

## EXHIBIT 17-B

BOARD OF SUPERVISORS OF THE  
MONTEREY COUNTY WATER RESOURCES AGENCY

MEETING: March 16, 2004	AGENDA NO.: 24 5-25
SUBJECT: Approve Letter of Intent Between the Monterey County Water Resources Agency and Californian-American Water Company to Form a Partnership to Develop the Monterey County Water Supply Project	
DEPARTMENT: Water Resources Agency	

RECOMMENDATION:

It is recommended that the Board approve the attached Letter of Intent between the Monterey County Water Resources Agency and Californian-American Water to form a partnership to develop the Monterey County Water Supply Project.

SUMMARY:

On October 21, the Board of Supervisors directed the Monterey County Water Resources Agency (MCWRA) to enter into contractual negotiations with Californian-American Water Company (Cal-Am) for the purposes of defining the institutional relationship between Cal-Am and the MCWRA and developing a fiscal framework for the implementation of a regional water supply project. The attached letter of intent provides the guidelines for the proposed partnership between Cal-Am and the MCWRA and establishes the principles that will form the proposed agreement to develop the Monterey County Water Supply Project (MCWSP).

DISCUSSION:

In September 2003, the CPUC issued a decision closing the March 1997 application proceeding and directing the Company to file a new application for the Coastal Water Project (CWP), together with a Proponent's Environmental Assessment (PEA). As part of the CPUC action on application No. 97-03-052, its Office of Ratepayer Advocates, on August 5, 2003, directed Cal-Am "to thoroughly explore opportunities for partnerships with other regional entities as it prepares its PEA and to incorporate such partnerships into the project (CWP) if applicable." While discussions about the need for a project with regional scope with Cal-Am have continued since the initial introduction of the CWP, the attached letter of intent provides the first written acknowledgement by both parties that a combined effort in collaboration with other organizations will be necessary to address the immediate water supply needs within Cal-Am's service area and the regional water supply needs of Monterey's coastal communities, including northern Monterey County.

  
Curtis V. Weeks  
General Manager

3/9/04  
Date

Attachments: Letter of Intent

## **The Monterey County Water Supply Project: A proposed partnership between Monterey County Water Resource Agency and California American Water Company.**

It is the intent of the Monterey County Water Resources Agency (MCWRA) and California-American Water Company (Company) (collectively the "Parties") to investigate ways to work together to meet the water supply needs of the County's coastal urban communities. The Company has a State of California imposed responsibility to pursue development of the Coastal Water Project (CWP). The MCWRA has a State of California enabling charter to manage water resources and plan for their development in Monterey County, and has identified water supply needs in northern Monterey County. It is the intent of the parties to investigate and implement, if feasible, a water supply project as a partnership where the project has public support, is technically feasible and where that project does not jeopardize the Company's ability to meet its requirements under State regulatory mandates.

The Parties will develop a public process for determining the regional water supply demand with input from: the public, the Monterey Peninsula Water Management District, the Fort Ord Reuse Authority, the Marina Coast Water District, the Castroville Water District, the communities of northern Monterey County, and other water utilities.

### **Background**

Company is an investor-owned utility regulated by the California Public Utilities Commission ("CPUC"). Company's Monterey Division operates a public water system on the Monterey Peninsula. Company filed an application for a Certificate of Public Convenience and Necessity with the CPUC in March 1997 seeking authorization and ratemaking review for a new water supply proposal to comply with a State Water Resources Control Board (SWRCB) order. Specifically, SWRCB Order No. 95-10 requires the Company to find an alternative source for 10,730-acre feet per year of water currently taken from the Carmel River, which amounts to approximately 69% of the Company's current water supply for its Monterey Division. The alternative source proposed in the Company's 1997 application was a Carmel River dam and storage reservoir project.

After the Company filed the 1997 application, the California Legislature adopted a bill directing the CPUC to develop a long-term water supply contingency plan. The CPUC alternative, referred to as "Plan B", was described in a report issued by the CPUC in August 2002. On February 11, 2003, the Company filed an amendment to its March 1997 application proposing development of the "Coastal Water Project", consistent with the CPUC's Plan B project. The CWP, as currently envisioned, comprises a desalination facility and an aquifer storage and recovery (ASR) component, instead of a Carmel River dam.

In September 2003, the CPUC issued a decision closing the March 1997 application proceeding and directing the Company to file a new application for the CWP, together with a Proponent's Environmental Assessment (PEA).

On October 21, 2003 the Monterey County Water Resources Agency Board of Supervisors directed the General Manager of the MCWRA to enter into contractual negotiations with the

Company for the purpose of defining the institutional relationship between the Company and the MCWRA and developing a fiscal framework for the implementation of the Coastal Water Project.

For purposes of this Letter of Intent (LOI), the term "Coastal Water Project" or "CWP" means the project as set forth in the Company's application filed with the CPUC on February 11, 2003. "Monterey County Water Supply Project" or "MCWSP" means a project that will be regional in scope and that meets the water supply needs of the county's urban coastal communities.

### **Recitals**

A. The Company must continue to make substantive progress on the CWP pursuant to existing State regulatory mandates. The Company designed the CWP to serve only its Monterey service area customers. In order to comply with SWRCB Order No. 95-10, the CWP is intended to replace only the 10,730-acre feet per year of water currently withdrawn from the Carmel River.

B. MCWRA, the County of Monterey and cities in the Company's service area have identified additional water supply needs of the Monterey Peninsula, as well as northern Monterey County where the CWP desalination plant is likely to be located. MCWRA and the County of Monterey, along with other local water suppliers, believe that cooperation between the County and the Company presents an opportunity to develop and implement a regional water supply resource.

C. MCWRA has jurisdiction to manage water resources throughout the County of Monterey. The County of Monterey has land use and environmental health permitting authority over the CWP. The MCWSP must undergo environmental review as required by applicable state and federal laws.

D. CPUC Draft Order 97-03-052, states "Given the interest by the County and the water supply issues facing the County as a whole, not just Cal-Am's customers, we direct Cal-Am to thoroughly explore opportunities for partnerships with other regional water supply entities as it prepares its PEA (Proponent's Environmental Assessment)."

E. The County of Monterey understands the requirement for and supports the Company-designed CWP to replace the 10,730-acre feet of water currently withdrawn from the Carmel River as required by SWRCB Order No. 95-10. The County of Monterey further believes that it is in the best interests of the County as a whole to move the MCWSP forward as rapidly as possible to begin to reduce withdrawals from the Carmel River.

F. The parties view the CWP as the basis for providing a legally compliant water supply for the Company, as well as an opportunity for the public and the water agencies to evaluate and implement additional joint cost-effective regional water supply solutions for the good of Monterey County as a whole.

G. The Company agrees that there are many joint advantages to defining and implementing a MCWSP as a regional resource, so long as its ratepayers and shareholders are not adversely affected.

H. The County of Monterey, MCWRA and the Company desire to work together, utilizing the flexibility afforded by the Infrastructure Financing Act (Govt. Code Sections 5956 - 5956.10), as appropriate, to ensure the MCWSP is completed and becomes a regional resource.

### **Guiding Agreement Principles**

1. The Parties will develop a public process for determining the regional water demand, alternative project sizes and locations, and the economic and other impacts on the county's coastal urban community.
2. Pursuant to SWRCB Order No. 95-10, Cal-Am must develop a new water supply to offset the 10,730-acre feet per year currently withdrawn from the Carmel River.
3. Additional water is needed to meet existing demand within the Company's service area, other parts of the Monterey Peninsula and in northern Monterey County.
4. There is a critical need to develop a secure water supply for the former Fort Ord. As MCWSP develops, the water supply needs for redevelopment of the former Ford Ord will be incorporated into MCWSP planning.
5. MCWRA has published on October 2001 the "Comprehensive Water Resources Management Plan" for North Monterey County, which identifies a potential supply option using new water developed by the MCWSP.
6. The parties intend to negotiate and execute a Joint Participatory Implementation Agreement ("JPI Agreement") to address such issues as ownership and operation of the MCWSP, project financing, and return on investment; the amount and role of user fees for the MCWSP in an amount sufficient to assure the revenue streams necessary for the successful implementation of the MCWSP; and any additional rights and obligations of MCWRA and the Company that may arise under the Infrastructure Financing Act.
7. The MCWRA and/or the Company may enter into agreements with appropriate parties to secure a seawater intake and outfall in the Moss Landing area.
8. The parties intend that neither the County of Monterey nor MCWRA shall become subject to regulation as a public utility by the CPUC as a result of the Partnership.
9. The Company's, the County's and the MCWRA's participation in any project is subject to the approval of their respective Boards.
10. The parties agree and understand that, as a regulated utility, Company must keep the CPUC fully informed of its activities, obtain CPUC concurrence with its participation in the CWP and/or MCWSP and obtain CPUC approval of any water supply project it develops or in which it participates. The parties further agree and understand that the Company is also subject to the continuing jurisdiction of the SWRCB pursuant to SWRCB Order 95-10 and therefore must apprise the SWRCB of any actions that relate to its compliance with SWRCB Order 95-10.

11. Development of a MCWSP is intended to maximize the beneficial characteristics and capabilities of the various partners in ways which best meet regional long-term water needs in the most efficient and cost-effective manner.