



GW2/RWH/DH7/ek4 2/8/2018

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

**FILED**  
09:23 AM

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

**ADMINISTRATIVE LAW JUDGES' RULING SETTING  
STATUS CONFERENCE AND REQUESTING PARTIES TO  
SUBMIT ADDITIONAL INFORMATION IN SUPPORT OF MOTION FOR  
ADDITIONAL EVIDENTIARY HEARINGS**

**Summary**

A status conference will be held on:

**February 27, 2018 at 1:30 p.m.  
Commission Courtroom  
505 Van Ness Avenue  
San Francisco, California**

The purpose is to discuss the potential of opening a Phase 3 for this proceeding. The parties have raised issues where we believe there may be value to examining potential additional, alternative, supplemental and/or temporary water supply options to the Monterey Peninsula Water Supply Project (MPWSP).<sup>1</sup> However, we do not believe the parties have provided sufficient

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<sup>1</sup> See Motion of Planning and Conservation League Foundation, Monterey Regional Water Pollution Control Agency, Monterey Peninsula Water Management District, Marina Coast Water District, Landwatch Monterey County, Sierra Trust Alliance, California Unions for Reliable Energy, Public Water Now, and Water Plus For Additional Evidentiary Hearings (Joint Motion), filed on January 9, 2018; and Response of California-American Water Company (Cal-Am) to the Joint Motion, filed January 16, 2018.

information for us to pursue a Phase 3 at this time. Therefore, we direct the parties to provide additional information as set forth below.

### **Background**

Additional evidentiary hearings were held October 30, 2017 through November 3, 2017. One of the issues addressed in evidentiary hearings included whether expansion of the existing Pure Water Monterey (PWM) Project could provide additional water supply as an alternative to the proposed project or support a down-sized project. The parties presented evidence that there may be additional water available from other sources.

The Joint Motion was filed on January 9, 2018 requesting that additional evidentiary hearings be held in April (as part of Phase 1) to address expansion of the PWM Project, Marina Coast Water District (MCWD) proposed sale of additional water, and consideration of settlement efforts currently under way. Cal-Am filed a response to the Joint Motion arguing that the additional hearings proposed in the Joint Motion “would serve no use”<sup>2</sup> and that the Commission must first issue a CPCN for the MPWSP. Cal-Am also stated that it could be helpful to assess “additional temporary or supplemental water supply options”<sup>3</sup> to the extent that such hearings do not interfere with issuance of the Phase 1 decision. Marina Coast Water District (MCWD) also filed a response to the Joint Motion on January 12, 2018. The Water Authority filed its response on January 18, 2017 requesting a status conference in February to further discuss the parties’ views on addressing the competing interests of ensuring the Commission has additional information on water supply options, and meeting the Cease and

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<sup>2</sup> See Response at 3.

<sup>3</sup> See Response at 4.

Desist Order (CDO) Milestone deadline of reaching a decision in Phase 1 by September 30, 2018.

**Discussion**

The parties raise important issues as to whether additional water supply will be needed, and to what extent, at what cost and quantity, timing, and from where such water may be available. However, we are not sufficiently convinced that additional hearings are needed at this time. As the parties note, the record in this proceeding is already quite extensive. More than 25 days of evidentiary hearings were held for Phases 1 and 2. Many exhibits have been identified and received as evidence, and motions requesting approval of one or more Settlement Agreements are pending. The parties were provided an opportunity during the last set of hearings to present evidence as to whether additional water supply is available from PWM Project, or other sources.

The parties to the Joint Motion have now specifically requested that the Commission set hearings for April 2018 that would address: 1) further evaluation of and expansion of the PWM Project; 2) MCWD's water sale proposals; and 3) ongoing settlement discussion between the parties. Cal-Am does not oppose a Phase 3 or examination of these issues as temporary or supplemental water supplies so long as a Phase 3 of the proceeding does not impact the issuance of the decision for Phase 1 in this proceeding.

We are concerned that scheduling evidentiary hearings in April 2018 would disrupt the current schedule given that all parties "recognize that there is an urgent need for an alternative water supply to the current diversion from the

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Carmel River.”<sup>4</sup> However, we do believe that there may be a need to assess alternative, additional, or supplemental water supply to the proposed MPWSP in the event a Certificate of Public Convenience and Necessity (CPCN) is not issued, or if the second or third milestones are not met.

We believe the Water Authority proposal for a status conference has merit because it will allow for consideration of whether additional updated evidence regarding water supply should be considered, while still allowing the Commission to issue a decision that meets the CDO deadline of September 30, 2018 and consider settlement efforts currently underway. We have serious concerns that if evidentiary hearings are held in April 2018 there realistically will not be time to allow for the CPCN decision by the CDO deadline of September 30, 2018.<sup>5</sup> We therefore set the above status conference and direct the parties to file a Joint Case Management Statement<sup>6</sup> no later than 5:00 p.m. on February 22, 2018 that addresses the following:

- Specific issues to be addressed within the scope of a Phase 3 to the proceeding;
- A proposed schedule with exact dates;
- A schedule that provides the specific timing for approvals by lead and responsible agencies that would need to occur for any expansion of PWM or authorize water sales

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<sup>4</sup> Joint Motion at 1; and also see SWRCB Order WR 2016-0016.

<sup>5</sup> However, to the extent a party would like to present additional information to support such hearings they may include such information when preparing their position in the Joint Case Management Statement.

<sup>6</sup> The Joint Case Management Statement is to include the positions of all parties, parties do not need to be in agreement or present one position. To the extent a party or sub-set of parties hold a specific view on the issues to be addressed, the Joint Case Management Statement shall be organized in a manner that identifies each party or sub-set of parties and their position on the areas identified in this Ruling.

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- agreements from PWM, water sales from MCWD, or other sources;
- A schedule that provides the specific timing for approvals by lead and responsible agencies that would need to occur for the MPWSP to meet the CDO Milestones;
  - Risks and benefits to initiating a Phase 3 of the proceeding prior to issuance of a decision in Phase 1 as opposed to authorizing a Phase 3 in the Phase 1 decision;
  - Demonstrate that a proposed Phase 3 in the proceeding will not jeopardize issuance of a decision by the Commission on the MPWSP application prior to the CDO deadline;
  - Status update on progress of settlement discussion among the parties (expected timing for concluding discussions and presenting outcome to Commission);
  - Provide specific proposed language that could be included in the CPCN decision if it were to also authorize a Phase 3 decision; and
  - Anything else parties believe is necessary for the Commission to make an informed, reasonable, and timely decision regarding the remainder of the schedule for this proceeding that allows for both (a) meeting the CDO deadline and (b) providing the Commission with the best available evidence (subject to cross-examination) and legal argument for reaching its decision consistent with due process for all parties.

**IT IS RULED** that:

1. A status conference shall be held at 1:30 p.m. on February 27, 2018 in the Commission Courtroom, 505 Van Ness Avenue, San Francisco, California for the purpose of hearing proposals from parties on the remaining schedule for the proceeding and whether a Phase 3 with additional evidentiary hearings should commence.

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2. Parties shall file and serve a Joint Case Management Statement by 5:00 p.m. on February 22, 2018.

Dated February 8, 2018, at San Francisco, California.

/s/ JEANNE M. MCKINNEY for  
Gary Weatherford  
Administrative Law Judge

/s/ ROBERT HAGA  
Robert Haga  
Administrative Law Judge

/s/ DARCIE L. HOUCK  
Darcie L. Houck  
Administrative Law Judge