EXHIBIT 10-A

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.	A.12-04-019 (Filed April 23, 2012)

JOINT CLOSING BRIEF ON SIZING SETTLEMENT AGREEMENT

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Pursuant to the September 25, 2013 Amended Scoping memo and Assigned Commissioner Ruling in the above-captioned matter, California-American Water Company ("California American Water") , City of Pacific Grove, Coalition of Peninsula Businesses Monterey Peninsula Regional Water Authority, Monterey Peninsula Water Management District ("MPWMD"), and Monterey Regional Water Pollution Control Agency (referred together as the "Settling Parties") respectfully submit this closing brief in support of the Settlement Agreement on Plant Size and Level of Operation[1] for the Monterey Peninsula Water Supply Project ("MPWSP").

I. INTRODUCTION

Ensuring that the Monterey Peninsula secures access to sufficient, reliable sources of potable water is critical. The Peninsula's residents and businesses have already suffered through years of water shortages and restrictions. In response, through water conservation measures residents have cut average water usage to nearly half that of the typical Californian.

[1] *Settling Parties' Motion to Approve Settlement Agreement on Plant Size and Operation [Settlement Agreement Attached]*, Attachment A, *Settlement Agreement on Plant Size and Level of Operation, Entered by the Following Parties: California-American Water Company, Citizens for Public Water, City of Pacific Grove, Coalition of Peninsula Businesses, Division of Ratepayer Advocates, Monterey Peninsula Regional Water Authority, Monterey Peninsula Water Management District, Monterey Regional Water Pollution Control Agency, and Planning and Conservation League Foundation*, filed July 31, 2013 ("Sizing Agreement").

With both further annual cutbacks and the eventual deadline under the State Water Resources Control Board's ("SWRCB's") order to cease and desist un-permitted Carmel River diversions looming, it is imperative that the MPWSP be completed expeditiously and sized to account for the Peninsula's future water demands. This is particularly true of the MPWSP desalination plant.

Failure to adequately size the plant could result in immediate water rationing, harming residents who have already worked so hard to conserve, and substantially impairing the local economy. An undersized desalination plant would also create the need for new projects unlikely to benefit from the desalination plant's economies of scale (i.e., costing more) and posing additional environmental issues. This explains why the Sizing Agreement enjoys broad support from groups ranging from the Office of Ratepayer Advocates to local governments, environmental advocates, business interests, and California American Water.

In contrast, Surfrider's Opening Brief opposes the Agreement, arguing: (1) the lots of record allocation is too generous; (2) the tourism bounce-back allocation is excessive, (3) the Pacific Grove Project should be considered as a primary factor in calculating the size of the MPWSP desalination plant; and (4) the California Public Utilities Commission ("Commission") should restrict local governments' land use authority. These arguments mischaracterize the record and at times even ignore it. Surfrider also attempts to recast the standard for approving the Sizing Agreement from one of reasonableness to an unreachable standard of clairvoyance to future water demands. The California Public Utilities Commission ("Commission") should disregard these arguments and approve the Sizing Agreement as reasonable, consistent with the law, and in the public interest.

II. DISCUSSION

A. Lots of Record

1. Surfrider's Arguments Against The Sizing Agreement's Allocation For Lots Of Record Lack Merit

a. Surfrider Is Wrong That The Record Lacks Evidence Supporting The Sizing Agreement

Surfrider does not challenge that lots of record must be served or that an allocation must be made for them.[2] It challenges only the allocation's size, contending that "the record reveals the Sizing Agreement allocates far more water than the evidence supports."[3] Surfrider's arguments, however, ignore or misstate the record and improperly attempt to recast the standard of "reasonableness" as one requiring nothing less than perfection.

Surfrider claims the "record contains no ***calculation*** supporting the Sizing Agreement's 1,181 acre-foot allocation for lots of record."[4] This claim both misstates and ignores the record. For example, David Stoldt, MPWMD's general manager, testified that the calculation for the lots of record allotment sought in the Sizing Agreement is based on an assignment of 0.286 AFY per single family unit, 0.134 AFY per multifamily unit, and 0.755 AFY per commercial and industrial unit.[5] He further testified that lots of record include 58 lots in Carmel, 5 in Del Rey Oaks, 838 in Monterey, 179 in Pacific Grove, 965 in Sand City, 279 in Seaside, 635 in the unincorporated county, and 15 in the Airport District.[6] On December 11, 2013, as ordered by Administrative Law Judge Angela K. Minkin ("ALJ Minkin"), MPWMD filed Exhibits WD-1 and WD-3, which contain additional data demonstrating that the lots of record allocation in the Sizing Agreement is reasonable.[7] Thus, the record amply supports the 1,181 AFY allotment in the Sizing Agreement.

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[2] See generally Surfrider's Opening Brief.
[3] Surfrider's Opening Brief at p. 3.
[4] Surfrider's Opening Brief at p. 3 (emphasis supplied).
[5] RT 2153:19-26 (Stoldt/MPWMD).
[6] RT 2170:23-28 (Stoldt/MPWMD) (Stoldt also testified that certain of these figures, including for the lots of record in the unincorporated area of the county, were not considered in reaching the final calculation agreed to by the settling parties for the lots of record allotment. Thus, the final calculation is very conservative. (RT 2153:12-19).
[7] *Late Filed Exhibits Responsive to Evidentiary Hearing December 2, 2013, Application A.12-04-019*, filed by MPWMD on December 11, 2013, at Exhs. WD-1 and WD-3.

Surfrider, on the other hand, argues that Dave Stoldt's direct testimony actually supports its claim that the Sizing Agreement allocates more water for lots of record than the record supports. Surfrider argues that Stoldt testified MPWMD would "not certify that the 1,181 AFY value is valid," and, according to Surfrider, this undermines the validity of the MPWMD's estimated demand for lots of record.[8] Surfrider, however, takes Stoldt's testimony out of context. Stoldt's testimony is that a projection of 1,181 AFY is a conservative estimate. Specifically, Stoldt testified as follows:

> The District does not certify that the 1,181 AFY value is valid. In fact, it was cited from an interim period between the Land Systems Group Phase II report of August 2000, which estimated 1,166 AFY for lots of record, but did not include vacant lots on improved parcels for the City of Monterey or the unincorporated County, and a subsequent June 2002 report that estimated 1,211 AFY, did not include vacant lots on improved parcels in the unincorporated County. Hence, in the District's opinion the legal lots of record value utilized by Cal-Am may underestimate actual.[9]

Stoldt has repeatedly testified that the 1,181 AFY allocation is a conservative calculation because, for example, it does not include approximately 635 lots of record in the unincorporated County.[10] Stoldt's testimony explains that the 1,181 AFY demand for lots of record represents a reasonable compromise between those seeking an even larger allocation (and plant) and those seeking a smaller one.

In his February 2013 direct testimony, Stoldt stated the allotment of 1,181 AFY for lots of record is derived from the October 2009 Coastal Water Project Final Environmental Impact Report and cited California American Water's 2006 Urban water Management Plan.[11] He further discussed the Land Systems Group Phase II report of August 2000 ("August 2000 Report"), which estimated 1,166 AFY for lots of record and a subsequent June 2002 report ("June 2002 Report") that estimated 1,211 AFY, while explaining why each report

[8] Surfrider's Opening Brief at p. 3.
[9] *Direct Testimony of David J. Stoldt*, served Feb. 22, 2013 in A.12-04-019, at p. 9:15-22.
[10] RT p. 2104:6-11 (Stoldt/MPWMD).
[11] *Direct Testimony of David J. Stoldt*, served Feb. 22, 2013 in A.12-04-019, at p. 9:13-15.

underestimated the needed allotment for lots of record.[12] At the December 2, 2013 hearing, Stoldt provided additional testimony concerning these studies and the necessary allocation for lots of record.[13] Thus, contrary to Surfrider's arguments, the record supports the Settling Parties' allocation for lots of record in the Sizing Agreement.

b. Reductions in Water Demand Estimates for General Plan Build-Out Do Not Undermine the Reasonableness of the 1,181 AFY Estimate for Lots of Record

Surfrider contends that "[i]f overall build-out demand has dropped since 2006 then the portion attributable to the lots of record has likely declined as well."[14] This argument wrongly assumes that water demand for lots of record correlates with reductions in water demand for general plan build-out. There is no such correlation. Reductions in other aspects of planned build-out will not impact lots of record. Lots of record are already recorded and therefore have a legal right to water.[15] Their water demand is a product of the land uses allowed on those lots.

Contrary to Surfrider's argument, late Filed Exhibit WD-3, 2002 lots of record Breakdown at 6, Table 3;[16] Transcript Vol. 13 2105:6-8 does not support Surfrider's contention that because the general plan build-out's "water needs … dropped almost 25 percent between

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[12] Surfrider also argues that there are no reports "in the record, preventing both the Commission and the parties from evaluating its contents." This argument lacks credibility because Surfrider's Opening Brief purports to evaluate the contents of the reports it alleges could not be evaluated. During the December 2, 2013 hearing ALJ Minkin requested the reports to be provided to both herself and to the parties, which was completed prior to the deadline for filing Opening Briefs on the Sizing agreement. MPWMD will seek to have the reports admitted into the record.

[13] *Direct Testimony of David J. Stoldt*, served Feb. 22, 2013 in A.12-04-019, at p. 9:15-22; RT p. 2103:7-11 (Stoldt/MPWMD); RT p. 2103:12-15 (Stoldt/MPWMD); RT pp. 2103:25- 2104:4 (Stoldt/MPWMD); RT p. 2104:6-11 (Stoldt/MPWMD); RT p. 2104:12-18 (Stoldt/MPWMD); RT p. 2105:7 (Stoldt/MPWMD); RT p. 2105:12-18 (Stoldt/MPWMD); RT p. 2128:11-28 (Stoldt/MPWMD).

[14] Surfrider's Opening Brief at p. 4. Surfrider also argues that "[t]he record also shows that fewer lots of record will actually be improved and demand any water at all…. The 2002 study … finds that there are 179 lots of record in the City of Pacific Grove. But … Pacific Grove staff … testified that this lot number is erroneous. In actuality, the City has 'fewer than 100 vacant lots." Surfrider misstates the testimony. No witness from the City of Pacific Grove testified "this lot number is erroneous." It does not appear that any witness for Pacific Grove testified about lots of record, which have been specifically defined in the record. Instead, the testimony cited by Surfrider refers only to generic vacant lots.

[15] 2101:5-8 (Stoldt/MPWMD).

[16] Surfrider mistyped Table 13, where it meant to refer to Table 3.

2006 and the present…. lots of record has likely declined as well."[17] The table lists water demands for each land use jurisdiction within the Monterey District (and the airport district) and compares demand estimates in 2006 to revised demand estimates in 2013. Surfrider points to the reduction from the 2006 estimate total of 4,545 AFY to 3,514 AFY (a downward revision of 1,031 AFY), and concludes that this approximately 25% reduction in the estimate for general plan build-out must mean water needed for lots of record also declined.[18]

Surfrider's conclusion, however, is not supported by the information presented in the table. There is no across-the-board downward trend; instead, the table shows that there was no change in estimated demand from 2006 to 2013 for five of the eight districts.[19] The footnotes to the table explain that three jurisdictions saw declines for specific reasons that are unrelated to lots of record. Approximately two-thirds (764 AFY) of the decline is attributable to Pacific Grove.[20] The reductions in the other two jurisdictions are also explained in the notes and do not provide a basis for Surfrider's universal claim that a reduction in general plan build-out should trigger a corresponding drop in the demand allocation for lots of record.[21] As has been repeatedly explained, lots of record are a "different animal" from other aspects of general build-out. Therefore, Surfrider's arguments should be disregarded.

c. Conservation Within the Monterey District Does Not Undermine the Reasonableness of the 1,181 AFY Estimate for Lots of Record

Surfrider also claims that reliance on the August 200 and June 2002 Reports is unreasonable because the report relies on numbers from 1998 and 2001 and does not take into account reductions in water demand from more recent conservation efforts. Surfrider argues

[17] Surfrider's Opening Brief at p. 4.
[18] Ibid.
[19] *Late Filed Exhibits Responsive to Evidentiary Hearing December 2, 2013, Application A.12-04-019*, filed by MPWMD on December 11, 2013, at Ex. WD-3.
[20] Ibid.
[21] Ibid.

that each lot will use less water today because the "Water Board's Cease and Desist Order imposed numerous new conservation requirements in 2009."[22]

Surfrider, however, provides no evidence to support this claim. Although conservation has reduced the Monterey Peninsula's per capita water use, this reduction has not been dramatic since 2001. The majority of the residential conservation measures were put in place prior to this date and recent conservation measures have instead focused more heavily on the commercial and non-residential sector. Because most of the lots of record are zoned as residential, the associated reduction in water demand will not substantially affect the Sizing Agreement's estimated allocation for lots of record.[23]

Additionally, as testified to during the December 2, 2013 hearing, the allocation for lots of record utilized by the Sizing Agreement is a conservative estimate.[24] The reports relied upon to derive current demand did not include vacant lots in the unincorporated County—a region that accounts for over 30% of Cal-Am's water use.[25] In general, lots located in the District's unincorporated area are much larger than those within city limits, leading to historically higher water demands. In the District's opinion, therefore, the 1,181AFY understates the actual potential demand for legal lots of record and more than offsets any gains that may have occurred due to increased conservation.

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[22] Surfrider cites to pages 10 and 62 of the CDO to support its argument that conservation has reduced estimated water demand since publication of the reports in question. However, these sections of the CDO focus on conservation requirements imposed on California American Water by Order 95-10 (adopted in 1995), which took effect and impacted water conservation years before the reports relied upon were published.

[23] For example (as explained earlier), demand for lots of record for the Sizing Agreement was derived by assuming water use factors of .286 acre-feet for a single-family unit and .134 acre-feet for a multifamily unit. In a 2006 report, MPWMD estimated demand at .28 acre-feet for single family, .42 acre-feet for single family in the unincorporated county, and .216 acre-feet for multifamily. As the comparison reveals, demand estimates did not substantially reduce in the single family unit category and increased in the multi-family category. In the District's opinion, water use factors of .286 acre-feet for a single-family unit and .134 acre-feet for a multifamily unit are a reasonable proxy for District-wide purposes.

[24] RT at p. 2153:12-19 (Stoldt/MPWMD).

[25] RT p. 2104:6-11 (Stoldt/MPWMD).

2. The Sizing Agreement's Allocation For Lots Of Record Is Both Reasonable And Supported By The Record

As the Joint Opening Brief sets forth, it is both reasonable and necessary for the MPWSP desalination plant's sizing to account for demand from lots of record. Accounting for lots of record does not address or foster growth.[26] As was testified to at the December 2, 2013 hearing, lots of record were previously approved, cannot be deemed "growth," and have a legal right to water service.[27]

As addressed above, the testimony from the December 2, 2013 hearing also confirms that excluding lots of record from the demand calculation would undersize the desalination plant, substantially increasing the risk of water shortages and requiring additional, more expensive projects to meet water demand.[28] Less efficiency and greater uncertainty caused by undersizing the plant would harm the people of the Monterey Peninsula and jeopardize the region's economy. Sizing the plant to account for lots of record is thus both reasonable and amply supported by the record.[29] The Sizing Agreement, with its 1,181 AFY allocation for lots of record, should therefore be approved by the Commission.

B. The Sizing Agreement's Allocation For Tourism Bounce-Back Is Both Supported By The Record And Reasonable

As discussed in the Joint Opening Brief, failure to adequately plan for tourism bounce-back in the sizing of MPWSP's desalination plant could substantially harm Monterey Peninsula's economy and its residents. The hospitality industry is a $2 billion a year business in

[26] RT 2100:14-20 (Stoldt/MPWND).
[27] RT 2100:28-2101:6 (Stoldt/MPWND); 2101:15-16 (Stoldt/MPWND).
[28] RT 2098:16-22, 2099:20 - 2100:11 (Burnett/MPRWA); RT 2138:6-21, (Svindland/CAW) ("the difference in sizing is roughly… about 22 percent [between the 9.6 and the 6.4 MGD plants]. But the difference in cost is probably less than 10 percent").
[29] See, e.g., 2097:8-14 (Svindland/CAW); RT pp. 2097:28-2098:1 (Burnett/RWA); RT p. 2098:2-5 (Burnett/RWA); RT p. 2098:16-22 (Burnett/RWA); RT pp. 2099:20-2100:11 (Burnett/RWA); RT p. 2100:14-20 (Stoldt/MPWMD); RT pp. 2100:28-2101:6 (Stoldt/MPWMD); RT p. 2101:15-16 (Stoldt/MPWMD); RT p. 2101:17-18 (Stoldt/MPWMD); RT p. 2101:22-23 (Stoldt/MPWMD); RT p. 2102:3-9 (Svindland/CAW); RT p. 2102:13-17 (Svindland/CAW); RT p. 2103:7-11 (Stoldt/MPWMD); RT p. 2103:12-15 (Stoldt/MPWMD); RT pp. 2103:25-2104:4 (Stoldt/MPWMD); RT p. 2104:6-11 (Stoldt/MPWMD); RT p. 2104:12-18 (Stoldt/MPWMD); RT p. 2105:7 (Stoldt/MPWMD); RT p. 2105:12-18 (Stoldt/MPWMD); RT p. 2128:11-28 (Stoldt/MPWMD); RT p. 2153:17-19 (Stoldt/MPWMD); RT pp. 2129:1 -2130;18 (Stoldt/MPWMD; Svindland/CAW; Burnett/RWA); RT p. 2154:14-25 (Stoldt/MPWMD); RT p. 2171:7-13 (Stoldt/MPWMD).

Monterey County that employs approximately 23,000 people, provides a sizable portion of the local tax revenue and is the second largest industry in the County.[30]

Surfrider argues that the 500AFY allotment in the Sizing Agreement is speculative and based on hotel occupancy levels during a strong economy.[31] These critiques, however, demonstrate Surfrider's fundamental misunderstanding of what must be considered in developing a water supply project. The desalination plant is sized in order to be able to supply the Monterey Peninsula for nearly half of a century, during which time there will be many economic cycles. It is reasonable to plan for inclusion of demand from the hospitality industry during good economic times (as well as rough ones). It is unreasonable, on the other hand, to develop a long-term water supply project based solely on depressed demand during a nation-wide recession. Planning must consider existing capacity and experience concerning the potential occupancy rates for that capacity. A failure to do so would be irresponsible and significantly harm the people and businesses of the Monterey Peninsula.

Surfrider also argues that "the record contains no support whatsoever for allocating 500 acre feet of demand for tourism bounceback" and "no witness … testified about how the number… was calculated, or … represents a hypothetical increase in tourism-related water demand."[32] To the contrary, testimony supports the 500 AFY estimate. Following extensive negotiations with the Coalition of Peninsula Businesses and other parties that desired a larger plant, the Settling Parties agreed that 500 AFY for tourism bounce-back was reasonable. The bounce-back estimate used in the Sizing Agreement is directly supported by testimony in the record regarding both the current and prior occupancy rates on the Peninsula.[33]As Dave Stoldt testified during the December 2 hearing, "the economic bounce-back number is existing capacity, not new capacity, existing seats, existing rooms, for just a return in the economy."[34]

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[30] RT 2106:4-6 (Narigi/CPB); 2126:24 – 2127:19 (Frutchey/Pacific Grove).
[31] Surfrider's Opening Brief at pp. 6, 7.
[32] Surfrider's Opening Brief at p. 6.
[33] RT pp. 2105:22-2106:3 (Narigi/CPB); RT p. 2095:23-25 (Stoldt/MPWMD); RT p. 2106:10-14 (Narigi/CPB); RT p. 2106:20-23 (Narigi/CPB); RT p. 2106:23-27 (Narigi/CPB); RT p. 2106:27-28 (Narigi/CPB); RT p. 2107:2-3 (Narigi/CPB).
[34] RT at p. 2095:23-25 (Stoldt/MPWMD).

Therefore, the Sizing Agreement, including its allocation of 500 AFY for tourism bounce-back, is reasonable and should be approved.

C. In Calculating Water Supply Necessary To Meet System Demand, The Sizing Agreement Properly Excludes Consideration Of The Pacific Grove Project

Surfrider's Opening Brief contends that the "Sizing Agreement is unreasonable" because it "fail[s] to include Pacific Grove's Local Water Project in the calculated water supply."[35] Based on selective citations to hearing testimony, Surfrider dismisses California American Water's explanation that the Pacific Grove Project is too "speculative" to rely on in calculating water supply and sizing the desalination plant.[36] Surfrider instead argues that the Pacific Grove Project is "an entirely independent water source," is "constant throughout the year," "will produce up to 500 acre feet of non-potable water that can directly offset an identical amount of demand for MPWSP water," and that it will likely come online before 2017.[37] Surfrider's brief, however, neglects to include critical information that explains why the Pacific Grove Project was appropriately excluded from consideration in sizing the plant. The following exchange at the December 2, 2013 hearing between Surfrider's counsel and Pacific Grove's City Manager, Thomas Frutchey reveals the basis for this determination:

> Q. …do you know when we will have a firmer sense of whether it's going to reach that 500 number or if it's going to stay around 100?
>
> A. There are several decision points that will be necessary by the city council to initiate the subsequent phases, and those will depend upon completion of an EIR process and several other steps. So I would imagine that that decision isn't likely for at least a year or so at this point.[38]

As Mr. Frutchey acknowledged, it is currently unknown whether the project, after completion of all of its possible phases, will provide 100 or 500 AFY of non-potable water.[39]

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[35] Surfrider's Opening Brief at p. 10.
[36] Surfrider's Opening Brief at p. 10.
[37] Surfrider's Opening Brief at p. 10.
[38] Transcript p. 2177:14-25.
[39] RT at p. 2177:15-18. (Frutchey/PG).

The first phase of the project is being sized around 100 AFY.[40] After that, there are several "decision points that will be necessary… and those will depend upon completion of an EIR process and several other steps" and whether there are customers to "demand that water."[41] The water potentially supplied by the project is non-potable and would need to be carried by separate mains, which gets more and more expensive the farther the water travels.[42] Moreover, only about 20 acre feet per month from the project could be online by or before January 1, 2017—not 500 AFY per year as Surfrider suggests.[43] Therefore, the Pacific Grove Project was properly excluded from primary consideration in the sizing of the MPWSP desalination plant.

D. Surfrider Seeks an Untenable and Imprudent Restriction on the Use of Future Water Supplies Within California American Water's Monterey District

Surfrider argues in Section III of its opening brief that the Sizing Agreement is unreasonable because "it fails to guarantee" that the MPWSP will actually serve legal lots of record, increased demand from tourism bounce back, and other projected future demands.[44] Likewise, it argues that the Commission has an obligation to impose strict restrictions on the use of future water supplies to satisfy only projected demands in the quantities estimated in the Sizing Agreement.[45] Aside from the practical challenges of micro-managing the future water supply as proposed, Surfrider disregards the appropriate planning roles of the Commission and that of the cities and county.

Surfrider seeks to "tie the hands" of local land use jurisdictions on the Monterey Peninsula. If the restrictions they seek were ordered, the Monterey District would likely be the only area in California where local land use jurisdictions are restrained in land use planning by wholesale restrictions on the *types* of use for which an *available* water supply may be used. For perspective, consider communities served by a public water supplier such as the City of Los

[40] RT at p. 2177:3-7 (Frutchey/PG).
[41] Id. at p. 2177:19-25; 2108:4-5 (Frutchey/PG).
[42] Transcript 2114:4-7 (Frutchey/PG). .
[43] RT at p. 2107:25-28. (Frutchey/PG).
[44] Surfrider Opening Brief, p. 8.
[45] Surfrider Opening Brief, p. 9.

Angeles. When developing water supplies to meet future demand, the Los Angeles Department of Water and Power does not (and cannot) bind the city's planning commission and city council to only use developed water supplies for certain land use purposes and not others; those decisions are properly the prerogative of the planning commission and city council. The Commission should likewise reject Surfrider's proposal for an inappropriate restraint on the city councils and the Monterey County Board of Supervisors, which the local populace elected to make land use decisions.

Surfrider's proposal also reveals a mistaken premise regarding the role of demand estimates in sizing the desalination plant. When water supply managers, whether public or private, project future water demand to size necessary water supply projects they simply base their projections of demand from various segments of the community on reasonable research and study. They do not "guarantee" that the demand from each segment will be precisely as projected and they certainly do not preclude elected officials from directing where the developed water supply is used if actual demands differ from planning projections.

Efforts to project future demands are inherently plagued by substantial variables that are difficult to predict. Cal-Am, in collaboration with the MPWMD, has made reasonable projections of future demand based on present knowledge. If actual demands are slightly less than projected, then Cal-Am will operate the desalination plant at a lower (normal) level rather than the near full operating capacity projected by Cal-Am's engineer.[46] Consequently, the environmental concerns cited by Surfrider—brine discharge and energy use/carbon emissions—will be proportionately reduced with any decrease in the operating level of the plant. On the other hand, if the plant is undersized and unable to meet actual demands, numerous detrimental consequences may follow, including potential future development moratoriums, reduced economic activity, diminished local revenues, greater environmental impacts arising from a new, stand-alone water project, and loss of economies of scale from a single water supply project.[47] In

[46] Evidentiary Hearing RT 994:21-996:20 (Svindland/CAW).
[47] See *Joint Opening Brief On Plant Sizing* at pp. 7-8, 11, 13, 16-18.

light of the inherent uncertainties of future demand, the aggressive planned operation levels of the plant, and the balance of cost and benefits of sizing a undersized versus oversized plant, the Commission should approve the Sizing Agreement.

III. CONCLUSION

For the foregoing reasons the Settling Parties respectfully request that those arguments submitted in opposition to the Sizing Agreement be disregarded and the Agreement be approved in its entirety.

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