

**GOVERNANCE COMMITTEE  
FOR THE  
MONTEREY PENINSULA WATER SUPPLY PROJECT**

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California American Water • Monterey County Board of Supervisors  
Monterey Peninsula Regional Water Authority • Monterey Peninsula Water Management District

**FINAL MINUTES  
Regular Meeting and  
Special Meeting  
Governance Committee  
for the  
Monterey Peninsula Water Supply Project  
*August 26, 2015***

- Call to Order:** The Regular and Special meetings were called to order at 2 pm in the conference room of the Monterey Peninsula Water Management District offices.
- Members Present:** Robert S. Brower, Sr., representative for Monterey Peninsula Water Management District  
Jason Burnett, representative for Monterey Peninsula Regional Water Authority (participated by telephone)  
David Potter, representative for Monterey County Board of Supervisors  
Richard Svindland, representative for California-American Water (alternate to Rob MacLean)
- Members Absent:** Robert MacLean, representative for California American Water
- Pledge of Allegiance:** The assembly recited the Pledge of Allegiance.
- Public Comments:** Michael Warburton, representing the Public Trust Alliance (PTA), stated that the Monterey Peninsula Water Supply Project has run into some problems. The regulatory world and institutions have changed profoundly. There is still a way to get back and acknowledge the changed circumstances. Or, you can plow through a lot of legalese and keep on going doing something that is no longer reasonable in the mind of the public or for the public benefit. Mr. Warburton stated further that there is a lot of gerrymandering on lots of different levels and it is not beneficial at this point. As an intervener in the case for the sake of the public interest, he asked that the special meeting also take account of changed circumstances. He requested a public discussion of what is involved, and an effort to solve the problem in the political institutions whose job it is to solve them, rather than super-complex attempts to take it behind closed doors. This is not litigation. It is a political process. It would be good if there were open and honest discussion at the Board of Supervisors and City Council meetings as to where this project is, whose interests it is serving, and how it can be most effectively and reasonably carried out.

## Presentations

### 1. **Progress Report from California-American Water on the Monterey Peninsula Water Supply Project Including Updates on Production from Test Slant Well; Desalination Project Design; and Design and Procurement of Conveyance Facilities**

Ian Crooks, Engineering Manager, California-American Water (Cal-Am), presented the progress report. A summary of his presentation is on file at the Water Management District office and can be viewed on the Governance Committee web site. He reported the following. On June 5, 2015 the slant test well was turned off because Condition 11 of the permit required that if test well levels dropped 1.5 feet the well should be shut down. Graphs of drawdown in monitoring wells 1, 3 and 4 indicate that when the test well was turned off, there was no impact or minimal impact to water levels in the monitoring wells. The California Coastal Commission (CCC) hearing is set for October 7 through 9, 2015 in Long Beach, CA. After the CCC approves long-term operations of the test slant well, the pump must be pulled in order to investigate why there is an inconsistency in amperage. Salinity levels in the pumped water was at 86%, however the expectation is that long-term pumping will yield 90% salinity. Since the test well has been turned off, the deep test well has declined 4 feet, the medium depth test well declined 1.5 feet and the shallow test well declined .5 feet. In response to a question from the committee, Crooks stated that Condition 11 does not specify which monitoring well must exhibit the 1.5 feet drawdown before shutting of the test slant well. Cal-Am proposes that the amended permit will specify that the 1.5 feet drawdown will apply to an average drawdown of the shallow and medium depth test wells. Svindland noted that the CCC has hired an independent consultant to review the test well data. Crooks reviewed the conveyance facilities procurement schedule and production wells procurement schedule.

Svindland reviewed two alternate pipeline routes analyzed in the project EIR. He also reviewed a route suggested by the City of Monterey that is not studied in the EIR. He explained that the third route is not preferred for the following reasons: water must be lifted above a ridge which causes excess pressure in the lines; a high percentage of older mains would need to be replaced; extra 5 miles of pipeline would be needed at an additional cost of \$14; and an extra \$5 to 7 million for power costs to life water over the ridge.

Public Comment: **(A) Steve Whitree**, Acting Engineer for the City of Monterey, stated that there are technical issues that could be discussed, such as reducing pressure in the lines along the pipeline route to eliminate the concern about older pipelines needing replacement. He asked what process Cal-Am followed in order to determine the two pipelines that are studied in the EIR. **(B) Dale Hekhuis** asked for clarification of the length of the three pipeline proposals. **(C) George Riley** asked if tunneling would be an option for pipeline routes. He asked if an externalities analysis had been conducted to compare pipeline replacement on Carmel Valley Road to pipeline replacement in downtown city areas. *Svindland responded that concerns about earthquakes must be considered with tunnels, but it would solve the pressure issue. However, Cal-Am could look at that as an option. He noted that the EIR will address construction impacts on traffic.* **(D) David Stoldt**, Monterey Peninsula Water Management District (MPWMD) asked for clarification that the City of Monterey pipeline proposal would not solve the problem of bringing water across the hydraulic barrier. *Svindland agreed and stated that under certain circumstances, the Monterey alternative would prevent desalinated water and water from the Pure Water Monterey project from being distributed throughout the Cal-Am system.* **(E) Doug Wilhelm** asked for clarification of the pipeline costs. *Svindland stated*

that the settling parties agreed on a cost of \$510 per foot. The RFP is requesting cost estimates for Alternative 2 in the EIR. **(F) Michael Warburton**, PTA, stated that this exercise compares each pipeline alternative. The desal exercise has not been determined to be necessary. It may be possible to do a project with known technologies moving water from the Salinas area to the Peninsula without any of these disruptions in urban areas, and you said that real numbers would be available in October. The last chance the public can comment on the EIR is the end of September. This is a very artificially segmented deal. You are talking about an EIR which, on its face, does not satisfy CEQA. There is too much legal engineering going on here. Questions such as: how do you compare one to another – nobody can answer that at this point. This meeting should be on whether an actual decision can be made or whether this is an entire exercise of avoiding reasonable alternatives. This process has been very successful at avoiding speaking of reasonable alternatives. I want to ask whether a reasonable consideration can be built into the process.

### Action Items

**2. Review California American Water Notification #8 – Draft Construction Contract – Monterey Peninsula Water Supply Project Desalination Conveyance Facilities, and Develop a Recommendation to California America Water Concerning the Contract Terms**

In response to a question from the committee, Crooks confirmed that the bids will be presented in unit pricing. If the contractor damaged utility lines that were marked, the contractor would be responsible. If previously undisclosed infrastructure was damaged, Cal-Am would be responsible. Svindland stated that advance engineering activities should minimize the occurrence of damage to utilities in the field.

Public Comment: **(A) Tom Rowley**, Monterey Peninsula Taxpayers Association, said that he doubted the California Public Utilities Commission (CPUC) would close public comment on the project EIR without more extensive testing of the test slant well. He stated that it was premature for Cal-Am to receive bids on project components before it is clear that there is a viable project. He expressed concern about stranded costs that the ratepayers could be responsible for. **(B) George Riley** stated that monitoring well records after June 5, 2015, indicate that agricultural pumping was responsible for the drawdown. *Svindland responded that other users contribute to pumping in the area, it is not exclusively agricultural. He also confirmed that the pipeline route proposed by the City of Monterey is not analyzed in the project EIR.* **(C) Michael Warburton**, PTA, stated that the discussion of El Estero Water Rights is important, but the Pure Water Monterey project stands on its own. It is not part of the desalination project. It is being done due to common sense. The point is that El Estero was not considered because it is a small amount of water and it is not a high priority. What we are talking about here is ½ of 1 percent of regular usage of Salinas Valley Water that would totally solve this urban problem that is being discussed. The same consciousness of relativity of water rights of El Estero, that hey, it would be really good to do something because of common sense, applies to the whole project, the whole source water, and the whole consideration of this project. It is a very small amount of water that gets lost in the uncertainty of the water rights, and that thought is actually the key to solving this whole problem. That is, just in the uncertainty in terms of measuring, if it is so small, then why don't you build some wells, and put in a pipe, and serve the public interest. And that is related to item #2 in the Regular and Special meeting.

A committee member asked how the projected pipeline costs would change if an alternate to Route 2 was selected as a result of the EIR. *Svindland responded that this is a unit price contract, so if a new route increased costs, the contractor would need to explain the increase in detail. This contract must be put out to bid quickly so that Cal-Am knows if the estimated cost the parties agreed to a year ago is accurate. Once a contractor is selected, Cal-Am can negotiate with the contractor for new unit prices and the Governance Committee will review the final contract before it is approved.*

Burnett offered a motion that was seconded by Potter to accept and approve the RFP for distribution as presented. The motion was approved unanimously on a roll-call vote of 3 – 0 by Burnett, Potter and Brower.

**3. Consider Endorsement of California American Water Company Procedure for Addressing Conflict of Interest Disclosure in Requests for Proposals and Contracts Associated with the Monterey Peninsula Water Supply Project**

Svindland presented the item. In response to a question from the committee, he confirmed that the “Scheduled Construction Date” of November 18, 2015 listed in one of the examples of conflict of interest disclosure language, will be updated in discussions with the contractor.

Public Comment: **(A) David Stoldt**, MPWMD, stated that the conflict of interest language samples provided are examples from other contracts and the dates on the pipeline contract documents will be updated. **(B) George Riley** asked if there has been an investigation into the possibility that subcontractors Geoscience and the driller Board Longyear may have an agreement that has not been disclosed. The concern is that if they have an agreement, they will work hard to achieve success with the project, but that may lead them to misread, misjudge or misrepresent certain information to the public. **(C) Michael Warburton**, PTA, expressed appreciation for the conflict of interest language, but stated there is a problem with who is being protected. Under agenda item 2, the language for contracts was very clear that proposers could rely on certain things and Cal-Am could rely on certain things, but the public needs to rely on statements and the product of negotiations between these companies. It seems that what this amounts to is the person saying, “I don’t have a conflict of interest.” Therefore, Cal-Am is not responsible for anything, neither is the County and what’s really lacking is the transparency to support the statements which are signed. There have been so many statements signed. There needs to be renewed commitment to transparency and public information that goes beyond particular words that might be in particular contracts. He expressed appreciation for Cal-Am presenting the conflict of interest language, but hoped the public will be protected in these deals.

Potter offered a motion that was seconded by Burnett that the committee endorse the conflict of interest procedures presented by California American Water. The motion was approved on a roll-call vote of 3 – 0 by Potter, Burnett and Brower.

**4. Adopt Minutes of June 24, 2015 Governance Committee Meeting**

There was no committee discussion or public comment presented on this item.

On a motion by Potter and second of Burnett, the minutes of June 24, 2015 were approved on a unanimous roll-call vote of 3 – 0 by Potter, Burnett and Brower.

## **Discussion Items**

### **5. Suggest Items to be Placed on Future Agendas**

Crooks stated that at the September 16, 2015 meeting, Cal-Am will present notification on distribution of a request for proposals for slant well construction.

Michael Warburton stated that he has repeatedly suggested that the idea of reasonableness, processes, and change of circumstances be placed on the agenda; but like comments in other public processes, comments that don't come in at the right agenda item don't register. Several of the public agencies which have been intersecting with this MPWSP, one of the things that they do is if a comment is not entered at the right point, it hasn't been there. There is a dependence in this process, as it has happened heretofore at the PUC, CCC, boards of supervisors, and city councils that if comments don't appear on the agenda, they weren't made. That is no longer going to be an excuse for these other public bodies, and I'd like to use this opportunity to actually suggest that items be on the agenda because they are legally required and the reason they haven't been on the agenda is because people have not wanted to discuss them. I find that difficult.

## **Adjournment**

The Regular and Special meetings were adjourned at 3:30 pm.