the FEIR 5.6-12, 4.4-6 indicates “substantial adverse effects” but concludes this would be “Less than Significant Impact with Mitigation.” The FEIR is lacking an itemized mitigation plan along with how the specific goals will be met and must be developed by *The Biological Opinion from USFWS*. There must be protections in place for special status species before issuing approval of this project with considerations of the impacts to the City of Marina that has an active interest, concern and economic investment in preserving this special species and its habitat.

AEM (Airborne Electro-magnetic imaging) Stanford University Study

The cautionary relevancy of any scientific groundwater modeling is documented in the DEIR statement: “The applicability or usefulness of the model depends on how closely the mathematical equations approximate the physical system being modeled.” (Section 4.4.4.2 Groundwater Modeling, 2017, MPWSP DEIR). Thus we see that Cal-Am’s conclusion of “no harm” to the Salinas Valley Groundwater Basin was generated from applying a “super model” that was based upon data from 8 random vertical wells. AEM surveying to 1,000 feet in depth, generates enormous information far beyond a small vertical well sampling. AEM is indisputably a superior “approximation of the physical system being modeled”.

Because of the the seriousness of the “no harm” determination, the report should apply two scientific methodologies to establish duplication that are both inclusive of all necessary information to determine “no harm”.

This new evidence, shows that the project would be clear violation of State Water Resources Board mandates to protect groundwater resources. Removing fresh water that provides a protective barrier for seawater intrusion and acts to replenish deeper water stores constitutes real and measurable ‘harm.’ No approval of this project should be provided until

this critical AEM discovery is fairly reviewed to ensure no damage to the integrity of the groundwater resources.

D. Alternatives

There is an interesting complication of the MPWSP seeking approvals of this FEIR when other options that do not entail a desalination plant at this time, have not been fully vetted. If the approval is sought among options that only include desalination plants, then final approval must therefore approve a desalination project whether they are necessary or not. However, three major public agencies in our region are planning for a water solution that would meet the milestones of the CDO, without all the complications of the MPWSP, and will avoid litigation. Litigation can delay any project and will increase costs. This three-party strategy will require delay of a CPCN so that a plan that involves MCWD, MOW and MPWMD can be finalized, reviewed, approved and implemented. The CPUC Administrative Law Judges had requested alternative local planning efforts. As a result, a specific local proposal for a regional solution has emerged. The plan involves further expansion of the recycled water, MCWD provision of reclaimed water and a “water loan” arrangement, all in combination to sustain the Peninsula/Seaside with enough water for 10-15 years, all at less cost than a rushed desal project. This would avoid harm to the Salinas Valley Groundwater Basin, remove the likelihood of litigation, assist affordability, and obviate the speculative and unknown path for prescriptive water rights.

This regional effort demonstrates the kind of collaboration that is hard to come by and is resulting in a viable plan for the availability of affordable water for the Peninsula and Seaside with the cooperation of three public agencies and within a reasonable amount of time. Citizens for Just Water strongly suggests that these local initiatives should be supported and enabled by the decisions of the CPUC.

E. Other

Community Values

The very vexing matter of this project is that a large commercial plant is being proposed in the City of Marina jurisdiction but only the “service territory” of CalAm customers have been included in public outreach. It is incredulous that Marina and Ord communities received one CPUC public presentation regarding the scope of this project! In such absence of public outreach, impermissible bias exists in the approval process.

Federal Regulations *Executive Order 12898: Environmental Justice*: Specifically, EO 12898 requires that: Each Federal agency shall conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have ***the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under such programs, policies, and activities, because of their race, color, or national origin.*** (FEIR 4.20.2.1)

*For evaluation criteria for Environmental Justice, the California Environmental Quality Act states (4.20-11): **Economic or social effects of a project may be used to determine the significance of physical changes caused by the project.** [...] Where an EIR uses economic or social effects to determine that a physical change is significant, the EIR shall explain the reason for determining that the effect is significant.*

The impacts to the shoreline habitat constitute “physical changes”. As the necessary biological plan by the Fish & Wildlife permanent impacts to four acres of WSP sensitive habitat and 15 acres of temporary Services has not been developed, this FEIR is absent such critical planning and mitigation measures for the WSP and other endangered or threatened species. Mitigation measures must be conceptualized as proactive prevention of harm not conciliatory measures once the harm is done.

Furthermore, the physical change in groundwater quality with increased seawater intrusion that will adversely and assuredly impact the accessibility and affordability to potable water for 33,000 persons is a physical change that constitutes environmental injustice to a disadvantaged community who have not requested, invited or approved such intrusions by a private, for profit corporation to illegally take the sole source of potable water.

In determining the socio-economically disadvantaged communities to be affected by the MPWSP, Seaside, a disadvantaged community is factored into the “Monterey district” with three of the most wealthy communities i.e. Carmel, Pacific Grove and Monterey. The project is for the benefit of *these* communities and adding Seaside demographics will minimize Marina’s unique demographics of socio-economic disadvantage... the community that will receive NO benefits but will be the area harmed by this project. Other than rates, insignificant physical harm will be done to Peninsula communities compared to the massive construction and operation of this industrial plant in the shoreline and coastal areas of Marina. This kind of awkward statistical distortion again, takes the focus off Marina as the sole disadvantaged community that will suffer the harms.

According to the PUC’s own codes, the very idea of the “wrongness” of doing another public entity harm and attempting to provide for a sense of “just” actions is clearly documented in California Legislative Information, Public Utilities Code-PUC.

Division 1. Regulation of Public Utilities [201-3260]20:

If any public utility, in constructing or extending its line, plant, or system, interferes or is about to interfere with the operation of the line, plant, or system of any other public utility or of the water system of a public agency, already constructed, the commission, on complaint of the public utility or public agency claiming to be injuriously affected, may, after hearing, make such order and prescribe such terms and conditions for the location of the lines, plants, or systems affected as to it may seem just and reasonable. (Amended by Stats 1982, Ch. 573, Sec 2.)

California Legislative Information, Public Utilities Code---PUC. Division 1. Regulation of Public Utilities [201---3260](Division 1 enacted by Stats, Ch. 764) Part I. Public Utilities Act [201---2120] (Part1 enacted by Stats.1951, Ch. 764) Chapter 5. Certificates of Public Convenience and Necessity [1001---1102] (Chapter 5 enacted by Stats. 1951. Ch. 764) Article 1. Specified Utilities [1001---1013] (Article 1 Enacted By Stats. 1951, Ch. 764).

MCWD as the exclusive GSA to the region is responsible under the SGMA law to protect and restore the groundwater basin. The public agency has cooperatively participated in regional water projects such as the Pure Water Monterey recycled water project. The Cal Am slant well project is not a regional water solution. There can be no cooperation with a project that necessitates a campaign of proscriptive water take to provide expensive water to the peninsula. The project interferes with MCWD's ability to manage groundwater resources and plan for future water needs within its own service district.

As a public utility, Cal Am has a poor record of environmental sustainability, as it has overpumped the Carmel River and the Seaside basin that it manages. Confidence in Cal Am to provide a long term water solution has never been lower and its own ratepayers want to oust them after years of unpopular Cal Am policies. A poor record of environmental sustainability is the root cause of the Peninsula water problems today. Cal Am should not be granted approval for a large, costly, unvetted, harmful project that is not a true regional water solution.

III. Present and Future Public Convenience and Necessity of Project – Environmental Factors

A. Public Utilities Code Section 1002(a)(4) and Other Law

Until all issues as outlined above and as identified by MCWD, City of Marina, Public Now, and Water Plus have been adequately addressed, the CPCN should not be issued.

B. Other No Comment

IV. Conclusion

A review by Citizens for Just water concludes that FEIR does not offer a regional water solution that should be supported by the CPUC or the MBNMS agencies. The FEIR omits Marina and the Ord Residents from any considerations to water needs and future growth. It does not prove “no harm” with its limited data modeling and did not use “Best Practices” science with an established baseline that included all relevant water dynamics in the region. There are no water rights that can be appropriated where harm will result. The project will unfairly impact the community and the extensive foreseeable damages from this project is a clear case for environmental injustice. Approving a project based on appropriative water take sets a dangerous state precedent that favors private corporation over small community control of water resources. The significant impacts to threatened species have not had full evaluations for protection, a completed mitigation report or itemized reparations should harm occur from the full buildout and operation of this project. This project does meet the requirements of SGMA and CEQA. The preferred utilization of an experimental slant well design is ill-advised for the lack of accountable costs to the ratepayers and the great likelihood there will be many unaccounted costs for a technology that has no history of reliability or function in providing desalinated water to consumers anywhere in the world.

DATED: April 19, 2018

Respectfully submitted,

Juli Hofmann

/s/ Juli Hofmann

Citizens for Just Water

EXHIBIT

I

[Skip to main content](#)

-
-

- [Start a petition](#)
- [My petitions](#)
- [Browse](#)
- [Membership](#)



[Log in](#)

- [Start a petition](#)
- [Membership](#)
- [Search](#)
-

[Log in or sign up](#)



Log in

Don't have an account? [Sign up](#)

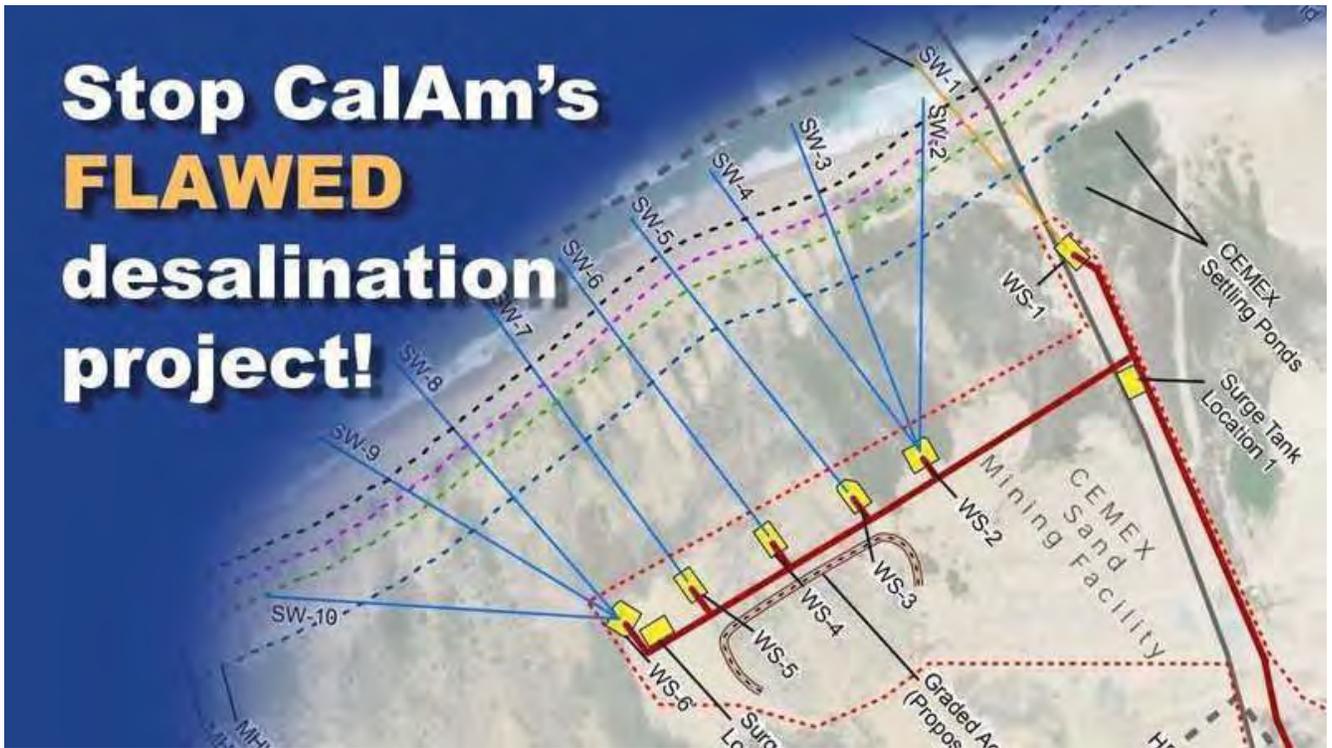
[Log in with Facebook](#)

or

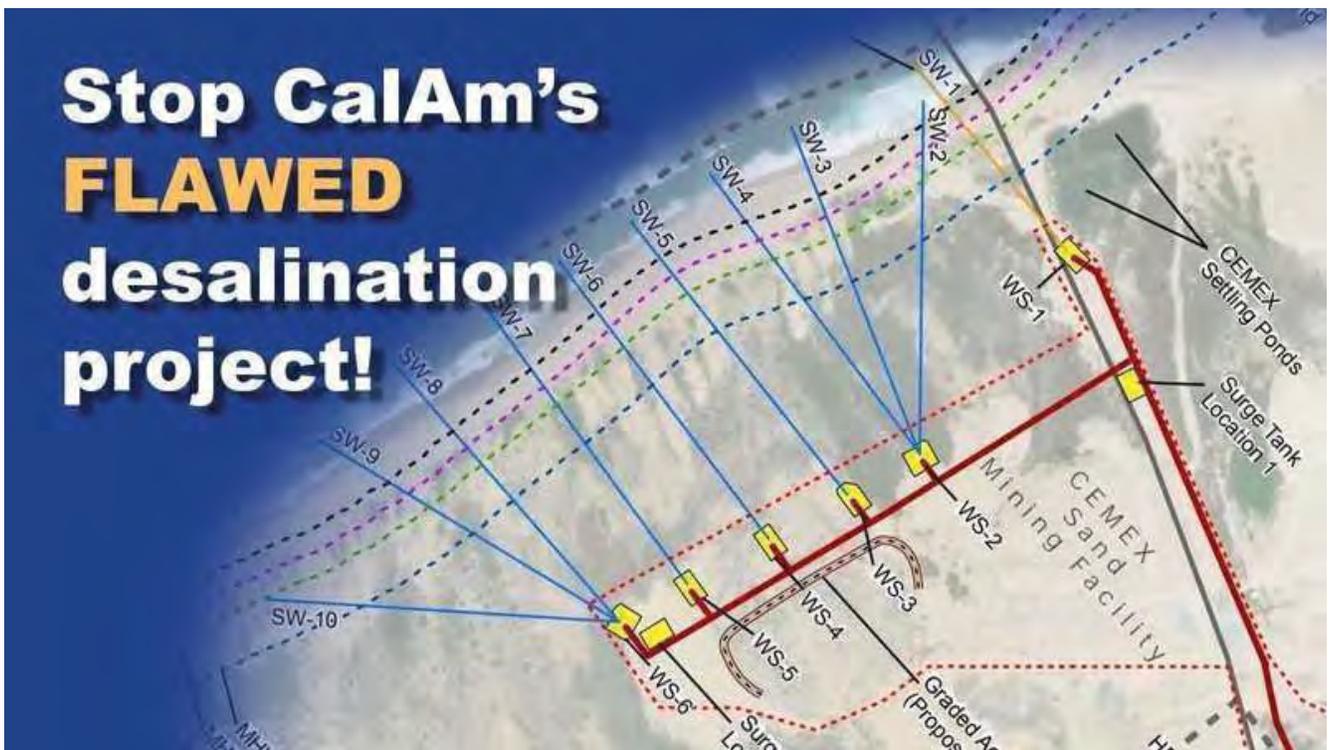
[Forgot password?](#)

[Log in](#)

By joining, or logging in via Facebook, you accept Change.org's [Terms of Service](#) and [Privacy Policy](#).



STOP Cal Am's FLAWED desalination project!



0 have signed. Let's get to 500!



[Hans Ongchua](#) started this petition to **[Representative Jimmy Panetta](#)** and 32 others

Cal Am is moving forward to build its **FLAWED** slant-well desalination plant in the City of Marina. *Key permit applications are fast approaching!*

Tell decision-makers to **STOP THIS ENVIRONMENTALLY HARMFUL, ILLEGAL, AND COSTLY PROJECT!**

A FASTER AND MUCH MORE AFFORDABLE WATER SUPPLY ALTERNATIVE EXISTS!

PROBLEMS WITH CAL AM'S DESAL PLANT

- **Steals from Marina's groundwater** to supply the Monterey Peninsula and benefit Cal Am and its shareholders
- **Has no legal water rights** to Marina's water
- **Increases seawater intrusion** into one of Monterey County's **critically over-drafted basins**
- **Costs far more** than other options

RECYCLED WATER FROM THE MONTEREY ONE WATER'S EXPANSION IS A SUPERIOR ALTERNATIVE

- Water would **cost less than a third** that of Cal Am's desal
- Can be **brought online faster** than Cal Am
- Can **remove the Cease-and-Desist Order imposed by the State Water Board** and **prevent rationing** for the Peninsula
- Is a **public non-profit** project unlike Cal Am's for-profit desal

ASK OUR LEADERS AND DECISION MAKERS TO ...

- **Support the Monterey One Water recycled water expansion**
- Convene a public workshop to **hear community input**
- Explore a **PUBLICLY-OWNED regional desalination project** that benefits **ALL** Monterey Bay communities

We, the people of the Monterey Peninsula, the City of Marina, and the Ord communities, ask our officials and decision makers to do the right thing!

Don't allow private interests and profits to block the public interest!

Signing this petition will send your message to over 30 elected officials.

Sponsored by [Public Water Now](#) and [Citizens For Just Water](#)

Start a petition of your own

This petition starter stood up and took action. Will you do the same?

[Start a petition](#)

[Start a petition of your own](#)

[This petition starter stood up and took action. Will you do the same?](#)

Report a policy violation

Complete your signature

0 have signed. Let's get to 500!

First name
Last name
Email

San Diego, 92130

United States
 

Display my name and comment on this petition

By signing, you accept Change.org's [Terms of Service](#) and [Privacy Policy](#), and agree to receive occasional emails about campaigns on Change.org. You can unsubscribe at any time.

Trending petitions

Today: Hans is counting on you

Hans Ongchua needs your help with “STOP Cal Am's FLAWED desal project!”. Join Hans and 294 supporters today.

Today: Hans is counting on you

Hans Ongchua needs your help with “STOP Cal Am's FLAWED desal project!”. Join Hans and 294 supporters today.

- **Company**
 - [About](#)
 - [Impact](#)
 - [Careers](#)
 - [Team](#)
- **Community**
 - [Blog](#)
 - [Press](#)
- **Support**
 - [Help](#)
 - [Guides](#)
 - [Privacy](#)
 - [Policies](#)
- **Connect**
 - [Twitter](#)
 - [Facebook](#)

English (United States) ▼

- © 2019, Change.org, PBC
- [Certified B Corporation](#)
- This site is protected by reCAPTCHA and the Google [Privacy Policy](#) and [Terms of Service](#) apply.

English (United States) ▼

EXHIBIT

J

The CalAm Desalination Project:

Can CalAm STEAL Marina's Groundwater?

January 30, 2019

6:00-7:30 pm

Marina Public Library
188 Seaside Court in Marina

speakers:

Marc Del Piero, Attorney at Law

Expert on groundwater rights

How groundwater law impacts CalAm's Desalination Project

Keith Van Der Maaten, General Manager

Marina Coast Water District

Stanford Study shows CalAm's Desal will harm Marina's groundwater

Steve Zmak Photography



Sponsored by Citizens for Just Water and Public Water Now

c4justwater.org |  @justice4water | publicwaternow.org |  @PublicWaterNow

EXHIBIT

K

Marina/Fort Ord Water: **CODE RED**

**FREE
PUBLIC
FORUM**

The California Public Utilities Commission has approved CalAm's slant well desalination project without reviewing water rights, AEM science or less costly viable alternatives!

Don't miss this meeting!

**Tuesday, November 27
6:00-8:30 pm**

NEW LOCATION:

Marina City Council Chambers at 211 Hillcrest Avenue

**How can Marina residents
and Peninsula ratepayers fight
for a true regional solution?**

**What does this flawed project mean for the peninsula rate payers and Marina's groundwater?
Come discuss possible actions that citizens can take to inform the decision makers why this is
NOT a regional water solution.**

EXHIBIT

L

DRAFT: Speaker Agenda For Just Water Public Forum

Wednesday April 11, 2018 6:30-8:00 pm, City Hall
and Tuesday April 17, 2018 6:30-8:00 pm, Marina Library

I. 6:05-6:10 pm Welcome: **Kathy 5**"

(Note: on April 17, due to unavoidable scheduling of Forum at library to have before the April 19 FEIR response deadline, Bruce will come at start of program so we will have him speak first and be a bit late for Council meeting, can Layne be a speaker for that topic on April 17?)

II. 6:10-6:25 pm Quick over view of the Cal-Am Slant Well Project **Juli/Lisa 10** "

III. 6:25-Looking into the future and precedent setting. What could happen to Marina and the Peninsula if this project is approved and built? **George 5**"

IV. Issues in the FEIR not adequately addressed or omitted **Gail/Others 15**"

V. Why was AEM not used in the evaluation? How can the AEM help us? **Keith 10**"

VI. Update from the City; what we plan to do. **Bruce 10**"

VII. Update from MCWD; what we plan to do. **Keith 10**"

VIII. Update from PWN; how the Peninsula/Seaside/Marina/Ord communities have mutually supportive objectives. **George 5**"

IX. What can you do today? Just Water. **Kathy 5**"

X. Q & A **Kathy 10**"

EXHIBIT

M

RESOLUTION NO. 2017-56

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA
AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH KP
PUBLIC AFFAIRS FOR PUBLIC RELATIONS AND ADVOCACY SERVICES

WHEREAS, one of the most important issues facing the City of Marina is the protection and preservation of the City's water resources, and;

WHEREAS, the Monterey Peninsula Water Supply Project proposed by California American Water Company is a project to develop a desalination plant and associated facilities to supply water to areas that CalAm serves on the Monterey Peninsula, and;

WHEREAS, the City of Marina is increasingly concerned about the potentially significant and irreversible impacts of the Monterey Peninsula Water Supply Project on Marina's water supply, water quality, sensitive coastal environment and citizens, and;

WHEREAS, the City of Marina's comments to the Draft EIR/EIS for the Project set forth that the Draft EIR/EIS is legally inadequate in many critical subject areas and fails to meet the requirements of CEQA AND NEPA, and;

WHEREAS, there is a need to engage a public relations firm to assist in the advocacy, public relations services, collaboration with partners, coalition building, grassroots outreach and transparency of the Project to citizens, and;

WHEREAS, KP Public Affairs has the expertise needed to assist in these areas.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Marina does hereby authorize the City Manager to execute a contract with KP Public Affairs for \$80,000 subject to approval by the City Attorney.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 6th day of June 2017, by the following vote:

AYES, COUNCIL MEMBERS: Amadeo, Morton, O'Connell, Brown, Delgado

NOES, COUNCIL MEMBERS: None

ABSENT, COUNCIL MEMBERS: None

ABSTAIN, COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

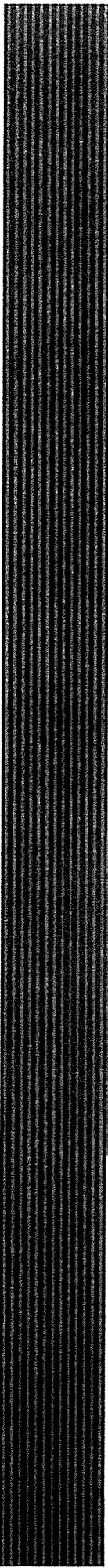
ATTEST:

Anita Sharp, Deputy City Clerk

EXHIBIT A

KP

PUBLIC AFFAIRS

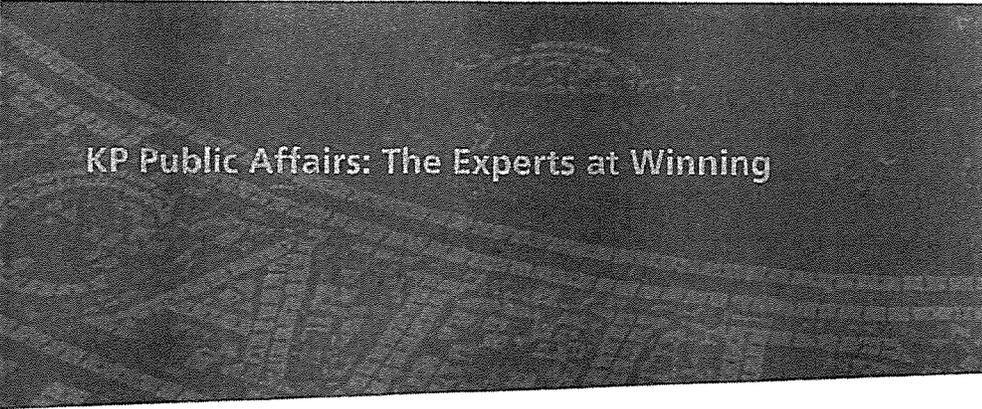


THE KP DIFFERENCE

KP Public Affairs offers all of the essential elements for developing a winning public affairs strategy – Policy-Oriented Advocacy, Comprehensive Public Relations, Knowledge-Based Analysis, Broad Expertise, Experienced Professionals, and the respect that is earned with a long History of Success.

The process of policy making is constantly changing in California. Term limits, changing demographics, technologically sophisticated interest groups, a savvy, activist-oriented population, and an economy large enough to influence markets and public policy decisions around the globe – all play a role. To succeed here, you need to recognize that California is not just a special place – it is a serious one. New business initiatives receive a more thorough review here than anywhere else. New ideas find more opportunities to take root and flourish.

KP Public Affairs is uniquely positioned to meet your needs. Our approach is based on a deep understanding of the law, the political environment and our clients' specific business goals and objectives. Our success and the quality of



KP Public Affairs: The Experts at Winning

service we deliver do not rise or fall with a change in political leadership. And with our emphasis on substantive analysis, KP is often called upon to lead negotiations on the major public policy issues facing the state each year.

We invite you to learn more about the combination of services and resources that KP offers. Let us help you design and execute a winning public affairs strategy.

POLICY-ORIENTED ADVOCACY

A successful advocacy program has three key elements:
1) political strategy, 2) policy knowledge and expertise, and
3) aggressive management and implementation.

Our approach is simple. We learn as much as possible about a client's issue, apply our resources to develop a comprehensive political strategy, bring our policy expertise and experience to bear and work tirelessly to achieve our clients' goals. To assist our clients, we use the following methods:

- **Issue Management:** KP conducts background research to understand the client's business so that we can effectively manage the issue at all levels and deliver winning message development, testimony preparation and presentations.
- **Legislative and Regulatory Issue Tracking:** Tracking issues is critical to identifying when and where legislation or regulation may emerge that could affect a client's business.
- **Ally Recruitment and Coalition Building:** When tackling an issue in the state government, it is often beneficial to enable many voices to carry the same message. KP successfully builds lobbying coalitions while managing public affairs and grassroots efforts.
- **Bill Drafting and Bill Analysis:** KP analyzes legislation to better understand how a proposed bill will affect a client's bottom line. We draft legislation to advance the specific goals and objectives that will serve our clients' interests most effectively.
- **Budget Advocacy:** KP follows the state budget throughout its various steps and advises clients on the business impact of proposed budget items and related funding issues. KP understands how funding is allocated, the ways budget bill language is shaped, and the impact that fees and public spending can have on our clients' interests.



COMPREHENSIVE PUBLIC RELATIONS

Creating a successful communications plan involves a lot more than media releases and news clips. It requires an understanding of the client's business, research and insight into the obstacles that have to be overcome, experience in shaping public opinion, a well-designed messaging program and the discipline to stick to it as well as the flexibility and creativity to respond quickly to an evolving situation.

At KP, effective communications are an integral part of everything we do. Our team of professionals has managed internal and external communications for some of the largest corporations in the world. We've helped to open multi-million-dollar casinos and major industrial plants, arranged for the preservation of thousands of acres of environmentally-sensitive lands, launched new products, and assisted with complex labor relations negotiations. A winning strategy often requires specific support in the following areas:

- **Strategic Counsel:** KP puts primary emphasis on initially developing a comprehensive strategy that accurately reflects our client's values and interests and that will accomplish their objectives. We continue to provide our clients with ongoing strategic counsel, recognizing that circumstances change and tactics often need to be revised.
- **Crisis Management:** In a competitive political environment, anyone can become a target – not always because of what you do but sometimes just because of who you are. Whether it involves politics, a natural disaster or an industrial accident, we have the resources, the experience, the agility and the commitment to tireless service to help our clients meet a crisis.
- **Reputation Management:** KP provides public relations services for corporations of all sizes. We understand the needs of both national and international firms, and can create a public relations program based on the unique needs of an individual company.
- **Media Relations:** KP has the media contacts and long-term relationships that are essential for managing day-to-day media relations for our clients. We organize major events, press conferences, editorial board tours and all the

other elements that go into encouraging positive coverage or responding to negative reports where needed. But we also understand that sometimes the best media relations involve keeping our clients' names out of the news.

- **Project Siting and Development:** When a client plans to locate a facility in a new area, managing perceptions at the local level is often essential for winning regulatory approval and avoiding hostile intervention from outside interests. KP has the experience and the record of proven success that has provided winning strategies for industrial projects large and small throughout the state.
- **Coalition Building:** Success can often depend on bringing together diverse groups that share an interest in a beneficial outcome. KP's experienced professionals have helped to organize some of the largest coalitions in California history.
- **Grassroots Outreach:** Building public support for an issue involves reaching deep into communities and working through grassroots organizations. KP brings our clients' messages into the community centers, city halls, church buildings, and neighborhoods to help build support and communicate with the public at the local level.

Successful representation of our clients
requires more than conventional methods.

COMPANY HISTORY

KP Public Affairs' leadership in public affairs management grows out of the recognition that in California today, successful representation of our clients requires more than conventional methods of lobbying and legislative advocacy can deliver. Government at all levels has become more transparent, more open to public participation and subject to much closer public scrutiny. Analysts, commentators, academics and the media take more interest in the powers of state and local government and their potential for changing public policy. Most important, in an age of term limits, the old-style of politics solely based on personal relationships can no longer meet the needs of the people who do business here.

That was just part of the vision that Michael Kahl and Frederick Pownall shared as they built KP Public Affairs into the largest public affairs management firm in California. Each had established his own, very successful advocacy practice beginning in the 1970s. In 1996, they joined together to create the modern firm, offering advocacy and analysis in a steadily expanding program of client services. Public Relations was added as an essential component of effective representation in 1996.

In 2004, KP Public Affairs successfully completed the transition of the firm's management and ownership to a larger partnership of senior professionals. And in 2005, the company further expanded the scope of its representation through a merger with the lobbying firm Manning & Associates.

For more than a decade,

KP Public Affairs has

been ranked as one of

the leading public affairs

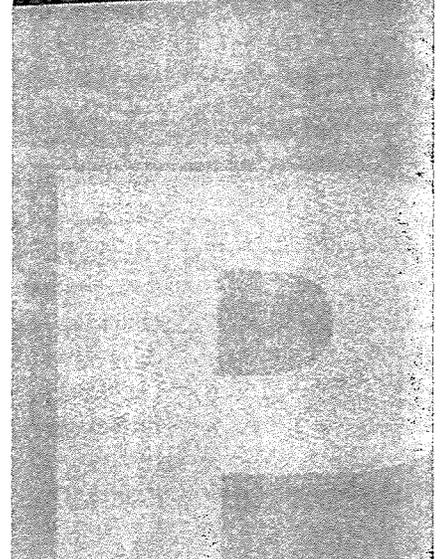
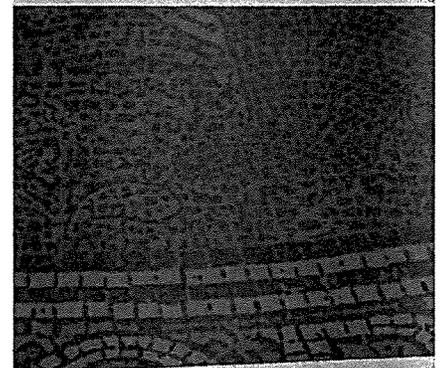
firms in California.

Our clients include

state and local government,

business and industry,

and the general public.





BROAD EXPERTISE

KP's talented professionals bring extensive experience in many issue areas together under one roof. At the onset of our relationship with a client, we devote the time necessary to develop a comprehensive understanding of your business needs. Knowledge is what makes the governmental process work – knowledge of the rules, the issues and the people involved. It is a system that rewards creativity. KP offers noteworthy expertise in the following areas:

■ AGRICULTURE

California agriculture is the most productive in the country, but farming communities face epic challenges in the areas of urbanization, labor, and environmental quality. These challenges continue as state officials propose new policies to limit the use of California land and water resources. KP Public Affairs has successfully represented farm interests on a wide range of issues including fee increases, drainage and water quality and supply.

■ BUDGET ADVOCACY

The annual budget dance is a convoluted process that is a mystery to many, but not to KP. Each year, we shepherd important funding decisions through the budget process for public agency and corporate clients. KP has a track record of successfully getting funding in both good and bad budget cycles and limiting the imposition of unnecessary fees on our clients. We have helped clients get funding for historic restoration work, water conservation projects and to pay for new programs that benefited state contractors. We also have successfully advocated for legislative appropriations of bond measures passed by the voters.

■ BUSINESS REGULATION

KP Public Affairs represents a number of the state's leading business trade associations and has a long history of leadership in supporting governmental reforms. In the 1990s, KP led the campaign to require state agencies to consider the impact of new regulations on the state's economy and to establish economic impact as a significant factor in the regulatory process. In recent years, KP Public Affairs led the lobbying efforts to defeat onerous financial privacy rules and participated in the broader business community campaign to curb frivolous lawsuits.

■ ENERGY

For decades, KP Public Affairs has represented America's leading oil companies as well as numerous other energy-related clients in matters before the Legislature, the regulatory community and other policy-making bodies. KP Public Affairs has been involved in virtually every major change to the state's environmental and energy laws and regulations, and is universally recognized as the state's top strategic firm in this subject area.

■ ENVIRONMENTAL REGULATION AND LEGISLATION

KP Public Affairs has successfully represented companies large and small, from the top of Fortune's 500 to entrepreneurial startups, in helping business leaders work through some of the state's most controversial and complex environmental issues. Through its work with the Legislature, the Governor's office, state agencies and local air and water

quality boards, KP's environmental practice provides companies with strategic counsel and individualized assistance in mitigating adverse policy considerations and navigating the regulatory and legislative maze to achieve our clients' goals.

■ FINANCE

As the world's eighth largest economy, new developments in California's laws and regulations often play an important role in shaping national and international policy. KP Public Affairs led efforts in interstate banking and privacy protection that have served as models for other states and the United States Congress, and KP is the firm of record for many of the nation's top financial institutions.

■ HEALTH CARE

Through its representation of several of California's health care organizations, KP Public Affairs has helped to develop and shape some of the most complex aspects of the state's health care and financing policies. Our extensive experience working with leaders in the legislative, administrative and regulatory arenas have resulted in a decade of success for our hospital and medical provider clients as well as millions of dollars in new financing agreements.

■ INTERNATIONAL TRADE

California's geographic proximity to Asia has highlighted the importance of the goods movement industry, making it one of the fastest growing segments of the state's economy. As trade increases, the Legislature and state and local regulators have proposed new fees and taxes and greater regula-

tory control over port activities. KP Public Affairs worked to defeat legislation designed to curb international trade. Additionally, KP has worked with business stakeholders to create CALTrade, a lobbying coalition whose mission is to impact state trade policies.

■ LOCAL AND STATE GOVERNMENT

California has major budget and revenue problems to resolve, and the decisions made at the state level can have significant impact on the overall business climate, funding for education and infrastructure development, and local finance. KP Public Affairs is unique in our capability to provide in-depth analysis and counsel to a wide variety of governmental entities, including municipalities, educational institutions and county governments. With formulas, allocations and special programs at risk, and an increasing trend toward shifting responsibility and risk to local government, KP has played a central role in providing critical information for a wide range of institutions outside the Capitol.

■ NATURAL RESOURCES

California has a long history of leading the country in environmental protection. Land use, water, air quality, timber resource extraction, soil, wetlands, wildlife, native plants, coastal properties, mountain, desert and inland valleys – all face some of the most rigorous oversight and protection in the world. In many respects, the standards and restrictions invented in California have become the model for other states and nations. KP Public Affairs has been at the forefront of this evolving area of the law for



more than three decades. Our knowledge of the issues and experience with the regulatory agencies involved cannot be matched by any other firm.

■ PROCUREMENT

Landing a contract through the state procurement process requires an understanding of the inner workings of various state agencies and the Department of General Services. It can also require the ability to secure ongoing funding through the legislative budget process. Public policy expertise in KP Public Affairs' multiple practice areas helps inform our strategy and advocacy in almost every area of state procurement.

■ PROJECT SITING AND PROPERTY DEVELOPMENT

Adhering to the state's complex permitting and siting requirements can become a perplexing and ongoing drain on a company's resources. KP Public Affairs has successfully managed the approval process for several new facilities in which numerous local and environmental issues had to be addressed. Over the years, KP staff have played key roles in helping to enact many of California's statutes in this area. Our familiarity with the decision-making process and with the leaders on all sides of these debates greatly enhances our ability to build coalitions and generate local community and media support, which is often essential to protect the financial investments of our clients.

■ TAXATION

KP Public Affairs is uniquely positioned to tackle complicated tax issues that arise in the Legislature or taxing agencies. KP has developed a specialty in providing our clients with detailed information and far-reaching reports that address the potential effects of legislative proposals that seek to impose new fees or taxes on selected industries. Working with economists and other financial experts, our advocates are armed with sophisticated financial analysis that often makes the difference between winning or losing.

■ TORT REFORM

KP Public Affairs continues to lead California business coalitions who seek a fairer tort system. KP Public Affairs successfully represented a coalition of homebuilders in revamping California's construction dispute liability scheme. This multi-year effort began with the enactment of AB 1700 (Steinberg) that overhauled the pre-litigation dispute resolution process for condominium construction defect litigation. This success was followed by the enactment of SB 800 (Burton). SB 800 fundamentally changed the tort liability scheme for construction dispute cases. It contained the precedent-setting requirement that a homebuilder has the "right to repair" any condominium or single family home prior to being sued. KP Public Affairs has also represented lenders, insurers and other industries in efforts to reform the tort system.



■ TRIBAL GOVERNMENT

The growing empowerment of tribal governments throughout California is causing profound changes in the public life of the state, and opening new opportunities for government-to-government cooperation and economic development. KP Public Affairs provides strategic counsel, communications and public relations support, events coordination and public outreach for tribal governments as well as companies interested in new business opportunities within Indian Country.

■ WATER POLICY

No resource issue has had a greater or more contentious role in shaping the growth of California than water. KP Public Affairs includes several of the state's premier experts in water policy and development, which has enabled our company to remain at the forefront of decision-making for this most precious resource. Because water policy has far-reaching impacts that extend beyond storage and distribution to include many aspects of energy, land use and industrial and residential development, KP represents a broad range of interests on state and local matters.



CLIENTS

At KP, we work in partnership with our clients to deliver positive business results. Our clients include many of the nation's most respected corporations, public agencies, companies that deal with environmental issues, leaders in agriculture, land use and development, resource managers, innovators, financial institutions, healthcare providers and entrepreneurs. Our clients are an important part of our success and many of them have been with us for years. Because their interests touch so many of the keys to California's future, KP is working at the center of most of the major policy issues that come before the Governor and the state Legislature. Our list of clients includes:

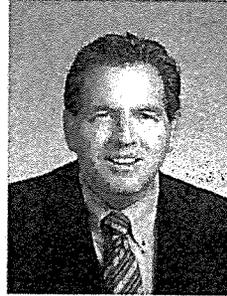
Aerojet Rocketdyne Holdings, Inc.	Dow Chemical Company
Airbnb, Inc.	Embassy of Japan
Akin Gump Strauss Hauer & Feld LLP	Ernst & Young LLP
Albemarle Corporation	Forest Landowners of California
American Technologies, Inc.	General Electric Company & Subsidiaries
Battery Council International	Genworth Financial, Inc.
Bell Helicopter	Google
California Academy of Cosmetic Surgery	Grant Thornton LLP
California Ambulatory Surgery Association	Hart InterCivic
California Business Roundtable	Hawaiian Gardens Casino
California Integrated Physician Practice Association	Hearing Healthcare Providers California
California Licensed Foresters Association	Hertz Corporation
California Manufacturers and Technology Association	High Desert Power Project, LLC
California Mortgage Bankers Association	ICL-IP America Inc.
California Orthotic and Prosthetic Association	KPMG LLP
California Restaurant Association	Lockheed Martin Corporation
California Small Business Association	Los Angeles County Business Federation (BizFed)
California Society of Anesthesiologists	Los Angeles Department of Water and Power
Carpet Collectors	Lyft, Inc.
CEMEX	Menzies Aviation
Cisco	Mojave Water Agency
Citigroup	Mosquito and Vector Control Association of California
Colgate-Palmolive	Opternative
Comcast Corporation and Affiliated Entities, Including NBC Universal Media, LLC	Pacific Merchant Shipping Association
Cozen O'Connor Public Strategies	Pepperdine University's Graziadio School of Business
Daimler	Pew Charitable Trusts
Deloitte LLP	Phelan Piñon Hills Community Services District
	Precision Castparts Corp. and affiliated companies



CLIENTS

PricewaterhouseCoopers, LLP
Primerica Life Insurance Company
Public Storage
Purell/GoJo Industries
Recurrent Energy, LLC
Sacramento Children's Home
Sacramento Transportation Authority
San Joaquin Joint Powers Authority
San Luis and Delta-Mendota Water Authority
Shell Oil Company
State Water Contractors
Sunol Aggregates
Surgical Care Affiliates
Tenaska
The Pacific Companies
UST Global
Veritec Solutions LLC
Western Municipal Water District
Western States Petroleum Association
Western United Dairymen
Westlands Water District
Willow Springs Water Bank
Wine Institute
WME/IMG

KP



MICHAEL BURNS

1201 K Street, Suite 800
Sacramento, CA 95814

M 916-448-2162
F 916-448-4923
E mburns@ka-pow.com

PROFESSIONAL EXPERIENCE

Michael Burns joined the firm in January of 2003. Mr. Burns' practice involves all aspects of public affairs consulting in both the KP Advocacy and KP Public Relations divisions. He is a registered lobbyist, working for a variety of clients on public policy issues before the Legislature and state government. Mr. Burns' legislative experience includes serving as Chief Consultant and as Chief of Staff to the Majority Leader of the California State Senate. During his service in the Legislature, Mr. Burns was involved in several major revisions of state law, including interstate banking, victims' rights and regulatory reform.

Mr. Burns also served as head of Burson-Marsteller's Public Affairs practice in Southern California and Chicago. During his tenure with Burson-Marsteller, Mr. Burns managed an international campaign to secure approval for a new wireless standard, developed and patented by a U.S. company. Additionally, he served as the leader of Burson-Marsteller's utility practice, representing investor owned utilities throughout the country.

Mr. Burns also headed the strategic planning and corporate consulting divisions of an entertainment company involved in talent management and film and television production.

Mr. Burns' clients include Western States Petroleum Association, Pacific Merchant Shipping Association, and NBC/Universal.

EDUCATION

University of California, Santa Barbara, 1978.

PROFESSIONAL MEMBERSHIPS AND ACTIVITIES

Mr. Burns serves on the Board of the California State Summer School of the Arts.

Mr. Burns is married and the father of three children. He and his wife are active in fundraising for local schools and organizations.



JENNY DUDIKOFF

1201 K Street, Suite 800
Sacramento, CA 95814

M 916-448-2162
D 916-498-7713
F 916-448-4923
E jdudikoff@ka-pow.com

PROFESSIONAL EXPERIENCE

Jenny Dudikoff joined KP's public relations team in early 2013 with a strong background in communications and government affairs.

Ms. Dudikoff has experience on a variety of ballot measure campaigns ranging from energy initiatives to tax and fee initiatives and redistricting reform. Jenny was heavily involved in the Legislative and Congressional redistricting reform efforts that have taken place in California including Proposition 11 (2008), Proposition 20 and 27 (2010) and Proposition 40 (2012). She was instrumental in the passage of Proposition 40 by managing the day-to-day outreach and earned media components of the campaign.

Ms. Dudikoff also has extensive experience managing issue advocacy campaigns including Californians Against Higher Taxes (CAHT) and Californians Against Food and Beverage Taxes (CAFBT). In 2010, Jenny managed the day-to-day CAFBT efforts including an aggressive grassroots effort along with an effective communications program. As the lead on both projects, Jenny worked closely with the media to coordinate public hearings, press conferences, and local events.

Her work has also involved developing and executing statewide grassroots and communication strategies on a number of issues, developing campaign materials and tracking legislation.

Over the years, Jenny has worked very closely with California's business community and leaders to educate voters, opinion leaders and the press on the importance of increasing jobs and recovering California's economy.

Jenny also has experience working on a variety of technical healthcare issues including the access and quality of patient care and the increased use of biotechnology in the practice of medicine.

Ms. Dudikoff has also acted as a spokesperson on several projects ranging from Proposition 23 to the Small Business Action Committee as well as multiple issue advocacy efforts.

Prior to joining KP, Jenny served as a Senior Account Executive for Goddard Claussen/West in Sacramento.

EDUCATION

Jenny graduated from California State University, Chico with a bachelor's degree in Political Science.

KP

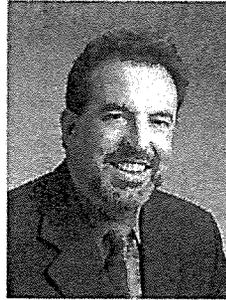
PROFESSIONAL EXPERIENCE

Mr. Manning is a partner with KP Public Affairs. A registered lobbyist and environmental lawyer with extensive government, political and legal experience, Mr. Manning has led broad-based coalitions on such diverse issues as greenhouse gas legislation, construction defect litigation reform, water supply infrastructure and land use reform among others. He has been the lead negotiator for business interests on many landmark legislative efforts, including most recently, SB 375 (Steinberg) that creates relief from the California Environmental Quality Act (CEQA) for homebuilders and a new planning process for land use and transportation to achieve greenhouse gas reductions. Mr. Manning has also been successful in shaping various bond measures for clients and assisting them in receiving competitive grants for regional water supply projects and infill infrastructure funding to support housing.

A recognized authority on environmental and resource regulatory issues, Mr. Manning frequently lobbies regulatory agencies, including the California Environmental Protection Agency and Resources Agency as well as their numerous member departments including the State Water Resources Control Board, Air Resources Board, Department of Fish and Game, Department of Water Resources and Integrated Waste Management Board. Mr. Manning also lobbies local governments and commissions.

Mr. Manning represents a variety of clients in helping shape California's ongoing regulatory processes to implement AB 32 (the Global Warming Solutions Act of 2006), which will establish mandatory greenhouse gas reductions for industries doing business in California.

Before he began lobbying full time, Mr. Manning was a partner in the Los Angeles law firm of Weston,



ED MANNING

1201 K Street, Suite 800
Sacramento, CA 95814

M 916-448-2162
F 916-448-4923
E emanning@ka-pow.com

Benshoof (now part of Alston & Bird). His practice focused on environmental, resource and land use law.

Mr. Manning also has extensive experience in the public sector, serving as General Counsel to Lieutenant Governor Leo McCarthy and as his designated alternate on the State Lands Commission. There, Mr. Manning was one of the architects of California's Oil Spill Prevention and Response Act (OSPR). Prior to that, Mr. Manning spent several years in the Santa Monica City Attorney's Office and the Los Angeles County District Attorney's Office.

EDUCATION

Rider University, Lawrenceville, NJ 1982 –
B.A. Political Science

Loyola Law School, Los Angeles, CA 1985 –
Juris Doctor

PROFESSIONAL MEMBERSHIPS AND ACTIVITIES

Mr. Manning recently served on the Finance Committee for the election of Sacramento Mayor Kevin Johnson. Mr. Manning is a member of the Board of the Sacramento Area Chamber of Commerce. He previously served as co-chair of the Mono Lake Committee Board of Directors. While living in Los Angeles, Mr. Manning was a member of the Los Angeles Board of Airport Commissioners. He also served on the Blue Ribbon Commission on Water Rates and the Environmental Affairs Commission. He is a member of the State Bar of California. Mr. Manning is married and the father of two daughters. He and his wife are active in fundraising for Christian Brothers High School as well as other local organizations.



ERIC NEWMAN

1201 K Street, Suite 800
Sacramento, CA 95814

M 916-448-2162
D 916-498-7763
F 916-448-4923
E enewman@ka-pow.com

PROFESSIONAL EXPERIENCE

Eric Newman has over 26 years of expertise in the full panoply of environmental issues facing California regulators and legislators. Mr. Newman practiced for eleven years (nine as a partner) as an environmental compliance attorney and lobbyist for the San Francisco-based law firm of Landels, Ripley & Diamond and the past 11 years as an environmental specialist at KP Public Affairs. Mr. Newman has focused on toxics, the California Environmental Quality Act, surface water and drinking water regulation, Proposition 65, air, solid and hazardous waste matters, as well as a host of other environmental and non-environmental issues, as both a lobbyist and lawyer for major business concerns, state-wide organizations and as a coordinator of numerous coalitions, on both regulatory and legislative matters. KP Public Affairs is the top ranked political advocacy firm in California. Mr. Newman's work has contributed in major ways to the firm's reputation and standing in this state.

Mr. Newman has been a key component in building the firm's environmental practice on both the legislative and regulatory fronts. He is well known by the environmental committee members and staff in the legislature as well as the California Environmental Protection Agency and all of its environmental agencies. Mr. Newman knows the ins-and-outs of the environmental issues and players as one of the select few of successful environmental lobbyists in California.

Mr. Newman's clients include aerospace, manufacturing, waste management and a host of major corporate players in the environmental area as well as a number of small and medium size companies active in the state. Mr. Newman has coordinated numerous high

stakes and high visibility coalitions from chrome 6 and perchlorate drinking water issues to major revisions to the State's Superfund and other environmental cleanup laws. Mr. Newman also has worked for numerous years for a variety of clients on the State's Underground Storage Tank Cleanup Fund. He is a regular presence in the Cal EPA building and is often consulted by senior regulators on difficult environmental issues.

Mr. Newman started his legal career as an associate for five years with the Orange County-based law firm of Rutan and Tucker as a land use litigator in state and federal courts, and as an assistant City Attorney for the cities of Irvine, Laguna Beach, San Clemente, Villa Park and San Fernando.

Mr. Newman is married and has three older children, all in college or grad school, who have been very successful in water polo and swimming. Mr. Newman has played a key role in volunteering his time to such efforts and participating in related local commissions and other local government and political activities.

EDUCATION

Mr. Newman attended UC Davis as an undergrad where he finished first in both of his majors, economics and political science public service and in the upper one percent of the graduating class with highest honors. He also attended law school at UC Davis, graduating with highest honors and focusing on environmental and water law.

June 2, 2017

Item No: **8g(5)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of June 6, 2017

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2017-,
AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH
KP PUBLIC AFFAIRS FOR PUBLIC RELATIONS AND ADVOCACY
SERVICES.**

REQUEST:

It is requested that City Council consider:

1. Adopting Resolution No. 2017-, authorizing the City Manager to execute a contract with KP Public Affairs for public relations and advocacy services.
2. Authorizing Finance Director to make appropriate accounting and budgetary entries.

BACKGROUND:

One of the most important issues facing the City of Marina is the protection and preservation of the City's water resources. The City's water resources and water policies have far-reaching impacts that extend beyond just the supply of water today.

The Monterey Peninsula Water Supply Project proposed by California American Water Company (CalAm) is a project to develop a desalination plant and associated facilities to supply water to areas that CalAm serves on the Monterey Peninsula. Various proposals and projects have evolved over time and are now focused on a large project located in Marina. The City has become increasingly concerned about the potentially significant and irreversible impacts of the Project on Marina's water supply, water quality, sensitive coastal environment and citizens.

The City has reviewed and commented on a draft EIR/EIS issued in January 2017 for this project. The California Public Utilities Commission and the Monterey Bay National Marine Sanctuary are being requested to issue permits and/or authorizations for different aspects of the Project.

It has become clear to the City of Marina that the potentially serious, significant and long-term adverse environmental impacts of the Project on the City have not been adequately studied, evaluated or mitigated, and a proper evaluation of the Project alternatives has been undermined by the legal deficiencies in the individual environmental analyses. The City is currently 100 percent dependent for its water supply on groundwater within the Salinas Valley Groundwater Basin. Marina's continued use of and access to this supply is essential to its continued economic vitality and sustainability of life.

The City of Marina's comments to the Draft EIR/EIS set forth that the document is legally inadequate in many critical subject areas and fails to meet the requirements of CEQA and NEPA. Some of the shortcomings of the document include: Inflated Water Demand; No Water Rights; Sustainable Groundwater Management Act Conflicts; Direct Legal Prohibitions; Inadequate Project Description; Wrong Environmental Baseline; Anticipated Groundwater Impacts; Inadequate Water Modeling; Brine Discharge Impacts; Coastal Ecosystem Impacts; Greenhouse Gas Emissions; Significant Historic Resource Impact; Deficient Environmental Justice Analysis; Inadequate Alternatives Analysis.

In view of the key missing information, faulty project Objective/Purpose and Need statements, inadequate analysis of multiple environmental impacts, deficient mitigation measures, and resulting inability to properly select and evaluate alternatives in the Draft EIR/EIS engaging a public relations firm to assist in advocacy, public relations services, collaboration with partners, coalition building, grassroots outreach, and transparency it critical to the citizens of Marina.

ANALYSIS:

After reaching out to various agencies requesting information and recommendations for a firm that specializes in advocacy, public relations and has a strong background in environmental, natural resources and water policy the firm of KP Public Affairs was recommended. The attached (“EXHIBIT A”) is a brochure from the firm.

The City has received a proposal from KP Public Affairs that proposes a combined budget of \$20,000 per month for a four month period for a total of \$80,000. The budget covers both advocacy and public relations services. Given the shortened timeframe, the level of support from the project developer and the need to reach and collaborate with citizens and the cities in the region, this project will require an intense level of effort and support and high level meetings in a relatively short time frame. KP Public Affairs will be able to revise the scope of work and budget as needed.

Advocacy Services

KP Public Affairs recommends an initial advocacy program that would include reaching out to critical audiences and pursuing their help in modifying the proposed project to protect the City’s water supply. This will include developing advocacy materials explaining the issues; explore the possibility of legislative oversight hearings; arranging meetings with key high level government offices and officials at the local, regional and state levels.

Public Relations Services

KP Public Affairs recommends an initial program that would include developing materials explaining the issues, utilizing communication channels to disseminate the City of Marina’s concerns about the project, and engaging City and Regional officials and residents to inform the political public. These services would include:

- Material development
 - Develop compelling materials explaining the City of Marina’s concerns regarding the project
- Media outreach
 - Develop a media calendar around the project that will respond to regulatory actions
 - Develop and distribute media products such as op-eds and press release that will draw attention to critical issues
 - Conduct backgrounders with local and relevant media to educate members of the press on the issue
- Events
 - Publicize events such as the City of Marina presentations to other cities and influencers that will elevate the City’s concerns about the project with relevant stakeholders
- Social media
 - Utilize social media channels to reach important audiences about the ramifications of the project as proposed
 - Updating the City website with materials that are easy to understand and resonate with residents about the project

- Third-party support
 - Work with city officials to encourage third parties to offer their input on the project and issues of concern
- Coalition building and collaboration
- Grassroots outreach

FISCAL IMPACT:

It is proposed that the City Council allocate \$80,000 from unallocated fund balance to cover the \$80,000 cost of KP Public Affairs.

CONCLUSION:

Staff recommends the City Council authorize the City Manager to execute a contract with KP Public Affairs subject to approval by the City Attorney for advocacy and public relations services relating to the Monterey Peninsula Water Supply Project.

Respectfully submitted,

Layne P. Long
City Manager
City of Marina

EXHIBIT

N

From: Bruce Delgado <bdelgado62@gmail.com>
Sent: Saturday, March 23, 2019 8:04 AM
To: Deborah Mall; Layne Long; Wellington Law Office
Subject: Fwd: thank you, City of Marina Media Report - October 2, 2018

----- Forwarded message -----

From: Alison MacLeod <amacleod@ka-pow.com>
Date: Mon, Nov 26, 2018, 13:34
Subject: RE: thank you, City of Marina Media Report - October 2, 2018
To: Bruce Delgado <bdelgado62@gmail.com>
Cc: Layne Long <llong@cityofmarina.org>, Sara Steck Myers <ssmyers@att.net>, Skip Spaulding <sspaulding@fbm.com>, Tom van der List <TvanderList@ka-pow.com>, Ed Manning <emanning@ka-pow.com>, Gail Morton <mortonformarina@gmail.com>, Michael Burns <mburns@ka-pow.com>

Thanks for the note and congrats on the re-election 😊

We're continuing to push on the Cal Am issue through a variety of avenues . . . As you know we're setting up meetings with key influencers, we've put together recommendations for social media and digital advertising, sent out information and prepared new letters for decision-makers, we're pursuing new opportunities with the EJ issues including the Attorney General's office and other third parties, and are seeking out new media opportunities.

Let me know if you have questions or suggestions on any of our activities.

Hope you had a wonderful Thanksgiving.

Best,

Alison

From: Bruce Delgado <bdelgado62@gmail.com>
Sent: Sunday, November 25, 2018 11:44 AM
To: Alison MacLeod <amacleod@ka-pow.com>
Cc: Layne Long <llong@cityofmarina.org>; Sara Steck Myers <ssmyers@att.net>; Skip Spaulding <sspaulding@fbm.com>; Tom van der List <TvanderList@ka-pow.com>; Ed Manning <emanning@ka-pow.com>; Gail Morton <mortonformarina@gmail.com>
Subject: thank you, City of Marina Media Report - October 2, 2018

EXHIBIT

0

From: Katherine Biala
Sent: Tuesday, July 03, 2018 09:44 PM
To: Layne Long; Bruce Delgado; George Riley; Keith Van Der Maaten
Subject: Fwd: July joint meeting

See below. This Friday late afternoon seems to be the only date that will work?. Bruce, can we do at 4:00 pm?
Please confirm with all.

Thanks,
Kathy

Begin forwarded message:

From: Katherine Biala <kybiala@icloud.com<mailto:kybiala@icloud.com>>
Subject: Re: July joint meeting
Date: July 3, 2018 at 9:40:19 PM MST
To: georgetriley@gmail.com<mailto:georgetriley@gmail.com>
Cc: MCWD Keith <KVanDerMaaten@mcwd.org<mailto:KVanDerMaaten@mcwd.org>>

All, of all the 3 dates submitted by Bruce and George, it appears that only this Friday July 6 will work (July 16 is MCWD Board meeting and the Downtown Ad Hoc committee) and I cannot do on July 11. Shall we all commit to this Friday July 6 at City Hall conference room? We have not heard from Keith yet but let's plan on this date for now. Thanks everyone! Kathy

Sent from my iPhone

On Jul 3, 2018, at 3:27 PM, georgetriley@gmail.com<mailto:georgetriley@gmail.com> wrote:

I'm OK on 7/6 Fri afternoon,
7/11 Wed after 5.
7/16 Mon after 5.
George

On Jul 3, 2018, at 3:00 PM, Katherine Biala <kybiala@icloud.com<mailto:kybiala@icloud.com>> wrote:

Keith and George, please see if we can accommodate Bruce's limited schedule as he can only meet after 5 pm. George, if you can not attend, perhaps Michael can? Thanks all. Kathy

Sent from my iPhone

Begin forwarded message:

From: Bruce Delgado <bdelgado62@gmail.com<mailto:bdelgado62@gmail.com>>
Date: July 2, 2018 at 10:18:49 PM MST
To: Layne Long <llong@cityofmarina.org<mailto:llong@cityofmarina.org>>
Cc: Katherine Biala <kybiala@icloud.com<mailto:kybiala@icloud.com>>, Keith Van Der Maaten <kvandermaaten@mcwd.org<mailto:kvandermaaten@mcwd.org>>, George Riley <georgetriley@gmail.com<mailto:georgetriley@gmail.com>>, Juli Hofmann <jhofmann@redshift.com<mailto:jhofmann@redshift.com>>

Subject: Re: July joint meeting

I can do this Friday late afternoon, July 6.

After July 15th I can do the following:

Wed July 11 evening after 5pm

Mon July 16 after 6pm

Wed July 18 after 530pm

Thur July 19 after 5pm

On Mon, Jul 2, 2018 at 10:37 AM, Layne Long <llong@cityofmarina.org<mailto:llong@cityofmarina.org>> wrote:

I'm gone July 20 - 29th.

Layne

-----Original Message-----

From: Katherine Biala [mailto:kybiala@icloud.com<mailto:kybiala@icloud.com>]

Sent: Monday, July 2, 2018 9:31 AM

To: Layne Long <llong@cityofmarina.org<mailto:llong@cityofmarina.org>>; Bruce Delgado <Bdelgado62@gmail.com<mailto:Bdelgado62@gmail.com>>; Keith Van Der Maaten <kvandermaaten@mcwd.org<mailto:kvandermaaten@mcwd.org>>

Cc: George Riley <georgetriley@gmail.com<mailto:georgetriley@gmail.com>>; Juli Hofmann <jhofmann@redshift.com<mailto:jhofmann@redshift.com>>

Subject: July joint meeting

All, we have need again to convene our joint meeting with PWN and Just Water for updates. Can we please look at some dates mid-July? Want to get this penciled in as it is always a challenge to coordinate some date/times. Bruce, can we start first with you?

Thanks all,
Kathy

--

Mayor Bruce Delgado

cell: (831) 277-7690

email: bdelgado62@gmail.com<mailto:bdelgado62@gmail.com>

EXHIBIT

P



Cal Am's Desalination Project



Higher Water Rates for Marina and Monterey Peninsula Residents

More Development & Traffic Congestion

Serious Environmental Harm

- **Monterey Peninsula residents already have the highest water rates in the nation.** With the construction of an expensive new desalination facility, Cal Am customers can expect to see major increases in their water bills.
- **Cal Am's desalination project is vastly oversized for their service territory.** Customers will suffer from exorbitant new charges in order to provide a greater water supply for major hotels and new housing developments.
- Stanford University experts found that **the project would harm Marina's groundwater supply and render the aquifer unable to supply Marina residents with safe drinking water.** As a result, Marina residents will be forced to buy their water from Cal Am at the ever-increasing rates charged to Monterey Peninsula residents.
- **The massive desalination plant is overpriced and unnecessary** – there are much more reasonable and sustainable solutions available to meet the region's water supply needs.



STANFORD

MONTEREY PENINSULA RESIDENTS ALREADY PAY THE HIGHEST RATES NATIONWIDE

New Rank	Old Rank	Utility	State	Owner	2015 Bill	2017 Bill	Increase	% Increase
1	9	California American Water - Monterey	CA	Private	\$716.18	\$1,202.59	\$486.41	68%
2	2	Padre Dam Municipal Water District	CA	Public	\$826.94	\$959.27	\$132.33	16%
3	8	Goleta Water District	CA	Public	\$736.62	\$958.55	\$221.94	30%
4	3	Pennsylvania American Water - West	PA	Private	\$792.84	\$847.59	\$54.75	7%
5	4	Pennsylvania American Water - Pittsburgh	PA	Private	\$792.84	\$847.59	\$54.75	7%
6	5	Pennsylvania American Water - Lake Scranton	PA	Private	\$792.84	\$847.59	\$54.75	7%
7	6	Pennsylvania American Water - Norristown	PA	Private	\$792.84	\$847.59	\$54.75	7%
8	10	West Virginia American Water - Kanawha Valley	WV	Private	\$710.63	\$827.37	\$116.74	16%
9	7	Aqua Pennsylvania	PA	Private	\$782.38	\$782.38	\$-	0%
10	1	Flint	MI	Public	\$910.05	\$710.83	\$(199.22)	-22%

NOTES: Annual bills were calculated for households using 60,000 gallons a year, using rates inside the main service area, as of January 2015 and April 2017.

Cal Am's Desalination Project

Will

Destroy the Marina Coastline
Betray the Very Nature of the Coastal Act
Trample on Our Principles of
Environmental and Economic Justice

- The proposed desalination plant **violates the spirit of the California Coastal Act**, which has protected local communities from developments that damage coastlines and run contrary to the will of local communities.
- Cal Am, along with major business interests, is seeking approval from state and federal government agencies to locate their slant well drilling operation in Marina's coastal area. Despite the availability of several lower-cost, environmentally-sustainable alternatives, the California Public Utilities Commission (CPUC) is proceeding toward approval of the desal project, **ignoring considerable evidence of environmental and economic injustices**.
- Marina requests that the CPUC, California Coastal Commission, the California State Water Resources Control Board, and the State Lands Commission consider the social, environmental and economic justice of locating a project in Marina against the will of the local community. State agencies should follow Governor Brown's directive:

"California must continue to build on recent progress that uplifts our values of equity and social and economic justice."

GOALS OF THE CALIFORNIA COASTAL ACT:

- Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment
- Assure orderly, balanced utilization and conservation of coastal zone resources
- Maximize public access to and along the coast
- Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses

Superior Alternatives to Cal Am's Desalination Plant Would Avoid Water Rate Increases, Environmental Degradation, and Overbuilding in the Region

- CalAm's desalination plant is unnecessary to meet the present and future needs of the region. It will **undermine water conservation efforts and promote out-of-control growth**. In 2015, Cal Am service area demand was only 9,545 acre-feet-per-year (afy) of water, enough to meet sustainable business, residential and environmental needs. Yet their project proposal including the desal plant would supply more than 16,000 afy, which far exceeds the current and future needs of the region.
- Cal Am's oversupply will be used to build out the region's hotel industry and develop new housing areas where transportation and environmental issues already exist, **at the expense of existing local residents**.
- With little concern for the potential increase in greenhouse gas emissions and **harmful quality of life impacts**, state regulators are plowing ahead with a project that completely diverges from our long-held desire to manage growth responsibly to protect the long-term health and well-being of the region.

Insert MCWD CHART





Frequently Asked Questions Cal Am Water's Monterey Peninsula Water Supply Project

What is a seawater desalination plant?

A desalination plant is a facility which converts salty seawater into clean drinking water. In the proposed project, reverse osmosis technology would be used, sending saline water through a semi-permeable membrane filter, leaving potable water on one side and highly concentrated saline solution, known as brine, on the other. The leftover brine is then diluted with seawater and pumped back into the ocean. Due to high energy demand along with high initial and operational costs, desalination plants are the most expensive form of drinking water production and bring significant environmental impacts. **However, in reality, hydrogeologists and recent Stanford research studies prove that the Monterey Peninsula Water Supply Project's (MPWSP) desal plant will extract huge amounts of groundwater rather than just seawater.**

How is the water collected?

The project proposes using slant wells, pulling both groundwater and seawater resources. Because of the questionable feasibility of slant wells, there is currently not a single commercial desalination plant using this technology anywhere in the world. Moreover, the location of the proposed slant wells specifically targets groundwater from aquifers beneath Marina's jurisdiction, jeopardizing the natural groundwater processes and the City's only supply of fresh drinking water.

What is the demand for this project?

The project need is vastly overstated. The desalination plant would result in a new water supply for Cal Am of more than 10,750 acre-feet per year (afy), giving Cal Am a total water supply of about 16,000 afy. However, existing demand is only around 9,500 afy and conservation measures should be prioritized to balance growing population needs. The true need for additional water supplies will likely be reviewed by an Administrative Law Judge at the California Public Utilities Commission.

Where does the City of Marina get its water?

The City of Marina currently obtains 100 percent of its potable water from groundwater underneath the City. The Salinas Valley Groundwater Basin includes several subbasins, which are seriously threatened by the proposed Cal Am project. The project's slant wells would draw water from the 180/400 aquifer that has been classified as one of 21 "critically overdrafted" groundwater basins out of more than 400 basins in the state. Drawing freshwater from this location not only will deplete limited resources, but it will also allow seawater intrusion and contamination to occur in the Monterey subbasin that is used for drinking water. The proposed MPWSP is in direct conflict with California's new Sustainable Groundwater Management Act (SGMA) which aims to protect and restore our precious groundwater supplies, and would further jeopardize this already endangered resource.

Who is building this project?

The project would be built by California American (Cal Am), a subsidiary of the private, for-profit, water utility provider, American Water Works Company, Inc., headquartered in New Jersey. Cal Am serves customers in approximately 85% of the Monterey Peninsula and approximately 615,000 customers statewide. By virtue of the for-profit nature of Cal Am, all investment costs are passed on to customers through rate increases. But Cal Am does not serve the residents or businesses in the City of Marina, which depend on the Marina Coast Water District instead.

Will this project increase water rates?

To build this expensive project, Cal Am will likely increase its customers' water rates further, on top of the increases that already took effect earlier this year. Additionally, Marina residents would be uniquely impacted. The project will likely degrade water quality and deplete resources in the City's groundwater aquifer, thereby raising water production or treatment costs for Marina Coast Water District, or requiring the purchase of extremely expensive replacement water.

Who will the project serve?

The project will serve Monterey peninsula residents that are customers of the for-profit Cal Am. The City of Marina, however, is served by the publicly owned Marina Coast Water District. The project will have a disproportionate impact on the city's disadvantaged communities, who will be faced with negative impacts to their water supply, construction and operational impacts without receiving any of the project benefits. Simply put, Marina will be harmed for the benefit of neighboring cities who don't want this project in their own backyard.

Will this construction cause harmful community impacts?

The impacts to the Marina community may be significant in both the short and long term. The project represents a large industrial use with the potential to result in severe irreversible impacts to the City, particularly in regards to potential depletion and contamination of its water supply, and the likely huge adverse impacts to its sensitive coastal ecosystem.

Will this impact the coastal ecosystem?

The project is likely to have significant impacts on Marina's coastal ecosystem. With regard to marine biological resources, the project area is home to 34 species of mammals, over 180 species of seabirds, 525 fish species, four sea turtle species, 31 different invertebrate phyla, and over 450 species of marine algae. In addition, the project area is home to 27 federally designated threatened and endangered species. In the distillation process, the project will produce 14 million gallons of high-salinity brine discharge per day, which will then be deposited in the seafloor of the marine sanctuary. The project's slant wells would be sited in Marina's sensitive coastal habitat and would likely accelerate coastal erosion on Marina's beaches as well as adversely impact the coastal dunes.

To learn more, visit www.ci.marina.ca.us



Major Risks from Cal Am's Proposed Monterey Peninsula Water Supply Project

Threat to Groundwater

Project is inconsistent with the Sustainable Groundwater Management Act by jeopardizing

“**One of 21 critically over drafted**”
groundwater basins
out of **more than 400**
groundwater basins in California

Project will deplete resources and degrade quality *in the Salinas Valley Groundwater Basin*, where Marina gets

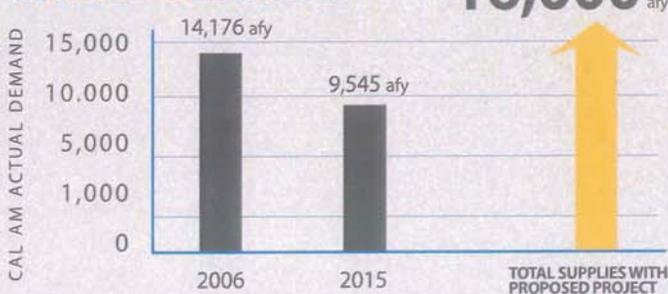
100% of its
drinking water



Substantial
groundwater
NOT seawater
will be used for the project

Oversized Project Exceeds Demand

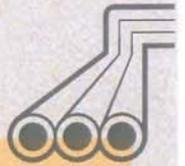
Total MPSWP capacity is **too large**
based on **unrealistic inflated**
water demand



Environmental Harm

Project will produce

14 million
gallons of
high-salinity brine discharge
per day which will be deposited in the
seafloor of the marine sanctuary.



Marina Bears all the Risk



Depleted
groundwater
resources



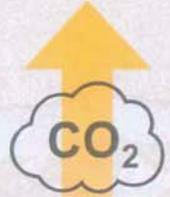
No water
for Marina
residents



Contamination of the
groundwater basin



Increased
energy use



Increased CO2
emissions

Project would produce
541 metric tons
of CO₂ each year

To learn more, visit www.ci.marina.ca.us



Concerns with Cal Am Water's Proposed Monterey Peninsula Water Supply Project (MPWSP)

Cal Am, a private for-profit water corporation, has proposed a desalination plant that threatens the City of Marina and its groundwater supply that residents rely upon for 100% of their drinking water.

Major Concerns:

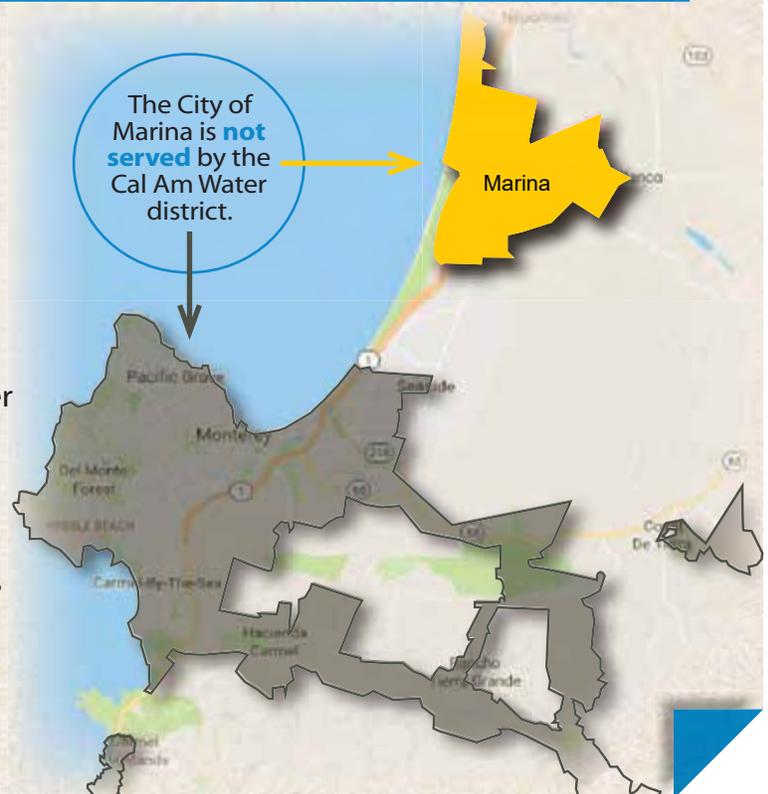
- Despite having **no groundwater rights**, Cal Am's project will extract water from an already **critically overdrafted basin**.
- Groundwater pumping will increase seawater intrusion – **contaminating and possibly significantly harming Marina's fresh drinking water supply**.
- The project is in **direct conflict with the state's Sustainable Groundwater Management Act**, which requires regional coordination and responsible planning to restore precious groundwater resources.
- The proposed project is **massive in scale** – far exceeding any realistic or responsible demand projections.

Marina will suffer long term environmental harm from the project, with no benefit or strategy to mitigate the impacts.

City of Marina Harmed for the Benefit of Neighboring Cities

After a State Supreme Court ruling, the State Water Resources Board is requiring that Cal Am stop illegally pumping water from the Carmel River. But their proposed desalination plant is not a responsible alternative – it would deplete and degrade Marina's drinking water supply despite the fact that Cal Am has no groundwater rights and would be acting in conflict with state laws protecting groundwater basins.

Why is the project proposed to be built in the City of Marina, at the expense of Marina's own ecosystem and quality of life, instead of within Cal Am's own service territory? There are other more environmentally sustainable alternatives that would work.



Project Size **Far Exceeds** Service Area Demand

Cal Am demand forecasts are **overinflated** and cannot justify such a large project.

- The proposed desalination project would **produce more water by itself (10,750 afy) than Cal Am has delivered to its customers** in either 2014 or 2015 – and there are about 6,000 afy of other water sources in Cal Am's local supply portfolio.
- Due to permanent conservation measures, **Cal Am service area demand declined** from 14,176 afy in 2006 to 9,545 afy in 2015.

Conservation measures should be prioritized to balance growing population needs.

Project Would Jeopardize Marina's Drinking Water, and **Not Use Just Ocean Water**

The project is not a true seawater desalination plant – instead it will tap into **limited groundwater supplies that must be responsibly managed under new requirements of the State's Sustainable Groundwater Management Act.**

- The Salinas Valley Groundwater Basin under the city of Marina is 1 of only 21 California groundwater basins in "critical overdraft" condition and should not be the source of a brand new water supply project.

Potential Environmental Impacts and Unproven Slant Well Technology Presents **High Risk**

Desalination is costly, energy intensive, and brings significant environmental risk. Beyond that, nowhere in the world does a commercial desalination plant use the proposed slant well drilling methodology.

- **Greenhouse gas emission increases:** The plant would bring more than a 450 percent increase over existing energy demand for Cal Am's entire water supply.
- **Threat to coastal ecosystem:** The project area is home to 27 federally designated threatened and endangered species; the proposed project will produce 14 million gallons of high-salinity brine discharge per day, which will then be deposited in seafloor of the marine sanctuary.

More Environmentally Sustainable Alternatives Must Be Pursued

The full range of potential alternatives including smaller project options have not been properly evaluated.

Any new water supply plan for Cal Am's service territory must not harm the City of Marina and must protect local groundwater sustainability.



To learn more, visit www.ci.marina.ca.us

EXHIBIT

Q

From: Alison MacLeod <amacleod@ka-pow.com>
To: Layne Long; Keith Van Der Maaten
CC: Tom van der List; Michael Burns
Sent: 7/6/2018 3:09:54 PM
Subject: prep for July 12 meeting
Attachments: Marina New Factsheet July 2018.pdf; new talking points 7-6.docx

Keith and Layne,

In preparation for next week's meeting with John Robertson, attached please find draft talking points and a draft leave behind document. If you want to jump on the phone early next week we can talk these through, and can revise the talking points as needed. Keith - in particular take a look at the handout because you'll see on backside we left a spot at the end to add in further detail from MCWD. We could add a chart elucidating the cost impacts if you have the analysis completed, or a chart that provides more clarity on the alternate solution that you will be advocating for (showing that the alternate solution in fact meets reasonable demand levels). Take a look and let us know how we can help with next steps.

Thanks,
Alison

From: Tom van der List
Sent: Friday, June 8, 2018 4:39 PM
To: Layne Long; Alison MacLeod; 'kvandermaaten@mcwd.org'
Cc: Michael Burns; Ed Manning
Subject: RE: follow up

Layne and Keith,

We have confirmed an in-person meeting with John Robertson (Peter VanLangen will also attend).

Date:
Thursday, July 12

Time:
2:00pm – 3:30pm

Address:
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906
When you arrive, call from the lobby and they will let you in.

Best,
Tom

From: Layne Long <llong@cityofmarina.org>
Sent: Thursday, June 7, 2018 9:07 PM
To: Alison MacLeod <amacleod@ka-pow.com>; 'kvandermaaten@mcwd.org' <kvandermaaten@mcwd.org>

Cc: Michael Burns <mburns@ka-pow.com>; Ed Manning <emanning@ka-pow.com>; Tom van der List <tvanderlist@ka-pow.com>

Subject: RE: follow up

July 12 and 13 work for me.

Thanks,
Layne

From: Alison MacLeod [<mailto:amacleod@ka-pow.com>]

Sent: Thursday, June 07, 2018 5:40 PM

To: 'kvandermaaten@mcwd.org' <kvandermaaten@mcwd.org>; Layne Long <llong@cityofmarina.org>

Cc: Michael Burns <mburns@ka-pow.com>; Ed Manning <emanning@ka-pow.com>; Tom van der List <TvanderList@ka-pow.com>

Subject: follow up

Thanks for a productive conversation. I think we strategized a series of avenues to help drive a bolder message and apply pressure at key trigger points. We will put together a clear outline for next steps. In the meantime, as you know we had already been pursuing additional meeting opportunities. We got word back regarding the following options for a meeting with John Robertson, the Water Board's Central Coast executive officer. Can you please let me know by noon tomorrow what works so we can get this set on the calendar?

- Wednesday, July 11 – open all day
- Thursday, July 12
- Friday, July 13 – afternoon

I'm also reattaching the zip file of some of our prior materials in case you guys are now able to make a breakthrough in posting content on the city or MCWD websites. Keith – take a look because if you are able to create a landing page I'm happy to work with your team to pull the language/links. Or Layne, if you're able to find a way to post these informational resources on the city site as we've discussed that would be great.

Thank you,

Alison MacLeod

KP PUBLIC AFFAIRS

621 Capitol Mall, Suite 1900, Sacramento, CA 95814

phone. (916)498.7730 mobile. (916)225.6317

w. www.ka-pow.com e. amacleod@ka-pow.com

The contents of this e-mail and any attachments are intended solely for the use of the named addressee(s) and may contain confidential and/or privileged information. Any unauthorized use, copying, disclosure, or distribution of the contents of this e-mail is strictly prohibited by the sender and may be unlawful. If you are not the intended recipient, please notify the sender immediately and delete this e-mail.

EXHIBIT

R

From: Bruce Delgado <bdelgado62@gmail.com>
Sent: Saturday, March 23, 2019 8:02 AM
To: Deborah Mall; Wellington Law Office; Layne Long
Subject: Fwd: materials
Attachments: Marina_Updated Strategy_10-11-18.docx; MarinaSocialDigitalProgram(1).pdf; Coastal Commission letter_draft 11-13.docx; Draft Resolution_well moratorium.docx; City of Marina website language_draft 10-25-18.docx; 2018-09-13 Final Press Release_PUC Decision_for distribution.docx; Marina Press Release (rev)_10-23-18 clean FINAL.docx; Marina New Factsheet July 2018.pdf

----- Forwarded message -----

From: Alison MacLeod <amacleod@ka-pow.com>
Date: Tue, Nov 27, 2018, 11:13
Subject: materials
To: bdelgado62@gmail.com <bdelgado62@gmail.com>
Cc: Tom van der List <TvanderList@ka-pow.com>

Bruce,

Per our discussion I'm sending you a series of documents. I will send over later this afternoon a suggested presentation for you to give at the forum this evening.

- Strategy document from October (I've conducted an extensive round of outreach based on that plan and am in the process of scheduling additional meetings/briefings)
- Fact sheet you may want to handout tonight
- Recommended social/digital plan per the strategy memo
- Recommended draft letter to CCC per the strategy memo
- Recommended website content
- Draft city resolution calling for expansion of the well moratorium (not sure status of this)
- Recent press releases that demonstrate key messages

Let me know if you have questions

Thanks

Alison MacLeod

KP PUBLIC AFFAIRS

621 Capitol Mall, Suite 1900, Sacramento, CA 95814
phone. (916)498.7730 **mobile.** (916)225.6317

w. www.ka-pow.com e. amacleod@ka-pow.com

The contents of this e-mail and any attachments are intended solely for the use of the named addressee(s) and may contain confidential and/or privileged information. Any unauthorized use, copying, disclosure, or distribution of the contents of this e-mail is strictly prohibited by the sender and may be unlawful. If you are not the intended recipient, please notify the sender immediately and delete this e-mail.



Situation

Last month, the California Public Utilities Commission (CPUC) granted Cal Am the certificate of public convenience and necessity (CPCN), the first in a series of permitting hurdles for the MPWSP. In the coming 130 days, Cal Am will be seeking a series of subsequent regulatory reviews/approvals. Based on discussions with Skip, Sara, Keith and Layne, we believe the best opportunities for engagement lie with the Regional Water Board, CA Coastal Commission (CCC), and State Lands Commission (SLC). Decision-making at these agencies is more affected by political considerations, as opposed to the CPUC which employs a more insular, semi-judicial process.

As we have seen from the CPUC proceedings, and more recently with the letter from the Coastal Commission rejecting their support for an amendment to Marina's LCP, it is clear that there is a strong insider desire to advance the Cal Am project. Thus far, Marina's substantive legal arguments have been ignored, and public comments by agency officials demonstrate that Cal Am has a significant advantage as its project is being evaluated.

The city of Marina needs to pursue a much more aggressive public relations program to apply pressure on decision-makers and try to prevent a permit approval from one of the agencies mentioned above. We know that Cal Am is simultaneously pursuing their own PR efforts and coordinating closely with agency staff, so Marina can seek to counter-balance those efforts and create a more contentious environment for review of the project – such a PR campaign at this stage can increase the likelihood of Marina's position being considered more fully, but it is not a guarantee of success for Marina. To that end, we have outlined a communications program that will deliver strong, political arguments in an attempt to gain the attention and agreement of key decisionmakers at the CCC, SLC, and Regional Water Board.

Approach

We have outlined below a series of steps to brand Cal Am's proposal as contrary to long-held state policies and environmental protection principles that should guide these permitting agencies. This approach will force key decision-makers to acknowledge Marina's concerns about the project from a cost, groundwater protection, coastal and environmental impact perspective.

The strategy hinges on amplifying the anti-environment, anti-environmental justice, and anti-local control nature of the proposal with key audiences. Ultimately, the strategy is designed to make the decision-makers concerned that a decision in favor of the Cal Am's proposal will be viewed as a betrayal to the policies they are required to advance.

Key Audiences:

- Decision Makers
 - Coastal Commission
 - State Lands Commission
 - State and Regional Water Boards
 - Legislators
 - Monning
 - Stone
- Third-party groups involved with the three permitting agencies and relevant to the desalination issue (e.g. environmental organizations involved in coastal protection)

Key Messages:

- CCC
 - A vote for the Cal Am project is pro-development and betrays the mission of coastline protection
 - The CCC previously took credit for closing a cement company operating on Marina's coastline, now the CCC is working behind the scenes to locate a new industrial operation in the same place
 - Siting an industrial desal operation in the same location as Cemex over the objections of the local community is an assault on local land use control
- SLC
 - Marina has a lower median income, a much higher poverty rate, and is more ethnically diverse compared to neighboring cities – this suggests that the city is being taken advantage of by more powerful regional interests
 - California's commitment to environmental justice protections should ensure that Cal Am is not able to force its facility on a poorer community that does not want it and will not benefit from it
- SWRCB/Regional Water Board
 - The state is currently undergoing a massive program to protect and restore groundwater where over-drafting has occurred – in contrast, the Cal Am project proposes to draw massive amounts of water from Marina's aquifer, which is contrary to the Sustainable Groundwater Management

Act and sets a horrible precedent for future efforts to protect local groundwater resources

- Costs
 - Cal Am already charges the highest rates in the country – the desalination project will raise water rates even higher and will have a disproportionate impact on lower income families and small businesses
 - State and local decision makers are inexplicably ignoring lower cost, more environmentally-friendly alternative water supply solutions for the region

Tactics

- Inform Marina/County residents
 - Launch a highly visible digital advertising campaign geotargeted to Monterey County to provide counter-messaging to Cal Am campaign – send viewers to <http://futureh2o.mcwd.org/> for more info
 - Hold official community briefing by MCWD on the alternate solution
 - Post updated content on Marina website and social media – promote alternative solution
- Engage media
 - Pitch media who reported on Coastal Commission issues
 - Encourage them to consider - why is the Coastal Commission cc'ing the Cal Am President on Marina's LCP amendment letter?
 - Hold a City Council press conference outside of Coastal Commission meeting that will be held Nov 7-9 in the Northern Central Coast (exact location TBD)
 - Pitch national reporters on the unfair attack on Marina, disregard for project's local impacts (compare to Flint, Michigan) – Rachel Maddow, Michael Moore, Politico, Huffington Post, etc.
 - Send updated pitches to environmental reporters in CA with copy of CCC letter on LCP amendment
 - Secure interest from a freelance environmental reporter to write a feature piece on the issue
- Contact decision-makers
 - City Council/staff should attend the SLC meeting on October 18 in Sacramento and deliver public comments
 - Draft letter expressing strong objections to the PUC decision with an appeal to the elected officials to encourage federal and state agencies to

support state policies and values by rejecting Cal Am's proposal; include a copy of Mayor Delgado's recent Capitol Weekly op-ed and share with:

- Stone
 - Monning
 - Harris
 - Feinstein
 - Panetta
 - County Supervisors
 - All city council members at cities within the County
 - SLC board members
 - CCC board members
 - Regional Water Board members
 - State Water Board members
- Collaborate with third parties
 - Work with Spotlight on Coastal Corruption to submit Public Records Request
 - Highlight environmental justice concerns
 - Reach out to Gladys Limón, Executive Director of California Environmental Justice Alliance, and GreenAction requesting their help
 - Request a meeting with Attorney General Becerra's new Bureau of Environmental Justice within the Environment Section at the California Department of Justice
 - Becerra stated: "The harsh reality is that some communities in California – particularly low-income communities and communities of color – continue to bear the brunt of pollution from industrial development, poor land use decisions, transportation, and trade corridors. Meeting the needs of these communities requires our focused attention. That's why I'm establishing the Bureau of Environmental Justice," said California Attorney General Xavier Becerra. "To all who advocate for environmental justice, the California Department of Justice will work with you and fight for a clean, safe and healthy environment. We have a moral and legal responsibility to do so."
 - Request meetings with permitting agencies to continue to express concern, highlight recent PUC actions, request help
 - Whether Marina has previously met with these representatives or not, we recommend meeting with these targets to reiterate our concerns, explain the deficiencies in the PUC position, and request help – it is important for the city of Marina to maintain a visible presence with these decision-

makers and continue to deliver strong messages, as we know that Cal Am is doing so in support of their proposal

- Regional Water Board staff
 - John Robertson
- SLC
 - Anne Baker (Betty Yee's designee for SLC)
- CCC
 - Aaron Peskin
 - Dayna Bocho
 - Steve Padilla
 - Sarah Aminzadeh
- Elected officials
 - State: staff for Stone, Monning
 - Federal: staff for Feinstein, Harris, Panetta

City of Marina letterhead

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Dear Commissioners:

The City of Marina would like to express its support for the California Coastal Commission's proposed Environmental Justice (EJ) Policy. We appreciate the Commission's historical commitment to protecting coastal natural resources and providing public access and lower-cost recreation opportunities for all Californians. Adoption and adherence to the EJ policy reinforces the Coastal Commission's environmental commitment and ensures that economically diverse communities are not denied coastal access on the basis of race, ethnicity, gender, socio-economic status, or place of residence.

The credibility of this important policy will be tested in the coming months when the Commission is asked to review a major new coastal development that will interfere with the ability of Marina residents to enjoy their coastline. California American Water (Cal Am), a private, for-profit water company, is proposing a massive desalination plant and drilling project to be located on Marina's coastline for the benefit of their shareholders and to provide water for other communities in the region. The residents of Marina will receive none of the benefits of the project, while still having to bear its burdens and face irreparable harm to their local natural resources. We urge the Commission to be prepared to hold fast to its commitment to the principles of fairness, equal burden and justice.

In your explanation of the need for an EJ policy, the Commission listed several results that the policy is intended to achieve, and our comments below support those objectives. In addition, the Coastal Commission objectives align with the 2012 opinion from then-Attorney General Kamala Harris, who opined that Marina and other local governments have a responsibility to environmental justice when approving specific projects and planning for future development: "Fairness in this context means that the benefits of a healthy environment should be available to everyone, and the burdens of pollution should not be focused on sensitive populations or on communities that already are experiencing its adverse effects."¹

We are hopeful that the Coastal Commission's development and adoption of an explicit EJ policy will help guide your future decision-making as you consider proposals like Cal Am's and as you create new opportunities for public input and project evaluation.

Meaningful Engagement:

¹ https://oag.ca.gov/sites/all/files/agweb/pdfs/environment/ej_fact_sheet.pdf

The goal of “meaningful engagement” is particularly important given the history of uneven influence in the approval of development projects throughout the state. We look forward to the Commission holding hearings in Marina about the disposition of our coastline and any proposed use that runs contrary to the wishes of our residents.

Coastal Access:

Regarding “coastal access,” Marina believes the principle of “access and lower-cost recreation opportunities for everyone” would be threatened by the Cal Am desalination project because it will cause irreparable harm to the coastal area, sand dunes and habitat. Such a development runs contrary to the Commission’s major accomplishment in 2017 that resulted in a Cease and Desist Order to close Cemex’s coastal sand mining plant. In contrast to the Cease and Desist Order, the desalination plant will force Marina to forgo the “parks, trails, surf spots, beach barbecue and fire pits, safe swimming beaches, fishing piers, campgrounds, and associated free or low-cost parking areas” that could be available to their residents.

Access to Process:

The goal of Access to Process is very important to Marina residents, who are hopeful that the Coastal Commission, unlike the California Public Utilities Commission, will do more than just provide a forum for citizen participation but act proactively and responsibly to assess a community’s EJ concerns. We hope that there is a real interest in knowing the desires of a community that has a diverse ethnic, racial and income make-up and that you seek to understand how coastal protection is just as important to our community.

Accountability and Transparency:

The EJ policy embraces accountability and transparency, committing to a process that considers whether and how proposed development will positively or negatively affect underserved communities: “The Commission will make use of CalEnviro Screen and/or similar tools to identify disadvantaged communities, and where otherwise consistent with the Coastal Act will carefully consider on the facts presented appropriate permit conditions to avoid or mitigate impacts to underserved communities.”

Marina hopes that commitment extends to the desalination project, a coastal development by a large corporate special interest that is being pursued against the wishes of a community and that will interfere with the right of residents to enjoy their coastline.

Part of Cal Am’s attempted rationale is that their project would be in the same spot as the Cemex sand mining operations. But the Commission recognized the harm of that industrial operation and voted to shut it down. The desal project would undermine the accountability and credibility of the Commission’s previous action on Cemex and instead expose Marina to further industrial impacts, further destruction of the coastal habitat, and threaten its groundwater without bringing Marina residents any project benefits.

Justice would be turned on its head if coastal development was decided on the basis of the wealth, political power, and connections of the developer. Marina is a working community with

a 17.1 percent poverty rate, which is more than double neighboring Monterey at eight percent and triple the rate in Pacific Grove at six percent. We are also much more ethnically diverse, with 62% of our residents from minority backgrounds. Should our city be expected to continue to bear the burden of industrial operations for the benefit of our wealthier neighbors? We are already home to the regional wastewater treatment and a regional landfill. What else is “our responsibility” when other cities in the Peninsula get a pass on hosting all these operations?

Climate Change. Finally, the EJ policy recognizes the impacts of climate change and the potential effect on communities. Marina and other communities in the region are already “more vulnerable to climate-driven water quality and supply issues that can result from seawater intrusion, contamination from extreme storm events, and drought.” But a fair environmental justice policy should ask what the communities are doing themselves to address the climate threats; imposing a new development on a neighboring community is not an appropriate climate change policy.

We believe the Coastal Commission’s EJ policy is an important tool for judgment and evaluation in the Cal Am project and others that follow. The Commission is right to be concerned about privatization of coastal lands, loss of open space, and equitable access. Your mission statement highlights a commitment to the regulation of environmentally sustainable development, rigorous use of science, strong public participation and intergovernmental coordination. We couldn’t agree more.

We look forward to the establishment of this policy and to working with you to fulfill the Commission’s critical mission.

Sincerely,

Bruce Delgado

Mayor, City of Marina



City of Marina Website Language

Cal Am, a private for-profit water corporation, has proposed a desalination plant that would be located in the City of Marina – the plant would use slant wells to draw brackish (salt) water, and also tap into significant fresh groundwater sources that Marina residents rely upon for 100% of their drinking water.

The proposed Monterey Peninsula Water Supply desalination project is currently being reviewed under the requirements of the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). The California Public Utilities Commission released the project's Final Environmental Impact Report (EIR) and issued a Certificate of Public Convenience and Necessity (CPCN) for the Project.

The City of Marina has been engaged for years in the regulatory review process for the project, and has raised a series of questions regarding project impacts. To date, Cal Am has not outlined a clear plan to address these questions or concerns:

- **Risk of depletion of Marina's groundwater sources:** Research by experts at Stanford University shows that the desalination project would tap into freshwater sources. Those groundwater supplies must be responsibly managed under new requirements of California's Sustainable Groundwater Management Act (SGMA). How would the desalination project avoid harming this protected groundwater resource?
- **Legality of withdrawals:** Despite having no groundwater rights, Cal Am's project will extract water from an already critically overdrafted basin – in direct conflict with SGMA, which requires regional coordination and responsible planning to restore precious groundwater resources. How would Cal Am's project be in compliance with groundwater management law?
- **Questionable project size:** The proposed project is far larger in size than realistic local water demand projections indicate is needed. Can Cal Am pursue other water supply projects of smaller size that would have lesser environmental impacts?
- **Impacts to Marina residents:** The project would be located in the City of Marina and tap into Marina's drinking water supply, yet the desalination plant will not serve water customers within the city of Marina boundaries. How will local water supplies and local water rates for Marina residents be protected?
- **Increase in seawater intrusion:** As the water is pumped from the targeted aquifers it will lead to increased seawater intrusion in the area, which could significantly harm Marina's fresh drinking water supply. How would this contamination be avoided?
- **Consistency with local values:** The Project would force a new industrial use on the very same site that the Coastal Commission voted to remove the Cemex sand mining operation. A major desalination project would pose harmful impacts inconsistent with environmental justice, coastal protection, and land use values held by the City and the State.

The final EIR/EIS is available online at the National Marine Sanctuary's website at www.montereybay.noaa.gov

Related Documents:

[Monterey Peninsula Water Supply Project Website \(CPUC\)](#)

[Comment Letter by City of Marina on the Draft EIR](#)

[Comment Letter by the Marina Coast Water District on the Draft EIR](#)

[City of Marina Project Fact Sheet](#)

[City of Marina Project Infographic](#)

[City of Marina Frequently Asked Questions Document](#)

[City of Marina Fact Sheet on Sustainable Groundwater Management Act](#)

[City of Marina Fact Sheet on Environmental Impacts](#)

City of Marina Press Releases:

[City of Marina Appeals Improper CPUC Approval of Key Environmental Document for Cal Am Desalination Project to California Supreme Court – October 23, 2018](#)

[City of Marina Denounces Decision by CPUC to Approve Cal Am Desalination Project as Inconsistent with Community and Environmental Values – September 13, 2018](#)

[Final Environmental Impact Report Released for Monterey Peninsula Water Supply Project – Public Comment Period is Open – April 9, 2018](#)

October 23, 2018 | For Immediate Release

Contact: Alison MacLeod (916)498-7730; amacleod@ka-pow.com

City of Marina Appeals Improper CPUC Approval of Key Environmental Document for Cal Am Desalination Project to California Supreme Court

Petition Highlights Legal Violations of California Environmental Quality Act

(Marina, CA) – The City of Marina has petitioned the California Supreme Court to review the Environmental Impact Report (EIR) for the Cal Am Monterey Peninsula Water Supply Project (Project) approved by the California Public Utilities Commission (CPUC). The City asserts that the EIR is factually, scientifically and legally inadequate and fails to adequately consider the impacts of a large industrial desalination project in a protected coastal setting within a disadvantaged community.

“The CPUC approval not only violates the California Environmental Quality Act (CEQA), but it flies in the face of long held values that our state has embraced for generations,” said Marina Mayor Bruce Delgado.

The City is now considering the Project’s coastal development permit and it requires an adequate EIR to fulfill its responsibilities. The Project EIR’s current widespread inadequacies impair its use by all responsible agencies that are now required to use the environmental document in their own permit review processes. The City is asking the California Supreme Court to quickly find that the EIR is inadequate under CEQA and overturn its certification to prevent permitting bodies from issuing project approvals based on a deficient environmental analysis.

“We are greatly concerned about the potential harm from this Project to our city, and it is essential that other regulatory agencies understand how completely flawed the EIR and CPUC certification is before they base their own permitting decisions on this document,” said Delgado. “The CPUC failed to fulfill its duty to protect our working-class community from anticipated severe impacts to our coastal ecosystem, our groundwater, and our own land use planning. It appears that they were in support of Cal Am’s Project from the start and that has shaped their actions restricting communications with us, ignoring the adverse impacts of the Project to Marina, and ultimately rushing a decision in favor of Cal Am. They did not fairly or fully consider better water supply alternatives that could provide water to the Peninsula at a reasonable or lower cost and avoid adverse environmental impacts to Marina, which will bear the burden of the Project’s construction and operation.”

The desalination Project approved by the CPUC would use experimental slant wells almost completely located under the ground in the City of Marina, rather than under the ocean. These risky slant wells would extract approximately 16 million gallons per day of groundwater from the “critically overdrafted” Salinas Valley Groundwater Basin (which supplies 100 percent of the City’s drinking water) and export it after treatment to other Monterey Peninsula communities. Cal Am has no established water rights, or any likely path to obtain such water rights in the future, that would authorize it to extract water from this protected basin.

The CPUC also committed legal error by failing to consider results of an important new study by Dr. Rosemary Knight from Stanford University that provides a three-dimensional picture of the actual hydrologic conditions in this basin, and which clearly demonstrates how the slant well intakes will tap into a supply of fresh water and make the groundwater basin further susceptible to depletion and contamination. The CPUC did not revise and recirculate the EIR to include this new information as was required by law, and instead inexplicably concluded that the potential Project impacts to groundwater would not be significant. The CPUC also failed to adequately address environmental justice concerns despite the fact that the Project wells will take water from a disadvantaged community without providing any meaningful protection or mitigation.

Marina's filing highlights a litany of deficiencies in the EIR that the CPUC failed to make any attempt to resolve. The Commission did not fairly consider reasonable alternatives, and improperly concluded that environmental impacts in key resource areas – including ESHA, terrestrial species, coastal ecosystem, marine species, groundwater resources and other areas – would be "less than significant."

"This Project would likely cause irreparable harm to our city by damaging our local water supply and exposing our coast to significant environmental damage, none of which is adequately analyzed in this EIR" said Delgado. "There are no Project benefits for the City of Marina, and no proposed mitigations that would address our many concerns. The CPUC is required to carefully consider Project impacts as well as reasonable alternatives to meet the Project goals, but they failed on both accounts. Their EIR review of impacts is one-sided, and their decision in support of Cal Am is based on an EIR displaying serious violations of CEQA."

#

SOCIAL MEDIA STRATEGY

Objective

To raise awareness, educate, and reiterate the harmful implications of the Cal Am Project to influence decision of the State Lands Commission and Coastal Commission.

Social media strategy

All the posts and ads will drive users to the following landing pages where they can learn more information about the negative implications of Cal Am's desalination project. <http://futureh2o.mcwd.org/mcwd-desalination/>

A portion of the social media posts will drive users to four op-eds that were published:

- <http://capitolweekly.net/divisions-desalination-monterey-peninsula/>
- <https://www.montereyherald.com/2018/04/16/marina-mayor-bruce-delgado-when-it-comes-to-water-be-a-good-neighbor/>
- <https://www.montereyherald.com/2018/02/02/bruce-delgado-cal-ams-proposed-desal-plant-bad-idea-and-bad-for-marina/>
- <https://www.sfchronicle.com/opinion/openforum/article/A-test-of-California-s-commitment-to-12405228.php>

Facebook boosted posts and ads

The attached social posts should be shared on Facebook using a boosting and paid ad strategy. "Boosting" guarantees that the ads are served to the City's target audience. The boosted posts are shared on a user's social media feed and on the City of Marina's Facebook page. KP recommends a modest budget of \$10 a day for boosting organic posts, and adjusting the budget based on the posts' analytics and desired result.

The paid Facebook ad strategy has more advanced targeting capabilities to further enhance your reach and secure engagement. Marina's ads will not be published on the Facebook page, but will be served to your customized audience on their own Facebook News Feed side ads, Messenger ads, Instagram stories, instant articles, and Audience Network. The Facebook ad targeting strategies are more effective when your account has a large number of followers. Therefore, KP recommends launching two ad sets, one with the objective of increasing your City's followers, and the other to drive users to engage. The proposed budget for the Facebook ad campaign is \$500 per month. The following targeting strategy will be used:

- Geo-targeting: Serve ads to those residing in the Peninsula
- Look-alike audience: Serve ads to those who have profiles similar to those that are already following the City of Marina
- Custom audience: Create a custom audience based on people who have visited the City of Marina website and people who have engaged with the Marina Facebook page.

Digital ad strategy

Google display ads are a highly effective means of delivering messages based on a user's profile, habits, and location. Digital ads will be placed on high-profile media outlets, trade publications, and relevant websites during a specified time period. KP recommends a budget of \$80-100 a day, and adjusting the budget based on the posts' analytics and desired result. The following targeting strategy will be used:

- Geo-targeting: Serving ads to those residing in the Peninsula and/or at specific event locations (in-district hearings, Marina events, etc.)
 - Interest-based targeting: Deliver ads to those interested in policy, water supply, local news
 - Keyword-targeting: Serve ads to audiences who use specific keywords to discover articles, studies, and news related to water supply, Cal Am, SGMA, the City of Marina, water supply, water solutions.
 - Direct ad placements: Place ads on local and regional news websites such Monterey Herald, SF Chronicle, Monterey County Weekly, KAZU.org
- *Budgets for each campaign can be modified.

SOCIAL MEDIA CONTENT



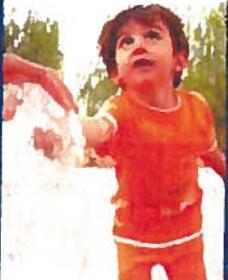
Cal Am's Desalination Project directly violates California's Sustainable Groundwater Management Act #SGMA

01

Theme: Threatens groundwater

Cal Am desal project is inconsistent with the Sustainable Groundwater Management Act - it jeopardizes one of 21 critically over drafted groundwater basins out of more than 400 groundwater basins in California

The families of the City of Marina **harmed** for the benefit of Cal Am, a for-profit water corporation.



02

Theme: Threatens groundwater

Stanford University experts found that Cal Am's desalination project threatens Marina's groundwater supply.

“ The Cal Am desalination Project disregards our region's long-held environmental principles and policies that protect California coastlines and water basins from degradation.”



- Marina Mayor Bruce Delgado

03

Theme: Environmental harm

Cal Am desal project = Threat to Coastal Ecosystem: The project area is home to 27 federally designated threatened and endangered species; the proposed project will produce 14 million gallons of high-salinity brine discharge per day, which will then be deposited in seafloor of the marine sanctuary.

Cal Am's Project **jeopardizes** the City of Marina's drinking water.



04

Theme: Harms Marina residents

Cal Am desal project will deplete resources and degrade groundwater quality in the Salinas Valley Groundwater Basin, where the City of Marina gets 100% of its drinking water.

Cal Am's desalination plant would threaten the sensitive coastal habitat and beaches.



05

Theme: Environmental harm

Cal Am's desal project will destroy the Marina coastline, betray the Coastal Act, trample on our principles of environmental and economic justice

SOCIAL MEDIA CONTENT

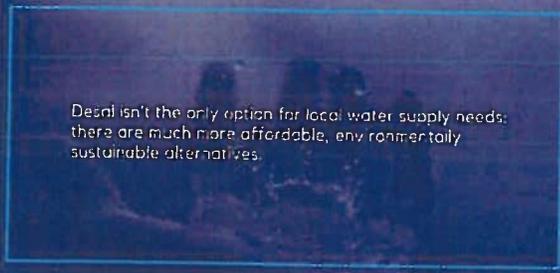


What happens if Cal-Am's desalination project receives approval in the City of Marina?

06

Theme: Environmental Harm

Cal Am's desal plant would harm a critically overdrafted groundwater basin and lead to more contamination and seawater intrusion.



Desal isn't the only option for local water supply needs; there are much more affordable, environmentally sustainable alternatives.

07

Theme: Alternative solutions available

Let's work together on a water supply solution that will meet local demands while respecting the community and our region's environmental values

Cal Am's Desalination Project 

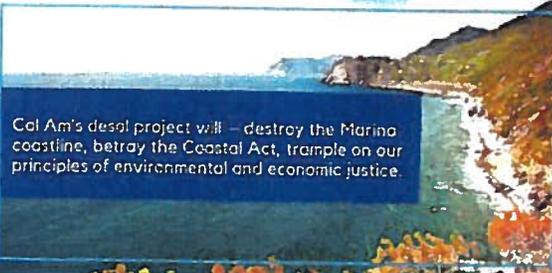
How does it impact you?

1. Peninsula residents **pay more** for water.
2. There will be more **traffic congestion**.
3. The project **harms the environment**.

08

Theme: Harms Marina residents

CalAm's desalination plant is unnecessary to meet the present and future needs of the region. It will undermine water conservation efforts and promote out-of-control growth.



Cal Am's desal project will – destroy the Marina coastline, betray the Coastal Act, trample on our principles of environmental and economic justice.

09

Theme: Environmental harm

Superior Alternatives to Cal Am's Desalination Plant Would Avoid Water Rate Increases, Environmental Degradation, and Overbuilding in the Region.

Cal Am customers already pay sky high rates, but will pay even more if the desal project is built.



10

Theme: Harms Marina residents/other solutions available

Other water supply solutions exist that are much more affordable, safer, sustainable than Cal Am's desal plant

AD MOCKUPS



Keep the City of Marina's water **SAFE.**

[Learn more.](#)

Environmental Harm

Project will produce **14 million gallons** of high-salinity brine discharge per day which will be deposited in the seafloor of the marine sanctuary.

Icons: Turtle, Jellyfish, Crab, Starfish, Fish, Seahorse

Keep the City of Marina's water **SAFE.**

Cal Am's new plant **jeopardizes** the water supply serving residents in City of Marina.

[Learn more.](#)

Cal Am's Project =

- No water for Marina residents
- Contamination of the groundwater basin
- Increased CO2 emissions

City of Marina

SOCIAL MEDIA STRATEGY

Objective

To raise awareness, educate, and reiterate the harmful implications of the Cal Am Project to influence decision of the State Lands Commission and Coastal Commission.

Social media strategy

All the posts and ads will drive users to the following landing pages where they can learn more information about the negative implications of Cal Am's desalination project. <http://futureh2o.mcwd.org/mcwd-desalination/>

A portion of the social media posts will drive users to four op-eds that were published:

- <http://capitolweekly.net/divisions-desalination-monterey-peninsula/>
- <https://www.montereyherald.com/2018/04/16/marina-mayor-bruce-delgado-when-it-comes-to-water-be-a-good-neighbor/>
- <https://www.montereyherald.com/2018/02/02/bruce-delgado-cal-ams-proposed-desal-plant-bad-idea-and-bad-for-marina/>
- <https://www.sfchronicle.com/opinion/openforum/article/A-test-of-California-s-commitment-to-12405228.php>

Facebook boosted posts and ads

The attached social posts should be shared on Facebook using a boosting and paid ad strategy. "Boosting" guarantees that the ads are served to the City's target audience. The boosted posts are shared on a user's social media feed and on the City of Marina's Facebook page. KP recommends a modest budget of \$10 a day for boosting organic posts, and adjusting the budget based on the posts' analytics and desired result.

The paid Facebook ad strategy has more advanced targeting capabilities to further enhance your reach and secure engagement. Marina's ads will not be published on the Facebook page, but will be served to your customized audience on their own Facebook News Feed side ads, Messenger ads, Instagram stories, instant articles, and Audience Network. The Facebook ad targeting strategies are more effective when your account has a large number of followers. Therefore, KP recommends launching two ad sets, one with the objective of increasing your City's followers, and the other to drive users to engage. The proposed budget for the Facebook ad campaign is \$500 per month. The following targeting strategy will be used:

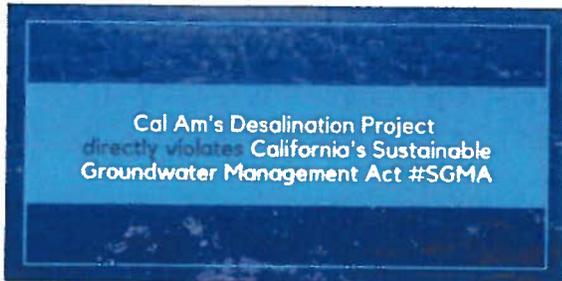
- Geo-targeting: Serve ads to those residing in the Peninsula
- Look-alike audience: Serve ads to those who have profiles similar to those that are already following the City of Marina
- Custom audience: Create a custom audience based on people who have visited the City of Marina website and people who have engaged with the Marina Facebook page.

Digital ad strategy

Google display ads are a highly effective means of delivering messages based on a user's profile, habits, and location. Digital ads will be placed on high-profile media outlets, trade publications, and relevant websites during a specified time period. KP recommends a budget of \$80-100 a day, and adjusting the budget based on the posts' analytics and desired result. The following targeting strategy will be used:

- Geo-targeting: Serving ads to those residing in the Peninsula and/or at specific event locations (in-district hearings, Marina events, etc.)
 - Interest-based targeting: Deliver ads to those interested in policy, water supply, local news
 - Keyword-targeting: Serve ads to audiences who use specific keywords to discover articles, studies, and news related to water supply, Cal Am, SGMA, the City of Marina, water supply, water solutions.
 - Direct ad placements: Place ads on local and regional news websites such Monterey Herald, SF Chronicle, Monterey County Weekly, KAZU.org
- *Budgets for each campaign can be modified.

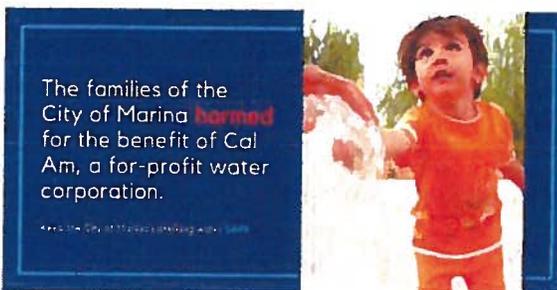
SOCIAL MEDIA CONTENT



01

Theme: Threatens groundwater

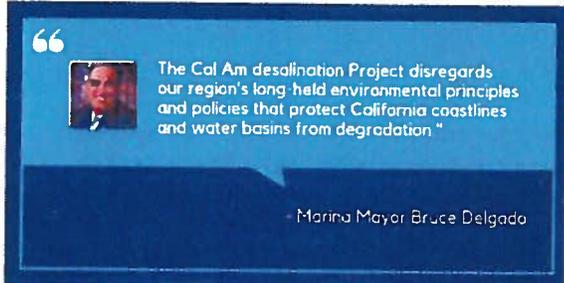
Cal Am desal project is inconsistent with the Sustainable Groundwater Management Act - it jeopardizes one of 21 critically over drafted groundwater basins out of more than 400 groundwater basins in California



02

Theme: Threatens groundwater

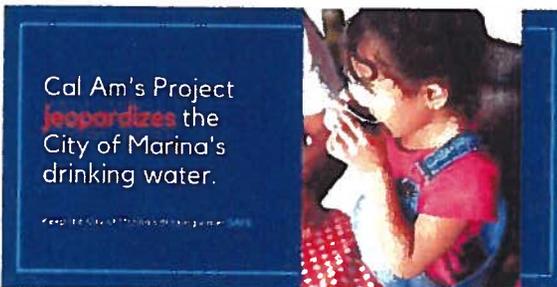
Stanford University experts found that Cal Am's desalination project threatens Marina's groundwater supply.



03

Theme: Environmental harm

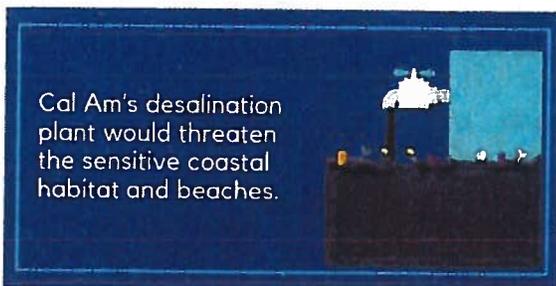
Cal Am desal project = Threat to Coastal Ecosystem: The project area is home to 27 federally designated threatened and endangered species; the proposed project will produce 14 million gallons of high-salinity brine discharge per day, which will then be deposited in seafloor of the marine sanctuary.



04

Theme: Harms Marina residents

Cal Am desal project will deplete resources and degrade groundwater quality in the Salinas Valley Groundwater Basin, where the City of Marina gets 100% of its drinking water.



05

Theme: Environmental harm

Cal Am's desal project will destroy the Marina coastline, betray the Coastal Act, trample on our principles of environmental and economic justice

SOCIAL MEDIA CONTENT

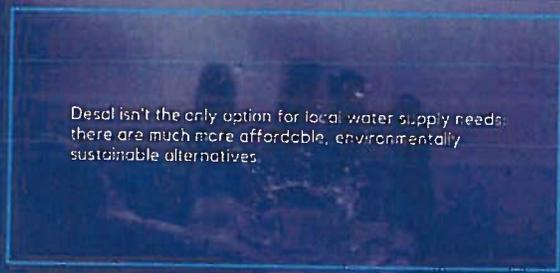


What happens if Cal Am's desalination project receives approval in the City of Marina?

06

Theme: Environmental Harm

Cal Am's desal plant would harm a critically overdrafted groundwater basin and lead to more contamination and seawater intrusion.



Desal isn't the only option for local water supply needs; there are much more affordable, environmentally sustainable alternatives.

07

Theme: Alternative solutions available

Let's work together on a water supply solution that will meet local demands while respecting the community and our region's environmental values

Cal Am's Desalination Project 

How does it impact you?

1. Peninsula residents **pay more** for water.
2. There will be more **traffic congestion**.
3. The project **harms the environment**.

08

Theme: Harms Marina residents

Cal Am's desalination plant is unnecessary to meet the present and future needs of the region. It will undermine water conservation efforts and promote out-of-control growth.



Cal Am's desal project will – destroy the Marina coastline, betray the Coastal Act, trample on our principles of environmental and economic justice.

09

Theme: Environmental harm

Superior Alternatives to Cal Am's Desalination Plant Would Avoid Water Rate Increases, Environmental Degradation, and Overbuilding in the Region.

Cal Am customers already pay sky high rates, but will pay even more if the desal project is built.



10

Theme: Harms Marina residents/other solutions available

Other water supply solutions exist that are much more affordable, safer, sustainable than Cal Am's desal plant

AD MOCKUPS



Keep the City of Marina's water **SAFE.**

[Learn more.](#)

Environmental Harm

Project will produce **14 million gallons** of **high-salinity brine discharge** per day which will be deposited in the **seafloor** of the marine sanctuary.

Keep the City of Marina's water **SAFE.**

Cal Am's new plant **jeopardizes** the water supply serving residents in City of Marina.

[Learn more.](#)

Cal Am's Project =

- No water for Marina residents
- Contamination of the groundwater basin
- Increased CO2 emissions

City of Marina

Draft Resolution

City of Marina

A RESOLUTION OF CITY COUNCIL OF THE CITY OF MARINA CALLING FOR EXPANDED APPLICATION OF THE BAN ON NEW WELLS

WHEREAS, the City of Marina is committed to protecting its local groundwater resources, and;

WHEREAS, the Monterey County Board of Supervisors and the County Water Resources Agency approved an emergency ordinance to prohibit new wells in the 180-foot, 400-foot and deep aquifers in the Salinas Valley to avoid seawater intrusion, and;

WHEREAS, the moratorium exempts municipal and domestic wells, and;

WHEREAS, the City of Marina believes the moratorium should apply to the entire Salinas Valley and prohibit Cal Am's planned slant well drilling in the Salinas Valley Groundwater Basin, and;

WHEREAS, Pumping freshwater from the already "critically overdrafted" Salinas Valley Groundwater Basin is in direct conflict with the state's new Sustainable Groundwater Management Act (SGMA), and would run counter to the state's interest in protecting groundwater resources, and its efforts to promote conservation and responsible resource management, and;

WHEREAS, Under SGMA, the Marina Coast Water District has been designated as a Groundwater Sustainability Agency and is required to protect its service area against significant and unreasonable reduction of groundwater storage, avoid seawater intrusion, and represent the interests of all beneficial uses and users of the groundwater, and;

WHEREAS, A recent study by water experts at Stanford University used state-of-the-art airborne imaging technology to map out the location of salt, brackish, and fresh water in the northern Salinas Valley, and their study confirmed the presence of freshwater in the areas where Cal Am is claiming its desalination project slant wells will draw saltwater, and;

WHEREAS, The type of proposed slant well drilling has not been feasible elsewhere, and Marina should not be the testing grounds for this technology when the local groundwater supply is already in danger of depletion and contamination from salt water intrusion, and;

WHEREAS, Better regional water supply solutions exist that would protect the groundwater basin – the true water supply gap could be met with a simple expansion of the Pure Water Monterey project and other alternate measures, and;

WHEREAS, Policymakers should prioritize environmental and community concerns – and choose water supply solutions that are responsible, sustainable, environmentally friendly, and supported by the communities where they are located;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Marina does hereby:

1. Call for expansion of the proposed moratorium on new wells in order to include domestic and municipal wells in the Salinas Valley Groundwater Basin, and;
2. Call for the County to consider Cal Am's slant wells as a violation of their commitment to protect groundwater, and;
3. Oppose siting a desalination project in an area that would impact our groundwater basin by reducing groundwater levels or causing further seawater intrusion, and;
4. Call for Cal Am to pursue alternate regional water supply solutions including expansion of the Pure Water Monterey project, and;
5. Call upon the Marina Coast Water District to work with regional partners to pursue long term water supply solutions that protect the Marina's groundwater supplies.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the xx, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

Press Release

Contact: Alison MacLeod (916)225-6317

City of Marina Denounces Decision by CPUC to Approve Cal Am Desalination Project as Inconsistent with Community and Environmental Values

The City of Marina is extremely disappointed in the decision announced today by the California Public Utilities Commission (CPUC) that approves a Certificate of Public Convenience and Necessity (CPCN) for Cal Am's Monterey Peninsula Water Supply Project (Project). This decision shows complete disregard for the desalination Project's serious impacts to Marina's community values, groundwater resources and sensitive coastal environment and it fails to provide a legally adequate environmental analysis to be used by other agencies, like Marina, that will consider Project permits.

The PUC incorrectly concludes that the desalination plant is the only realistic option to meet local water supply needs, when in fact there are much more affordable, environmentally sustainable alternatives available. The City of Marina remains willing to work with neighboring cities on a regional solution that will solve the water supply needs while respecting the community and environmental values of the residents of Marina.

"This desalination Project threatens to cause severe environmental harm to groundwater resources in Marina and will have a disproportionate impact on our city's disadvantaged communities, who will be required to bear negative impacts without receiving any of the Project water," said Bruce Delgado, Mayor of the City of Marina. "Despite recent rhetoric about a concern for disadvantaged communities, the CPUC authorized the siting of destructive industrial plant in a disadvantaged coastal community. Only one Commissioner mentioned Marina while the other Commissioners focused on the benefit to customers in Cal Am's Monterey District, which does not include Marina, from increased water supply. The Commission ignored the adverse impacts of the Project itself on Marina."

"The record simply does not support the CPUC's claims that the Project impacts we fear will be absent or minimal. Too often we have seen CPUC-approved projects where the costs are vastly underestimated and the impacts are far greater than expected. The CPUC cannot afford to make the same mistakes here," said Delgado.

Despite the CPUC's decision, the desalination plant does not yet have the green light to proceed. Cal Am's Project requires a series of permits and approvals from additional regulatory bodies. The City of Marina, Coastal Commission, Regional Water Quality Control Board, State Lands Commission, and other entities will be called upon to carefully review the record and assess the Project's impacts under the agency's special jurisdiction, including environmental harm to the coastline, depletion and degradation of the groundwater basin, and infringement upon the local community's ability to determine land use.

The CPUC decision stated that the Project at a size of 6.4 million gallons per day was the only feasible project that could meet local water demand. However, four experts who testified at the October-November 2017 evidentiary hearings calculated that Cal Am's realistic future water demand is 10,500 acre-feet per year (afy), not the bloated 14,500 afy amount adopted by the decision. Moreover, there are other sources of water, including expansion of the Pure Water Monterey project and water sales from Marina Coast Water District that could meet the demand in a much more responsible, affordable,

and sustainable manner. The Project's Final Environmental Impact Report never even addressed these alternatives.

"It is unbelievable that the CPUC dismissed such better water supply alternatives given the dramatic and sustained drop in Cal Am water system demand," said Delgado. "The CPUC has foreclosed any opportunity for reasonable alternatives to be fully vetted. The offers of many parties and agencies to work together to develop a more acceptable solution that would benefit the entire region have been ignored."

The CPUC decision points to an interim deadline in Cal Am's Carmel River Cease and Desist Order issued by the State Water Board to stop its illegal diversions from the Carmel River as the reason for cutting off additional evaluation of alternatives and issuing a decision at this time. However, the record shows that this milestone will have no real impact on Cal Am's water services.

"Trading one bad water supply problem for another in Marina with even more far-reaching environmental and community impact issues is not a policy the CPUC should embrace. The decision to build a massive industrial desalination project in a disadvantaged community should not be driven by a desire to move quickly to avoid penalties for Cal Am – that is not the obligation of the CPUC. Instead, the CPUC has a legal obligation to conduct a full examination of not just CPUC project benefits, but also its negative impacts and possible alternatives," said Delgado.

The City of Marina has identified a series of major Project risks and feasibility issues including:

- depletion and degradation of a critically overdrafted groundwater basin that is protected by the state's Sustainable Groundwater Management Act;
- the lack of any current water rights or any reasonable future path to obtain such rights in this critically overdrafted basin;
- betrayal of local water conservation efforts as the Project would pump massive amounts of water that far exceed realistic demands in Cal Am's service territory;
- the Final Environmental Impact Report/ Environmental Impact Statement displays factual, scientific and legal inadequacies;
- major expected impacts to Marina's unique and special coastal ecosystem from the acres of slant wells, pipelines and other industrial facilities, which are expected to have permanent impacts on the coastal sand dunes and the protected western snowy plover and other species that live in this habitat;
- and total disregard for Marina's community values and for its successful effort, in partnership with the Coastal Commission and State Lands Commission, to end the harmful Cemex sand mining operation on the very same Project site.

"Our water resources are precious and must be protected," said Delgado. "The Cal Am desalination Project disregards our region's long-held environmental principles and policies that protect California coastlines and water basins from degradation. Marina has already been forced to accommodate major industrial facilities including the regional landfill, sewage treatment plant, and beach sand mine. Cal Am's Project is yet the latest example of our working-class city being targeted to bear the burden of these facilities for the benefit of neighboring communities."

#

EXHIBIT

S

From: Alison MacLeod <amacleod@ka-pow.com>
To: Bruce Delgado
CC: Keith Van Der Maaten; Layne Long; Tom van der List
Sent: 12/21/2018 10:57:00 AM
Subject: Re: LYne and Anita can copies of made? Re: talking points for today

How did the meetings go yesterday?

From: Bruce Delgado <bdelgado62@gmail.com>
Sent: Thursday, December 20, 2018 8:10 AM
To: Alison MacLeod
Cc: Keith Van Der Maaten; Layne Long; Tom van der List
Subject: LYne and Anita can copies of made? Re: talking points for today

On Wed, Dec 19, 2018, 14:33 Alison MacLeod <amacleod@ka-pow.com> wrote:
Also – there are federal permitting agencies including U.S. Army Corps of Engineers, USFWS and NOAA – you can ask that Harris/Feinstein engage with those agencies to ask questions about the process, and request that those agencies do not issue permits based on the current EIS because the PUC clearly disregarded key evidence/information.

From: Alison MacLeod
Sent: Wednesday, December 19, 2018 2:26 PM
To: 'Keith Van Der Maaten' <KVanDerMaaten@mcwd.org>; Layne Long <llong@cityofmarina.org>; Bruce Delgado <bdelgado62@gmail.com>
Cc: Tom van der List <tvanderlist@ka-pow.com>
Subject: RE: talking points for today

Yes- I recommend you deliver mostly the same messages. However, you'll need to start with the basic overview of Cal Am's proposal since I doubt the staffers you'll meet tomorrow have been following the issue -so start with what the actual proposal is and its main flaws.

I've attached talking points here.

I sent their offices background fact sheets, but it would be good for you to bring copies as leave behinds. I've attached some handouts here.

From: Keith Van Der Maaten <KVanDerMaaten@mcwd.org>
Sent: Wednesday, December 19, 2018 12:28 PM
To: Alison MacLeod <amacleod@ka-pow.com>; Layne Long <llong@cityofmarina.org>; Bruce Delgado <bdelgado62@gmail.com>
Cc: Tom van der List <TvanderList@ka-pow.com>
Subject: RE: talking points for today

Do we see these same talking points used for Senator Monning being used in our meeting tomorrow w/ Feinstien and Harris' staff, or is there another angle/ask we want to pursue?

Thanks,
Keith

From: Alison MacLeod <amacleod@ka-pow.com>

Sent: Friday, December 14, 2018 8:49 AM

To: Keith Van Der Maaten <KVanDerMaaten@mcwd.org>; Layne Long <llong@cityofmarina.org>;
Bruce Delgado <bdelgado62@gmail.com>

Cc: Tom van der List <TvanderList@ka-pow.com>

Subject: talking points for today

Per our discussion last night, attached please find suggested talking points for your meeting today with Senator Monning. Good luck and let me know how it goes!

Best,
Alison

EXHIBIT

T

METADATA REPORT ON CITIZENS FOR JUST WATER FORM OPPOSITION LETTERS

ITEMID	CUSTODIAN	ORGANIZATION	DOCAUTHOR	EDOC_AUTHOR	FILENAME	MD5HASH
2144156	JustWater	Microsoft Office Word	Kathy Biala	Kathy Biala	ccc_sample_letter_for_website.docx	DF511AF70755F15918265252C1891543
2144158	JustWater	Microsoft Office Word	Kathy Biala	Kathy Biala	coastal_commissioners_letter_03_16_18_c4jw.doc	AF6C1F15EBA58EC63BF2FFDE811E61B4
2144160	JustWater	Microsoft Office Word	Tom van der List	Tom van der List	comment_card_feir.doc	4D7FD8092EFE6570B6D3D53912BC018D
2144161	JustWater	Microsoft Office Word	Kathy Biala	Kathy Biala	dear_cpuc.doc	306F8FB3AC2A4C7C8DE0047A5979E459
2144162	JustWater	Microsoft Office Word	Kathy Biala	Kathy Biala	dear_mark_stone.doc	485025B5A275CEE010CAB3E5C36A6A12
2144163	JustWater	Microsoft Office Word	Kathy Biala	Kathy Biala	dear_monterey_bay_national_marine_sanctuary_official.doc	84CB134676DC1864C2E22CDBF5F9E6E5
2144164	JustWater	Microsoft Office Word	Kathy Biala	Kathy Biala	dear_senator_monning.doc	29F366B81001460314887B33B2FC64E3
2144165	JustWater	Microsoft Office Word	Kathy Biala	Kathy Biala	dear_state_water_board_official.doc	ED47DC24ACACEC215DA366DB53E583D4
2144166	JustWater	Microsoft Office Word	Tom van der List	Tom van der List	jw_marina_feir_letter_.doc	2F19E04D5F8E729F19FC9FACA7E316C0
2144167	JustWater	Microsoft Office Word	Kathy Biala	Kathy Biala	jw_region_letter_feir_.doc	441BDEFD32D5D5FA082C81E3152D109B



Info

New

Recent

Manage
Open

Local
Open

Save

Manage
Save

Local Save As

Print

Close

Account

Options

Info

comment_card_feir

<https://www.c4justwater.org/uploads/9/9/6/7/99678170>



Protected View

This file came from the Internet, so we opened it in a way that helps to keep your computer safe from viruses (just in case).

Don't worry—you can continue reading in this view if you need to edit, and you trust this file, then [enable editing](#).

[Protected View Settings](#)

[Learn more about Protected View](#)

Properties

Size 50,008

Pages

Words

Total Editing Time 1 Minute

Title None

Tags None

Comments None

Related Dates

Last Modified 4/12/2018 12:21 PM

Created 4/12/2018 12:21 PM

Last Printed

Related People

Author



Tom van der List

Last Modified By



Juli Hofmann

Related Documents

[Open File Location](#)

[Show All Properties](#)



Info

New

Recent

Manage
Open

Local
Open

Save

Manage
Save

Local Save As

Print

Close

Account

Options

Info

jw_marina_feir_letter_

<https://www.c4jshwater.org/uploads/3/9/6/7/99078170>



Protected View

This file came from the internet, so we opened it in a way that helps to keep your computer safe from viruses (just in case).

Don't worry—you can continue reading in this view. If you need to edit, and you trust this file, then enable editing.

[Protected View Settings](#)

[Learn more about Protected View](#)

Properties

Size	29.0KB
Pages	
Words	
Total Editing Time	0 Minutes
Title	None
Tags	None
Comments	None

Related Dates

Last Modified	4/12/2018 12:17 PM
Created	4/12/2018 12:17 PM
Last Printed	4/9/2018 10:03 PM

Related People

Author	Tom van der List
Last Modified By	Juli Hofmann

Related Documents

[Open File Location](#)

[Show All Properties](#)

METADATA REPORT ON CITIZENS FOR JUST WATER FORM OPPOSITION LETTERS

ITEMID	CUSTODIAN	ORGANIZATION	DOCAUTHOR	EDOC_AUTHOR	FILENAME	MD5HASH
2144156	JustWater	Microsoft Office Word	Kathy Biala	Kathy Biala	ccc_sample_letter_for_website.docx	DF511AF70755F15918265252C1891543
2144158	JustWater	Microsoft Office Word	Kathy Biala	Kathy Biala	coastal_commissioners_letter_03_16_18_c4jw.doc	AF6C1F15EBA58EC63BF2FFDE811E61B4
2144160	JustWater	Microsoft Office Word	Tom van der List	Tom van der List	comment_card_feir.doc	4D7FD8092EFE6570B6D3D53912BC018D
2144161	JustWater	Microsoft Office Word	Kathy Biala	Kathy Biala	dear_cpuc.doc	306F8FB3AC2A4C7C8DE0047A5979E459
2144162	JustWater	Microsoft Office Word	Kathy Biala	Kathy Biala	dear_mark_stone.doc	485025B5A275CEE010CAB3E5C36A6A12
2144163	JustWater	Microsoft Office Word	Kathy Biala	Kathy Biala	dear_monterey_bay_national_marine_sanctuary_official.doc	84CB134676DC1864C2E22CDBF5F9E6E5
2144164	JustWater	Microsoft Office Word	Kathy Biala	Kathy Biala	dear_senator_monning.doc	29F366B81001460314887B33B2FC64E3
2144165	JustWater	Microsoft Office Word	Kathy Biala	Kathy Biala	dear_state_water_board_official.doc	ED47DC24ACACEC215DA366DB53E583D4
2144166	JustWater	Microsoft Office Word	Tom van der List	Tom van der List	jw_marina_feir_letter_.doc	2F19E04D5F8E729F19FC9FACA7E316C0
2144167	JustWater	Microsoft Office Word	Kathy Biala	Kathy Biala	jw_region_letter_feir_.doc	441BDEFD32D5D5FA082C81E3152D109B

EXHIBIT

U

From: Alison MacLeod [mailto:amacleod@ka-pow.com]
Sent: Thursday, April 05, 2018 10:39 AM
To: 'Layne Long (llong@cityofmarina.org)'; Spaulding, Skip (20) x4918
Cc: Michael Burns; Tom van der List; 'bdelgado62@gmail.com'
Subject: RE: Marina Strategy Call Follow up

Attached please find the sample comment card and sample Marina resident comment letter. With your ok, we'd like to send these to Kathy Biala today for her to have in advance of the community meeting next week.

From: Alison MacLeod
Sent: Wednesday, April 4, 2018 2:38 PM
To: 'Layne Long (llong@cityofmarina.org)' <llong@cityofmarina.org>; 'Skip Spaulding' <SSpaulding@FBM.com>
Cc: Michael Burns <mburns@ka-pow.com>; Tom van der List <tvanderlist@ka-pow.com>
Subject: FW: Marina Strategy Call Follow up

Re-sending the postcard, website language, press release. Per below we suggest paid social media ads to heighten visibility and spur comment submittals - You could do this through Marina's Facebook page <https://www.facebook.com/MarinaMRYBay/>, or do google display ads, or contribute funds to the Just Water effort to help boost their posts <https://www.facebook.com/justice4water/>

We will work on a sample comment letter for Kathy's audience and reach out to her, and also an op-ed for the city. With the green light on the press release we can distribute that to media and stakeholders.

Let us know if you want to move forward with the public signage/banner and the specs and we can send a design through.

EXHIBIT

V

From: Alison MacLeod <amacleod@ka-pow.com>
To: Bruce Delgado; Katherine Biala
CC: Layne Long; Phil Wellman; George Riley; MWChrislock; Juli Hofmann; Keith Van Der Maaten; Tom van der List
Sent: 11/29/2018 2:10:39 PM
Subject: RE: next meeting to brainstorm PR efforts regarding desal threat

If you would like KP to join, Tom and I can plan to attend on Dec. 13

From: Bruce Delgado <bdelgado62@gmail.com>
Sent: Thursday, November 29, 2018 7:05 AM
To: Katherine Biala <kybiala@icloud.com>
Cc: Layne Long <llong@cityofmarina.org>; Phil Wellman <phil@wellmanad.com>; George Riley <georgetriley@gmail.com>; MWChrislock <mwchrislock@redshift.com>; Alison MacLeod <amacleod@ka-pow.com>; Juli Hofmann <jhofmann@redshift.com>; Keith Van Der Maaten <KVanDerMaaten@mcwd.org>
Subject: next meeting to brainstorm PR efforts regarding desal threat

I think the synergy between C4JW, City, and KP(public relations firm) could be much more effective and maybe if we met in person at least once it may help. I also think we should invite Phil Wellman and Melodie Chrislock to infuse peninsula efforts of Public Water Now with our own where appropriate.

I am cc-ing Phil into this email thread for him and Melodie (who was already in this thread) to consider joining us Dec 13 or 14.

thank you,
Bruce

On Thu, Nov 29, 2018, 06:45 Katherine Biala <kybiala@icloud.com> wrote:
Thanks, Bruce, for so quickly proposing two dates for our joint meeting. Let's see how others schedules are.

I wonder if we can invite KP to this meeting? When we met with them in Sacramento, following the Betty Yee meeting, they said they would actually come down to be present at a meeting in which we could coordinate strategic efforts and PR support. That is up to you, however, since they are a contracted service provider but I think they could do much to help all of us, especially citizen groups.

Please consider.

Cordially,
Kathy

Begin forwarded message:

From: Bruce Delgado <bdelgado62@gmail.com>
Subject: Re: Joint meeting
Date: November 28, 2018 at 10:21:15 PM PST
To: Katherine Biala <kybiala@icloud.com>
Cc: Layne Long <llong@cityofmarina.org>, Keith Van Der Maaten <kvandermaaten@mcwd.org>, George Riley <georgetriley@gmail.com>, MWChrislock <mwchrislock@redshift.com>, Juli Hofmann <jhofmann@redshift.com>

I can meet Thurs Dec 13, 515pm or later and Fri Dec. 14, 415pm or later.
Bruce

On Wed, Nov 28, 2018 at 9:57 PM Katherine Biala <kybiala@icloud.com> wrote:

All, after our Sacramento meeting with Betty Yee and her two top staff members today, we need to try to schedule another joint meeting for City, MCWD, Just Water and PWN (Melodie will now be their representative) as we have some important information to discuss. Since March 13 is a fast upcoming deadline for CalAm to obtain permits, we should probably reconvene as soon as possible in December.

Please forward possible available dates/times. Let's start with Keith, Bruce and Layne, please.

Thanks all,
Kathy

--

Mayor Bruce Delgado
cell: (831) 277-7690
email: bdelgado62@gmail.com

From: Katherine Biala <kybiala@icloud.com>
To: Layne Long; Bruce Delgado; Keith Van Der Maaten; George Riley; Melodie Chrislock; Juli Hofmann
CC: Allison MacLeod
Sent: 11/29/2018 3:28:13 PM
Subject: Mark your calendars: Joint meeting

Ok, the date is:

Thursday, Dec. 13 at 5:15 pm - 6:30 pm at City Hall conference room.

The City PR firm will be joining us to see how they might assist in any of the outreach efforts.

Thanks everyone!

Cordially,
Kathy

Kathy Biala
Cell: 831-242-0023
Other: 831-920-2762
Fax: 831-241-6370
Email: kybiala@icloud.com

EXHIBIT

W



Bruce Carlos Delgado is with Michael Owen and 50 others.



February 5 · 🌐

Bad idea: Cal Am Water Co. proposal to take water from underneath Marina

MONTEREYHERALD.COM

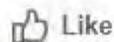


www.montereyherald.com

By Bruce Delgado California American Water Company, a subsidiary of the national, for-profit water provider, American Water, is proposing a massive new desalination plant in the city of Marina. This project poses a substantial threat to our loca

👍 19

21 Comments 1 Share



Like



Comment



Share



Karin Locke Thank you Bruce Delgado for this excellent letter. MARINA is certainly in the direct line of action. I do not think this desalination plant would be put in Pacific Grove at the new water plant there, or that the county would allow it off of the Carmel ... See More

Like · Reply · 23w

👍 4



Tina Zmak Thank you, Bruce! 👍 3

Like · Reply · 22w



Frank Emerson The "Bad Idea" is stopping a drought proof water supply right in the middle of what appears to be another critically dry year for Monterey. The slant wells will not affect Marina's wells. This is just wrong on the facts.

Like · Reply · 21w



Bruce Carlos Delgado replied · 17 Replies



Robina Bhatti Yes a tragedy in the making if this goes forward.

Like · Reply · 21w



Write a comment...





Bruce Carlos Delgado is with Marilou Heres-Brown and 94 others. ...

February 3 · 🌐

Bad idea: Cal Am Water Co. proposal to take water from underneath City of Marina.

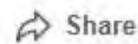
MONTEREYHERALD.COM

www.montereyherald.com

By Bruce Delgado California American Water Company, a subsidiary of the national, for-profit water provider, American Water, is proposing a massive new desalination plant in the city of Marina. This project poses a substantial threat to our loca

👍👎❤️ 33

30 Comments 3 Shares



View 9 more comments



Robert W. Coble Cal Am bears complete responsibility for the failure of the dam. It did not maintain it and provide dredging and removal of silt when it could have.

Like · Reply · 23w

👉 Chuck Fuller replied · 4 Replies



Patty Von Ohlen Cramer They will do it, too!! I heard there are no under ground water rights!! My sister's friend had a ranch by an Indian Casino and they drilled down and took all her well water. She had to sell her farm!!

Like · Reply · 23w

😞😞😞 3



Steve Zmak Well said Mr. Mayor! 👍 1

Like · Reply · 23w



Amy Thistle Tackett Loved the point about social injustice. I think Marina folks would benefit from learning about the the water rights of said water. Who has the current rights to the water and what happens if we allow our water rights (if we do have current rights) to be taken away? The social and political history of CA is rich with very interesting water rights stories... #owensvalley

Like · Reply · 23w · Edited

👍 3



Bruce Carlos Delgado is with Roberto Antonio Maceira and 89 others.

December 8, 2017 · 🌐

In this week's op-ed piece in SF Chronicle I try to summarize the main concerns that add up to an environmental injustice.

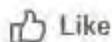
<http://www.sfchronicle.com/.../A-test-of-California-s-commitm...>

The proposal is to install desalination facilities in the City of Marina that wouldn't provide any water for our City but would subject us to the brunt of this projects adverse impacts. This would be an unwelcome scenario for any town under the gun of such a proposal.

Thanks to Steve Zmak for the beautiful photos of Marina and to those that provided input during the draft process

👍 31

3 Comments 3 Shares



Like



Comment



Share



Scott Douglas Laxier I remember a 1991 SJSU ES Field Studies class where we visited the Monterey Bay and looked at the threats of saltwater intrusion. Nice effort, Bruce.

Like · Reply · 31w

👍 3



Bart Kowalski Good work Bruce. Let us know when we should call our elected officials.

Like · Reply · 31w

👍 1



Wendy Root Askew I met a woman this weekend in San Francisco. When I mentioned I was from Marina she immediately mentioned your Op-Ed and asked if I knew the guy who wrote it. She was so impressed with the article and concerned about the water issues we are dealing with. I promised her that I'd let you know!

Like · Reply · 31w

👍 4



Bruce Carlos Delgado

December 7, 2017 · 🌐



Here is original text of op-ed b4 editing.

California's new groundwater sustainability law tested.

By Bruce Delgado...

[Continue Reading](#)

👍 17

3 Comments 2 Shares



Like



Comment



Share

[View 1 more comment](#)



Jon Detka Well said Bruce Carlos Delgado!

Like · Reply · 31w



Dave Feliz Thank you Bruce.

Like · Reply · 31w



Bruce Carlos Delgado is with Steve Eklund and 89 others.



December 7, 2017 · 🌐

In this week's op-ed piece in SF Chronicle I try to summarize the main concerns that add up to an environmental injustice.

<http://www.sfchronicle.com/.../A-test-of-California-s-commitm...>

The proposal is to install desalination facilities in the City of Marina that wouldn't provide any water for our City but would subject us to the brunt of this projects adverse impacts. This would be an unwelcome scenario for any town under the gun of such a proposal.... See More



SFCHRONICLE.COM

"A test of California's commitment to groundwater sustainability"

"Throughout California, access to water and how it is distributed is a perennial issue. Water conflicts are often nuanced and take on a life of their own. In some cases, a local conflict can have statewide implications

👍👎 28

45 Comments 16 Shares

👍 Like

💬 Comment

➦ Share



Bruce Carlos Delgado is with Joycelyn Whindleton and 97 others. ...

January 18, 2017 · 🌐

Interested in where our water comes from.

Salinas Valley (which includes the City of Marina), is the 4th largest agricultural-producing valley in the world and has serious water quality/quantity problems. One author of this 1995 White Paper regarding problem/solution to safe yield of Salinas Valley groundwater suggested I read it. It is an educational document so I want to share it here. It is about a one hour read but needn't be done in one sitting. The punch line is summarized on its easy-to-read last page.

MCWRA.CO.MONTEREY.CA.US

www.mcwra.co.monterey.ca.us

 19

25 Comments 2 Shares

 Like

 Comment

 Share

EXHIBIT

X

OPINION // OPEN FORUM

A test of California's commitment to groundwater sustainability

By Bruce Delgado

Dec. 4, 2017



Aerial view of Marina, a city of 20,000 in northern Monterey County.

Photo: By Steve Zmack, Steve Zmack Photography 2008

Throughout California, access to water and how it is distributed is a perennial issue. Water conflicts are often nuanced and take on a life of their own. In some cases, a local conflict can have statewide implications — the City of Marina, a small city along the shores of Monterey Bay, finds itself in such a conflict.

In 2009, the California State Water Resources Control Board ordered the private, for-profit California American Water Company to end its illegal water diversions from the Carmel River. In looking for alternate water sources, Cal Am now has focused on a proposal to sink slant wells in the City of Marina to supply a desalination plant, which would pump large amounts of water from an aquifer within the Salinas Valley Groundwater Basin.

Cal Am's plant would draw brackish groundwater, not seawater, through slant wells. That water is located in one of the state's 21 critically over-drafted groundwater basins that have been identified as a priority for protection under the Sustainable Groundwater Management Act passed in 2014. Therein lies the conflict.

Unlimited Digital Access for 95¢

Read more articles like this by subscribing to the San Francisco Chronicle

SUBSCRIBE

Will the groundwater act have the force needed to demand protection of the aquifer from continued over-pumping, or does it allow approvals for new projects to export water out of the basin? Now we wait to see the groundwater act's true effect on water policy and planning decisions.

For more than 70 years, seawater intrusion has plagued those dependent upon the Salinas Valley Groundwater Basin for freshwater. With pumping demands continually increasing over time, seawater intrusion has been exacerbated. To protect local water sources in Marina, the Monterey Peninsula and many other areas where water demand is outstripping supply, the state stepped in with the sustainable groundwater management act. Indeed, California is one of the last states to formalize groundwater management.

The state created Local Groundwater Sustainability Agencies, which move decisions on local water use to the local level, to oversee critically over-drafted basins, such as the aquifer under the city of Marina. Each agency is required to develop a groundwater sustainability plan by 2020.

Yet Cal Am's proposal to take many million gallons per day from this aquifer is not part of the sustainability plan. To the contrary, this project would ignore the groundwater act's environmental protections, deplete scarce water resources, and allow further seawater intrusion into the aquifer.

From a state policy perspective, the proposed project would set a horrible precedent on many levels.

We understand the greater Monterey Peninsula region must get water from somewhere besides the Carmel River. But we encourage Cal Am to choose a project that won't jeopardize an already over-drafted groundwater basin, and won't cause undue harm to the City of Marina or its coastline.

Cal Am's proposal for its project to desalinate brackish water is enormous and unrealistic. Realistic demand projections prove alternate solutions are viable.

Thankfully, Californians took water conservation seriously and made significant behavior changes in recent years. Within Cal Am's service, water demand declined from 14,176 acre feet per year in 2006 to 9,285 acre feet per year in 2016. Yet, the project proposal wants us all to agree on a future Cal Am water supply of approximately 16,000 acre feet a year — 6,700 acre feet a year over current demand.

Cal Am will have at least 9,000 acre feet a year of water in future years from nondesalination sources, even after reducing its diversions from the Carmel River as mandated. True demand could be met by more responsible alternatives.

Will the state stay true to its stated policy of local control, protecting coastlines from industrial development, and better management of scarce groundwater? Cal Am's proposal is going through the project review and approval process.

This review is not just about the siting of a desalination plant. This is a significant water conflict that will test the durability of the Sustainable Groundwater Management Act — setting either a good or bad precedent that surely will inform future water decisions statewide.

Bruce Delgado is the mayor of Marina (Monterey County).

HEARST newspapers

©2019 Hearst

EXHIBIT

Y

OPINION > COLUMNISTS

Bruce Delgado: Cal Am's proposed desal plant bad idea and bad for Marina

By [MONTEREY COUNTY HERALD](#) | migration@dfmdev.com |

PUBLISHED: February 2, 2018 at 12:00 am | UPDATED: September 11, 2018 at 12:00 am

By Bruce Delgado

California American Water Company, a subsidiary of the national, for-profit water provider, American Water, is proposing a massive new desalination plant in the city of Marina. This project poses a substantial threat to our local groundwater supply and the coastal ecosystem, not just in Marina, but across much of the Monterey Peninsula. Cal Am has no legal rights to draw from the targeted water source, and the project itself is in direct conflict with the state's new Sustainable Groundwater Management Act. This is not to mention the extraordinary cost of the project, which undoubtedly would be passed along to Cal Am customers.

As it stands, this project cannot be considered a true seawater desalination plant — instead it would draw groundwater directly from sub-basins within the Salinas Valley Groundwater Basin using nine slant wells. While project proponents would like you to believe the targeted water is primarily salt or brackish water, a recent study by Stanford University proves the project would actually draw upon significant freshwater sources as well.

Using a helicopter and powerful sensors, Stanford geologists measured the proportion of fresh, salt, and brackish water in underground aquifers. As we suspected, the sub-basins where Cal Am wants to drill were not only primarily fresh water, but also actively recharging. Moreover, the study revealed that further depletion of the sub-basins will offset their delicate equilibrium and cause further salt-water intrusion – which contaminates our drinking water supply.

Complicating matters further, the targeted basin is already classified as one of only 21 critically overdrafted water basins in the state. Under California's Sustainable Groundwater Management Act, which was signed into law in 2014, local jurisdictions are required to protect their service area against significant and unreasonable reduction of groundwater storage, avoid seawater intrusion, and represent the interests of all beneficial users of the groundwater. But somehow Cal Am thinks they can ignore this state law and trample upon local authorities that are trying to comply with state requirements to protect and restore this groundwater resource.

The proposed desalination project is a lose-lose for the city of Marina. Marina residents are not served by Cal Am and, as a result, no one in the Marina community will receive water from this project. Instead, Marina's sustainability of its affordable drinking water source and its valuable beach and coastal dune ecosystem would bear the brunt of adverse impacts from the slant wells' construction and operation, their associated above-ground infrastructure, and access roads.

We fought hard to bring an end to the Cemex sand mining operation on our coast. And just when we have a chance to restore that land as a protected community asset, that very same location would be turned over to Cal Am for another harmful industrial project. The city of Marina objects to the environmental injustice of siting yet another regional industrial facility (Marina is already home to the regional landfill, sewage treatment plant, and beach sand mine) in our ethnically diverse, working-class city, only to extract water for Cal Am-served communities of Monterey, Carmel, Pebble Beach, and others – but not Marina.

Alternative solutions include Cal Am accepting potable water offerings from another local water agency that has legal rights to local water, and pursuing an expansion of the "Pure Water Monterey" recycled water project that is already under construction.

Cal Am should focus on these non-desalination options that are available, affordable and sustainable – these would satisfy their customers' water demand for the next decade and cease over-drafting from the Carmel River. This would allow time to plan and develop a truly regional desalination plant, one that is publicly owned and includes willing partners from Monterey, Santa Cruz and San Benito counties.

Other options may mean lower profits for Cal Am, but they would better protect the long term interests of this unique and valuable coastal community.

Bruce Delgado is mayor of the city of Marina.



Monterey County Herald



SPONSORED CONTENT

Carpet recycling facts that may floor you

By Salinas Valley Recycles



Dear Wally Waste-Not, I cannot fit all of the carpeting and padding that I pulled out of my house in our garbage...

EXHIBIT

Z

NEWS

Marina Mayor Bruce Delgado: When it comes to water, be a good neighbor

By [MONTEREY COUNTY HERALD](#) | migration@dfmdev.com |

PUBLISHED: April 16, 2018 at 12:00 am | UPDATED: September 11, 2018 at 12:00 am

By Bruce Delgado

Marina mayor

Imagine your neighbors deciding to pave part of your attractive front yard to make a car port for their RV — right on the spot you just restored for a new garden. You would immediately ask: why don't you use your own yard rather than mine?

Good neighbors are considerate, cooperative, and work together for the benefit of the entire neighborhood, and they consider their neighbor's point of view. Those basic tenets also apply to neighboring cities.

But that neighborly spirit is nowhere to be found when it comes to the Monterey Peninsula Water Supply Project, which includes a massive desalination plant in, around and through Marina.

As a good neighbor, Marina supports efforts to secure an adequate regional water supply and we are working closely with the Marina Coast Water District in calling for new supplies, such as expansion of the Pure Water Monterey recycled water project. And we support an appropriately-sized and environmentally-safe regional desalination project. That's our commitment to the neighboring cities and the

But, we are disappointed with the recently-issued and inadequate Environmental Impact Report/Statement (EIR/EIS) on the proposed project. The document fails to adequately evaluate the harmful impacts to Marina – it disregards our serious concerns related to groundwater depletion, saltwater intrusion, damage to the coastal ecosystem and more. We call on other cities to carefully consider how this project would significantly harm Marina, and look instead toward other more environmentally-responsible and sustainable alternatives. Any city government bears the responsibility to do what we are doing: looking out for the long-term interests of our residents and ensuring that new industrial projects are not approved if they pose serious, unnecessary risks.

Our priorities are simple, and should be shared by all of our neighboring cities:

Conservation. The EIR/EIS dismisses a critical report by Stanford researchers that illustrates how slant well drilling on Marina's coast could threaten the city's groundwater supply. The EIR/EIS also fails to account for the fact that the state has designated the basin underlying the slant well site as critically over-drafted, which triggers a special process to protect further groundwater harm and restore supplies. Given these facts, how does it make sense that the amount and integrity of a local water supply could be jeopardized further by a huge industrial water project (extracting up to 24 million gallons of water per day) to export that water elsewhere?

Fairness. The EIR/EIS also fails to properly consider the adverse impact of the project on the Marina community, in stark contrast to the region's stated commitment to environmental justice and fairness. If, as the EIR/EIS states, the impacts to Marina are not significant, then why doesn't another city that would actually receive water from the project offer to host the project wells? Rather than dictating Marina's land use decisions, why not find a location that the entire region can support?

Environmental Protection. Marina worked hard to rid our coastline of an environmentally-damaging sand mining plant. However, the new desalination slant wells would be located in that exact site, but the EIR/EIS fails to acknowledge the significance of undermining our long-term efforts to restore that land for the benefit of wildlife and residents.

Being a good neighbor is more than a slogan. It requires people and cities to put themselves in each others' shoes and ask if they would be OK with the decision if it was their front yard. Most neighbors would not plan to park their RV in a neighbor's

We are committed to finding a long term, regional water supply solution, but we know there are better options available. We urge our neighbors to take a closer look.

Care about your community? We do, too.

Sign up for our Morning report newsletter

SIGN UP



Monterey County Herald



SPONSORED CONTENT

Carpet recycling facts that may floor you

By Salinas Valley Recycles



Dear Wally Waste-Not, I cannot fit all of the carpeting and padding that I pulled out of my house in our garbage...

EXHIBIT

AA



OPINION

Marina bears heavy burden in desalination dispute



BY **BRUCE DELGADO** POSTED 10.02.2018

TWITTER

<https://twitter.com/sbare>

In parched, drought-stricken California, where water is considered liquid gold, the politics of power and wealth are playing out in real-time.

FACEBOOK

EMAIL

<mailto:>

[SUBJECT=MARINA](mailto:)

BEARS

HEAVY

BURDEN IN

DESALINATION

[DISPUTE&BODY='HTTPS://CAPITOLWEEKLY.NET/DIVISIONS-](https://capitolweekly.net/divisions-)

[DESALINATION-](https://capitolweekly.net/divisions-)

The California Public Utilities Commission's (CPUC) recent decision to allow the California American Water Company (Cal-Am) to proceed with its Monterey Peninsula Water Supply Project desalination plant is great news – that is, if you live in Carmel, Pacific Grove or Monterey.

But the City of Marina, where less affluent residents live and where the actual desalination plant will pull water from, will bear only the consequences of the project without receiving any of the water produced.

MONTEREY-
PENINSULA/')

Cal-Am is hedging that by siting its groundwater pumping project in working-class Marina, regulatory bodies will quietly issue necessary approvals, even though the

The problem is that for more than seventy years, seawater intrusion has plagued those dependent upon the Salinas Valley Groundwater Basin for freshwater

project ignores important environmental protections, tramples on the rights of Marina residents, and allows further seawater intrusion into the local water supply.

Although the CPUC rationalized their decision, other regulatory agencies, namely the California Coastal Commission and the State Lands Commission cannot – and must not – ignore these realities.

Water in the Monterey peninsula is supplied via private, for-profit Cal-Am, which in 1995 was ordered to terminate its unlawful diversions from the Carmel River. In response, Cal-Am proposed a solution that included placing an industrial pumping and desalination operation in the City of Marina. That project will pump large amounts of water from the Salinas Valley Groundwater Basin, the basin that serves as Marina's main source of water.

The problem is that for more than seventy years, seawater intrusion has plagued those dependent upon the Salinas Valley Groundwater Basin for freshwater. As the Cal-Am project draws primarily groundwater, not seawater, from the basin, an independent team of researchers from Stanford concluded that it will cause additional seawater intrusion. That will lead to depletion and degradation of a critically over-drafted groundwater basin that is – at least in theory – protected by the state's Sustainable Groundwater Management Act.

Ironically, the City of Marina doesn't even receive water through Cal-Am and will not receive a drop of water from the proposed project

The proposed desalination plant also violates the spirit of the California Coastal Act, which has protected local communities from developments that damage coastlines and run contrary to the will of local communities. Cal-Am says that it will "remediate" any damage. This is not the same thing as assuring that damage won't occur.

There are viable, environmentally sound alternatives to the Cal-Am project. Numerous experts have testified that other sources of water, including expansion of the Pure Water Monterey project and water sales from Marina Coast Water District, could meet the demand. The alternative projects could meet demand in a much more responsible, affordable, and sustainable manner.

Ironically, the City of Marina doesn't even receive water through Cal-Am and will not receive a drop of water from the proposed project. So why push forward to locate the project in Marina?

One clue about the decision to pursue the path of least resistance lies in Flint, Michigan.

It's been four years since high levels of lead, E. coli, and other toxins were discovered in Flint's water system, yet the corroded pipes have still not been replaced and the low-income residents of that city still have little access to clean drinking water. Racial and class undertones in the Flint debacle cannot be ignored, given that many low-income residents and people of color cannot afford to move out of the region.

Marina is not Flint, Michigan, and the Cal-Am water project poses environmental and supply risks, not a health threat. But just as we must question whether delays would continue in Flint if it were a higher-income community, we should also ask Cal-Am's champions whether they would feel the same way about the project risks and benefits if they actually lived in Marina.

We residents of Marina have faith that the California Coastal Commission and the State Lands Commission will honor their commitments to carefully protect our precious lands and resources for present and future generations. If those Commissioners believe our community matters just as much as our neighbors, they will clearly reject the Cal-Am project in its entirety.

—

Editor's Note: Bruce Delgado is the mayor of the city of Marina.

2 Comments

Capitol Weekly

1 Login

Recommend 1

Tweet

Share

Sort by Best



GusLevy • 6 months ago

When will the lesser cities around the Monterey Peninsula fully grasp the fact they exist in order to supply the vegetables, the retail shopping outlets, the budget housing, the physical labor...and the water...for the important affluent Liberals of Carmel, PG and Monterey.

Sheesh...where's the gratitude from these people and towns for being allowed to bathe in the glory of the important three cities!

Share



jdweekley • 7 months ago

Bruce is right...furthermore, the private, for-profit company, Cal-Am, is spending many, many thousands of dollars of rate-payer provided money to fight Measure J, which would mandate that the Monterey Peninsula Water Management District own and operate all water infrastructure. This would effectively force Cal-Am to sell to the district its assets in the area. Obviously, they don't want to do that.

While kicking out Cal-Am might be one path towards slowing or stopping the plan to outsource the environmental impact of their plan to Marina. Yet, Marina doesn't get to vote on Measure J, even though we will likely bear much of the burden should it fail.

Share

ALSO ON CAPITOL WEEKLY

Dynamex ruling sparks confusion

1 comment • 5 days ago

Freelancer Advocate — If you are concerned about Independent Contractor classification contact a company like ...

Chris Orrock and the Sierra snow

1 comment • 17 days ago

Lance Winslow — Thanks, this was a great podcast and expert interview - really appreciate the straight talk.

Wanted: Secure email in all state prisons

3 comments • 9 hours ago

Marie — That people can have electronic tablets is a very good thing. They can buy SD cards with an excellent selection of ...

Hospitals' role crucial in expanded health care

1 comment • a month ago

Ellis Sonatch — health-care system, health care repeal, health-care debate, health insurance, health care overhaul, ...

Subscribe Add Disqus to your site Add Disqus Add Disqus' Privacy Policy Privacy Policy Privacy

Tweets by @Capitol_Weekly

Capitol Weekly Retweeted



Luis Gomez
@RunGomez

 **JOB ALERT:** @CALmatters is hiring full-time and part-time editors in Sacramento.
[#journalismjobs](#)

Details: calmatters.org/jobs/ft-pt-edi...



5h



Capitol Weekly
@Capitol_Weekly

[Embed](#)

[View on Twitter](#)

FLICKR

[MORE RECENT POSTS...](http://CAPITOLWEEKLY.NET/NEWS/) ([HTTP://CAPITOLWEEKLY.NET/NEWS/](http://CAPITOLWEEKLY.NET/NEWS/))

NAVIGATION

[Donate \(https://capitolweekly.net/donations/\)](https://capitolweekly.net/donations/)

[The Roundup \(http://www.capitolbasement.com\)](http://www.capitolbasement.com)

[Features \(https://capitolweekly.net/features/\)](https://capitolweekly.net/features/)

[Events \(https://capitolweekly.net/events/\)](https://capitolweekly.net/events/)

[Open California \(https://capitolweekly.net/about-us/open-california/\)](https://capitolweekly.net/about-us/open-california/)

[RSS Feed \(/feed/\)](/feed/)

[News \(https://capitolweekly.net/news/\)](https://capitolweekly.net/news/)

[Photos \(https://capitolweekly.net/photos/\)](https://capitolweekly.net/photos/)

[Cartoons \(https://capitolweekly.net/more-cartoons/\)](https://capitolweekly.net/more-cartoons/)

[About Us \(https://capitolweekly.net/about-us/\)](https://capitolweekly.net/about-us/)

[Advertise \(https://capitolweekly.net/advertise/\)](https://capitolweekly.net/advertise/)

[Archives \(https://capitolweekly.net/archive/\)](https://capitolweekly.net/archive/)

EXHIBIT

BB

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA

ADMINISTRATIVE LAW JUDGES GARY WEATHERFORD,
DARCIE HOUCK and ROBERT HAGA, co-presiding

Application of California-American
Water Company (U210W) for Approval
of the Monterey Peninsula Water
Supply Project and Authorization to
Recover All Present and Future Costs
in Rates.

) EVIDENTIARY
) HEARING
)
)
) Application
) 12-04-019
)
)
)

REPORTER'S TRANSCRIPT
San Francisco, California
October 26, 2017
Pages 3631 - 3862
EH - Volume 22

Reported by: Ana M. Gonzalez, CSR No. 11320
Thomas Brenneman, CSR No. 9554
Doris Huaman, CSR No. 10538

I N D E X

<u>WITNESSES:</u>	<u>PAGE</u>
ERIC SABOLSICE	
Cross-Examination By Ms. Muzzin	3639
Cross-Examination By Ms. Berkley	3673
Redirect Examination By Ms.	3695
Dolqueist	
Recross-Examination By Mr.	3701
Minton	
Recross-Examination By Ms.	3705
Muzzin	
Cross-Examination By Mr. Riley	3706
CHRISTOPHER COOK	
Direct Examination By Ms. Leeper	3710
Cross-Examination By Mr. Ross	3711
CHRISTOPHER COOK	
Cross-Examination (Resumed) By Mr. Ross	3732
BILL KAMPE	
Direct Examination By Mr.	3741
McGlothlin	
Cross-Examination By Ms. Myers	3742
Cross-Examination By Mr. Minton	3761
Cross-Examination By Mr.	3768
Schexnayder:	
Cross-Examination By Ms. Berkley	3773
Cross-Examination By Ms. Muzzin	3782
Cross-Examination By Mr. Riley	3790
Redirect Examination By Mr.	3793
McGlothlin	
Recross-Examination By Ms. Myers	3797
Recross-Examination By Mr.	3798
Minton	
Recross-Examination By Ms.	3799
Muzzin	
CHRISTOPHER COOK	
Cross-Examination By Mr. Minton	3802
Cross-Examination By Ms. Young	3807
Cross-Examination By Ms. Muzzin	3817
Cross-Examination By Mr. Riley	3822
Recross-Examination By Ms.	3836
Muzzin:	
Redirect Examination By Ms.	3837
Leeper	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

<u>Exhibits:</u>	<u>Iden.</u>	<u>Evid.</u>
CJW-04	3635	
DRA-19	3635	
DRA-20	3635	
DRA-21	3635	
MCD-43	3637	
MCD-44	3637	
RWA-27	3731	
RWA-28	3732	
SF-13-A	3732	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SAN FRANCISCO, CALIFORNIA
OCTOBER 26, 2017 - 9:40 a.m.

* * * * *

ERIC SABOLSICE

resumed the stand and testified further as follows:

ADMINISTRATIVE LAW JUDGE HAGA: The Commission will come to order.

This is the second day of hearings in the evidentiary hearings for Application 12-04-019. And as a preliminary matter we have a few exhibits that were distributed this morning.

ALJ HOUCK: We have CJW-4 was identified. And is there another copy of that exhibit?

MS. BERKLEY: I have just one left. There were three copies.

ALJ HOUCK: We needed four.

MS. BERKLEY: Okay. Gave one to the court reporter. And actually, Cal-Am had each of the three versions. Do you mind if I do the -- sorry.

ALJ HOUCK: So CJW-4 has been marked and identified. And it's an excerpt from the California groundwater sustainability.

MS. BERKLEY: It's DWR.

1 supply will actually provide significant
2 benefits and improve the quality of life for
3 citizens in the area, in general.

4 Q I see. Right. That is the general
5 area though. You are not referring
6 specifically to the citizens of Marina.

7 MS. DOLQUEIST: Objection, that
8 mischaracterized his testimony.

9 MS. BERKLEY: He just said it.

10 ALJ HOUCK: Excuse me.

11 MS. BERKLEY: Sorry, sorry.

12 ALJ HOUCK: One at a time.

13 I'm going to sustain the objection.

14 MS. BERKLEY: Okay.

15 Q Can you tell us how selling our
16 water for profit to another community is a
17 benefit to the Marina community?

18 MS. DOLQUEIST: Objection,
19 argumentative.

20 MS. BERKLEY: Sorry?

21 MS. DOLQUEIST: Objection,
22 argumentative question.

23 ALJ HOUCK: Sustained.

24 Can you rephrase that?

25 MS. BERKLEY: Seriously?

26 ALJ HOUCK: Seriously.

27 MS. BERKLEY: Q What are the benefits
28 that Marina would gain by selling water to

1 another community?

2 A Again, the communities, Marina and
3 the peninsula, are linked in many ways.
4 Families, people that work on the peninsula
5 live in Marina, vice versa.

6 Q I'm sorry. I'm not asking about
7 the interconnectedness. I'm asking
8 specifically about the City of Marina.

9 ALJ HOUCK: Is your question what
10 benefits would the City of Marina get?

11 MS. BERKLEY: What benefit will the
12 residents of Marina get.

13 MS. DOLQUEIST: That was his answer.
14 Please let him finish his answer. It is
15 responsive to the question.

16 ALJ HOUCK: Go ahead and answer.

17 THE WITNESS: So I live in -- I'll just
18 try to characterize it that with the
19 sufficient water supply, the hospitality
20 industry on the peninsula will be able to
21 operate. We won't have this severe rationing
22 situation that we are in today. People who
23 work in the hospitality industry and live in
24 Marina will continue to have their jobs and
25 their income. There is a link between the
26 two communities regarding hospitality and a
27 number of things. So the financial condition
28 of industries in the area that depend on

1 water will benefit, communities in Salinas
2 and Marina and Monterey. And that is my
3 response.

4 MS. BERKLEY: Q I see.

5 MS. FARINA: Objection, move to strike
6 the community being on rationing. There is
7 no rationing.

8 ALJ HOUCK: Sustained.

9 MS. BERKLEY: Q Do you know how many
10 citizens are in Marina?

11 A I think it is about 35,000.

12 Q Actually, no --

13 ALJ HOUCK: Is there a question?

14 MS. BERKLEY: Sorry.

15 Q Okay. So is it possible that your
16 number is an inaccurate number?

17 A Sure, I just -- I'm not that
18 familiar with the population there.

19 Q Right. Okay. So what do you know
20 about Marina and its community values?

21 A I know -- I read the testimony of
22 Mayor Delgado and others in referencing
23 community values and their concerns. So my
24 testimony was based on what I've read there.

25 Q Is it possible that you have no
26 real experience or firsthand idea about the
27 values of Marina's 21,000 citizens?

28 MS. DOLQUEIST: Objection, your Honor.

1 It is argumentative, assumes facts not in
2 evidence.

3 MS. BERKLEY: Can you explain that to
4 me? I'm sorry. I don't understand.

5 ALJ HAGA: Cross-examination is about
6 his testimony and what he has stated. So if
7 you have a specific element of his --

8 (Crosstalk.)

9 ALJ HAGA: -- that you would like to
10 ask about, that is what you should ask about.

11 MS. BERKLEY: Okay. Very good.

12 Q So can you explain to me when on
13 Question 10 when we, Citizens for Just Water,
14 expressed our concern of being taken
15 advantage of by Cal-Am, the response was
16 regarding not the citizens but rather the
17 physical use of infrastructure that is
18 already in Marina. When, in fact, we were
19 talking about the exploitation of a
20 community.

21 MS. DOLQUEIST: Objection, your Honor.
22 Vague and overbroad.

23 ALJ HOUCK: Sustained.

24 MS. BERKLEY: Okay. So then I need a
25 little bit of help here. Because I feel, and
26 what we as Citizens for Just Water feel is
27 that we asked a question regarding our
28 community, the citizens, residents of our

1 community. The response that we got had
2 nothing to do with the people. The response
3 was about, you know, existing pipes.

4 So if you all can help me, you all
5 are smarter than I am and who are lawyers can
6 help me rephrase this. I would really like
7 some help, because I don't hear anything here
8 about our citizens.

9 ALJ HOUCK: The witness was responding
10 to a statement that is in your testimony. So
11 your testimony at the moment is still there
12 in the record, and you are going to have a
13 chance to have somebody be potentially
14 cross-examined on this as we haven't ruled on
15 the motion to strike. So he is responding as
16 to what his opinion is as to what that
17 statement in your testimony meant.

18 MS. BERKLEY: I understand that piece.

19 ALJ HOUCK: So if there is something
20 about his response that you want
21 clarification on, you can ask that question.
22 But you can't add to what he is saying or try
23 to get additional meaning, if that --

24 MS. BERKLEY: I'm not sure how I did
25 that. I accept your response. Okay. So we
26 can -- did you want to say more? I don't
27 want to cut you off either.

28 ALJ HOUCK: Judge Haga?

1 ALJ HAGA: To the extent that you have
2 a disagreement about what he says, and it is
3 contrary to what you've said, the time to
4 argue about what you meant and what he did or
5 did not say is in the briefs. The time to
6 ask him to clarify his statement and to get
7 the factual information about what he said is
8 now. The time to argue about what he said,
9 what you've said, is in the briefs.

10 MS. BERKLEY: I apologize on the record
11 to all of you. That we are just citizens in
12 the process of learning but really, really
13 passionate about our community and protecting
14 a group of people who are -- yeah, never
15 mind.

16 Q This will be my last question. So
17 just last clarification, also Question 11 and
18 No. 11 and response. Our concern, again, was
19 that the desalination plant intake wells will
20 result in further reduction in the quality of
21 life for the people of Marina.

22 MS. DOLQUEIST: Objection, this is
23 testimony.

24 ALJ HOUCK: She hasn't asked it yet.

25 MS. BERKLEY: Q All right. So your
26 response -- you can see your response. So I
27 guess my question for you then is how come
28 the way that you are answering this is

1 referring not specifically to the concern of
2 Marina, but why is it every time we talk
3 about the citizens of Marina you go back to
4 referring to the connection of the region?

5 MS. DOLQUEIST: Objection,
6 argumentative.

7 ALJ HOUCK: I'm going to let him answer
8 it.

9 MS. BERKLEY: Thank you.

10 THE WITNESS: So in my testimony I
11 attempted to provide in Question 10 why the
12 facility was sited in its current planned
13 location, and that it was sited there not to
14 take advantage of anyone that didn't enter
15 into the siting calculus. It was sited at
16 the location because, as the utility company,
17 if you are going to build something you want
18 to take advantage of existing infrastructure
19 to reduce the cost. And so if you are going
20 to lay a pipeline, you will put it in a
21 street where there is a right-of-way and
22 there is an access as opposed to through a
23 field, and putting a pipe in the street
24 provides benefits and reduces the cost.

25 Locating the desalination plant at
26 its current location takes advantage of an
27 existing outfall. If we had to construct a
28 completely new outfall, that would

1 significantly drive up the project. It has
2 nothing to do with economics of communities,
3 but simply existing infrastructure.

4 The wells at CEMEX, the reason for
5 the slant wells -- and I talk about
6 impinging, entrainment and the benefits of
7 subsurface intakes, and the fact that the
8 aquifer there is completely intruded, and the
9 seawater will supply the project and is not
10 of use to anyone else. So there is no impact
11 from the slant wells, and the location of the
12 plant was based strictly on the outfall from
13 the PCA.

14 And that was what I was trying to
15 explain.

16 Q Okay. I'm sorry. Go ahead.

17 A And again, trying to defend the
18 reason why we located it where it is. It was
19 not -- we were not intending to take
20 advantage of anyone.

21 Q Thank you. One last yes or no
22 question, then I will be done.

23 So based on what you just said, yes
24 or no, the criteria was based on cost rather
25 than evaluating the quality of life for the
26 people?

27 MS. DOLQUEIST: Objection, that
28 mischaracterizes the testimony.

1 MS. BERKLEY: No, I'm sorry. I
2 disagree. I'm sorry, sorry, sorry, sorry.

3 ALJ HAGA: Why do you disagree?

4 MS. BERKLEY: I disagree because based
5 on what you just said. You talked about
6 infrastructure. You talked about cost. You
7 didn't say anything about the wellbeing of
8 the community and the people who will be
9 directly affected by the physical location
10 and building of these slant wells.

11 MS. DOLQUEIST: I don't agree with that
12 characterization and --

13 MS. BERKLEY: Okay. Then maybe we can
14 read what was just said.

15 ALJ HOUCK: Off the record for one
16 moment.

17 (Off the record.)

18 ALJ HOUCK: Back on the record.
19 Go ahead and answer the question.

20 MS. BERKLEY: Q It was just an
21 original yes or no question.

22 A And can you repeat it one more
23 time?

24 Q Is it correct that the primary
25 criteria for evaluating where the slant wells
26 should go and in putting this entire project
27 together was based first on cost rather than
28 on community assessment, quality of life and

1 on the overdraft?

2 A The adjudication relates to the
3 Seaside Basin?

4 Q Oh. I'm sorry. Yes.

5 A Yes. Let me say, for the Seaside
6 Basin, there are many people who draft from
7 the Seaside Basin, not only Cal-Am.

8 Q Thank you. Do you think that it's
9 fair for Cal-Am to draw from another area
10 that has its own responsibility for -- that
11 already has its own responsibility for water
12 supply?

13 A The part that I absolutely
14 understand is that if there's any harm or
15 injury that it has to be mitigated, and if it
16 can't be mitigated, then we really don't have
17 a project. Taking a very close look at this
18 project, I really believe the issues that
19 will kind of stand the test of time, in fact,
20 can be mitigated. And it will cause no harm
21 to the City of Marina. Some of that is
22 unfully tested at this point, but that's --
23 we've had a lot discussions both with law and
24 asking ourselves -- and you know, I kind of
25 get it. In our community, not everything we
26 do as a city council is popular, and we have
27 to deal with a number of those things. But I
28 believe that at the end of this that there

1 will be no harm to Marina. There will be a
2 tremendous benefit. And in fact -- you know,
3 we -- we're connected. We live in each
4 other's communities. We shop in each other's
5 communities. We work in each other's
6 communities. Ultimately this has to work for
7 all of us. We kind of get that.

8 Q Okay. But given what you've just
9 said here, that you do believe that trust and
10 integrity are of paramount values for
11 building a healthy community and given that
12 Cal-Am has been, for all intents and
13 purposes, a serial overdrafter, why --

14 A Excuse me. I'm -- I guess --

15 MR. MCGLOTHLIN: Objection. Misstates
16 the witness' testimony.

17 ALJ HOUCK: Sustained.

18 MS. BERKLEY: Okay. I apologize.

19 ALJ HOUCK: Eliminate the word
20 "serial," and re-ask your question.

21 MS. BERKLEY: Okay.

22 Q So given that Cal-Am has
23 overdrafted the Carmel River and Seaside
24 Basin, why should the City of Marina and the
25 residents of Marina value and trust Cal-Am to
26 come in with this project?

27 MR. LAREDO: Objection. That's
28 argumentative.

1 ALJ HAGA: And in our judgment, it is
2 not -- you did not tie it to those issues.

3 Mr. Minton.

4 MR. MINTON: May we go off the record?

5 ALJ HAGA: Then we'll go off the
6 record.

7 (Off the record.)

8 ALJ HAGA: We will be back on the
9 record.

10 It is after 4:00 o'clock, and we
11 will be recessing this hearing until 9:30 on
12 Monday. Thank you.

13 We are adjourned for the day.

14 (Whereupon, at the hour of 4:14
15 p.m., this matter having been continued
16 to 9:30 a.m., October 30, 2017, at
San Francisco, California, the
Commission then adjourned.)

17 * * * * *

18
19
20
21
22
23
24
25
26
27
28

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA

)
)
)
Application of California-American)
Water Company (U210W) for Approval) Application
Peninsula Water Supply Project and) 12-04-019
Authorization to Recover All Present)
and Future Costs in Rates.)
)
)

CERTIFICATION OF TRANSCRIPT OF PROCEEDING

I, Doris Huaman, Certified Shorthand Reporter No. 10538, in and for the State of California do hereby certify that the pages of this transcript prepared by me comprise a full, true and correct transcript of the testimony and proceedings held in the above-captioned matter on October 26, 2017.

I further certify that I have no interest in the events of the matter or the outcome of the proceeding.

EXECUTED this 26th day of October, 2017.

Doris Huaman
CSR No. 10538

EXHIBIT

CC

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA

ADMINISTRATIVE LAW JUDGES GARY WEATHERFORD and
ROBERT HAGA, and DARCIE HOUCK, co-presiding

Application of California-American
Water Company (U210W) for Approval
of the Monterey Peninsula Water
Supply Project and Authorization to
Recover All Present and Future Costs
in Rates.

) EVIDENTIARY
) HEARING
)
)
) Application
) 12-04-019
)
)
)

REPORTERS' TRANSCRIPT
San Francisco, California
October 30, 2017
Pages 3863 - 4078
EH - Volume 23

Reported by: Ana M. Gonzalez, CSR No. 11320
Nina Shori, CSR No. 8856
Doris Huaman, CSR No. 10538
Karly Powers, CSR No. 13991

I N D E X

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

WITNESSES:**PAGE****JOHN NARIGI**

Direct Examination By Mr. Laredo	3881
Cross-Examination By Ms. Myers	3883
Cross-Examination By Mr.	3891
McTarnaghan	
Cross-Examination By Mr. Minton	3896
Cross-Examination By Mr.	3897
Schexnayder	
Cross-Examination By Ms. Muzzin	3899
Cross-Examination By Mr.	3904
McGlothlin	
Cross-Examination By Mr.	3907
Warburton	
Cross-Examination By Ms. Berkley	3910
Cross-Examination By Ms.	3911
Dolqueist	

IAN CROOKS

Direct Examination By Mr.	3915
Subias	
Cross-Examination By Mr.	3917
Spaulding	
Cross-Examination By Mr.	3959
Schexnayder	
Cross-Examination By Mr. Laredo	4003
Cross-Examination By Ms. Muzzin	4018
Cross-Examination By McTarnaghan	4035
Cross-Examination By Ms. Berkley	4052

Exhibits:**Iden.****Evid.**

CJW-04	3865	
MNA-05	3866	
SF-14	3866	
CA-56-A	3866	
MCD-59	3866	
PTA-01	3869	
CPB-01	3882	
CP-01		3914
MNA-5		3914

1 it's a separate concept.

2 ALJ HAGA: Mr. Warburton, it's not
3 being excluded. You're over-reading what is
4 occurring in this part of the proceeding,
5 what has occurred in the past in this
6 proceeding, what is occurring elsewhere in
7 this proceeding. There are many overlapping
8 processes. This proceeding has been going on
9 for a number of years. The record is
10 extremely voluminous. So to say that it is
11 not considered or excluded in any way I think
12 is misreading the current record and the
13 current process. There are certainly a
14 number of factors that will come into play as
15 we move towards deciding this case.

16 Does anyone have anything new to add
17 to this discussion?

18 MR. MCGLOTHLIN: Your Honor, I would
19 only point out that the issues of water
20 impacts were the subject of the extensive
21 testimony in 2015.

22 ALJ HAGA: Ms. Berkley.

23 MS. BERKLEY: Lisa Berkley for Citizens
24 For Just Water.

25 I understand -- we understand this
26 has been going on for a very long time. We
27 understand too that each hearing addresses
28 different topics, but sometimes we need to be

1 able to look at the capacity for the whole
2 picture and the bigger picture in order to
3 really understand the micro. And in this
4 context, when we talk about community values,
5 we're talking about the potential quality of
6 water we drink from. We're talking about our
7 lives, the water that we cook from, the water
8 that we brush our teeth with. That
9 implication of that has -- touches on all
10 parts of our life. To exclude it from here
11 feels that it would be detrimental to the
12 discussion on community values.

13 I respect your decision not to get
14 into the depth of the science; however, to
15 leave out aspects of it in the conversation
16 seems potentially neglectful on all of our
17 parts to do so.

18 ALJ HAGA: Ms. Berkley, we are not
19 leaving anything out. There are
20 opportunities to provide input across this
21 proceeding including in this phase that --
22 where if you -- where we have allowed a great
23 deal of proposed testimony related to these
24 aspects.

25 MS. MUZZIN: Your Honor, one final
26 follow-up on Mr. McGlothlin. His statement
27 should not be taken to indicate that the
28 Commission in other proceedings has never

1 the supply needs?

2 A I don't believe we have the time
3 given there's a CDO hanging over our head,
4 and that's not our area of expertise.

5 MR. WARBURTON: Thank you. No further
6 questions.

7 MS. BERKLEY: Your Honor?

8 ALJ HAGA: Hold on, Ms. Berkley.

9 The Water Management District had
10 asked for a minute of questioning.

11 MR. LAREDO: No. We're passing, your
12 Honor.

13 ALJ HAGA: Ms. Berkley, you did not
14 reserve any time for this witness.

15 MS. BERKLEY: No. I just have one
16 question.

17 ALJ HAGA: I'll allow one question.

18 CROSS-EXAMINATION

19 BY MS. BERKLEY:

20 Q If the cease and desist order is
21 lifted, will the hotels and restaurants
22 replace toilets, shower heads or low
23 water-using landscapes?

24 A Ask me that question again.

25 Q If the hotels and restaurants would
26 replace the toilets -- or would the hotels
27 and restaurants replace toilets, shower heads
28 or low water-using landscapes if the cease

1 and desist order is lifted?

2 A No. We would continue our
3 conservation efforts without question.

4 MS. BERKLEY: Thank you.

5 ALJ HAGA: Thank you, Ms. Berkley.

6 MS. DOLQUEIST: Your Honor.

7 ALJ HAGA: Yes.

8 MS. DOLQUEIST: I do have two questions
9 if that's allowable.

10 ALJ HAGA: Cal-American had reserved
11 time. Two questions. Yes, please.

12 CROSS-EXAMINATION

13 BY MS. DOLQUEIST:

14 Q Good morning, Mr. Narigi.

15 A Good morning.

16 Q My first question is -- relates to
17 the Monterey Aquarium. Do you know if the
18 Monterey Aquarium has its own water supply?

19 A Yes, they have. I don't know if it
20 supplies everything, but I know they do have
21 a desal plant.

22 Q My second question is you offered
23 some testimony stating that it could take
24 years or even decades to fully utilize
25 the amount of water currently predicted for
26 the tourism bounce-back. Given that, do you
27 recommend waiting to move forward with the
28 desal project?

1 ALJ HAGA: We will be off the record.

2 (Off the record.)

3 ALJ HAGA: We will be on the record.

4 Ms. Berkley asked since Mr. Riley
5 will be here tomorrow, this witness will
6 continue, whether we should have Mr. Riley
7 conduct the questions. The answer is to that
8 is yes.

9 Ms. Berkley, you are next for
10 Citizens For Just Water.

11 MR. MCTARNAGHAN: Your Honor, just to
12 avoid confusion, I think you referred to --

13 (Crosstalk.)

14 ALJ HAGA: Yes.

15 MR. MCTARNAGHAN: -- Ms. Berkley's
16 client --

17 ALJ HAGA: I misspoke.

18 CROSS-EXAMINATION

19 BY MS. BERKLEY:

20 Q Good afternoon, Mr. Crooks.

21 A Good afternoon.

22 Q I'm Lisa Berkley for Citizens for
23 Just Water?

24 In this first part we will be
25 referring to your testimony of downsizing
26 beginning on page 17, specifically Answer 21
27 page 19 line 16, I believe it is. Beyond
28 cost on risks mentioned here, from an

1 engineering perspective what are the
2 potential or possible flaws or shortcomings
3 with a larger desal plant that could
4 negatively impact a community?

5 A You are on page 19 where I speak to
6 cost, risk and benefits?

7 Q Yes. Well, this entire section is,
8 as I understand it, about downsizing. And
9 you are talking about on line 16 page 19 the
10 risks. And so I would actually like to take
11 a step back and look at just if we didn't
12 downsize, what your project is requesting,
13 what are the potential or possible flaws or
14 shortcomings with the desal plant that could
15 negatively impact the community? I'm asking
16 from an engineering perspective.

17 A Well, I didn't testify to that. I
18 was speaking to the lower plant 4.8 --

19 Q Okay. Then let's talk about the
20 smaller plant then.

21 A Okay.

22 Q So same question: Beyond cost and
23 risk mentioned, from an engineering
24 perspective what are the potential or
25 possible flaws or shortcomings with the desal
26 plant that could negatively impact a
27 community?

28 ALJ WEATHERFORD: Excuse me. Are you

1 referring to a specific size, 6.4 or 4.8, or
2 just --

3 (Crosstalk.)

4 MS. BERKLEY: It is pretty much any
5 reduction because -- as I understood the
6 whole section on downsizing.

7 ALJ WEATHERFORD: You don't need to
8 testify, just ask him.

9 MS. BERKLEY: Q Okay.

10 A Well, I specifically speak to
11 permitting and time and cost, because the
12 change from a 6.4 to a 4.8 is -- the physical
13 engineering difference is minor.

14 Q Okay. So what are then any
15 potential or possible flaws or shortcomings
16 that could negatively impact a community just
17 in general then?

18 A I don't know. I'm sorry. There is
19 no way -- I don't know.

20 MR. SUBIAS: I am going to object to
21 the extent that it assumes facts not in
22 evidence.

23 ALJ WEATHERFORD: What was that?

24 MR. SUBIAS: Object on the basis it
25 assumes facts not in evidence.

26 ALJ WEATHERFORD: Let's see, I'm not
27 sure that is true.

28 MR. SUBIAS: The question was what was

1 the negative --

2 (Crosstalk.)

3 ALJ WEATHERFORD: In the evidence in
4 this proceeding, I think we have had quite a
5 range of testimony, don't you?

6 MR. SUBIAS: I think it is assuming
7 there were negative attributes to the
8 community.

9 ALJ WEATHERFORD: Okay. Do you want to
10 ask him first if any downsizing has any
11 negative impacts?

12 MS. BERKLEY: All right. We'll ask
13 start there.

14 Q Would downsizing provide any
15 potential or possible flaws or negative
16 impacts to the community?

17 A It -- there is probably many, if I
18 had time to think about it. One that pops in
19 my head is obviously water supply shortage.

20 Q I don't want to interrupt you. Are
21 you done?

22 A I'm done.

23 Q What about specifically to the
24 community of Marina?

25 A Again, 4.8 versus 6.4 there is
26 no -- not much difference.

27 Q Okay. What about just desal plants
28 in general, harm they could cause to a

1 community?

2 ALJ WEATHERFORD: Excuse me. Could you
3 be more specific? Are you talking globally
4 or locally --

5 (Crosstalk.)

6 MS. BERKLEY: Let me move on then.

7 Q So Cal-Am asserts that this project
8 is a subsurface ocean intake technology; is
9 that correct?

10 A The source supplies are subsurface
11 slant wells.

12 Q Hypothetically speaking, if there
13 were possible groundwater intake from the 180
14 aquifer and it is overlying dune sand
15 aquifer, how can this be a challenge to our
16 community values? It was a hypothetical
17 question.

18 A Anything to do with hydrogeologic
19 water and aquifers I defer to Mr. Leffler.
20 I'm not a hydrogeologist.

21 Q From your experience being an
22 engineer, are there any risks that could come
23 from this if there were groundwater --
24 saltwater intrusion?

25 A There is saltwater intrusion.

26 Q Okay, sorry. I said that wrong,
27 apologies.

28 There were possible -- if there was

1 groundwater intake from the 180 aquifer and
2 overlying -- dune sand aquifers, in what way
3 could this challenge our community?

4 A This is a Draft EIR, or I should
5 say CEQA-related items. It is not
6 appropriate, I don't believe, for me to speak
7 to those items.

8 Q Well, I understand. I'm not
9 actually asking about the science though.
10 I'm asking in what -- if this was possible,
11 I'm not -- what -- and you have many years of
12 experience as an engineer. I would assume
13 you are familiar with these kinds of
14 situations occurring. And so what kind of
15 negative impact have you seen on a community?

16 A From?

17 Q From drawing from groundwater
18 sources instead of saltwater sources,
19 hypothetically speaking?

20 ALJ WEATHERFORD: When you are
21 referring to "community," are you referring
22 specifically to the peninsula or to Marin
23 City?

24 MS. BERKLEY: Q Let's start with just
25 region, or specifically in this case to
26 Marina.

27 A Well, I'll try to generalize some
28 things, I suppose. Seawater is intruded into

1 the area that we are locating the wells.

2 Q Okay.

3 A In terms of our wells, they will be
4 located in that region.

5 Q Okay.

6 A And the specifics of the
7 hydrogeotechnical that goes along with that
8 again is Mr. Leffler.

9 In terms of groundwater, in my
10 experience there is all sorts of issues with
11 groundwater wells. It is not just seawater,
12 there is contamination, and other things.

13 Marina Coast water in general has
14 experienced issues with their wells and
15 their -- seawater intrusion already occurred
16 at their wells.

17 MS. MUZZIN: Your Honor, I would like
18 to strike the comment about Marina Coast
19 Water District, unresponsive and irrelevant.

20 ALJ WEATHERFORD: Your testimony, was
21 this to Marina Coast Water District or Marina
22 Coast as a general area?

23 THE WITNESS: I'll strike the "Marina
24 Coast," if I may. If I can use that word as
25 a non-attorney.

26 MS. MUZZIN: Thank you, your Honor.
27 Thank you, Mr. Crooks.

28 MS. BERKLEY: Just for the sake of

1 time, let's move on.

2 Q Have you seen our CJW Exhibit 4?

3 A No.

4 ALJ HAGA: Off the record to hand a
5 copy.

6 ALJ WEATHERFORD: Do you want to give
7 the title of that?

8 MS. BERKLEY: It is Bulletin 118,
9 Interim Update 2016, California's
10 Groundwater. It was issued by the Department
11 of Water Resources on December 22nd, 2016.

12 ALJ WEATHERFORD: This is an excerpt;
13 is that correct?

14 MS. BERKLEY: Correct.

15 ALJ WEATHERFORD: Do you have the
16 pages?

17 MS. BERKLEY: Yes, I'm actually
18 interested in page 15 of the report.

19 ALJ WEATHERFORD: Does the witness have
20 a copy of that?

21 THE WITNESS: Not that I know. But I
22 can see what you are holding, and I've seen
23 that before, the 118.

24 MS. BERKLEY: Yes.

25 ALJ WEATHERFORD: I think is the
26 update.

27 MS. BERKLEY: Q So that was the first
28 question: Have you actually seen this

1 before?

2 A I have.

3 Q How was the Salinas Valley Water
4 Basin reflected on this document?

5 A It is identified as -- it looks
6 like 3-004.01 and over on the right in the
7 table it says that basin is 180/400, but I
8 think generally that it Salinas. Pink is
9 critically overdrafted.

10 Q So you just answered my next
11 question: Is it in overdraft?

12 A That is what the graphic says.

13 Q Thank you.

14 We are going to move on now to
15 Question 56 page 37 line 6.

16 A Of direct?

17 Q Yes, I'm sorry, direct errata.

18 A Page 56?

19 Q No, I'm sorry, Question 56 page 37
20 line 9 at line 6.

21 A Mm-mm.

22 Q You state that you have support
23 from the community for this project; is that
24 correct?

25 A I said "a portion."

26 Q What community are you talking
27 about?

28 A The community in general and around

1 Monterey Peninsula region.

2 Q How do you know they support this
3 project?

4 A Because just as I know people
5 don't, I know people do.

6 Q Well, you make --

7 A As evidenced by the intervenor
8 testimony, several support the project.

9 Q You also made reference to the
10 settlements, correct?

11 A I do.

12 Q Is there anyone in the settlements
13 that you refer to who owns water rights or
14 property rights in the affected areas where
15 the slant wells will be placed?

16 A I don't know.

17 Q Did MCWD or the City of Marina sign
18 any of the agreements?

19 A I don't know offhand, but I'm
20 pretty sure they have not. I would have to
21 look at each signature.

22 Q Did local neighborhoods or any HOAs
23 or anybody who has water rights or land
24 rights sign it?

25 A Well, what do you mean by "land
26 rights"?

27 Q Who -- property owners.

28 A In what boundary, Monterey County?

1 Q No. In the affected areas where
2 the slant wells will be placed.

3 A I'm not clear. CEMEX owns the
4 land.

5 Q In the settlements you've made
6 reference to have any agency or property
7 owners who hold water rights in the affected
8 area signed the agreement?

9 ALJ WEATHERFORD: Excuse me, there were
10 two settlements. You are speaking of the
11 large settlement?

12 MS. BERKLEY: Yes, the large one, thank
13 you.

14 MR. SUBIAS: Your Honor, I'm going to
15 object as being vague and ambiguous as to the
16 affected area.

17 ALJ WEATHERFORD: Well, I guess you
18 could precede with a question about what
19 areas are affected, then go to your question.

20 MS. BERKLEY: Q What areas are
21 affected by these settlements?

22 ALJ WEATHERFORD: If any?

23 MS. BERKLEY: If any. Thank you, your
24 Honor.

25 THE WITNESS: What areas? That is
26 generalization to the Monterey Peninsula
27 region.

28 MS. BERKLEY: Q So specifically where

1 the slant wells will be or are intended to
2 be.

3 A As I mentioned, they are intended
4 to be on the CEMEX property. The property
5 that is owned by CEMEX today.

6 Q And other than CEMEX, any other
7 agencies that signed these documents have any
8 property rights or water rights to the area?

9 A They own property and land in the
10 Monterey Peninsula region. Other people that
11 signed the agreement, they don't own the
12 CEMEX land.

13 Q Okay. Thank you.

14 Could you explain -- could you
15 please explain why Cal-Am should be granted
16 responsibility for managing a new water
17 project after overdrafting very close to --
18 after either overdrafting or very close to
19 overdrafting the Carmel River or Seaside
20 Basin?

21 MR. SUBIAS: Objection, argumentative.

22 MS. BERKLEY: I don't mean that
23 argumentatively. I'm asking a very simple
24 question --

25 (Crosstalk.)

26 MS. BERKLEY: Okay, I got it.

27 ALJ WEATHERFORD: You want to
28 elaborate?

1 MR. SUBIAS: Sure. The question is
2 asking the witness to assume that Cal-Am has
3 overdrafted the area, I think we've already
4 admitted. And then asking him based on that
5 to then go forward and explain why the
6 Commission should adopt that, accept it and
7 then continue to authorize Cal-Am to engage
8 in actions that it has requested.

9 ALJ WEATHERFORD: But with respect to
10 the first comment you've made, it is a matter
11 of record given the two CDOs that it has been
12 overdraft, right?

13 MR. SUBIAS: Yes.

14 ALJ WEATHERFORD: So that is a matter
15 of record --

16 MR. SUBIAS: Yes.

17 ALJ WEATHERFORD: -- I don't see how
18 you can object to.

19 MR. SUBIAS: I'm not objecting to that
20 portion. I'm objecting to the substance of
21 the second part.

22 ALJ WEATHERFORD: The second part is?

23 MR. SUBIAS: Is why given the
24 overdrafting should anyone allow you to
25 manage the project, and I'm paraphrasing.

26 ALJ WEATHERFORD: Overruled.

27 MS. BERKLEY: Thank you, your Honor.

28 THE WITNESS: We own the -- and operate

1 the water system. And we have, in my
2 opinion, when the Seaside Basin was
3 adjudicated Carmel River -- State Water
4 Resources Control Board made their decision
5 about the water rights. We have done
6 everything we can in cooperation with all the
7 permitting authorities to resolve the
8 changing circumstances on water supply in our
9 system, and we are good stewards of our water
10 system. And we continue to be, and we have
11 honored our commitments to deliver new water
12 supply as best as we can.

13 MS. BERKLEY: Q Can you explain how
14 you are good stewards of your water system,
15 please?

16 A "Good stewards," it is a broad
17 term. But we regularly invest in our
18 facilities. We maintain them. We run them.
19 So we are good stewards of our system in our
20 community.

21 Q I will come back to that and move
22 forward.

23 Regarding Question 60 page 38 line
24 12, do you think the proposed slant well
25 project facility reflects the community
26 values of open space and natural habitat
27 preservation? Yes or no, please.

28 A That is what I state.

1 Q Could you please explain that and
2 elaborate on why you think that they reflect
3 the community values of open space and
4 natural habitat preservation? In what way do
5 they do that?

6 ALJ WEATHERFORD: That is two
7 questions.

8 MS. BERKLEY: Apologies. Thank you.

9 ALJ WEATHERFORD: Let him answer the
10 first.

11 MS. BERKLEY: Q Fair enough.

12 A So Question 60, in what way does it
13 preserve open space? Is that what you said?

14 Q Yes. How does this project
15 contribute, is another way I could say it, to
16 the values of open space and habitat
17 preservation?

18 ALJ WEATHERFORD: If it does.

19 MS. BERKLEY: Q If it does.

20 A Well, there is -- this again is in
21 the CEQA territory. And certain aspects of
22 it, there is mitigation, that is required for
23 the project. And we have to mitigate and
24 adjust for factors that are determined in
25 that EIR process. We have to account for
26 some of these items. And it is a utility
27 project that is coastal dependant. And our
28 facilities, as I've stated before, are de

1 minimus in nature.

2 ALJ HAGA: Ms. Berkley, you asked for
3 15 minutes for this witness. You are now at
4 20 minutes.

5 MS. BERKLEY: Okay. Just the last
6 question, then.

7 Q With the consent agreement that
8 you've referred to in your September 12th
9 testimony in the CEMEX CDO document that
10 talks about industrial, can you explain how
11 industrial development is in alignment with
12 this agreement?

13 A What agreement?

14 Q The CEMEX CDO.

15 A Well, again, the CEMEX CDO, I am
16 not going to interpret the legal -- I'm not
17 going to get into legal interpretation on
18 what is and is not allowed. I've stated in
19 my testimony that our easement rights and
20 activities are preserved in that agreement,
21 in my nonlegal opinion. And, therefore, we
22 have the ability to do what is prescribed in
23 our easement. And as I stated before, our
24 facilities are de minimus in nature. It is
25 360 acres, and this footprint will take up
26 0.2 percent of the site. We successfully put
27 in a test slant well at the site with no
28 impact. I shouldn't say "no," little impact,

1 de minimus. So it is not different, in my
2 opinion.

3 Q Going back to the environmental
4 stewardship. Everything that you mentioned
5 was referring to infrastructure, and I
6 struggle to see how -- could you please
7 explain to me how good stewardship enables
8 you to overdraft the Carmel Valley River and
9 the Seaside Basin?

10 A Yeah. So I guess I could relate to
11 it like this, in simple terms: We pump
12 groundwater wells. The State comes out later
13 and says there is a new arsenic limit, it
14 went from 50 to 10. Therefore, we have to go
15 put treatment in, treat those wells. Does
16 that mean that we were not good stewards of
17 the water that we deliver to our community?
18 No. We pumped off the river. We pumped off
19 Seaside until circumstances changed. And
20 when State regulators intervened and made a
21 decision that changes circumstances, we have
22 tried to respond.

23 The pumping on those facilities
24 were going on for decades, and they were
25 reported upon. And, therefore, at some point
26 the State looked at it and made a different
27 interpretation later. And we responded, and
28 we are attempting to respond. To me it is

1 not different than any other change in
2 regulation.

3 MS. BERKLEY: Thank you for the extra
4 minutes. Thank you. We are complete.

5 ALJ HAGA: Thank you, Ms. Berkley. At
6 this point we will end the day for today.
7 We've run out of time.

8 The initial schedule tomorrow is
9 that we will finish with Mr. Crooks. There
10 is not too much left. Given the scheduling
11 impacts where people have requested that are
12 not available after tomorrow, we will then
13 move to Mr. Stephenson, then Mr. Stoldt.
14 Figure out -- we will figure -- get as much
15 of Mr. Leffler in as we can. At 3:10 we will
16 stop whatever we are and hear from
17 Mr. Delgado and Mr. Long.

18 THE REPORTER: Does this need to be on
19 the record?

20 ALJ HAGA: Does this need to be on the
21 record?

22 MR. FOGELMAN: Probably.

23 ALJ HAGA: Mr. Fogelman.

24 MR. FOGELMAN: Just to put it on the
25 record, we had requested at the beginning of
26 the hearing that the Cal-Am witnesses in
27 general and that Mr. Leffler in particular go
28 first. And we had asked that tomorrow be a

EXHIBIT

DD

Code Red Forum Tues. Nov. 27, City Hall Chambers, 6-8:30 pm.

6:02-6:05 pm Welcome by Lisa Berkley (moderator) **3 mins.**

6:05-6:20 pm Kathy Biala for C4JustWater **15 mins.** Topic: Environmental justice; show video clips of citizens speaking at CCC meeting on EJ and commissioner responses.

6:20-6:35 pm Bruce Delgado, City of Marina. Topic: Fatal flaws and concerns about Desal Project that reflect environmental injustice- **15 minutes**

6:35-6:50 pm Keith Vander Maaten, MCWD. Topic: SGMA goals and inconsistency shown by AEM that CalAm pumping will cause basin harm. **15 mins**

6:50-7:00 pm George Riley, Public Water Now. Topic: Huge Measure J success. Caution people that Measure J passing will not stop the Desal project...separate tracks. Review what are next steps in Measure J. **10 mins**

7:00-7:15 pm Mike McCulloch, M1W. **15 mins** Topic: Regional water project of recycled water; describe MPWSP component of PWM; relay the CPUC hearings of Sept. 13 and describe Expansion project that was not considered.

7:15 pm-7:30 pm **15 mins.** Rep from Citizens for Just Water. Topic: Public actions; sign and be present for Dec. 6 Regional St Water Board meeting in San Luis Obispo. Gauge time for Q&A but call to action is priority (Time to discuss with speakers after the program).

EXHIBIT

EE

LISA 282 words General, Rights, science, SGMA

Cal-Am assumed taking groundwater from a neighboring jurisdiction without any water rights, would be supported by CPUC. They were right. Cal-Am assumed they could use their wholly inadequate science and ignore a vastly superior study to prove “no harm” to an entire basin. They assumed correctly. Cal-Am was confident that the CPUC wouldn’t consider viable alternatives to their project. Right again! Cal-Am assumed approvals could be gotten, irrespective of their own ratepayers’ objections and the complete lack of outreach to the city most environmentally impacted. Cal-Am ignored thousands of public comments.

In a letter dated Sept. 4 to the CPUC, State Water Board reiterated that Cal-Am must meet the requirements for appropriate groundwater rights that include establishing that the water source is “surplus” and does “not injure other lawful users of water”. Isn’t “surplus” and “no harm” by extracting massive amounts of groundwater from a critically over drafted basin... an oxymoron?

Why was verification of water rights NOT the first step to **any** approvals for this project?

Why was the far superior, completed AEM science never admitted into any CPUC hearings when an **entire** basin’s health is at stake?

Why is data from the test slant well analyzed by four hydro-geologists representing special interests, not potable water users, with two of the four paid by Cal-Am and one owning patents to the slant well technology?

What accountabilities does Cal-Am have to sustainable groundwater goals in our basin from which they intend to extract groundwater, without water rights?

Please help us protect and responsibly manage our own water resource by challenging the science of Cal-Am’s limited understanding of our basin and the gross illegitimacy of this project in the face of SGMA mandates.

KATHY 257 words Basin extracted water

The CPUC in its EIR and in its final decision, deceptively and repeatedly reports that the CalAm desal project will extract “mostly or predominantly” seawater. This is an intentional minimization of the specific take from our groundwater and this take will **CAUSE, not mitigate**, seawater intrusion.

This water taken from Marina’s jurisdiction without any documented legal rights, is part of the Salinas Valley Groundwater Basin.

This basin has been identified as one of CA’s 21 critically overdrafted basins.

This basin has continued to have alarming seawater intrusion such that the County Board of Supervisors recently issued a moratorium on all new wells.

This groundwater is the sole source of potable water for the city of Marina provided by MCWD, a small and responsible public water district with the lowest rates of water in the region.

The water to be extracted by CalAm is brackish and fresh, both part of MCWD's legal groundwater allocations.

This Basin has two already identified GSAs under SGMA. Cal-Am is not one of these!

Please give Marina and MCWD a fair consideration of the **best** available science and the right to protect our water from an outsider who has a proven record of irresponsible management of their own two water sources.

Citizens for Just Water has provided a Science Matters handout. Even as laypersons, we understand the basic inadequacy of Cal-Am's science and realize how powerful the forces were in CPUC to ignore the AEM study because the truth would not serve them well. Please allow the AEM data to be fully considered.

AUDRA 282 words environ. Injustice

The community of Marina was never properly acknowledged by the CPUC in their support of Cal-Am's Desal project. As incredible as this may sound, even though the water for the Cal-Am's project was to come from Marina, all analyses of water demand needs focused **exclusively** on the Peninsula. The impact that water extraction from Salinas Valley Groundwater Basin would have on water users **here** and the ability to meet **our own** current and future potable water demands was never considered. This is a **classic** case of environmental injustice.

Marina is a small city of 21,000 people and one of the most ethnically diverse communities in California for a city this size. More than half of our residents are minorities and 1 in 10 residents claim two or more races. 15.3% live below the poverty level, unlike the residents of Carmel, Pebble Beach and Monterey. The CPUC's own website discusses disadvantaged communities and a link that ranks Marina 81-90% disadvantaged – 4 times higher than the Peninsula communities for whom this water will benefit.

Cal-Am by omission of Marina's needs applied differing standards between the community that would be served by the project versus the community where the project will be built. Because of this unusual circumstance of a water source **not** within an applicant's **own** district, Cal-Am was able to minimize attention to Marina and the Salinas Valley Groundwater Basin and skirt proper analysis of the impacts, yet appear to meet all the requirements for evaluation of their project from a Peninsula focus.

Only by repeated questioning of the project's basic premises can the numerous deceptions be uncovered. Please insist on rigorous scientific proof of all that is put before you by Cal-Am.

281 words for Public Water Now rep; Economic feasibility

The CPUC that issued the first approvals for the Cal-Am Desalination project, is supposed to be "responsible for ensuring that California's investor-owned water utilities deliver clean, safe, and reliable water to their customers at reasonable rates." The CPUC's many decisions on *behalf* of Cal-Am's customers have resulted in the Peninsula now having the highest water rates in the country.

Despite 11,552 signatures (when only 6100 were needed) to successfully place Measure J on November's ballot for a CalAm buy-out feasibility study, the CPUC completely ignored a viable expansion of an affordable, state-of-the-art recycling project called Pure Water Monterey as an alternative to their costly and harmful project.

CalAm justified their project by grossly over inflating Peninsula water demand needs and managed to avoid an analysis of economic feasibility for us already beleaguered ratepayers. Cal-Am wants to be the owners of a new slant well technology at any cost...at the expense of their own ratepayers and at the expense of the hapless victims of a neighboring disadvantaged city.

Their project is a reverse Robin Hood story... stealing from the poor to give to the rich. Peninsula ratepayers and Marina residents are to be exploited in order to provide for the Cal-Am shareholders, patent owners, and the monied Peninsula commercial and hospitality industry which thrive under Cal-Am's unbalanced tiered rate system.

Lastly, if a single **test** slant well was projected to cost only \$4M dollars and turned out to be over \$20M, what will the cost be to the ratepayers for a projected \$300M Desal project? **A project that no one can afford, is no project at all.** We ask you to consider the economic feasibility of this project. Some public agency MUST.

EXHIBIT

FF

From: kbiala@milestonemma.net
To: Keith Van Der Maaten
Sent: 1/11/2017 12:15:24 AM
Subject: Error Correction: Jan. 17 Water Forum

Keith, in my last email, I gave the wrong date. Please see below for the correct information:

If you read Monterey County Weekly's recent expose on the Marina/Fort Ord/Salinas Valley water supply, you're aware of serious threats due to overpumping and seawater intrusion.

Seawater and overpumping have already compromised an unsustainable water supply. Just Water invites you to encounter the facts and learn how adding Cal Am slant wells will accelerate disaster.

Get educated on *paper water*, *contract water*, *real water*, and what's at stake at a free public forum.

Tuesday, January 17, 6 to 8pm

Marina Library, 190 Seaside Circle, Marina

From Hwy 1, exit Reservation Road, R at first signal, left on Seaside Circle.

Panelists:

- Attorney and former state water-board member Marc del Piero
- Attorney Molly Erickson
- Activist Mike Salerno
- Moderator: Marina city councilmember Gail Morton

Please forward this announcement to groups and individuals.

Hosted by Just Water. Info: c4JustWater@gmail.com

Cordially,
Kathy

Kathy Biala
Cell: 831-242-0023
Other: 831-920-2762
Fax: 831-241-6370
Email: kbiala@milestonemma.net

EXHIBIT

GG

http://www.montereycountyweekly.com/news/local_news/marina-residents-unite-against-cal-am-desal-project/article_bc71d538-e8d4-11e6-8426-bb4a4aa40ed8.html

War of the Wells

Marina residents unite against Cal Am desal project.

David Schmalz **Feb 2, 2017**



Marina City Councilwoman Gail Morton is among those raising awareness of the potential risk of Cal Am's slant wells to Marina's water supply. "I'm trying to get people to jump up and be accounted for," she says.

Nic Coury

While the Marina Coast Water District has had little success in the courts over the past several years, an informal group of Marina residents have banded together to try to win in a different forum: the court of public opinion.

The group formed late last year, well before the draft environmental impact report for California American Water's proposed Monterey Peninsula Water Supply Project was released for public comment Jan. 13.

At issue is the future water supply for Marina and the former Fort Ord, and the fear among some Marina residents that if Cal Am's proposed project – which includes 10 slant wells on Marina's coast to serve a desalination plant – is allowed to go forward, it will further induce seawater intrusion and forever decimate the 180 – and 400-foot aquifers, which remain a key water source for some Marina Coast wells.

Marina City Councilwoman Gail Morton is among those sounding the alarm. Though she says she hasn't had time yet to read through the entire draft EIR, which numbers more than 2,000 pages, what she read in the executive summary gave her pause.

For one, she says, it states the project would pump "seawater," when in fact its slant wells would pump highly brackish groundwater, which is contentious as it relates to water rights.

Morton also feels the project's intake wells – which draw from underground rather than the open ocean, in order to minimize impacts on marine life – put the region's water supply at risk, favoring marine life at the expense of people.

"There's no balance," she says.

To learn more about the proposed project's impact on Marina's water supply, Marina Coast Water District is set to hire a firm – to the tune of about \$250,000 – to conduct electrical resistivity tomography imaging over Marina Coast's service area, and beyond. The imaging, which provides a detailed picture of underground features up to 900 feet deep, is carried out by flying over an area with a helicopter that has a suspended instrument hanging beneath it that sends signals into the ground.

About 500 miles of flight lines are planned, but because of permitting issues with Caltrans (the copter must fly relatively low over Highway 1), the imaging won't happen until spring.

That data would be a key tool for Marina Coast to do its own modeling of impacts related to Cal Am's project. Though it would come after the comment period for the draft EIR closes on Feb. 27, that modeling could provide influence over whether the project is approved, and – depending on its revelations – potentially stave off harm to Marina's water supply.

"If they're operating [slant wells] for two to three years, and then discover significant harm, now what have you set up? An absolute public policy mess," Marina Coast board member Tom Moore says.

Cal Am Director of Engineering Ian Crooks says test well data shows those fears are unfounded, and adds that the 180 – and 400-foot aquifers have already been intruded by seawater for decades.

"[The concerns] are not founded by history and fact. We have test well results that prove it," Crooks says. "When you hear these complaints about the [180-foot aquifer], in my mind that's a crazy proposition – the [180-foot aquifer] was damaged and done a long time ago."

David Schmalz

EXHIBIT

HH

From: Katherine Biala <kybiala@icloud.com>
To: Bruce Delgado; Keith Van Der Maaten; Juli Hofmann; georgetriley@gmail.com; Gail Morton
Sent: 4/18/2018 12:14:59 AM
Subject: Gratefulness!

All, our collective efforts and ability to reach out to the public in our entire region has been an amazing feat of commitment! Only by all of us pooling our efforts and seeing ourselves as invested in this common goal do we have this chance to prevail. I am so appreciative of our ability to work together like this!

Thank you, thank you! The two Code Red Forums had great attendance and we collected many signed letters!

Cordially,
Kathy

EXHIBIT

II

Attys@WellingtonLaw.com

From: Bruce Delgado <bdelgado62@gmail.com>
Sent: Sunday, March 24, 2019 1:10 PM
To: Wellington Law Office; Layne Long
Subject: Fwd: Press Release and Do unto others - NEVER come out and say...
Attachments: ATT00001.htm; Do unto others - draft op-ed_Delgado_rev.docx

----- Forwarded message -----

From: Layne Long <llong@cityofmarina.org>
Date: Mon, Apr 9, 2018 at 11:36 AM
Subject: Fwd: Press Release and Do unto others - NEVER come out and say...
To: Alison MacLeod <amacleod@ka-pow.com>, TvanderList@ka-pow.com <TvanderList@ka-pow.com>, Paul (Skip) Spaulding <SSpaulding@fbm.com>, mburns@ka-pow.com <mburns@ka-pow.com>, Bruce Delgado <Bdelgado62@gmail.com>

More comments from Gail Morton.

Layne

Sent from my iPhone

Begin forwarded message:

From: "gmorton@montereyfamilylaw.com" <gmorton@montereyfamilylaw.com>
Date: April 8, 2018 at 4:29:24 PM PDT
To: Layne Long <llong@cityofmarina.org>
Subject: Press Release and Do unto others - NEVER come out and say...

WE NEED the public to hear and understand the threat to their property is no water, or water at an unreasonably high cost in the future.
The taking of water by CalAM threatens MDWD ability to continue to provide a long-term sustainable water supply for Marina and all of the Fort Ord developments at a REASONABLE PRICE.

So much of the material is talking over the heads of the public audience.

Gail Morton
Monterey Family Law
5 Via Joaquin
Monterey California 93940
831 375-0100
gmorton@montereyfamilylaw.com

EXHIBIT

JJ



CITY OF MARINA
211 Hillcrest Avenue
Marina, CA 93933
831-884-1278; FAX 831-384-9148
www.cityofmarina.org

April 23, 2019

Monterey County Planning Commission Members
County Government Center
168 West Alisal Street
Salinas, California 93901

**Re: Agenda Item No. 2
Desalination Plant Component of the MPWSP
Planning Commission Meeting on April 24, 2019**

Dear Chair Getzelman and Fellow Commissioners:

I, Layne Long, City Manager of the City of Marina ("City" or "Marina"), am providing these written comments on behalf of the City with regard to the California-American Water (Cal-Am) application for a Combined Development Permit, including a Use Permit, for the desalination plant component of the Monterey Peninsula Water Supply Project ("Project" or "MPWSP").

The City understands that the Planning Commission is considering the Combined Development Permit at the public hearing on April 24, 2019.

The City further understands that the proposed desalination plant would be constructed in the unincorporated portion of Monterey County adjacent to the City's sphere of influence. The City of Marina is greatly concerned about many aspects of this Project, particularly those that would be required for installation in, through or adjacent to the City, including the desalination plant itself.

CALIFORNIA SUPREME COURT LITIGATION

The City of Marina is a responsible agency for the Project and has responsibility for considering the issuance of the major Coastal Development Permit ("CDP") for the Project for the facilities (including the experimental slant wells) that would be located in the City's coastal zone.

The City believes that there are serious factual, scientific and legal inadequacies in the Environmental Impact Report for the Project certified on September 13, 2018 by the California Public Utilities Commission for the Project and in the corresponding Public Utilities Code analyses and permit findings.

The City has filed litigation in the California Supreme Court challenging the CPUC decisions.

The City filed a Petition for Writ of Review on January 16, 2019 and then filed an Amended Petition for Writ of Review on February 26, 2019. The City understands that the County has been served and provided with copies of aforementioned filings.

Among other issues, the City asserts, in its Amended Petition, claims relating to: (1) the Commission's failure to conduct meaningful responsible agency consultation with the City on topics within Marina's Coastal Act jurisdiction, including impacts to Environmentally Sensitive Habitat Areas ("ESHA"), protected species, and groundwater resources; (2) the Project's lack of water rights, or any reasonable future path forward to obtain such water rights, due in part to the critically overdrafted conditions in the Salinas Valley Groundwater Basin and Cal-Am's anticipated inability to prove that the Project will not injure or harm legal water users in the Basin; (3) the failure to properly analyze the impacts of the Project on the social, economic, cultural and environmental values of the City, particularly since it is a "disadvantaged community" under federal and state laws protected by environmental justice principles; (4) the Project's adverse impacts on the Basin's groundwater; (5) the dramatic decline in Cal-Am's Monterey District water demand, which indicates that the Project is not actually needed; and (6) the fact that feasible alternatives to the Project, such as the viable expansion of the Pure Water Monterey recycled water project, were not properly evaluated in the EIR or CPUC processes.

As you may be aware, Marina Coast Water District ("MCWD") also filed a Petition in the California Supreme Court, which has been consolidated with Marina's Petition. The County of Monterey was named by the City as a Real Party in Interest, but has not appeared in the litigation. The Monterey Peninsula Water Management District was also named as a Real Party in Interest and filed an Answer supporting the requests of the City and MCWD that the Supreme Court grant the writ to review these issues. These Petitions are currently pending.

STATUS OF THE MARINA COASTAL DEVELOPMENT PERMIT APPLICATION

On March 7, 2019, the City of Marina Planning Commission denied Cal-Am's application for a Coastal Development Permit to allow portions of the proposed MPWSP within the jurisdiction of the City, including 6 new slant wells and the refurbishment of a previously approved test slant well (7 total slant wells). A copy of the City of Marina Planning Commission decision is attached (Attachment 1) to this letter for reference.

Cal-Am has appealed this decision to the Marina City Council, which has a forthcoming appeal consideration public hearing scheduled for Tuesday, April 30, 2019.

WATER RIGHTS ISSUES

The City is very concerned that the Project's lack of water rights or any reasonable or accepted path forward to obtain such rights makes the Project infeasible. Since Cal-Am does not intend to begin obtaining such rights until it has fully constructed and begun to operate the Project, there is a real risk that, if these rights are not obtained, all of the environmental burdens of the MPWSP construction will be imposed on the City of Marina and all of the economic costs of the Project will be imposed on Cal-Am ratepayers with no corresponding benefit. This lack of water rights is a prominent "Achilles Heel" for the Project.

ATTACHMENT B

FIRM / AFFILIATE OFFICES

Beijing	Moscow
Boston	Munich
Brussels	New York
Century City	Orange County
Chicago	Paris
Dubai	Riyadh
Düsseldorf	San Diego
Frankfurt	San Francisco
Hamburg	Seoul
Hong Kong	Shanghai
Houston	Silicon Valley
London	Singapore
Los Angeles	Tokyo
Madrid	Washington, D.C.
Milan	

MEMORANDUM

November 21, 2019

Subject: Update to Cal-Am Letters Regarding Bias on the Part of City of Marina Officials

This memorandum provides an update to the evidence of the City of Marina’s bias against California-American Water Company (“Cal-Am”) and its Monterey Peninsula Water Supply Project (“Project”) previously provided in Latham & Watkins’ April 25, 2019 letter sent to the City of Marina City Council. Our April 25 letter specifically requested the recusal of Mayor Bruce Delgado, Councilmember Lisa Berkley, and Councilmember Gail Morton from consideration of Cal-Am’s appeal of the Marina Planning Commission’s denial of a local coastal development permit (“CDP”) application for those portions of the Project located within the City of Marina’s Coastal Zone due to their longstanding bias against the Project, and demonstrated that the City as a whole continues to maintain an institutional bias against the Project and Cal-Am’s efforts to develop it. As described in that letter, this bias is obvious and of public knowledge, as City officials—including Mayor Delgado and City Manager Layne Long—have worked closely with KP Public Affairs to coordinate on opposition strategy and opposition outreach materials concerning Cal-Am’s Project.¹

An update to the above-referenced materials regarding the explicit bias exhibited by City of Marina officials is necessary based on testimony provided at the California Coastal Commission’s (“CCC”) informational hearing regarding Cal-Am’s appeal of its CDP application to the CCC, held on November 14, 2019. At this hearing, City Manager Long, Mayor Delgado, Councilmember Berkley, Commissioner Biala, and the City’s outside counsel, Skip Spaulding, spoke in blatant opposition to the Project, continuing to exhibit the same prejudice against the Project as described in the April 25 and February 8 letters.² These City of Marina officials made

¹ Cal-Am also submitted a February 8, 2019 letter to the City of Marina Planning Commission, requesting the recusal of Commissioner Kathy Biala and Commission Chair David Burnett for their documented bias against the Project.

² A recording of the November 14 CCC informational hearing on Cal-Am’s CDP appeal is available here: <https://cal-span.org/unipage/?site=cal-span&owner=CCC&date=2019-11-14>. City Manager Long begins his presentation at 1:25:25, Mr. Spaulding begins speaking on behalf

numerous comments displaying their long-standing and vehement opposition to the Project, as well as the City's continued institutional bias against the Project.

While videos showing the bias of various City of Marina officials are available on the CCC's website, the following summary of specific examples of this bias is provided for the record below:

- City Manager Long asserted that the Project will cause “environmental injustices” in the City of Marina and that the “just decision” would be to deny Cal-Am’s CDP appeal (11/14/19 Hearing Video, 1:28:10);
- City Manager Long also asserted that the settlement agreement regarding the CEMEX sand mining facility in northern Marina limits future use of the former CEMEX site to recreational, public access, educational, and habitat restoration uses, and that the Project defeats the purpose of the settlement agreement by maintaining the site as an “industrial facility” and preventing public access to the beach (11/14/19 Hearing Video, 1:29:20);
- City Manager Long and Councilmember Berkley argued that the Project will adversely impact the aquifers that supply drinking water to the City of Marina (11/14/19 Hearing Video, 1:30:30; 2:18:25);
- City Manager Long and Mayor Delgado asserted that the Pure Water Monterey (“PWM”) Expansion can serve as a feasible alternative to the Project, without providing any evidence to support that position (11/14/19 Hearing Video, 1:30:40; 2:04:10);
- Mr. Spaulding stated that the City “fully supports” the CCC staff report’s recommendation to deny Cal-Am’s CDP appeal and application and reiterated various claims that the Project would adversely affect environmentally sensitive habitat areas, that the PWM expansion is a feasible alternative, and that denial of the Project would not adversely affect the public welfare (11/14/19 Hearing Video, 1:34:15);
- Mayor Delgado argued that constructing the Project is more expensive than the PWM Expansion and that water produced by the Project will cost more than water produced by the PWM Expansion, “forcing” low income residents to pay higher rates, despite the fact that Marina is outside of Cal-Am’s service territory (11/14/19 Hearing Video, 2:02:20);
- Councilmember Berkley noted that for the past several years, the City has spent seven percent of its annual \$22 million budget in opposing Cal-Am. Councilmember Berkley asserted that as a result of these expenditures, the City was forced to raise local sales taxes via ballot initiative, creating “further financial stress” on the “already disadvantaged community” (11/14/19 Hearing Video, 2:18:35);

of the City at 1:34:00, Mayor Delgado begins his comments at 2:01:05, Councilmember Berkley begins speaking at 2:17:25, and Commissioner Biala begins her comments at 2:59:00.

- Councilmember Berkley argued that the CCC staff “should be commended” for issuance of the staff report recommending denial of Cal-Am’s CDP application and appeal (11/14/19 Hearing Video, 2:19:30);
- Commissioner Biala asked for a “show of hands” for persons opposing the Project, and played a five-minute video produced by Project opponents Citizens for Just Water (11/14/19 Hearing Video, 2:59:15). This video asserted that the Project will unfairly impact the Fort Ord and Marina communities, that the Project will have impacts to groundwater resources and protected species, that Cal-Am does not possess rights to source water for the Project, and that the Project will prevent public access to beaches. The video also stated that the City of Marina has expended one million dollars in public funds in opposition to the Project in the past year, and expects to expend an additional one million dollars to continue that opposition (11/14/19 Hearing Video, 3:04:15). Finally, the video repeated the unsupported assertion that PWM Expansion can serve as a Project alternative (11/14/19 Hearing Video, 3:04:55).

These comments are typical of the bias that Marina officials have long shown against the Project and reinforce the conclusion that these officials—and the City as an institution—maintain an unequivocal bias against the Project and therefore the City and City Council are incapable of providing for fair and unbiased hearings involving the Project. As Cal-Am has made clear in its prior correspondence to the City of Marina, dated August 20, 2019, regarding the City’s efforts to establish a Groundwater Sustainability Agency for the CEMEX property, this attempt by the City is yet another attempt to block the Project.

USE PERMIT STANDARD

The City draws your attention to the Use Permit section of Monterey County's Code (Section 21.74.050(B)(1), which contains the following language:

In order to grant any use permit, the findings of the Appropriate Authority shall be:

- 1. The establishment, maintenance, or operation of the use or structure applied for, will not, under the circumstances of the particular case, be detrimental to health, safety, peace morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use; or be detrimental or injurious to property and improvement in the neighborhood; or to the general welfare of the County.*

For the reasons that detailed above, and in the City's Amended Petition in the Supreme Court, the City of Marina does not believe that the desalination plant meets the Use Permit standards because of its potential serious impacts on the social, economic, cultural and environmental values of the City's residents, many of who reside or work in close proximity to the plant.

Thank you for the opportunity to submit these comments on behalf of the City of Marina.

Please contact me if you have any questions regarding this matter.

Sincerely,



Layne Long
City Manager
City of Marina

llong@cityofmarina.org

(831) 884-1224

ATTACHMENT C

November 1, 2019

City of Marina Groundwater Sustainability Agency
211 Hillcrest Avenue
Marina, CA 93933
Attn: Brian McMinn, Public Works Director/City Engineer
publicworksenineeringdept@cityofmarina.org

**SUBJECT: HWG COMMENTS ON CITY OF MARINA DRAFT GROUNDWATER SUSTAINABILITY PLAN FOR
THE MARINA GSA AREA OF THE 180/400 FOOT AQUIFER SUBBASIN DATED OCTOBER 2019**

Dear Mr. McMinn:

This letter provides the comments of the Hydrogeologic Working Group (HWG) on the City of Marina's Draft Groundwater Sustainability Plan (GSP) for the proposed City of Marina (Marina) Groundwater Sustainability Agency (GSA) Plan Area of the 180/400 Foot Aquifer Subbasin. Marina developed this Draft GSP for a very small area (400 acres) already covered by the Salinas Valley Basin (SVB) GSA Groundwater Sustainability Plan, thereby creating many current and potential future conflicts for meeting the requirements of the Sustainable Groundwater Management Act (SGMA). The Marina GSP develops a monitoring network with Representative Monitoring Sites (RMS) and sets sustainable management criteria (SMC) for locations largely outside of its Plan Area. Regardless of the conflicts it creates, the City of Marina Draft GSP is based on a faulty Basin Setting, unjustified sustainable management criteria, and makes no attempt to address the only viable aquifer within its boundaries (the Deep Aquifer). This letter provides both an Executive Summary highlighting some of our main comments, and a Detailed Comments section. It should be noted that the Executive Summary and Detailed Comments provided in this letter are not comprehensive (due in part to the size of the draft GSP and limited time for HWG members to review), and our lack of comment on a specific point or issue in the draft GSP should not be taken as HWG concurrence on or acceptance of that specific point or issue.

EXECUTIVE SUMMARY

The City of Marina Draft GSP made available for public review in October 2019 has several major fatal flaws that can generally be categorized as follows: flawed Basin Setting analyses, inappropriate and unjustified application of sustainable management criteria, a flawed monitoring program, lack of its own projects and legitimate management actions, and major conflicts with the SVB GSP. An overall comment is that the entire document is based on the questionable premise that the groundwater resources within MGSA can be used beneficially and that groundwater extraction within MGSA (from the Dune Sand Aquifer, 180-FTE Aquifer, or 400-Foot Aquifer) does harm to that resource. Our high-level summary comments on the key Draft GSP chapters are provided below, with a detailed comments section following this Executive Summary.

HWG summary comments on the flawed Basin Setting analyses (Chapter 3) are:

- The GSP presents a flawed hydrogeologic conceptual model (HCM) based on incorrect and invalid hydrogeologic interpretations of the aerial electromagnetics (AEM) surface geophysics and other data that is not in agreement with available field data including boring logs, aquifer test, groundwater level, and groundwater quality data;
- The Marina GSA made no attempt to enlist the support and expertise of the Hydrogeologic Working Group (HWG) members (or utilize the most up-to-date hydrogeologic conceptual model for the area in the HWG Technical Report) in understanding the hydrogeology of the area even though the HWG has recently provided oversight on the most recent and an extensive investigation of the hydrogeology specific to the MGSA area;
- Groundwater levels/quality and aquifer/aquitard continuity are mischaracterized both outside and especially within the MGSA Plan Area;
- The flawed Basin Setting analyses create many conflicts with the Salinas Valley Basin GSP;
- The nature of seawater intrusion and the resulting impacts to potential beneficial uses is grossly mischaracterized;
- The extremely flawed Basin Setting analyses lead to flawed and improper setting of sustainable management criteria.

HWG comments on the sustainable management criteria presented in the Marina GSP (Chapter 4) are:

- The GSP attempts to set SMC for areas outside of its Plan Area are unjustified and outside of its jurisdiction, and an attempt to usurp authority that belongs to the SVBGSA;
- The GSP sets strict SMC based on inappropriate and flawed interpretations of technical data and analyses;
- The GSP SMC inside and outside of the MGSA Plan Area present many conflicts to the SVBGSA GSP and interfere with key projects and management actions listed in the SVB GSP.

HWG comments on the monitoring program presented and adopted in the Marina GSP (Chapter 5) are:

- Without approval and development of the Monterey Peninsula Water Supply Project (MPWSP), the monitoring program described in the GSP will not be funded, installed, or monitoring initiated;
- The monitoring program is composed of representative monitoring sites located primarily outside of the MGSA Plan Area, which is not appropriate or within the jurisdiction of Marina GSA and in direct conflict with the SVB GSP.

HWG comments on the projects and management actions included in the Marina GSP (Chapter 6) include:

- The Marina GSP presents no projects or legitimate management actions of its own;
- The Marina GSP selectively agrees with certain SVBGSP projects and management actions and then sets SMC to prevent implementation of other SVB GSP projects and management actions it disagrees with, which presents a clear conflict with SVB GSP;
- From the beginning of the document and all throughout the chapters, the MGSA GSP speaks about the MPWSP as a project, providing numerous opinions about its potential negative impacts without formally including the MPWSP as a potential project, consistent with the recommendations of the SVBGSP;

HWG comments on the conflicts of the Marina GSP with the Salinas Valley Basin GSP include:

- The Marina GSP attempts to set SMC in areas under the sole jurisdiction of SVB GSP;
- The Marina GSP attempts to apply SVB GSP SMC to locations not included in the SVB GSP, which is a conflict that would have the effect of preventing implementation of certain SVB GSP projects and management actions;
- The Marina GSP designates the Dune Sand Aquifer (DSA) as a principal aquifer for which minimum thresholds (MTs) and measurable objectives (MOs) are assigned; thereby creating a clear conflict with the SVB GSP that specifically declined to designate the Dune Sand Aquifer as a principal aquifer even though MCWD consultants specifically brought it to the attention of SVB GSA and requested it be designated a principal aquifer in the SVB GSP;
- The Marina GSP sets SMC that would prevent implementation of certain key SVB GSP projects/management actions

More specific and detailed comments on City of Marina's Draft GSP are provided below.

DETAILED COMMENTS

Chapter 1 - Introduction

1. The GSP states, "A locally-focused GSP is needed in the MGSA Area to address the hydrogeologic conditions and management needs unique to this portion of the Subbasin." (Section 1.1, page 1-3)

HWG Comment: *The MGSP does not provide the hydrogeologic foundation and justification to support the need for a locally-focused GSP.*

2. The GSP states, "Near the shore, where the highest groundwater salinities have been documented, an interface between a seawater intrusion wedge and a zone of higher quality groundwater (the low total dissolved solids [TDS] zone) that is locally recharged through the highly permeable Dune Sand Aquifer extends downward into the 180-Foot Aquifer. (Section 1.1, page 1-3)

HWG Comment: *There is no technical support for this statement. Additional comments related to this statement are provided in subsequent sections of this letter.*

3. The GSP states, “A state of equilibrium exists between a more saline, dense seawater intrusion wedge that tends to flow landwards, and an over-riding, less dense and higher quality groundwater zone that tends to flow shoreward.” (Section 1.1, pages 1-3 and 1-4)

HWG Comment: *This description is too simplistic for a complex system, where there are multiple saline wedges that have intruded inland several miles over several decades. The GSP provides no technical drawings to support this statement nor does it reference actual physical data.*

4. The GSP states, “The freshwater that potentially flows from the Dune Sand Aquifer to the upper 180-Foot Aquifer may also contribute to maintaining this high quality groundwater zone.” (Section 1.1, page 1-4)

HWG Comment: *There is no technical support provided for this statement that also uses the words “potentially” and “may” (further demonstrating the uncertainty of the statement).*

5. The GSP states that MCWRA, “...prohibited the expansion of groundwater extraction in the Deep Aquifers. As such, a key objective of the MGSA GSP is to protect the existing high quality of waters in the Deep Aquifers underlying the MGSA Area.”

HWG Comment: *While the GSP states here that protection of the Deep Aquifer beneath the MGSA is critical, the GSP actually allows for dramatic increases in Deep Aquifer pumping by MCWD and sets no SMC for groundwater levels in the Deep Aquifer.*

6. The GSP states, “Based on the data discussed in Chapter 3 (Basin Setting), maintaining the groundwater elevations and thickness of the higher quality groundwater zone (low TDS zone) needed to protect against seawater intrusion will largely prevent undesirable results from occurring for all six sustainability indicators in the MGSA Area, and will support the sustainability goals of the neighboring GSAs.” (Section 1.2, page 1-6).

HWG Comment: *There is no data to support this statement; and, in fact, available data support a conclusion opposite to this statement.*

Chapter 2 – Plan Area

1. The GSP states, “Figure 2-9, Figure 2-10, and Figure 2-11 show the density of domestic, municipal, and production wells per square mile in the vicinity of the MGSA Area, as available from the DWR Well Completion Report Map Application (DWR 2019a).” (Section 2.1.3, pages 2-8 to 2-9)

HWG Comment: *DWR Completion reports do not note whether wells are active or abandoned.*

2. The GSP states, “CEMEX has two production wells at the CEMEX Lapis Plant sand mine site (one active and one inactive).”

HWG Comment: *This is incorrect information, the second CEMEX well has collapsed casing and cannot be used again without re-drilling.*

3.The GSP states, “Groundwater in the MGSA Area is currently used for industrial supply at the CEMEX Lapis Plant sand mine site, and groundwater containing less than 3,000 mg/L TDS has a designated potential beneficial use as a source of domestic and municipal supply.” (Section 2.2.7.3, page 2-18)

HWG Comment: *The CEMEX wells produce water with approximately 19,000 mg/L TDS for industrial uses (washing sand). A TDS concentration of 3,000 mg/L requires treatment for municipal and domestic uses.*

4.The GSP states, “The slant wells would extract a combined volume of approximately 17,400 AFY of groundwater consisting of a combination of saline groundwater (some of which originated in the ocean) and low total dissolved solids (TDS) groundwater from the Dune Sand and 180-Foot Aquifers within the Subbasin (HWG 2017).” (Section 2.3.2, page 2-26)

HWG Comment: *This is an incorrect and unsupported statement. The vast majority of extracted water will be sourced from the ocean, and Dune Sand Aquifer water quality is near seawater quality at the coast and brackish water quality inland. Few localized areas of lower TDS water are present. It is a misrepresentation to attribute this statement to the HWG 2017 and not clear why this statement is attributed to HWG 2017.*

5.The GSP states, “If the proposed MPWSP is fully approved and implemented, or if well extractions by others are proposed, such extractions of groundwater potentially may cause exceedances of measurable objectives established for the MGSA Area and trigger the need for management actions.” (Section 2.3.2, page 2-26)

HWG Comment: *There is no supporting data for this opinion/assumption, which appears to be placed in this section just get this opinion in the GSP. Furthermore, measurable objectives are meant to represent average basin conditions after sustainability is achieved, with seasonal and year to year fluctuations around the MO. The MO is not meant to be a trigger level.*

Chapter 3 – Basin Setting

1. The GSP states, “...the aquifers above a depth of approximately 700 feet are seawater intruded...” (Section 3.1.2.2, page 3-3).

HWG Comment: *Just to clarify and provide more detail, the seawater intruded aquifers in the MGSA Plan Area include the Dune Sand Aquifer, the 180-FTE Aquifer, and the 400-Foot Aquifer. These aquifers extend to a depth ranging from about 575 to 700 feet in the Marina GSP Plan Area and surrounding region; thus, the vertical extent of seawater intrusion ranges from 575 to 700 feet below ground surface (bgs). The uppermost Deep Aquifer occurs at a depth of 900 feet bgs, and there is 200 to 300 feet of clay between the base of the 400-Foot Aquifer and the top of the uppermost Deep Aquifer. In addition, water level information from the area documents an approximate 60 foot differential in water levels between the 400-ft and Deep Aquifers – documenting the limited connection of these systems.*

2. The GSP states that the vertical boundary of the MGSA Plan Area is 2,000 feet bgs (Section 3.1.2.2, page 3-3).

HWG Comment: *This text description of the vertical boundary is in conflict with Figure 3-3, which appears to show a vertical boundary of 800 to 1,200 feet bgs.*

3. The GSP relies on old geologic cross-sections (Section 3.1.6, page 3-10).

HWG Comment: *The cited geologic cross-section references and (Figures 3-6 and 3-11 to 3-13 do not utilize best available science and most recent borehole and geophysical logs for wells drilled within MGSA and nearby, nor do they utilize the most recent geologic cross-sections developed based on these data (see HWG, November 2017). This results in gross misrepresentation of hydrogeologic conditions for the MGSA Plan Area. Furthermore, the geologic cross-sections provided in the GSP (Figures 3-6, 3-11, 3-12, and 3-13) are not even located within the MGSA Plan Area and therefore do not meet the GSP requirements. Geologic cross-sections that use the latest available data and occur within the MGSA are provided in the HWG Final Technical Report (HWG, November 2017).*

4. The GSP relies on Gottschalk (2018) for discussion/description of geologic units (Section 3.1.6, page 3-11).

HWG Comment: *Mr. Gottschalk is not a geologist and relied primarily on surface geophysics in the cited report. The HWG has previously demonstrated the flaws and incorrect hydrostratigraphic interpretations based on the surface geophysics data (e.g., HWG, April 12, 2019). A detailed description of the geology within and adjacent to the MGSA Plan Area based on latest available data and best available science is provided in the HWG Final Technical Report (HWG, November 2017).*

5. The GSP repeatedly refers to “low-TDS groundwater” throughout the document (e.g., Section 3.1.6.1, page 3-11, Section 3.2.2, page 3-35).

HWG Comment: *The GSP applies the term “low-TDS groundwater” to groundwater with TDS up to 3,000 mg/L as inferred by surface geophysics. Notwithstanding all the uncertainty inherent in attempts to quantify both TDS and lithology from surface geophysics data discussed in numerous previous documents by the HWG (e.g., November 2017, January 2018, August 2018, January 2019, March 2019, April 2019), it has been demonstrated that groundwater with TDS greater than 1,000 mg/L has chloride levels exceeding MCLs such that it cannot be used for municipal or agricultural use without desalination. Furthermore, it has been shown that groundwater in the region with TDS greater than 1,500 mg/L has chloride exceeding the 500 mg/L standard used by MCWRA in mapping seawater intrusion. The surface geophysics study referenced in the GSP (Gottschalk, 2018) made no attempt to distinguish and map occurrence of groundwater TDS greater than 1,000 or 1,500 mg/L. Thus, references in the GSP to “low-TDS groundwater” includes primarily areas with groundwater having chloride greater than 500 mg/L that are included by MCWRA in mapping the seawater intruded area of the groundwater basin.*

6. The GSP mischaracterizes the Dune Sand Aquifer in multiple instances in the GSP. One example is the attempt to label the Dune Sand Aquifer as a “principal aquifer” (Section 3.1.6.1, page 3-11).

HWG Comment: *The Dune Sand Aquifer is not a principal aquifer in the subbasin, as is essentially acknowledged in the GSP where it states, “...it is not commonly used for drinking water or agricultural irrigation”. The MCWRA, which has studied and characterized the groundwater basin for many decades,*

does not consider the Dune Sand Aquifer as a principal aquifer. The Salinas Valley Basin (SVB) GSP also does not treat the Dune Sand Aquifer as a principal aquifer. This is one example of the many conflicts that the MGSA GSP creates with the SVB GSP that already covers the MGSA GSP Plan Area.

7.The GSP does not distinguish and describe the differences between the Salinas Valley Aquitard (SVA) and Fort-Ord Salinas Valley Aquitard (FO-SVA) and its significance to the perched/mounded aquifer (underlain by FO-SVA) versus the Dune Sand Aquifer and its equivalents (not underlain by FO-SVA in many places in the document (Section 3.1.6.1, page 3-11).

HWG Comment: *It should be noted that the SVA and FO-SVA are not the same aquitard and FO-SVA occurs at a much higher elevation; therefore, they should not be referred to as the same aquitard. Of primary significance regarding characterization of the shallow aquifer system is that pumping from the proposed MPWSP will have no impact on the perched-mounded aquifer, which is the primary area of the claimed low-TDS groundwater (3,000 mg/L TDS or less; chloride up to 1,000 mg/L or greater). Also, the western edge of this area lies well outside the MGSA Plan Area approximately 0.5 miles or further to the east near MW-7 (HWG, 2017).*

8.The GSP states, “The thinning of the SVA is coincident with a drop in the hydraulic head in the Dune Sand Aquifer (Section 3.1.6.1, page 3-11).

HWG Comment: *The GSP reference to SVA should be FO-SVA. Also, the reference to “thinning” of the aquitard is really a pinching out of the aquitard. The area where the FO-SVA pinches out is the demarcation between the Perched/Mounded Aquifer and the Dune Sand Aquifer (oceanward of this point). Future pumping from the MPWSP would not affect the hydraulically separate Perched/Mounded Aquifer, which is where most of the referenced “low-TDS water” is located.*

9.The GSP states, “In the MGSA Area, the Dune Sand Aquifer is seawater intruded; however, high recharge rates have resulted in a large zone of groundwater containing lower concentrations of TDS immediately east of, and extending into the eastern portion of, the MGSA area.” (Section 3.1.6.1, page 3-11).

HWG Comment: *We agree that the Dune Sand Aquifer is seawater intruded in the MGSA area; this is fully documented by TDS concentrations from MW-1S, 3S, and 4S that extend from about 400 feet east of the western edge of MGSA to the eastern boundary of MGSA (actually MW-4 is slightly east of most of the eastern boundary of MGSA). These concentrations range from 34,400 mg/L TDS in the western portion of MGSA to 7,700 mg/L TDS at the eastern boundary of MGSA. Thus, it is clear from field data that no so-called “low-TDS water” (which is really brackish water with chlorides exceeding 1,000 mg/L) exists within the MGSA. As stated above, the purported “low-TDS” zone is not immediately adjacent to the eastern boundary of the MGSA Plan Area.*

10. The following sentence in the GSP states, “The seaward discharge of low TDS groundwater from this area, and the flow of groundwater from the Dune Sand Aquifer to the Upper 180-Foot Aquifer, appears to mound groundwater in the Dune Sand and Upper 180-Foot Aquifers near the coast, creating a local groundwater barrier against encroaching seawater intrusion.” ((Section 3.1.6.1, page 3-11).

HWG Comment: *As explained above, there is no “low TDS groundwater” in the MGSA Plan Area, so there can be no seaward discharge of such water. Furthermore, groundwater flows over the edge of the FO-SVA (where it pinches out) from the Perched/Mounded aquifer (not the Dune Sand Aquifer) into the underlying 180-FTE Aquifer approximately 0.75 mile inland of the eastern edge of the MGSA Plan Area (not near the coast), and there is no indication any significant mound is created from this small amount of groundwater flow that clearly is not impeding seawater intrusion.*

11. The GSP states, “...near the MGSA Area, the Dune Sand Aquifer is hydraulically connected to, and supports, local groundwater-dependent ecosystems (GDEs), including palustrine and emergent wetlands which support protected species.” (Section 3.1.6.1, page 3-12). The Marina GSP references GDEs in several places throughout the document (e.g., pages 3-16, 3-19, 3-24, 3-42, 3-60, 3-72, 4-6, 4-10, 4-12)

HWG Comment: *It is most important to note that no GDEs occur within the MGSA Plan Area, and the MGSA GSP has no jurisdiction to set sustainable management criteria (SMC) for GDEs that occur within only the SVB GSA Plan Area. This is a clear and problematic conflict with the SVB GSP. Furthermore, it is important to note that these nearby areas were not fully evaluated to determine if potential GDEs obtained from TNC mapping are actual GDEs (despite claims to the contrary in the MGSA GSP). The role of surface water in supporting these GDEs, as opposed to groundwater, was not evaluated. In addition, it is clear from MPWSP monitoring well data that the shallow aquifer beneath the GDEs nearest to MGSA is highly saline and would not support (and actually would be detrimental to) most types of vegetation.*

12. The GSP states, “The 180-Foot Aquifer underlies the SVA and is the uppermost regional aquifer that has historically been used as a groundwater supply. Near the MGSA area, it is seawater intruded...”

HWG Comment: *We agree that the 180-FTE Aquifer (referred to in GSP as 180-Foot Aquifer) is the shallowest aquifer historically used for groundwater supply and is seawater intruded in the MGSA area.*

13. The GSP states in reference to the 180/400-Foot Aquitard, “Geophysical studies reported by Gottschalk et. al. (2018) have confirmed this aquitard is discontinuous in and near the MGSA Area, and its hydraulic connection to the overlying 180-Foot Aquifer in the vicinity of the MGSA area is substantiated by available hydrographs (Section 3.2.1.3).” (Section 3.1.6.4, page 3-12).

HWG Comment: *Previous studies (e.g., MCWRA, 2017) cited in various places in the GSP regarding potential gaps in the 180/400-Foot Aquitard did not have the MPWSP borings available to incorporate. These recent data (documented in HWG, 2017) show presence of the 180/400-Foot Aquitard where gaps were previously suggested. In addition, the HWG (April 2019) previously demonstrated that purported gap(s) claimed in the AEM study (Gottschalk, et. al., 2018) were incorrectly interpreted and the gap(s) in fact do not exist. Finally, review of boring logs and water level data (head differences and different patterns of fluctuation in different depth zones/aquifers) in the MPWSP monitoring wells or other data demonstrate no gaps are present in the 180/400-Foot Aquitard beneath and near MGSA. Even if there were a gap somewhere in the aquitard, there are significant differences in vertical hydraulic conductivity (much lower) compared to horizontal hydraulic conductivity within aquifers that create a degree of*

confinement and resistance to vertical flow, and reduced heads in the 180-FTW Aquifer from proposed MPWSP slant well pumping would reduce the rate of vertical migration to the 400-Foot Aquifer.

14. The GSP states, "...saline groundwater in the 180-Foot Aquifer, which has been recorded farther inland than in the 400-Foot Aquifer, has been documented to migrate vertically into the 400-Foot Aquifer, deteriorating water quality in the 400-Foot Aquifer..." (Section 3.1.6.5, page 3-13)

HWG Comment: *While this is true, vertical migration to the 400-Foot Aquifer has only been documented to occur several miles inland of the coast and has not been documented in or near the MGSA. In addition, the vertical migration of contamination has been linked primarily to cross connected wells as opposed to aquitard gaps.*

15. The GSP appears to question the integrity of the 400-Foot/Deep Aquitard stating, "More variable lithology has been interpreted from other deep well geophysical logs in the area...", and "...regional continuity and competence are not well understood." (Section 3.1.6.6, page 3-13).

HWG Comment: *Borehole lithologic and geophysical logs for the nearby USGS Deep Aquifer monitoring well and MCWD water supply wells 10, 11, and 12 show 200 to 300 feet of fine-grained clay and silt deposits comprising the 400-Foot/Deep Aquifer Aquitard. The lack of seawater intrusion in the Deep Aquifer, which has groundwater levels on the order of 100 feet below sea level in the MGSA area and a strong vertically downward gradient from the 400-Foot Aquifer, with high salinity in the 400-Foot Aquifer beneath and surrounding the MGSA also shows the strong integrity of the aquitard between the 400-Foot Aquifer and Deep Aquifer. Again, the large difference in water levels between the 400-Foot Aquifer and Deep Aquifers provides evidence of a thick/tight aquitard separating these aquifer zones.*

16. The GSP states that typical specific yield values range from 10 to 30 percent. The GSP also states that specific storage values, which the GSP states are equivalent to storage coefficient values, typically range from 10^{-3} to 10^{-5} .

HWG Comment: *Typical specific yield values actually range from 3% (for clay) to 30% (for gravel). Specific storage values are not the same as storage coefficient values; specific storage values must be multiplied by aquifer thickness to obtain storage coefficient values. The range of 10^{-3} to 10^{-5} cited in the GSP is typical for storage coefficient, while specific storage values are typically 10^{-5} to 10^{-6} per foot.*

17. The aquifer parameter values cited in the GSP for near the MGSA Plan Area are stated to be derived from the CEMEX model (3.1.7.2, page 3-15).

HWG Comment: *The calibrated CEMEX Model parameters do not match the values stated in the GSP. It is important to note there is a large difference in hydraulic conductivity values between the Dune Sand Aquifer (which occurs within 1 to 1.5 miles of the coast) and the Perched/Mounded Aquifer further inland, which is the aquifer containing the purported low-TDS water east of the MGSA area. As indicated in the more regional groundwater model used in the FEIR (CPUC, 2018), the Perched/Mounded Aquifer has much lower K values ranging from 2 to 4 feet/day compared to the much higher values cited in the GSP.*

18. The GSP states, “The Dune Sand Aquifer is not currently used as a water supply, but does support surface water systems and does yield water to GDEs in the immediate vicinity of the MGSA Area...” (Section 3.1.8, page 3-16).

HWG Comment: *We agree that the Dune Sand Aquifer is not used as a water supply. There are no GDEs within the MGSA area, and the Marina GSP has no jurisdiction over setting SMC for GDEs. Furthermore, the GSP assumes nearby mapped Potential GDEs are Actual GDEs without evaluating the more likely contribution of surface water in maintaining vegetation in these areas and without considering the fact that shallow groundwater is saline in the mapped Potential GDE areas near MGSA.*

19. With regard to pumping from the CEMEX well in the MGSA Area, the GSP states, “The amount of groundwater produced from the lower TDS zone in the upper 180-Foot Aquifer vs. saline groundwater from the deeper portions of the 180-Foot Aquifer and the underlying 400-Foot Aquifer is not known.” (Section 3.1.8, page 3-16).

HWG Comment: *Available data clearly demonstrate that there is no lower TDS water within the MGSA area in the 180-Foot and 400-Foot Aquifers.*

20. With regard to the potential MPWSP slant wells, the GSP states, “The wells would extract water radially from the DSA and 180-Foot Aquifer near the coast. Groundwater captured by the wells would include saline groundwater originating outside the western (seaward) Subbasin boundary, saline groundwater from aquifers within the Subbasin, and low-TDS groundwater from aquifers within the Subbasin.” (Section 3.1.8, page 3-17; Section 3.3.8.1, page 3-58).

HWG Comment: *There are several corrections and clarifications that need to be made to this text. First, the wells would not extract water in a radial pattern, rather most of the water flowing to the wells would be derived from the ocean side of the wells. Second, the wells would capture saline water seeping through the seabed and migrating a short distance through the Dune Sand Aquifer and 180-Foot Aquifer to the slant well screens, as opposed to the referenced, “saline groundwater” from west of the Subbasin boundary. Third, is that the slant wells will capture a small amount of brackish water (as opposed to low-TDS groundwater) from the Subbasin aquifers.*

21. The GSP states the following with regard to pumping from Marina Coast Water District Deep Aquifer wells, “The combined extraction from these wells was approximately 1,823 AFY in 2015, and is forecast to increase to 3,905 AFY by 2035...” (Section 3.1.8, page 3-17).

HWG Comment: *While the Marina GSP states its support for prohibition against pumping from new Deep Aquifer wells, it is silent on the issue of increased pumping from existing Deep Aquifer wells. The cited MCWD Deep Aquifer pumping numbers represent a greater than doubling of the amount of current pumping from the Deep Aquifer, a pumping amount that already results in Deep Aquifer water levels east of the GSP boundary on the order of 60-100 feet below sea level. Also, whereas, as stated above, it is inappropriate for the GSP to proscribe SMC outside of its jurisdiction, the combined pumpage of the existing agricultural deep aquifer wells just east of the GSP boundary is approximately 5,000 acre-feet/year (AFY). Such increased pumping from the Deep Aquifer by MCWD and others is likely not*

sustainable, but the Marina GSP provides no SMC for Deep Aquifer groundwater levels or storage even though it is the only viable and potable aquifer within its boundaries.

22. The GSP references Figure 3-15 as being from a report for the Central Coast Groundwater Coalition (Section 3.1.9, page 3-17).

HWG Comment: *On Figure 3-15 the cited reference is MCWRA, 2017.*

23. The GSP discusses the need to protect groundwater with TDS of 3,000 mg/L and states, "...a prominent zone of higher quality groundwater extends approximately from the eastern portion of the MGSA Area eastward through the area underlain by the Dune Sand Aquifer, and extends vertically downward into the 180-Foot Aquifer (Gottschalk et.al., 2018)." (Section 3.1.9, Pages 3-18 to 3-19).

HWG Comment: *As stated previously in this document and described in the HWG Final Report (November 2017), there is no groundwater less than 3,000 mg/L within the MGSA Plan Area, so the statement in the text about such water extending from the eastern portion of the MGSA Area is incorrect. Well MW-4 on the eastern boundary of the MGSA area has no groundwater less than 7,500 mg/L TDS. Furthermore, it is important to note that groundwater to the east of the MGSA area that is 3,000 mg/L TDS has chloride concentrations exceeding 1,000 mg/L, which is approximately twice the highest MCL for chloride and therefore a non-potable source of water for domestic, municipal, and agricultural uses.*

24. The GSP states, "These GDEs utilize shallow groundwater from the Dune Sand Aquifer to meet a significant portion of their water demand." (Section 3.1.11.2, page 3-19).

HWG Comment: *The presence of Actual GDEs as opposed to a Potential GDEs has not been fully evaluated in the Marina GSP. We note that any GDE near the MGSA boundary is subject to being underlain by saline shallow groundwater, and the contribution of fresh surface water sources has not been evaluated.*

25. The GSP states, "Potentiometric surface maps prepared for the vicinity of the MGSA Area indicate the groundwater flow direction in the Dune San Aquifer is toward the coast." (Section 3.1.11, page 3-20).

HWG Comment: *The only shallow monitoring wells within the MGSA are MW-1S, MW-3S, and MW-4S. Data from these monitoring wells (under static conditions without the test slant well pumping) show the Dune Sand Aquifer groundwater flow directions within MGSA that vary from inland to relatively flat depending on the season and year being evaluated (see HWG, 2017). Water quality data for these monitoring wells also demonstrates significant seawater intrusion has occurred throughout the MGSA in the Dune Sand Aquifer. Thus, the GSP mischaracterizes shallow groundwater flow within the MGSA Plan Area.*

26. The GSP states, "...there is an upward gradient between the 180-Foot Aquifer and the Dune Sand Aquifer at the monitoring well cluster that is nearest to the coast..." (Section 3.1.11, page 3-20).

HWG Comment: *There is an overall downward gradient between MW-1S and MW-1M under static conditions (without the test slant well pumping). The GSP mischaracterizes the vertical gradient and uses this mischaracterization to argue for a hydrogeologic conceptual model (seaward discharge of groundwater from the Dune Sand Aquifer and upper 180-Foot Aquifer) that is not present beneath MGSA.*

27. The GSP describes the chloride islands found in a study by MCWRA that are located approximately 3.5 to 4.5 miles inland of the MGSA, presents a potential aquitard gap map in Figure 3-20, and generally implies this issue is relevant in the MGSA Plan Area. (Section 3.1.12, page 3-20). The chloride island issue is discussed in other places in the GSP as well (e.g., Section 3.2.3.2, page 3-37).

HWG Comment: *This issue of possible aquitard gaps and chloride islands was documented at locations far inland and not relevant to the Marina GSP. In addition, detailed work by MCWRA was able to assign these chloride islands to being caused by poorly constructed wells. The cited study by MCWRA did not have MPWSP monitoring well boring logs available to incorporate in their study. The locations of the MPWSP borings relative to the purported aquitard gaps (GSP Figure 3-20) is displayed in the attached **Figure 1**. MPWSP MW-8 has a major clay zone present from approximately 225 to 295 feet bgs and MW-9 has a major clay zone present from approximately 225 to 350 feet bgs (aquitard intervals in other boreholes include: MW-1: 210-275; MW-3: 215-285; MW-4: 260-300; MW-5: 305-395 (higher ground elevation); and MW-7: 225-270).*

28. The GSP goes into a detailed description of the surface geophysics (AEM) study conducted by Marina Coast Water District's consultants. A statement made in the GSP in this section is, "The 180/400-Foot Aquitard is discontinuous and notably absent beneath a portion of the MGSA Area and in a large area located just east of the MGSA Area. This occurs in the vicinity of an area where the aquitard was previously judged to be thin or absent by MCWRA (see Figure 3-20)." (Section 3.1.12, page 3-21)

HWG Comment: *The HWG has previously provided extensive documentation of erroneous hydrogeologic interpretations of the AEM data (HWG, November 2017, January 2018, August 2018, January 2019, March 2019, and April 2019). The HWG April 2019 document clearly demonstrates with field data that the hydrogeologic interpretation of aquitard gaps from the AEM study is invalid. Furthermore, as described above, MPWSP monitoring well borehole logs demonstrate that areas of uncertain aquitard continuity areas identified by MCWRA (who did not have MPWSP monitoring well borehole data available to them at the time of their study) near MGSA are no longer uncertain and clearly have significant aquitard material present. Furthermore, review of water level and water quality data for the MPWSP clearly demonstrate the presence and continuity of the 180/400-Foot Aquitard beneath MGSA and surrounding MGSA.*

29. The GSP states, "The 400-Foot Aquitard is uneven, and the Deep Aquifer occurs at some locations as shallow as depths of approximately 650 feet below the ground surface." (Section 3.1.12, page 3-21 and 3-22).

HWG Comment: *The GSP provides no basis or reference for this description of the 400 Foot/Deep Aquifer Aquitard and the depth to the top of the Deep Aquifer, but it clearly does not apply to the MGSA or vicinity as noted above in Comment 15 for Chapter 3.*

30. The GSP states, “The water quality data show a prominent saline groundwater wedge (>10,000 mg/L TDS) which dives downward from the coast through the Dune Sand and 180-Foot Aquifers, and extends downward into the 400-Foot Aquifer through a large gap in the 180/400 Foot Aquitard.” (Section 3.1.12, page 3-22).

HWG Comment: *This characterization of a large gap in the 180/400 Foot Aquitard is based solely on surface geophysics AEM data (not water quality data as stated in GSP text), and was clearly demonstrated to be wrong and contrary to water quality field data in a previous HWG letter (April 2019). This is one major example of invalid hydrogeologic interpretations generated by MCWD consultants from the surface geophysics AEM data. The AEM data hydrogeologic interpretations were not ground-truthed with actual field data that included borehole lithologic logs, borehole geophysical logs, water level data, and water quality data. In fact, many of the surface geophysics AEM data hydrogeologic interpretations are in direct opposition to the readily available field data.*

31. The GSP states, “A correlation between groundwater elevations and GDE stress or habitat quality has not been established.” (Section 3.1.13, page 3-24).

HWG Comment: *While we agree this statement is true, the Marina GSP subsequently establishes an unjustified and very stringent minimum threshold for GDEs, the locations of which are not even within MGSA’s Plan Area and jurisdiction.*

32. The GSP states, “Before a substantial groundwater extraction is implemented in the MGSA Area, there would be a need for a locally refined groundwater flow model this is able to simulate solute transport and density-driven flow...” (Section 3.1.13, page 3-24).

HWG Comment: *This issue was addressed in the Final Environmental Impact Report (FEIR) for the MPWSP, which essentially concluded such a model was not necessary (section 8.2.12, CPUC, 2018).*

33. The GSP describes the MPWSP nested monitoring well network as having installed one well in each aquifer (Dune Sand Aquifer, 180-Foot Aquifer, and 400-Foot Aquifer) at each of the eight sites. (Section 3.1.13, page 3-26).

HWG Comment: *It should be noted that at site MW-5, the shallow monitoring well is screened in the Perched/Mounded Aquifer and not the Dune Sand Aquifer equivalent at that location; and at the MW-6 site the middle and deep monitoring wells are both screened within the 180-Foot Aquifer.*

34. The GSP provides selected groundwater contour maps for the various aquifers along with discussion of groundwater levels, gradients, and implications thereof (Section 3.2.1.2, pages 3-27 to 3-30, Figures 3-25 to 3-33).

HWG Comment: *There are several important points to note in this GSP discussion: 1) The GSP only presents groundwater elevations and contour maps for March and April at the peak (highest seasonal) groundwater levels whereas MCWRA focus their analysis of groundwater levels/contours on the Summer and Fall months that are critical to understanding seawater intrusion; 2) the entire GSP analysis of groundwater levels/contours is biased and unrepresentative because it ignores groundwater levels/contour during the majority of the year that drive local and regional seawater intrusion (see HWG 2017 for a more balanced discussion of Spring and Fall groundwater contour maps); 3) presenting a local contour map for March 2015 is not useful because the majority of the MPWSP monitoring well network had not yet been installed; there were plenty of opportunities to prepare and show groundwater contour maps representative of static conditions due to interruptions in test slant well pumping (e.g., June to October 2015; March to May, 2016); 4) the Dune Sand Aquifer groundwater contour map mixes wells from different aquifers (Perched/Mounded Aquifer and Dune Sand Aquifer), which results in mischaracterization of shallow groundwater flow; 5) the March 12, 2017 groundwater contour map either does not show static groundwater level conditions (i.e., the map is misdated), or it mixes groundwater levels for MW-1S and MW-3S for two different times (i.e., test slant well is pumping for the MW-1S reading and not pumping for the MW-3S reading); 6) the April 2018 groundwater contour map indicates groundwater flow from MW-1S, 3S, 4S, and 7S towards MW-8S and the Monterey Landfill monitoring wells, but this is not indicated on Figure 3-27; 7) the March 2017 and April 2018 groundwater contour maps for the 180-FTE Aquifer show steep inland gradients towards MW-6 that are not reflected on the maps (Figure 3-29 and Figure 3-30); 8) all the hydraulic gradient calculations are misleading in terms of magnitude (and in some cases direction) due to use of only Spring groundwater level measurements (see HWG 2017 or a more balanced discussion of magnitude and direction of hydraulic gradients).*

35. The GSP states, “At the landfill, groundwater elevations in the landfill area may be affected by local shallow French drains for landfill hydraulic containment and leachate collection systems...and are lower than expected.” (Section 3.2.1.1, page 3-28).

HWG Comment: *The French drains only impact the uppermost perched zone at the landfill, and do not impact the -2 Foot Aquifer (Dune Sand Aquifer equivalent) well measurements (e.g., Wells G-1, G-2, C-34, and others) shown on the GSP maps.*

36. The GSP terminates groundwater level contours south of the Salinas River to avoid, “...conjecture about the effect of river seepage on groundwater elevations in this area...” (Section 3.2.1.1, page 3-28)

HWG Comment: *If the GSP had focused on Fall groundwater level measurements and contours as it should have, there would be no need to worry about conjecture regarding river seepage.*

37. The GSP states, “Near the coast in wells MW-1S...groundwater elevations increased by approximately 7 feet...between March 2017 and April 2018.” (Section 3.2.1.1, page 3-29)

HWG Comment: *The GSP is clearly mixing test slant well pumping and non-pumping water level measurements at MW-1S in this statement and on its maps for these two time periods.*

38. The GSP compares September 2018 groundwater elevations to 30-year averages and states it indicates “average stable to somewhat recovering conditions” for the 180-Foot Aquifer (Section 3.2.1.3, page 3-31).

HWG Comment: *The discussion in this section of the GSP is very misleading and compares a single snapshot in time to 30-year averages, and is not indicative of recent or overall conditions in the subbasin that very substantially from year to year.*

39. The GSP discusses MPWSP MW-6M and MW-6M(L) and suggests groundwater levels may indicate, “...an area where the 180-Foot and 400-Foot Aquifers are in direct communication.” (Section 3.2.1.3, page 3-33).

HWG Comment: *As is clear from review of the borehole lithologic and geophysical logs, and related discussion by HWG in the Technical Report (November 2017), the 180/400-Foot Aquitard is quite substantial at this location, and the 180-Foot and 400-Foot Aquifers are clearly not in “direct communication.”*

40. The GSP states, “In well clusters MW-7, MW-8 and MW-9, there is less separation between the hydrographs for the middle (M) lower (D) wells than in well clusters MW-1, MW-3, and MW-4, indicating the 180/400-Foot Aquitard may be less competent or absent in this area, as also documented by the AEM surveys in this area...” (Section 3.2.1.3, page 3-33)

HWG Comment: *Examination of all available data for the MPWSP monitoring wells (borehole lithologic logs, geophysical logs, groundwater level data, groundwater quality data, pumping test data) consistently demonstrate the presence of substantial hydraulic separation between the 180-FTE and 400-Foot Aquifers in the MPWSP monitoring well network area. In addition, the HWG have demonstrated the hydrogeologic misinterpretation of AEM data with regard to aquitard gaps and other misleading and/or incorrect conclusions from AEM data interpretation (e.g., HWG, April 2019).*

41. The GSP acknowledges that, “There is a cyclical pattern of high groundwater elevations in the winter/spring and low elevations in the summer/fall.” (Section 3.2.1.3, page 3-33)

HWG Comment: *While the GSP acknowledges this key fact here, it fails to present or describe groundwater levels, contours, and gradients during the key summer and fall months that drive seawater intrusion in the MGSA and SVBGSA Plan areas.*

42. The GSP states that groundwater levels during the test slant well pumping test declined by “...approximately 8 feet in MW-1S and MW-1M, and by 3 feet in MW-3S and MW-3M...” and that “pumping-related drawdown was too gradual to be readily distinguishable...” in other MPWSP monitoring wells. The GSP goes on to state, “...groundwater elevations in most of these wells appeared to show a sudden recovery (or rebound) when pumping was temporarily discontinued in the spring of 2016.” (Section 3.2.1.3, page 3-34).

HWG Comment: *The HWG previously documented (e.g., HWG, July 2015) in detail that drawdowns from pumping the test slant well were approximately 8 feet in MW-1S, 2 feet in MW-3S, negligible in MW-4S, 6 feet in MW-1M, 2 feet in MW-3M, negligible in MW-4M, and 0 in all other MPWSP monitoring wells. The purported “recovery” in spring 2016 had nothing to do with operation of the test slant well, but rather represented regional pumping fluctuations tied to variation in climatic conditions as is apparent by the fact that the recovery started prior to the test slant well being turned off and occurred in aquifers and well locations completely unaffected by test slant well pumping. Furthermore, if such a notable recovery occurred at these well locations upon turning the test slant well off, it would have consistently been observed (but was not) when the test slant well was temporarily turned off on numerous occasions.*

43. The GSP states in reference to monitoring well drawdown during test slant well pumping, “Drawdown in the deep wells illustrates a strong hydraulic connection between the 180-Foot and 400-Foot Aquifer in this area, consistent with a thin or absent 180/400-Foot Aquitard in much of the area.” (Section 3.2.1.3, page 3-34).

HWG Comment: *As described above and elsewhere in this comment letter, and in other HWG documents, the cited drawdown in the 400-Foot Aquifer from pumping of the test slant well does not exist and this conclusion is completely erroneous. This erroneous conclusion is further illustrated by the GSP claim that drawdown from test slant well pumping resulted in the greatest drawdown and most rapid response in the 400-Foot Aquifer, which is an aquifer that is not even screened and pumped from in the test slant well.*

44. The GSP states, “In 2017, storage recovered by approximately 24,000 AF, indicating that, as had occurred on several past occasions during the period of record, that significant storage recovery is possible within a relatively short period of time.” (Section 3.2.2, page 3-34)

HWG Comment: *It should be noted here that 2016-2017 was a record rainfall year, which is a rare occurrence and would be expected to result in some recovery. It should also be recognized that basin “recovery” can occur in part via seawater intrusion.*

45. In referring to MCWD consultant hydrogeologic interpretation of surface geophysics work the GSP states, “This includes low TDS groundwater identified within the MGSA Area...” (Section 3.2.2, page 3-35)

HWG Comment: *This statement clearly illustrates again the erroneous hydrogeologic interpretation of AEM data presented by MCWD/Marina consultants and in this GSP. While field groundwater level and quality data clearly demonstrate that TDS in the Dune Sand Aquifer, 180-FTE Aquifer, and 400-Foot Aquifer within MGSA exceeds 7,500 mg/L, Marina/MCWD consultants and the MGSA GSP keep stating that such water exists within the MGSA Plan area based on the AEM data. This clearly demonstrates either flawed AEM data or (more likely) a flawed interpretation of the AEM data.*

46. The GSP states, “...it is entirely possible that in an aquifer where seawater intrusion has occurred at 500 mg/L chloride, that there will be large groundwater areas within the 500 mg/L impacted area that have higher quality groundwater than at the leading edge.” The GSP also states that groundwater

quality in the seawater intruded area, "...may well be sufficient for many beneficial uses." (Section 3.2.3.1, page 3-36)

HWG Comment: *There is no evidence to support these statements. The so-called "low-TDS" groundwater claimed to be found by interpretation of AEM data has chloride concentrations exceeding the maximum chloride MCL (600 mg/L) and up to 1,000 mg/L or more. Furthermore, this so-called "higher quality groundwater" is not sufficient for domestic, municipal, or agricultural beneficial uses without treatment. Lastly, any attempt to develop any actual better quality groundwater zones (if they were to exist) within the seawater intruded soon will result in rapid salinization of such pumping wells.*

47. The GSP states, "...the seawater intrusion front defined using the 500 mg/L chloride threshold...does not mean that the groundwater within the affected region is no longer suitable for current or potential beneficial uses." (Section 3.2.3.1, page 3-36)

HWG Comment: *Again, the GSP presents no evidence to support this statement.*

48. The GSP states that it "augmented" the MCWRA seawater intrusion maps to show zones of low TDS groundwater "...identified during the AEM survey..." (Section 3.2.3.2, page 3-37).

HWG Comment: *It is not clear why the MCWRA seawater intrusion maps (which show areas of groundwater with chloride exceeding 500 mg/L) need to be "augmented" by "low TDS" zones that have chloride concentrations exceeding 500 mg/L and up to as much as 1,000 mg/L or more. The "augmented" maps really don't display any information of value.*

49. The GSP states, "Geophysical data collected in 2017 indicate that groundwater elevations in the Dune Sand Aquifer are close to the river stage elevation, and decline away from the river, suggesting a losing condition..." (Section 3.2.6.1.1, page 3-41)

HWG Comment: *The surface geophysical data do not provide groundwater elevation data.*

50. The GSP states, "No potential GDEs are mapped in the MGSA Area, but several potential GDEs are located nearby. Potential GDEs near the MGSA Area include riverine wetlands and riparian habitat along the banks of the Salinas River, and Palustrine and emergent wetland areas that are seasonally flooded in depressions a short distance east of the MGSA Area, north in the Salinas River National Wildlife Refuge, and south in the City of Marina." Additional discussion of these potential GDEs located outside of the MGSA Plan Area (and within the undisputed area of SVB GSA GSP) occurs in subsequent paragraphs of the GSP. (Section 3.2.6.1.2, page 3-42 to 3-44.)

HWG Comment: *The fact that no GDEs are located with the Marina GSP Plan Area means that the SVB GSA and GSP (and not City of Maria GSA and GSP) has jurisdiction over that evaluation of (to determine if potential GDEs are considered actual GDEs) and setting of SMC for these GDEs if deemed necessary. We note that Salinas River GDEs are located two miles or further from potential MPWSP slant wells within MGSA. In addition, the fact that nearby GDEs are seasonally flooded and have a seasonal nature to them (and are associated with "a lens of less pervious soil") suggests a surface water source is most likely sustaining vegetation in these areas. The GSP evaluation to determine if potential GDEs are actual*

GDEs did not consider that shallow groundwater in these nearby potential GDE areas is saline or the likelihood that fresh surface water is the primary sustaining factor for these areas and (which means they are not GDEs).

51. The GSP states, “Hydrographs for well MW-4S indicate that the seasonal fluctuation in groundwater elevations in this well was approximately 2 feet, and suggest that pumping-induced drawdown was approximately 1 foot. The above ET analysis demonstrates the correlation between groundwater levels and ET from this wetland, and illustrates its sensitivity to groundwater level declines.” (Section 3.2.6.1.2, page 3-44).

HWG Comment: *Previous HWG documents demonstrate negligible drawdown at MW-4S (e.g., HWG, 2015). Available data make clear that there was no drawdown from test slant well pumping at potential GDE locations that are outside the MGSA Plan Area. Any claimed changes in ET (assuming there are any given the wide ranges in ET cited) from the wetland areas is related to other (likely climatic) factors.*

52. The GSP states, “...it is not possible to determine the extent to which the drawdown induced during the test slant well pumping test resulted in significant and unreasonable impacts to the GDE, or whether the results were temporary and reversible.” (Section 3.2.6.1.2, page 3-44).

HWG Comment: *As stated above, it is clear from available data that there was no drawdown from test slant well pumping at the referenced potential GDE locations. Thus, the claimed impacts at potential GDE locations (assuming such impacts even occurred) are due to other factors and illustrate the uncertainty of such an analysis. Most importantly, this is a clear and significant conflict with the SVG GSA GSP, which has sole jurisdiction and authority to evaluate potential GDEs within its Plan Area and to determine if SMC need to be set.*

53. The GSP states that since monitoring wells were only installed within MGSA Plan area as of 2015, “...there is little data for development of a local historical water budget prior to 2015.”

HWG Comment: *The majority of the water budget is not dependent on well data, which is only needed for evaluation of surface inflow and outflow. The vertical components of the water budget (e.g., recharge from precipitation, surface water, irrigation, and discharge from wells) do not require well data and can be calculated for historic conditions.*

54. The GSP states, “...density-driven convection of saline groundwater in the intruding wedge underlying the MGSA Area likely results in the mixing of saline and low-TDS groundwater in the upper portion of the intruding wedge, which discharges seaward.” (Section 3.3.2, page 3-47).

HWG Comment: *This discussion and previous/subsequent discussion in the GSP relative to the Ghyben-Herzberg approximation (e.g., Section 3.3.8.1, page 3-59) are based on there being one continuous seawater wedge in the area. This discussion is fundamentally flawed because each aquifer (Dune Sand Aquifer, 180-FTE Aquifer, and 400-Foot Aquifer) has its own distinct seawater intrusion wedge (and given the stratification within a given aquifer, there are likely multiple “mini-wedges” depending on the distribution of hydraulic conductivity and water levels). Beneath the MGSA, the wedge interfaces with*

“low-TDS groundwater” are inland of the MGSA Plan area for all three aquifers, as demonstrated by lack of any aquifer TDS being less than approximately 7,500 mg/L.

55. Table 3-7 shows groundwater levels and vertical gradients for late March and early April at MPWSP monitoring wells, and Figures 3-25 through 3-33 also show only March/April groundwater level and contours. (Section 3.3.3, pages 3-51 through 3-53).

HWG Comment: *The GSP only shows groundwater levels for the various aquifers at their peak (highest) elevations, and does not provide overall representative groundwater levels, groundwater contours, or vertical gradients. Groundwater levels are considerably lower with steeper inland gradients during other times of year (i.e., before March and after April), but these conditions are not displayed in the GSP (see HWG 2017 for more representative description of groundwater levels and gradients).*

56. The GSP calculates purported subsurface inflow in the Dune Sand Aquifer from the east in the MGSA based on March 2017 groundwater levels. (Section 3.3.7.1, pages 3-56 and 3-57).

HWG Comment: *The GSP uses groundwater levels/gradients from a record wet rainfall year and peak seasonal month for groundwater levels. This calculation should utilize average groundwater levels across a given year and range of climatic conditions across several years. Such a calculation would likely result in no net subsurface inflow from the east, which is evident from the saline groundwater conditions within the Dune Sand Aquifer within the MGSA.*

57. The GSP provides a discussion of the ocean water percentage extracted by the test slant well, and suggests it is unknown but expected to be larger than 10 percent; thus, a value of 30% is used for subsequent water balance calculations. (Section 3.3.8.1, page 3-59)

HWG Comment: *The GSP ignores the weekly water quality data collected from the test slant in discussing the ocean water percentage. This field data was reported in weekly/monthly monitoring reports, and demonstrates that the ocean water percentage averaged 10% over the long term (including record wet year conditions). Thus, the use of a 30% value for ocean water percentage is clearly erroneous as demonstrated by field data.*

58. The GSP states, “Discharge from the Dune Sand Aquifer to the Pacific Ocean is approximately 435 AFY (seaward direction out of the western MGSA boundary).” (Section 3.3.8.1, page 3-59).

HWG Comment: *This statement/calculation is clearly erroneous, and the basis for the calculation is not explained. Again, the only groundwater level data even presented in the GSP is for March/April (the peak/highest groundwater levels in a given year), which are not representative of the average annual condition needed for this calculation.*

59. The GSP states, “...the 400-Foot Aquifer did experience drawdown during test slant well pumping...” (Section 3.3.8.2, page 3-60).

HWG Comment: *This statement/conclusion is clearly erroneous and not supported by the abundant available field data during the three years of test slant well pumping, including several episodes of the*

test slant well being turned off and on, during which drawdown (and recovery) would be demonstrated if it occurred.

60. The GSP states, "...groundwater storage beneath the MGSA Area does not appear to be decreasing at the present. This implies that conditions at the seaward edge of the saline intrusion front in the Subbasin are relatively stable; however significant changes in groundwater pumping in this area could upset this equilibrium and have both local and inland implications for future seawater intrusion." (Section 3.3.9, page 3-61).

HWG Comment: *Stable groundwater storage conditions does not mean there is not continuing seawater intrusion; it just means the inland gradient is relatively constant on an average annual basis. Pumping from the proposed MPWSP within MGSA would serve to help mitigate future inland seawater intrusion as was demonstrated in the MPWSP FEIR.*

61. The GSP makes several assumptions and statements in its discussion of Current Groundwater Budget Supplement (Section 3.3.10.2, pages 3-64 and 3-65).

HWG Comment: *Many of these assumptions/statements are incorrect or not valid, e.g., all test slant well extraction assigned to DSA; much of the inflow into the DSA from the landward side of MGSA Area was captured by the test slant well; the amount of infiltrating seawater cannot be evaluated without a model.*

62. The GSP states, "The proposed pumping of 17,400 AFY of feed water for the MPWSP, if permitted and implemented, would extract primarily saline groundwater from beneath the ocean and saline as well as low TDS groundwater from the Dune Sand and 180-Foot Aquifers in the Subbasin." (Section 3.3.10.4, page 3-69).

HWG Comment: *This sentence is more accurately written as, "The proposed pumping of 17,400 AFY of feed water for the MPWSP, if permitted and implemented, would extract primarily saline water from the ocean and small amounts of saline to brackish groundwater from the Dune Sand and 180-Foot Aquifers in the Subbasin from within the MPWSP slant well capture zone."*

63. The GSP states, "In the Monterey Subbasin, groundwater demand from the Deep Aquifer by MCWD to supply the City of Marina is expected to increase....however, the increase is projected to be within MCWD's allocated pumping rights." (Section 3.3.10.4, page 3-69).

HWG Comment: *Regardless of allocated pumping rights, it remains unclear if the proposed MCWD increase in pumping from the Deep Aquifer is sustainable. In addition, the increased pumping from the Deep Aquifer to the east to support agricultural expansion is based on overlying rights, not allocated (paper water) pumping rights, and are thereby superior to MCWD.*

64. The GSP references in several places the need for modeling of density-driven groundwater flow (e.g., Section 3.3.10.4, page 3-69; Section 3.3.11, page 3-71).

HWG Comment: *Somewhat ironically, if the MGSA Plan area is impacted to the point of needing to consider use of density-dependent groundwater flow software, the groundwater in MGSA is impacted well beyond the point of any undesirable results thresholds (i.e., any reasonable MTs and MOs were exceed long ago by a substantial amount and further degradation by seawater intrusion would have no impact on potential uses of groundwater within MGSA). Regardless, this issue is addressed in Comment 32 for Chapter 3.*

65. The GSP references in multiples places the need to assure that sustainability goals are met. (Section 3.3.10.4, page 3-69).

HWG Comment: *It is not clear what existing groundwater beneath MGSA needs to be sustained given TDS concentrations exceeding 7,500 mg/L in all aquifers other than in the Deep Aquifer, and Deep Aquifer sustainability is not defined and addressed in the GSP.*

66. The GSP states, “The MPWSP monitoring well east of the MGSA Area...did not show a direct response to Slant Well pumping...” (Section 3.3.10.5, page 3-70).

HWG Comment: *While this statement is true, there were also several wells within MGSA GSP Plan Area that showed no response to test slant well pumping including: MW-1D, MW-3D, MW-4S, MW-4M, and MW-4D. The only MPWSP monitoring wells that showed a measurable response to test slant well pumping were MW-1S, MW-1M, MW-3S, and MW-3M.*

67. The GSP states, “Groundwater gradients in the Dune Sand Aquifer remained generally similar throughout the period of record.” (Section 3.3.10.5, page 3-70).

HWG Comment: *This statement is incorrect. Groundwater levels were generally lower and had a steeper inland gradient in 2015 and 2016, which were slightly below average to slightly above average rainfall years, compared to subsequent years that showed generally higher groundwater levels due to the record wet year in 2017.*

68. The GSP includes a paragraph on slant well pumping in Section 3.3.11 on page 3-71.

HWG Comment: *The paragraph should be edited as follows: “The amount of landward saline and brackish groundwater from the Subbasin aquifers captured by test slant well pumping was approximately 10% of the amount pumped. A large portion of the groundwater pumped by the test slant well was saline groundwater originating from the ocean outside the western boundary of the Subbasin. The MPWSP test slant well salinity data and groundwater elevations in the DSA indicate that a small amount of groundwater was derived from saline and brackish groundwater in the Dune Sand and 180-Foot Aquifer. Conceptual water budgets are provided assuming 10 percent of the test slant well groundwater was captured Subbasin groundwater, as demonstrated by field data collected during test slant well testing that showed the actual percentage of Subbasin groundwater extracted from the Subbasin by the test slant well.”*

69. The GSP includes a paragraph on the potential use of a density-driven flow model in Section 3.3.11 on page 3-71.

HWG Comment: *See Comment 32 for Chapter 3.*

70. The GSP states MGSA will support, "...projects and management actions that will be implemented by SVBGSA under its regional GSP..." (Section 3.3.12, page 3-72).

HWG Comment: *While this statement is made here and in several other places in the MGSA GSP, it also attempts to set SMC that will not allow one of SVBGSA's main projects – a groundwater extraction barrier to mitigate seawater intrusion.*

71. With regard to test slant well pumping, the GSP states, "The groundwater quality and level monitoring data indicates that some groundwater from the low-TDS zone in the DSA and 180-Foot Aquifer was drawn into the test slant well from the east; however, the data are insufficient to determine whether there was a significant and unreasonable impact to these resources during the test time period, and whether the saline groundwater intrusion wedge advanced inland or thickened as a result." (Section 3.3.12, page 3-72).

HWG Comment: *This GSP statement is incorrect; and the field data show primarily ocean water and a small amount of brackish water extracted by the test slant well. Furthermore, the test slant well pumping created a capture zone that helped reduce inland seawater intrusion.*

72. The GSP states, "The proposed implementation of the MPWSP...has the potential to...contribute to regional overdraft conditions." (Section 3.3.12, page 3-72).

HWG Comment: *The reality is that the MPWSP has the potential to be part of the solution to regional overdraft and historical/current seawater intrusion problems. Extractions at the coast are a major component of the SVB GSP to mitigate seawater intrusion.*

73. The GSP states, "The sustainable management criteria, monitoring program and management actions described in chapters 4, 5, and 6 are intended to identify and address any overdraft in the MGSA area (from any cause) before it results in significant and unreasonable impacts." (Section 3.3.12, pages 3-72 and 3-73). A similar statement is made in Section 4.2 on page 4-4.

HWG Comment: *It is not clear how significant and unreasonable impacts in the MGSA area can be defined when groundwater TDS concentrations already exceeds 7,500 mg/L.*

74. The GSP defines sustainable yield for the MGSA Area as "the amount of groundwater that can be withdrawn annually over a period of time without causing undesirable results within or near the MGSA Area." The GSP goes on to identify four areas of potential undesirable results for significant and unreasonable impacts beyond a 2015 baseline condition: 1) chronic groundwater level decline in the DSA that adversely affects GDEs; 2) reduction in "low-TDS" groundwater storage; 3) seawater intrusion; and 4) degradation of "low TDS" groundwater zone. (Section 3.3.13, page 3-73; Section 4.2, pages 4-4 and 4-5).

HWG Comment: *It is not clear why these four items are all stated to be applicable to the DSA, 180-Foot Aquifer, and 400-Foot Aquifer, but only the seawater intrusion item is considered to be applicable to the Deep Aquifer; this suggests chronic groundwater level decline, reduction in groundwater storage, and degradation of the only actual "low-TDS" groundwater within MGSA is allowable within the Deep Aquifer beneath MGSA. Also, given that significant and undesirable conditions for groundwater level decline, reduction in low-TDS groundwater storage, seawater intrusion, and degradation of low TDS groundwater zone have already occurred in MGSA as of 2015 (actually, long before 2015), it is not clear how or why future significant and unreasonable conditions can be defined. Essentially, sustainable yield is not*

applicable to MGSA, except possibly for the Deep Aquifer. It is also important to note that GDEs and “low TDS” groundwater do not occur within the MGSA area in the Dune Sand, 180-Foot Aquifer, and 400-Foot Aquifer, and that these three aquifers have been thoroughly seawater intruded as of 2015; thus, it is unclear what are the undesirable results that could occur within MGSA relative to the 2015 baseline condition.

Chapter 4 – Sustainable Management Criteria

1. The GSP states, “Chronic declines in inland groundwater levels have led to a reversal in the groundwater gradients in the 180-Foot and 400-Foot Aquifers from shoreward to landward, causing water affected by seawater intrusion to flow inland for a distance of up to approximately 7 miles.” (Section 4.2, page 4-3).

HWG Comment: *We agree.*

2. The GSP states that MGSA’s sustainability goal is, “... to manage groundwater resources in the MGSA Area in a way that ensures all beneficial uses and users in, or affected by, groundwater management in the MGSA Area are protected from undesirable results, and have access to a safe and reliable groundwater supply that meets current and future demand. This goal will support SVBGSA’s sustainability goal by addressing undesirable results at a local level and protecting local resources from further degradation, while coordinating with MCWRA, SVBGSA and MCWD GSA to support regional groundwater management, including groundwater level and seawater intrusion monitoring, and mitigation projects and management actions that will contain and reverse the conditions resulting from regional overdraft.” (Section 4.2, page 4-5)

HWG Comment: *It is not clear who/what are the beneficial users/uses within MGSA for groundwater that exceeds 7,500 mg/L TDS (the entirety of the Dune Sand Aquifer, 180-FTE Aquifer, and 400-Foot Aquifer within MGSA). Even if there were beneficial uses of groundwater exceeding 7,500 mg/L TDS, it is not clear how such beneficial use would be impacted by a modest increase in TDS from the existing very elevated and non-potable concentration. The Marina GSP does not coordinate well with or support the SVBGSA GSP – many of the sustainable management criteria are in conflict with the SVB GSA’s jurisdiction and/or SVB GSP sustainable management criteria, projects, and management actions.*

3. The GSP states that implementation objectives in support of the MGSA sustainability goal include ensuring that, “...groundwater is available for beneficial and potential beneficial uses, including all of the diverse municipal, domestic, agricultural, industrial, and environmental uses potentially affected by management actions within the MGSA...” (Section 4.2, pages 4-5 and 4-6).

HWG Comment: *There are no demonstrated municipal, domestic, agricultural, or environmental uses of groundwater within or even near the MGSA in the Dune Sand Aquifer, 180-FTE Aquifer, and 400-Foot Aquifer due to extremely high salinity levels in groundwater. CEMEX represents an Industrial use of highly brackish water.*

4. The GSP makes several references to protecting groundwater containing less than 3,000 mg/L TDS as having a potential beneficial use as a domestic or municipal drinking water supply per SWRCB Resolution No. 88-63 (e.g., Section 4a-2, page 4-6).

HWG Comment: *The HWG has previously demonstrated (HWG, August 2018) that groundwater with TDS of 3,000 mg/L in the MGSA vicinity has chlorides exceeding 1,000 mg/L, which far exceeds chloride*

MCLs and represents a chloride concentration greater than chloride levels at which numerous agricultural, municipal, and domestic water supply wells have been abandoned. These chloride levels are not suitable for municipal or domestic beneficial uses and would need to be treated to be useable for beneficial use.

5. The GSP states, "The consistency of the locally-defined criteria with criteria developed by SVBGSA in their GSP was evaluated, so that the sustainable management criteria in this GSP would address local conditions while remaining regionally compatible." (Section 4.3, page 4-6)

HWG Comment: *The sustainable management criteria in the Marina GSP are clearly in conflict with and not compatible with the SVBGSA GSP, as demonstrated with many of our comments.*

6. With reference to the approach for evaluating sustainable management criteria in the Marina GSA Plan area, the GSP states, "The assessment was conducted based upon the hydrogeologic conceptual model and water budget information summarized in Chapter 3." (Section 4.3, page 4-6).

HWG Comment: *As demonstrated in our preceding comments on Chapter 3, the Basin Setting discussion of the hydrogeologic conceptual model, groundwater conditions, and water budget contains many flaws, incorrect statements, and invalid assumptions, and provides a poor and unrealistic basis for assessment of sustainable management criteria. This has resulted in inappropriate and unjustified minimum thresholds and measurable objectives in Chapter 4.*

7. The GSP notes that, "...SVBGSA has not designated any monitoring well near the MGSA Area, so there is no possibility that groundwater extraction in this area would create an undesirable result detected under their Regional GSP." (Section 4.4.1, page 4-9).

HWG Comment: *There is likely good reason that SVBGSA specifically did not establish monitoring compliance points adjacent to the coast in the MGSA and other areas. For example, water level near the coast are not the key to mitigating seawater intrusion; rather, water levels further inland are the key to halting seawater intrusion. Furthermore, lower groundwater levels near the coast may be key in helping mitigate seawater intrusion such as through use of an extraction barrier, which is a key potential project for the SVBGSA.*

8. The GSP states, "With respect to potential future groundwater extraction in the MGSA area, potential adverse impacts to beneficial users and uses from groundwater level decline include development or worsening of gradients that promote seawater intrusion..." (Section 4.4.1, page 4-9).

HWG Comment: *Gradients that promote seawater intrusion have been occurring historically and currently exist in the MGSA Plan Area. Pumping within the MGSA Plan Area will actually help mitigate seawater intrusion, as demonstrated in the MPWSP FEIR.*

9. The GSP uses a local definition (based on SVB GSP assessment of 180-Foot and 400-Foot Aquifers) for significant and unreasonable groundwater level decline as 1 foot above low groundwater levels measured in 2015 (Section 4.4.1, page 4-10).

HWG Comment: *While this definition may make sense for the 180-Foot and 400-Foot Aquifers further inland, the MGSA GSP does not provide an adequate basis or justification for requiring such a stringent definition in/near MGSA for these two Principal Aquifers or for application to the Dune Sand Aquifer, which is not a Principal Aquifer for the SVB GSP.*

10. The GSP states, "...undesirable results, minimum thresholds, and measurable objectives for chronic groundwater level decline are not adopted for the Deep Aquifer in this GSP." (Section 4.4.1, page 4-11)

HWG Comment: *This is perplexing given that the Deep Aquifer contains the only groundwater worthy of setting MTs and MOs for within the MGSA.*

11. The GSP states that drawdown from test slant well pumping "...decreased with distance from the MGSA Area." (Section 4.4.1, page 4-11).

HWG Comment: *There was no drawdown from test slant well pumping at the eastern boundary and outside the MGSA Plan Area.*

12. The GSP states, "The minimum threshold for groundwater elevation drawdown in the Dune Sand Aquifer is established as a drawdown attributable to groundwater extraction in the MGSA Area of 1 foot above the 2015 low groundwater levels recorded in monitoring wells near GDEs in the vicinity of the MGSA Area." (Section 4.4.2.1, page 4-12).

HWG Comment: *The Marina GSP has no authority to set minimum thresholds outside its Plan Area and in fact presents a major conflict with the SVB GSP. Even if it were allowed to set this MT, the basis and justification for the selected MT in the Marina GSP is woefully inadequate. Furthermore, setting MTs for the Dune Sand Aquifer is a conflict with the SVB GSP, which does not recognize the Dune Sand Aquifer as a principal aquifer for which to establish SMC. It is also noteworthy that drawdown beyond the stated MT is apparently allowed for pumping outside of the MGSA Plan Area.*

13. The GSP states, "...wetlands such as the vernal ponds that occur east of the MGSA Area are likely to be more highly groundwater dependent and contain sensitive communities that could be adversely affected by drawdown." (Section 4.4.2.1, page 4-12).

HWG Comment: *The Marina GSP neither establishes the dependence on groundwater (which is saline in the referenced GDE areas) as opposed to surface water, nor establishes the link to vegetative stress from drawdown (there was no drawdown at the referenced GDEs from test slant well pumping). As stated previously, the Marina GSP has no jurisdiction to set MTs for GDEs located "east of the MGSA Area", which causes a major conflict with SVB GSP.*

14. The Marina GSP adopts the SVB GSP definition of groundwater level MTs in the 180-Foot and 400-Foot Aquifers for the area within MGSA: 1 foot above historical low groundwater elevations measured in 2015 in 15% or more of the monitoring wells (Section 4.4.2.2, page 4-14).

HWG Comment: *The rationale and justification for adopting the regional-scale MTs at the monitoring well locations shown in the SVB GSP are not applicable or appropriate to the location and local-scale area of the MGSA Plan Area.*

15. The Marina GSP states, "...the thickness and water quality of the low-TDS zone must also be maintained." (Section 4.4.2.3, page 4-15)

HWG Comment: *The "low-TDS" zone referred to here is brackish non-potable water. It is not clear why this brackish water zone must be maintained. It does nothing to stop seawater intrusion, which has continued unabated for the last several decades, and cannot be used for municipal, domestic, or agricultural water supply without extensive treatment for TDS, nitrate, and other constituents. In fact, implementation of the MPWSP would actually help mitigate the inland seawater intrusion that has and is occurring through the MGSA Plan Area and vicinity.*

16. The Marina GSP states, "A significant and unreasonable condition for degraded water quality is a statistically-significant increase in the chloride or TDS concentration of groundwater in the low-TDS groundwater zone." (Section 4.4.2.3, page 4-15). Later in the GSP, a "statistically significant" increasing trend in TDS or chloride concentrations is used to set SMC (Section 4.6.3, page 4-33; Section 4.7.1, page 4-34) and triggers (Section 6.2.1.1, page 6-4).

HWG Comment: *We have several comments, many already stated previously: 1) The "low-TDS" zone is a non-potable brackish water zone; 2) It is not clear why this brackish water zone needs to be protected since it cannot be used for potable water supply and does nothing to prevent seawater intrusion; 3) The cited brackish water zone is outside of the MGSA Plan Area, and the Marina GSP has no jurisdiction/authority to set MTs/MOs for this area; 4) The approach to set MTs here sounds like a contaminant/environmental hydrogeology approach, and has no relevance to protecting groundwater in terms of chloride and TDS concentrations – particularly when the TDS and chloride concentrations already exceed all applicable MCL thresholds.*

17. The Marina GSP states, "MGSA's local sustainable management criteria for the Dune Sand Aquifer are compatible with the SVBGSA's management strategy for the underlying regional aquifers." (Section 4.4.2.4, page 4-16)

HWG Comment: *As stated previously in this letter, MGSA's SMC for the DSA are specifically not compatible with the SVBGSA's management strategy that does not recognize the DSA as a primary aquifer and sets no MTs/MOs for the DSA.*

18. The Marina GSP refers to setting MTs to protect "...beneficial users of groundwater for domestic irrigation, and small non-transient supply systems near the MGSA Area..." (Section 4.4.2.5, page 4-17)

HWG Comment: *The Marina GSP does not identify the locations of any beneficial users of groundwater for domestic, irrigation, or small supply systems near the MGSA Plan Area. As stated elsewhere in this letter, the MGSP is trying to establish SMC for locations outside of its Plan Area for which it has no authority/jurisdiction to do so, and presents a clear conflict with the SVBGSP that covers these areas.*

19. The Marina GSP states, "...measurable objectives for groundwater level decline are intended to serve as triggers for management actions..." (Section 4.4.3, page 4-18)

HWG Comment: *The purpose of measurable objectives (MO) is not to serve as a trigger for management actions. The MO is intended to represent the anticipated average condition (in this case, groundwater levels) after sustainability is achieved after 2040.*

20. The Marina GSP states, "Interim milestones will only be established if corrective actions are implemented..." (Section 4.4.3, page 4-18)

HWG Comment: *Interim milestones are required to be established in the GSP.*

21. The Marina GSP states, "The MGSA area is located at the western edge of a substantial zone of low-TDS groundwater (TDS<3,000 mg/L) extending vertically from the DSA into the 180-Foot Aquifer and the 400-Foot Aquifer..." (Section 4.5.1, page 4-19)

HWG Comment: *We have several comments: 1) The "low-TDS" zone consists of non-potable brackish water with chlorides, TDS and commonly nitrate far in excess of all MCL thresholds; 2) The brackish water with TDS less than 3,000 mg/L does not exist at the eastern edge of the MGSA Plan Area, but*

rather is located east of the MGSA Plan Area; 3) There is not one zone of continuous brackish water through the three aquifers, a conclusion that was based on faulty interpretation of AEM data as described in the HWG April 2019 letter, but rather there are separate seawater intrusion wedges in each aquifer; 4) The Marina GSP is trying to set SMC for locations outside of its Plan Area for which it has no authority/jurisdiction to do so.

21. The Marina GSP states, "Short-term groundwater extraction during the test slant well pumping test may have depleted the low-TDS zone in the Dune Sand and 180-Foot Aquifers..." (Section 4.5.1, page 4-20)

HWG Comment: *This conclusion is incorrect – the test slant well pumping test had no drawdown impacts from MW-4 and beyond, which is well to the west of the claimed "low-TDS" non-potable brackish water zone.*

22. The Marina GSP states, "SVBGSA's GSP does not present sustainable management criteria for the Dune Sand Aquifer because its GSP is more regionally focused." (Section 4.5.2.2, page 4-24; Section 4.7.2.2, page 4-38)

HWG Comment: *The SVBGSA specifically choose not to designate the Dune Sand Aquifer as a principal aquifer and specifically choose not to set SMC for the Dune Sand Aquifer. The Marina GSP's attempt to set SMC for the DSA is a major conflict with the SVBGSA, a conflict made even greater by attempts to set SMC for the DSA outside of the MGSA Plan Area.*

24. The Marina GSP claims that its groundwater storage minimum threshold would help to control seawater intrusion and benefit municipal and irrigation groundwater uses/users (Section 4.5.2.3, page 4-24)

HWG Comment: *The Marina GSP MTs would actually prevent implementation of a primary tool identified in the SVBGSP to control seawater intrusion – a groundwater extraction barrier. Thus, the Marina GSP presents major conflicts with the SVB GSP.*

25. The Marina GSP states that SVBGSA's definition of seawater intrusion (chloride > 500 mg/L) does not recognize areas of "...better quality groundwater in the aquifers seaward of the seawater intrusion line..." (Section 4.6.1, page 4-26).

HWG Comment: *The claimed "better quality groundwater" is comprised of groundwater with TDS up to 3,000 mg/L, which has chlorides exceeding 1,000 mg/L and nitrates exceeds MCLs in many areas. The chloride level of the 3,000 mg/L TDS groundwater is far in excess of the 500 mg/L chloride definition used to define seawater intrusion and far in excess of chloride MCLs. Thus, it is not "better quality groundwater" as claimed by the Marina GSP.*

26. The Marina GSP states, "Groundwater extraction in the MGSA Area has the potential to affect the dynamic equilibrium of this nearshore groundwater system and cause seawater intrusion through the migration of the of the saline water wedge, which could in turn lead to deeper seawater intrusion into the currently unintruded Deep Aquifer, or promote the lateral migration or persistence of seawater intrusion...further inland." (Section 4.6.1, page 4-26). This claim is repeated in Section 6.2.1.1 on page 6-3.

HWG Comment: *Groundwater extraction from the DSA and 180-FTE Aquifer in the MGSA area poses no risk of seawater intrusion in the Deep Aquifer. The risk to seawater intrusion in the Deep Aquifer is solely*

from overpumping of wells screened within the Deep Aquifer, which is likely already occurring. In addition, pumping from the currently intruded aquifers from wells within MGSA will help to mitigate further seawater intrusion to inland locations.

27. The Marina GSP states, "...the Dune Sand, 180-Foot and 400-Foot Aquifers are currently seawater intruded and therefore experiencing undesirable results..." (Section 4.6.1, page 4-27).

HWG Comment: *These three aquifers are certainly well beyond the threshold of experiencing undesirable results with TDS concentrations exceeding 7,500 mg/L. It is not clear how a GSP can have a definition for undesirable results within its Plan Area for groundwater that is already experiencing undesirable results and has TDS exceeding 7,500 mg/L. It would seem that the existing groundwater would need to not be experiencing undesirable results in order to set thresholds and have a definition of achieving undesirable results in the future.*

28. The GSP states, "Regionally, SVBGSA has adopted the line defined by Highway 1 as the seawater intrusion minimum threshold for the Deep Aquifer; In this local GSP MGSA has adopted a position that any detectable seawater intrusion into the currently unintruded Deep Aquifer represents a significant and unreasonable impact and would exceed the minimum threshold for seawater intrusion into this important local aquifer." (Section 4.6.2, page 4-28)

HWG Comment: *The MGSP adopts a minimum threshold for seawater intrusion in the Deep Aquifer (which is not used within the MGSA) that is a clear conflict with the SVBGSP. The MGSP later attempts to justify the conflicting MTs by saying the two are not in conflict since there are no Deep Aquifer production wells west of Highway 1 (page 4-31); however, this justification for conflicting MTs is not valid because seawater intrusion could easily occur between the ocean and Highway 1 but not east of Highway 1 if Deep Aquifer seawater intrusion is sourced from beneath ocean or the submarine canyon Deep Aquifer outcrop. Furthermore, while the MGSP adopts a conflicting seawater intrusion MT, it adopts no groundwater level MT and specifically allows for greatly increased pumping in the Deep Aquifer from Marina Coast Water District Deep Aquifer wells that present a high risk for seawater intrusion as Deep Aquifer groundwater levels decline further.*

29. The GSP establishes concentration limits of 1,000 mg/L for TDS and 500 mg/L for chloride defining seawater intrusion in the Deep Aquifer. (Section 4.6.2, page 4-28).

HWG Comment: *The GSP adopts a double standard by saying seawater intrusion has occurred when TDS exceeds 1,000 mg/L or chloride exceeds 500 mg/L in the Deep Aquifer, yet concentrations of 3,000 mg/L TDS and over 1,000 mg/L chloride represent low-TDS groundwater in the shallower aquifers that have beneficial uses and must be protected.*

30. The GSP states, "The groundwater level and quality monitoring will be conducted in accordance with the monitoring plan outlined in Chapter 5." (Section 4.6.2.5, page 4-32).

HWG Comment: *It is very important to note here that the groundwater level and monitoring program described in the Marina GSP will not be constructed and implemented if the MPWSP does not move forward. The MGSA will have to design, construct, and implement its own completely different monitoring network if the MPWSP does not go forward, and this alternative monitoring program is not described in the MGSP.*

31. The GSP describes the sustainability goal for the MGSP as managing groundwater resources in the MGSA Plan Area in a way to ensure all beneficial uses/users are protected from undesirable results and have access to a safe and reliable groundwater supply. (Section 4.6.3, page 4-32).

HWG Comment: *Aside from the Deep Aquifer, which is specifically not protected in the MGSP, the groundwater in the MGSA Plan Area already far exceeds any reasonable definition of undesirable results and contains only unusable and non-potable groundwater supplies. Essentially, there are no beneficial users/uses to be protected within MGSA Plan Area.*

32. The GSP defines undesirable results for groundwater quality as concentrations exceeding MCLs and reduced crop production (Section 4.7.1, pages 4-33 to 4-34)

HWG Comment: *Both of these undesirable result conditions already exist in MGSA and have existed within MGSA for the last several decades.*

33. The GSP attempts to set MTs for contaminant plumes (Section 4.7.2, Page 4-36).

HWG Comment: *There are no contaminant plumes within the MGSA Plan Area. Any attempt to set MTs for contaminant plumes outside the MGSA area is a clear conflict with the SVBGSP.*

34. The GSP sets minimum thresholds and measurable objectives for land subsidence using groundwater levels as a proxy. The minimum threshold requires groundwater levels remain above 2015 levels (Section 4.8.2, page 4-42).

HWG Comment: *There is no rationale, evidence, or justification for the minimum threshold and measurable objective set for land subsidence.*

35. GSP Figure 4-1 states, "Approximately 1-Foot Recovery When Pumping Stopped" in reference to test slant well pumping.

HWG Comment: *This statement is incorrect. The arrows pointing to purported recovery when test slant well pumping stopped are clearly related to seasonal increases in groundwater levels.*

Chapter 5 – Monitoring Network

1. With regard to the Dune Sand Aquifer, the GSP states, "The uppermost aquifer, which is of local importance due to its interaction with local groundwater-dependent ecosystems (GDEs), substantial storage of groundwater with designated potential beneficial use as a municipal or domestic supply, and importance in maintaining nearshore seawater intrusion dynamics..." (Section 5.1, page 5-1).

HWG Comment: *While it remains unclear if the Dune Sand Aquifer plays any role in supporting GDEs, it is clear there are no GDEs within the MGSA Plan Area and the Marina GSP should not be addressing GDEs outside of its jurisdiction. There is no groundwater with potential beneficial uses within the MGSA Plan Area. The historic and current nearshore seawater intrusion dynamics have allowed for historic and ongoing seawater intrusion.*

2. With regard to the 180-Foot Aquifer, the GSP states the seawater intruded area, "...includes significant zones of groundwater with a designated beneficial use as a domestic and municipal supply in the vicinity..." (Section 5.1, page 5-1).

HWG Comment: *There is no groundwater in the Dune Sand Aquifer, 180-FTE Aquifer, or 400-Foot Aquifer with designated beneficial use as a domestic and municipal supply in the MGSA Plan Area. In addition, there are no significant areas with designated domestic or municipal supply beneficial use in the MGSA vicinity.*

3.The GSP states, "...the MGSA GSP will rely primarily on data collected from a local monitoring network adopted in and around the MGSA Area under the Mitigation, Monitoring and Reporting program (MMRP) for the proposed Monterey Peninsula Water Supply Project (MPWSP)..." (Section 5.1.2, page 5-3).

HWG Comment: *The MGSA GSP is relying primarily on a local monitoring network that will not be implemented if the MPWSP does not move forward. The sustainable management criteria proposed in the MGSA GSP preclude development of the MPWSP. Thus, if the MGSA GSP is approved, adopted, and enforced for the MGSA Plan Area, the MPWSP will not be able move forward and the local monitoring network will not be implemented. Therefore, the proposed MGSA GSP does not have a viable monitoring network.*

4.The GSP describes a monitoring network and representative monitoring sites comprised of locations primarily outside of the MGSA Plan Area (Section 5.1.4, pages 5-4 to 5-5).

HWG Comment: *The MGSA has no jurisdiction to establish a monitoring network and RMS sites outside of its Plan Area, which presents major conflicts with the SVB GSA that has jurisdiction of these areas.*

5.The GSP describes minimum thresholds and measurable objectives for groundwater levels for principal aquifers encompassed by its monitoring network (Section 5.2.1, pages 5-6 and 5-7).

HWG Comment: *This section presents many conflicts with the SVB GSA GSP, many of which are described elsewhere in this letter. Another conflict is that the MGSA attempts to assign SVB GSA GSP minimum thresholds and measurable objectives for the 180-Foot Aquifer to RMS locations near the coast that are not included in the SVB GSA GSP. It is likely that the SVB GSA GSP RMS locations were carefully selected to be compatible with proposed projects and management actions that allow maximum potential to achieve subbasin sustainability. The MGSA RMS locations present major conflicts to SVB GSA, and would likely impede SVB GSA attempts to reach sustainability.*

6.The GSP states, "Because groundwater is not currently extracted from the Deep Aquifer in the MGSA Area, minimum thresholds and measurable objectives were not established for the Chronic Lowering of Groundwater Levels sustainability indicator in the aquifer..." (Section 5.2.1, page 5-7).

HWG Comment: *Groundwater is not currently extracted from the Dune Sand Aquifer in the MGSA Area; therefore, under this rationale there should be not minimum thresholds and measurable objectives established for the Dune Sand Aquifer.*

7.The GSP states, "MCWRA will conduct monitoring of seven other Deep Aquifer wells as part of the MMRP. Locations of these wells are shown on Figure 5-2, and well construction and monitoring information is presented in Table 5-4." (Section 5.2.1, page 5-7)

HWG Comment: *It is not clear why data from these wells were not included in the analysis; especially since the introduction states the Deep Aquifer is a primary source of freshwater to the City of Marina. As stated above, it is also very important to note that the MMRP will not be implemented if the MPWSP does not move forward.*

8. The GSP states, "The MPWSP wells were installed to monitor the effects pumping the test slant well." (Section 5.2.2, page 5-7)

HWG Comments: *The purposes of installing the MPWSP monitoring wells extended far beyond monitoring effects of pumping the test slant well. These monitoring wells are intended to provide background water level and water quality data well beyond the influence of test slant well pumping, provide borehole lithologic and geophysical logs to improve characterization of aquifers/aquitards within and well beyond the CEMEX area, allow for long-term monitoring of water levels and water quality after implementation of the MPWSP both within and outside the influence of proposed intake slant wells, and for other uses.*

9. The adequacy and density of the monitoring network is described in Section 5.2.2 and 5.2.3 (pages 5-8 to 5-10).

HWG Comment: *The adequacy and density of the monitoring network should be focused on the MGSA Plan Area, and not encroach on the authority and jurisdiction of other GSAs/GSPs.*

10. In the section entitled, "Groundwater elevation and quality data in the MGSA Area", the GSP states that groundwater elevation and quality data in the MGSA Area are limited and that five additional monitoring well clusters will be installed to address data gaps (Section 5.2.7, page 5-13).

HWG Comment: *We note that none of the five proposed new monitoring well clusters are located within the MGSA Plan Area.*

11. The GSP states, "This definition of seawater intrusion adopts a concentration that is aligned with potential impacts to municipal and agricultural beneficial uses; however, it includes water with existing actual and potential beneficial uses." (Section 5.4.1, pages 5-19 to 5-20)

HWG Comment: *Groundwater in the MGSA cannot be used as a potable source without treatment. The only current use of groundwater in the MGSA Plan area is the CEMEX well for industrial wash water. The MCWRA 500 mg/l chloride concentration is an appropriate threshold for monitoring and definition of seawater intrusion (some may even argue for a lower threshold definition such as 250 mg/L chloride, which the MCWRA also used for contouring as the level that the growers were concerned about). The reference to potential beneficial uses refers to SWRCB resolution regarding TDS up to 3,000 mg/L; however, such water is non-potable and has chlorides exceeding 1,000 mg/L placing it appropriately within the zone of seawater intrusion.*

12. The GSP states, "Groundwater extraction in the MGSA Area has the potential to affect the dynamic equilibrium of this nearshore groundwater system and cause seawater intrusion through the migration of the saline groundwater wedge..." (Section 5.4.1, page 5-20).

HWG Comment: *This statement is incorrect; properly located groundwater extraction at the coast will serve to induce or maintain a seaward gradient, thus inhibiting seawater intrusion to inland locations.*

13. The GSP states, "...groundwater extraction from the upper aquifer system could cause further seawater intrusion by expansion or migration of the saline groundwater wedge that underlies this area. Such an expansion or migration would put the Deep Aquifer at greater risk of seawater intrusion." (Section 5.4.1, page 5-20)

HWG Comment: *This statement is incorrect. Pumping from the DSA and 180-FT Aquifer at the coast will have little impact on the 400-Foot Aquifer due to the presence of 180-/400-Foot Aquitard. The 400-Foot aquifer is already highly intruded at the coast and inland. If the 400-Foot aquifer is the source of recharge for the Deep Aquifer, the already extremely high salinity in the 400-Foot Aquifer has not yet been demonstrated to impact the Deep Aquifer wells.*

14. In reference to setting MTs for seawater intrusion the GSP references, "...Lateral migration of the saline water intrusion wedge beyond the limits established by the 2017 AEM survey..." (Section 5.4.1, page 5-21)

HWG Comment: *The AEM data must first be validated through physical water quality data before it can be used as a reference point, and previous HWG letters have demonstrated this has not been done (HWG, April 2019). These previous HWG letters also demonstrate the many flaws and uncertainties in the hydrogeologic interpretations of the AEM data presented by MCWD and City of Marina consultants.*

15. The GSP states, "Groundwater extraction in the MGSA Area potentially could disturb the equilibrium that exists between the saline water intrusion wedge and overlying low-TDS groundwater zone, cause mixing of low-TDS and saline groundwater or otherwise lead to the capture and migration of saline groundwater, potentially impacting the low-TDS groundwater zone or existing supply wells in the area." (Section 5.5.1, page 5-25)

HWG Comment: *This statement is incorrect. There is no evidence to support this statement. Any existing equilibrium is with pumping induced seawater intrusion. Pumping at the coast would serve to mitigate at least a portion of the inland movement of seawater intrusion, and partially reverse SWI in the area inland of the pumping at the coast.*

Chapter 6 – Projects and Management Actions

1. The GSP states, "MGSA has not identified any feasible projects within the MGSA Area..."; and "MGSA will coordinate with and support SVBGSA in the implementation of projects and management actions it has determined to be locally and regionally beneficial..." (Section 6.1, page 6-2)

HWG Comment: *The MGSA has developed no projects of its own, and has developed SMC specifically designed to stop selected SVBGSA projects from being implemented.*

2. Chapter 6 of the GSP presents a confusing array of triggers and additional studies labeled as management actions (Section 6.2, pages 6-2 to 6-11).

HWG Comment: *The use of "triggers" and "management actions" presented in Chapter 6 do not align with SGMA and GSP requirements, and present many conflicts with the SVBGSP.*

3. The GSP lists the SVBGSP projects and management actions that it supports (Section 6.5, pages 6-12 to 6-17).

HWG Comment: *The GSP specifically does not support and sets SMC to prevent implementation of the groundwater extraction barrier, which is a primary and critical project in the SVBGSP. This is a clear conflict with the SVBGSP.*

4. The GSP states that groundwater extraction could substantially deplete the low-TDS groundwater

storage, thereby "...substantially depleting this resource for inland water rights holders." (Section 6.2.1.1, page 6-3)

HWG Comment: *Groundwater pumping at the coast would actually help mitigate seawater intrusion and improve availability of low TDS groundwater for inland pumpers.*

5. The GSP states that the seawater intrusion measurable objective would, "...prevent or reverse seawater intrusion advancement into the Deep Aquifer." (Section 6.2.1.2, page 6-6)

HWG Comment: *Setting seawater intrusion MO/MT for the DSA, 180-FTE, and 400-Foot Aquifers in MGSA does nothing to prevent seawater intrusion in the Deep Aquifer. Reducing pumping in the Deep Aquifer is the only way to control/prevent seawater intrusion in the Deep Aquifer.*

6. In discussing potential management actions for GDEs, the GSP states, "The triggers are equal to the measurable objectives..." (Section 6.2.2.1, page 6-7)

HWG Comment: *The DWR draft BMP for Sustainable Management Criteria defines the measurable objective as, "quantitative goals that reflect the basin's desired groundwater conditions..." and should be set to allow, "...a reasonable margin of flexibility...that will accommodate droughts, climate change, conjunctive use operations..." The BMP does not refer to using measurable objectives as triggers; rather they represent the anticipated/desired basin condition after sustainability is achieved.*

7. The GSP essentially bases its GDE MT/MO on 2015 groundwater levels, and states that a baseline biological assessment of GDEs will be done in the future to allow for comparison of future GDE biologic conditions to its baseline (Sections 6.2.2 and 6.2.3, pages 6-7 to 6-12).

HWG Comment: *While the GDE MT/MO are based on 2015 groundwater levels, there is no corresponding baseline biological assessment to utilize as described in the GSP. The baseline biological assessment yet to be conducted will not be representative of 2015 groundwater, surface water, and climatic conditions.*

8. The GSP claims legal authority to, "...conduct investigations to determine the need for groundwater management, and to monitor compliance and enforcement of a GSP." (Section 6.3, page 6-11)

HWG Comment: *A key question to be answered here is does a GSA have this legal authority for lands outside of its Plan Area?*

9. In discussing CSIP in-lieu recharge projects (including reduction/avoidance of pumping of groundwater from wells in the CSIP area), the GSP states in several places, "This is beneficial to MGSA because of its proximity to the CSIP service area and because pumping reductions in these areas support measurable objectives related to groundwater elevation, groundwater storage and seawater intrusion." (Section 6.5.1, pages 6-13 to 6-15)

HWG Comment: *The GSP does not describe the MPWSP return water agreement, which provides the same benefits described here in the GSP text.*

Sincerely,

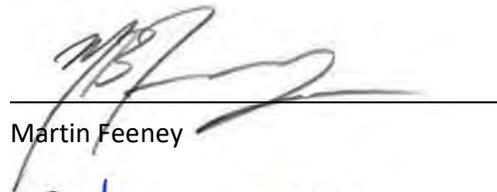
The Hydrogeologic Working Group (Dennis Williams, Tim Durbin, Martin Feeney, Peter Leffler)



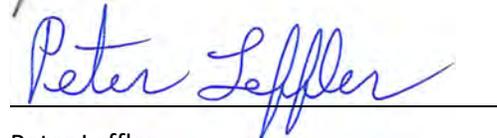
Dennis Williams



Tim Durbin



Martin Feeney



Peter Leffler

Attachments:

Figure 1 Locations of MPWSP Boreholes Relative to GSP Potential Aquitard Gap Areas

REFERENCES

California Public Utilities Commission (CPUC), CalAm Monterey Peninsula Water Supply Project Environmental Impact Report/Environmental Impact Statement, SCH#2006101004, March 2018.

The Hydrogeologic Working Group (HWG), *Monterey Peninsula Water Supply Project – Test Slant Well Long Term Pumping Test and Coastal Development Permit #A-3-MRA-14-0050*, letter addressed to California Coastal Commission, July 23, 2015.

HWG, *HWG Hydrogeologic Investigation Technical Report*, November 6, 2017.

HWG, *Memorandum Responding to Comments on HWG Hydrogeologic Investigation Technical Report*, January 4, 2018.

HWG, *HWG Comments on Technical Appendices/Attachments to Letters Submitted by MCWD and City of Marina to the CPUC and MBNMS on April 19, 2018, Letter to John Forsythe/CPUC and Paul Michel/MBNMS*, August 15, 2018.

HWG, *HWG Comments on Technical Presentations and Letters/Memorandum Prepared by HGC, EKI, and MCWD for City of Marina Public Workshop on MPWSP Coastal Development Permit Held on January 8, 2019*, January 25, 2019.

HWG, *HWG Responses to Dr. Knight Letter Addressed to HWG and Submitted During City of Marina Planning Commission Hearing on MPWSP Coastal Development Permit Held on February 14, 2019*, March 6, 2019.

HWG, *HWG Comments on Remy Moose Manley Letter Attachments Prepared by HGC, EKI, and AGF for City of Marina Planning Commission Hearing Agenda Item #6A on MPWSP Coastal Development Permit Held on February 14, 2019*, April 12, 2019.

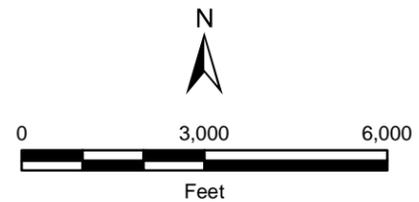
LIST OF ACRONYMS & ABBREVIATIONS

AEM	Aerial Electromagnetics
bgs	below ground surface
Cal Am or CalAm	California American Water Company
CPUC	California Public Utilities Commission
DSA	Dune Sand Aquifer
EIR	Environmental Impact Report
FEIR	Final Environmental Impact Report
FO-SVA	Ford Ord Salinas Valley Aquitard
GSA	Groundwater Sustainability Agency
GSP	Groundwater Sustainability Plan
HCM	Hydrogeologic Conceptual Model
HWG	Hydrologic Working Group
MCWD	Marina Coast Water District
MCWRA	Monterey County Water Resources Agency
mg/L	Milligrams per Liter
MGSA	Marina Groundwater Sustainability Agency
MGSP	Marina Groundwater Sustainability Plan
MO	Measurable Objective
MPWSP	Monterey Peninsula Water Supply Project
MT	Minimum Threshold
MW	Monitoring Well
RMS	Representative Monitoring Site
SGMA	Sustainable Groundwater Management Act
SMC	Sustainable Management Criteria
SVB	Salinas Valley Basin
TDS	Total Dissolved Solids
TSW	test slant well
USGS	United States Geological Survey
180-FTE Aquifer	180-Foot Equivalent Aquifer

Figures



- EXPLANATION**
-  City of Marina GSA Boundary
 -  Areas of Thin or Absent Aquitards (Source: Marina GSA, Fig 3-20, dated 10-1-19)
 -  Monitoring Well Cluster
 -  CEMEX Well
 -  Test Slant Well



LOCATIONS OF MPWSP BOREHOLES RELATIVE TO GSP POTENTIAL AQUITARD GAP AREAS

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

23-Oct-19

FIGURE 1