



Report of the General Manager
Required by Measure J

A Plan to Adopt and Implement a Policy
to Secure and Maintain Public
Ownership of All Water Production,
Storage and Delivery System Assets and
Infrastructure Providing Services Within
the Monterey Peninsula Water
Management District Territory

August 19, 2019

EXHIBIT 16-A

INTRODUCTION

The Monterey Peninsula Water Management District (Water Management District, or District) was created by special legislation in 1977 and approved by the voters in 1978.¹ It is governed by an elected Board of Directors and holds the sole authority for integrated management of the ground and surface water resources within the Monterey Peninsula area encompassing the waters of the Carmel River System and the Seaside Groundwater Basin.

On November 6, 2018, voters within the Water Management District passed initiative Measure J by 56% (23,757 voted yes) to 44% (18,810 voted no). Measure J directed that the following Rule 19.8 be added to the District Rules and Regulations, Regulation I, General Provisions:

Rule 19.8. Policy of Pursuing Public Ownership of Monterey Peninsula Water Systems

- A. It shall be the policy of the District, if and when feasible, to secure and maintain public ownership of all water production, storage and delivery system assets and infrastructure providing services within its territory.
- B. The District shall acquire through negotiation, or through eminent domain if necessary, all assets of California American Water, or any successor in interest to California American Water, for the benefit of the District as a whole.
- C. The General Manager shall, within nine (9) months of the effective date of this Rule 19.8, complete and submit to the Board of Directors a written plan as to the means to adopt and implement the policy set forth in paragraph A, above. The plan shall address acquisition, ownership, and management of all water facilities and services within and outside the District, including water purchase agreements as appropriate. The plan may differentiate treatment of non-potable water services.

This report is intended to satisfy the requirement in paragraph C of Rule 19.8.

Rule 19.8 raises several issues that are addressed in this report. Specifically:

- What is the inventory of water system assets that are not publicly-owned that are needed to provide services within the District's territory?

¹ The California Legislature endowed the Monterey Peninsula Water Management District with unique authority to manage water resources. (Chapter 527 of the Statutes of 1977, as amended, found at Water Code Appendix (Wat. Code. App.) §§118-1, et. seq. (District Law).) District Law Section 325 grants the Water Management District the power "as limited in this law to do any and every lawful act necessary in order that sufficient water may be available for present or future beneficial use or uses of lands or inhabitants within the District. . ." The Legislature found that "water problems in the Monterey Peninsula area require integrated management." (District Law § 118-2.)

EXHIBIT 16-A

- What is the best approach to consider acquiring public ownership of those water system assets?
- How is public ownership achieved?
- How should such assets be managed?
- How should the District consider the meaning of all water facilities and services “within and outside” the District?

Each of these issues is addressed in the sections that follow.

WATER SYSTEM ASSETS THAT ARE NOT PUBLICLY-OWNED

While it is clear from the Measure J election campaign that the drafters of the initiative were focused on a public buy-out of the California American Water Company (Cal-Am) assets serving the Monterey Peninsula, the language of Rule 19.8 does not expressly focus on Cal-Am. Hence it is important that the District determine how to best comply with the language that requires “public ownership of all water production, storage and delivery system assets” providing services within the District’s territory (emphasis added).

Within the District, there are private wells, Water Distribution Systems (WDS) permitted and regulated by the District, and Public Water Systems (PWS) regulated by either the Monterey County Health Department or the State Water Resources Control Board Department of Drinking Water (DDW). There are also non-potable water systems for irrigation. Clearly, it is not in the interest of the District or the public to have the District acquire every water serving or delivering facility within the District. It is recommended that the District Board develop criteria to determine which water systems should be considered for acquisition.

Water Systems Regulated By The District: District Rules and Regulations, enacted by ordinance, currently define a “Water Distribution System” to mean all works within the District used for the collection, storage, transmission or distribution of water from the Source of Supply to the Connection of a system providing water service to any Connection including all Water-Gathering Facilities and Water-Measuring Devices. In systems where there is a water meter at the point of Connection, the term “Water Distribution System” does not refer to the User’s piping; in systems where there is no water meter at the point of Connection, the term “Water Distribution System” does include the User’s piping. The District presently tracks permits for 150 identified WDS in its territory, ranging from a well with a single connection to complex systems with thousands of connections such as Cal-Am’s Main System.

EXHIBIT 16-A

The entire universe of District-permitted WDS is too broad for purposes of paragraph A of Rule 19.8. Many of the 150 WDS recognized by the District are individual wells. District Rules and Regulations often distinguish between WDS that serve fewer than four parcels and those that serve four or more. There are 23 District-permitted WDS that serve four or more connections. Table 1 shows District WDS serving at least 4, but less than 15 connections. Yet many are small, remote, and serve a specific neighborhood. It is unlikely public ownership of these small and non-contiguous WDS would pass the criterion of “feasible” inherent in paragraph A of Rule 19.8 without the District also acquiring other larger assets and being able to achieve economies of scale or the ability to consolidate with a larger system. Another method of identifying assets is indicated.

Table 1
District WDS serving at Least 4, but Less than 15 Connections

WDS Name	Connections
Aguajito Road	4
Cachagua Rd. 2	9
Carmel Valley Road II	4
Dollase	4
Los Robles Road	6
Nason Road	4
P&M Ranch	6
Ranchitos de Aguajito	10
Rancho De Robledeo	7
Schulte Road	5
Tao Woods Mutual	4

Public Water Systems: Under California Health and Safety Code, Division 104, Part 12, Chapter 4 (California Safe Drinking Water Act), Article 1, Section 116275(h)) – a Public Water System is defined as a system for the provision of water for human consumption² through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. Public Water Systems include the following sub-classifications:

Community water systems are city, county, regulated utilities, regional water systems and even small water companies and districts where people live. Serves drinking water to at least 15 connections used by yearlong residents or regularly serves at least 25 yearlong residents.

² Human consumption means the use of water for drinking, bathing or showering, hand washing, oral hygiene, or cooking, including but not limited to, preparing food and washing dishes per Section §116275(e) of the California Health and Safety Code

EXHIBIT 16-A

Non-community non-transient water systems are places such as schools and businesses that provide their own water. The same people have a regular opportunity to consume the water, but they do not reside there. Serves drinking water to at least the same 25 persons over 6 months per year, but does not meet the requirements of a community water system.

Transient water systems include entities such as rural gas stations, restaurants, and State and National parks that provide their own potable water source. Most people that consume the water neither reside nor regularly spend time there. Serves drinking water to at least 25 individuals daily (same or different people) at least 60 days out of the year

Individuals count as users if they have access to the water (i.e., restrooms, break-rooms), whether they use water or not.

It seems logical that the District should look only at Public Water Systems within its territory or that serve customers within its territory. Appendix A shows 15 Public Water Systems from the County Health Department's Connection List that are also included in Table 2. There are also six PWS regulated by the State within the District (Santa Lucia Preserve, Canada Woods Mutual Water Company, and Cal-Am's Main, Bishop, Hidden Hills, and Toro systems). The District is also aware that there are two subdivisions serving multiple connections by Cal-Am through a single master meter (Hitchcock Canyon and Sleepy Hollow.) All of these are reflected in Table 2. The 790-connection Seaside Municipal Water System is already publicly owned, so is excluded from this review.

Table 2
Public Water Systems in or serving MPWMD Territory

Name	State PWS #	Connections ³	Population ³
Cachagua Community Center WS	2702595	6	32
Cal-Am Main	2710004	37,847	95,093
Cal-Am Bishop	2701882	371	920
Cal-Am Hidden Hills	2710022	452	1,238
Cal-Am Ryan Ranch	2701466	127	764
Cal-Am Toro	2710021	418	1,148
Canada Woods MWD	2702588	167	551
Carmel by the River RV Park WS	2701297	1	140
Chateau Julien WS (Folktale)	2702495	4	25
Garden Court WS #01	2702571	1	25
Garland Park	2702203	5	1,001
Hitchcock Canyon Water Assn	Cal-Am	15	n/a
Jensen Mobile Home Park WS	2702405	26	56
Princes Camp Resort WS	2701355	55	126
Saddle Mountain WS	2701298	1	50

³ From State Water Resources Control Board website <https://sdwis.waterboards.ca.gov/PDWW/>

EXHIBIT 16-A

San Clemente Rancho WS	2701325	1	90
Sanctuary Bible Church WS	2702544	1	25
Santa Lucia Preserve	2702521	164	823
September Ranch	Future		
Sleepy Hollow subdivision	Cal-Am	23	n/a
SPCA WS	2702370	8	130
Tierra Vista MWC	2701959	19	54

Similar to the list of District WDS in Table 1, the Table 2 list of Public Water Systems includes many small and remote systems. There are mobile home, RV, and camping locations (Carmel by the River, Jenson MHP, Saddle Mountain), stand-alone businesses (Chateau Julien water system, Garden Court water system, SPCA), community gathering locations (Cachagua Community Center, Sanctuary Bible Church), and residential neighborhoods. Only a small portion of Cal-Am's Toro system is within the District boundaries. Given that (1) there are potential operational and economy of scale issues related to acquisition and operation of small PWS located in scattered locations both within and outside the District's boundaries, (2) Measure J focuses on potential acquisition and maintenance of the water system(s) "within [the District's] territory. . . for the benefit of the entire District," and (3) the District's outside legal counsel has advised that the District does not have the legal authority to acquire and serve WDS located outside of its boundaries that are not required to serve customers within its boundaries; it is recommended the District focus at this time on the feasibility of acquiring Cal-Am's Main System (including Bishop, Hidden Hills, and Ryan Ranch) and only consider public ownership of the smaller PWS and District WDS identified above or located outside the District's boundaries, if at all, after the District first becomes owner/operator of the larger system.

If the District becomes owner/operator of the larger Cal-Am system, then it should develop criteria for public ownership of any other Public Water System or WDS in its territory. Such criteria might include number of connections, voluntary (arms-length) acquisition versus eminent domain, cost to customers, and water quality, among other considerations.

RECOMMENDED APPROACH TO CONSIDERING PUBLIC OWNERSHIP

It is recommended that in order to pass the criterion of "feasible" inherent in paragraph A of Rule 19.8, the District evaluate whether the following four measures, when taken together, indicate it is in the public interest or necessity to acquire the system:

- Financial feasibility. Will the overall cost of service system be less under public ownership and will those savings inure to ratepayers relatively quickly?
- Quality and delivery of service. Can the District provide operations and quality of service as good as or better than the current operator(s)?

EXHIBIT 16-A

- Governance. Will public ownership provide greater local control, oversight, and transparency in rate-setting, capital planning, and operations?
- Legally Permissible. Will the acquisition pass muster under California's Eminent Domain Law if Cal-Am challenges the District's "right to take" its Main System?

In the final section of this report, it is recommended the District initially examine the feasibility of acquiring the Cal-Am Main System (including Bishop, Hidden Hills, and Ryan Ranch), hence the four measures above should be considered with respect to acquisition of Cal-Am's Main System assets. The effort will be to first determine financial feasibility, and then consider operations, governance, and legal permissibility, before making a decision to move forward with preparation of a formal appraisal and presentation of an offer of just compensation to Cal-Am. Should Cal-Am reject the offer and the District is unable to negotiate a satisfactory purchase agreement with Cal-Am, then consider whether to exercise the District's power of eminent domain.

Determining Financial Feasibility: The process of determining financial feasibility to acquire the Cal-Am system will entail the following steps:

- Identify the assets for potential acquisition
- Obtain a preliminary determination of the "order of magnitude" of the fair market value of the assets to be acquired using commonly accepted valuation approaches (Income Approach, Comparable Sales or Market Approach, and Cost Approach, including both "Original Cost Less Depreciation" or "OCLD" and "Replacement Cost New Less Depreciation" or "RCNLD"). (Note: at the feasibility stage, this preliminary determination will be something short of a formal and final appraisal under the California Eminent Domain Law. If the Board determines at the conclusion of the feasibility stage that acquisition *is* feasible, the District would then retain an appraiser or appraisers and other supporting consultants as needed to prepare a formal appraisal meeting applicable legal requirements, and the appraiser(s) and consultant(s) presumably would be able to utilize the District's financial feasibility analysis in preparing their opinions of value);
- Identify and estimate other transition, transaction, and other incidental costs that will be incurred and capitalized in the price of the acquisition;
- Estimate the public debt and debt service requirements to be incurred based on the total estimated acquisition cost, including incidental costs;
- Consider alternative scenarios for public debt and debt service requirements if the total acquisition cost exceeds projections (*e.g.*, by 10%, 20%, 30%, etc.);
- Develop a financial model to estimate the Cost of Service (COS) for operations going forward under private ownership and under public ownership; and

EXHIBIT 16-A

- Based on the foregoing, determine whether MPWMD’s customers would realize a net COS savings under public ownership (and the extent/amount of those savings, if applicable, including a contingency available to address unanticipated acquisition cost increases.)

COS savings with a sufficient contingency (ass determined by the Board) would generally indicate financial feasibility. The Board will want to ensure there is a significant potential for COS savings before deciding to move forward with acquisition.

Identify assets for potential acquisition: Cal-Am holds water and wastewater assets throughout Monterey County. Paragraph A of Rule 19.8 refers to Cal-Am’s water production, storage and delivery system assets and infrastructure providing services within the District’s territory. However, under paragraph C of the Rule, and consistent with California Eminent Domain Law, the District should also look at Cal-Am assets outside the District’s boundaries that serve or are intended to serve customers within District boundaries, such as the proposed Monterey Peninsula Water Supply Project (MPWSP) desalination plant. Table 3 below identifies the assets of Cal-Am, and those for the benefit of water customers within the District.

Table 3
Cal-Am Monterey County System Assets

Within District Territory	Outside District Territory
<ul style="list-style-type: none"> • Cal-Am Main System • Ryan Ranch System • Bishop System • Hidden Hills System • Monterey Pipeline • ASR Wells 5 & 6 – Fitch Park (proposed) • Desal Transmission Main – majority portion (proposed) • Pasadera/Laguna Seca Wastewater System • Carmel Valley Ranch Wastewater System • White Oaks Wastewater System (Carmel Valley Village) • Village Green Wastewater System (Carmel Valley Village) 	<ul style="list-style-type: none"> • Desalination Plant (proposed) • Desal Pipeline (proposed) • Castroville Pipeline (proposed) • Desal Transmission Main – portion (proposed) • Ambler System • Ralph Lane System • Chualar System • Toro System (majority) • Garrapata System • Las Palmas Ranch Wastewater System • Indian Springs Wastewater System • Spreckels Wastewater System • Oak Hills Wastewater System • 3 small wastewater systems (presently under negotiation between Cal-Am and Monterey County)

Paragraph B of Rule 19.8 provides that the District shall acquire through negotiation, or through eminent domain if necessary, all assets of Cal-Am for the benefit of the District as a whole. Cal-Am has already indicated that its system is not for sale and it has no intention of entering into a voluntary sale transaction. Initially, then, the District will evaluate only the water supply assets it has the power to take through an eminent domain action. Those assets are as follows: Cal-Am

EXHIBIT 16-A

Main System, Ryan Ranch System, Bishop System, Hidden Hills System, Monterey Pipeline and Pump Station, ASR Wells 5 & 6 – Fitch Park (proposed), Desalination Plant (proposed), Desal Pipeline (proposed), Castroville Pipeline (proposed), and Desal Transmission Main (proposed), sometimes collectively referred to herein as Cal-Am’s “Main System”.

Valuation and Cost of Service Modeling: The District Board determined that to meet the “if and when feasible” criterion of Rule 19.8 paragraph A, it will rely on advice from an outside consulting team that is close to finalizing a feasibility analysis. The team is comprised of specialists in the Eminent Domain Law, water and wastewater system valuation, cost of service modeling, debt finance, and investor-owned utility operations.

The District Board is expected to meet with the District’s legal consulting team the first week of October 2019 to discuss parameters related to its potential acquisition of Cal-Am’s property and assets, including assumptions, findings, and conclusions related to valuation and acquiring the Monterey Peninsula Main System. This will be the Board’s first opportunity to discuss price and terms of payment (to be established by a formal appraisal) related to real property negotiation. The overall schedule is shown below:

3 rd week of September	Draft consultant reports/memos to District Counsel
1 st week of October	District Board real property negotiation meeting
1 st week of November	Release of Feasibility Report to public
2 nd week of November	Public workshop during special Board meeting
December/January	Presentations to city councils and organizations ⁴
February 2020	District Board to discuss follow-up steps ⁴

LEGAL FRAMEWORK FOR ACQUISITION OF PWS; HOW IS PUBLIC OWNERSHIP ACHIEVED?

The feasibility analysis is Phase 1 of a potentially three-phase process. If after completion of the Phase 1 feasibility analysis the Board determines acquisition of Cal-Am’s Main System is “feasible,” then the District would proceed to Phase 2. Phase 2 would entail the District’s retention of an appraiser or appraisers and supporting consultants as needed to prepare a formal appraisal of the Cal-Am assets and property to be acquired. If the formal appraisal determines the just compensation amount is substantially higher than the value projected in the feasibility analysis the District Board may reassess feasibility.

In addition, at this juncture, the District would make a determination as to whether acquisition of Cal-Am’s Main System is a “project” subject to the California Environmental Quality Act (“CEQA”) or a mere change of ownership (and therefore not a CEQA “project”) or otherwise exempt under applicable statutory or regulatory rules from the obligation to comply with CEQA.

⁴ Only if feasibility is indicated

EXHIBIT 16-A

Only if the District were to determine both that the acquisition does in fact constitute a CEQA “project” and that the project is not exempt from CEQA would the District then prepare an Initial Study for the Project and, depending upon the results of that study, prepare a Negative Declaration, Mitigated Negative Declaration or full Environmental Impact Report (“EIR”).

Upon its approval of the appraisal (and, if the District were to determine CEQA compliance is required, upon completion of the applicable CEQA document), the District would next make a formal offer to Cal-Am to purchase the Cal-Am assets and property to be acquired for not less than the “just compensation” amount determined through the appraisal process. The District would then attempt to negotiate with Cal-Am to reach agreement on the terms and conditions of a mutually acceptable purchase agreement.

In the event negotiations were unsuccessful--which at this time seems highly likely, given Cal-Am’s position that it will not be a voluntary seller-- the District’s Board would then have the option to schedule a so-called “resolution of necessity” hearing upon delivery of a minimum fifteen days’ notice to Cal-Am and, after the conducting the hearing, to determine in the Board’s sole and absolute discretion whether to adopt the resolution and authorize acquisition by use of the District’s power of eminent domain.

A resolution of necessity must be supported by various findings and determinations and must be adopted by a minimum 2/3rds vote of all members of the Board (*i.e.*, 5 of 7 Board members).

If the District Board were to authorize the filing of an eminent domain action, Phase 3 would consist of the District filing and prosecuting the eminent domain action in Monterey County Superior Court.

There are generally two issues that are determined in an eminent domain action: first, whether the condemnor (in this case, the District) has the “right to take” the condemnee’s (in this case, Cal-Am’s) property; and, second, assuming the trial court determines the condemnor does in fact have the right to take, the amount of just compensation to which the condemnee is entitled. Typically, resolution of these two issues is bifurcated--the first (right-to-take) issue is tried to the court (trial judge) at a so-called “bench trial” (Phase 3A) and the second (just compensation) issue is tried to a jury (unless all parties waive their right to a jury trial) (Phase 3B).

In most “traditional” eminent domain cases—to acquire road right-of-way, land for a school site, etc., the condemnor’s right to take the subject property is rarely challenged. Based upon the recent history of public agency attempts to acquire the assets of privately owned California water utilities (both Cal-Am and one of the other major “Class A” water companies in California, Golden State Water) and Cal-Am’s prior public statements during and after the Measure J initiative campaign, it appears highly likely here, however, that Cal-Am would in fact vigorously contest the District’s right to take its Monterey Main System. If it does so, it is not possible to anticipate

EXHIBIT 16-A

at this time every legal and factual issue that Cal-Am might raise. A very brief summary of some of the potential “right to take” issues follows.

First, Cal-Am might challenge the District’s alleged “failure” to comply with CEQA (see above) or some aspect of the District’s acquisition financing plan. Second, Cal Am might challenge the content or sufficiency of the District’s resolution of necessity, including (a) the adequacy of the District’s “description of the general location and description of the property to be taken”; (b) the District Board’s declaration that “the public interest and necessity require the proposed project,” that “the proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury,” that “the property described in the resolution is necessary for the proposed project,” and that, prior to adoption of the resolution, the District presented to Cal-Am a legally adequate offer of just compensation; and (c) the District Board’s determination that the taking by the District of Cal-Am’s Main System serves a “more necessary” public use than the continued ownership and use of the system by Cal-Am. In this regard, it is noteworthy that, under current California law, the burden of proof on Cal-Am and the District differs in material respects with respect to the second and third of these three issues. As to the declarations referred to in clause (b) of the first sentence of this paragraph, the District is entitled to a “conclusive presumption” that those declarations are adequate and proper, which would place a heavy burden on Cal-Am to rebut the District Board’s declarations by proving that they are arbitrary and capricious and entirely lacking in evidentiary support and/or “influenced or affected by gross abuse of discretion by the governing body.” It is rare that a condemnee is able to carry its heavy burden of proof on these points. As to the “more necessary public use” finding/determination referred to in clause (c) of the first sentence of this paragraph, however, under current California law the District is entitled to only a lesser “rebuttable presumption” that its determination is adequate and proper, which means that the determination would stand unless Cal-Am were to convince the trial court by a preponderance of the evidence to the contrary. (See, *e.g.*, California Code of Civil Procedure Sections 1245.235, 1240.650, 1245.250, 1240.050, 1245.250, and 1245.255.) This “rebuttable presumption” standard would likely be the primary basis upon which Cal-Am would resist the District’s “right to take.”

If the trial judge ultimately determines that the District has the right to take Cal-Am’s Monterey Main System, Phase 3A is concluded (subject to Cal-Am’s potential right to appeal after a final judgment is entered) and the case would move on to a jury trial at which compensation for the taking would be determined (Phase 3B). Just before the jury trial, the parties are required to make final offers and demands for “just compensation”, in order to promote settlement. If the matter proceeds to judgment, the District has 30 days after judgment is entered to pay the compensation and title to and operational responsibility for the system would then transfer (again, subject to Cal-Am’s right to appeal).

EXHIBIT 16-A

HOW SHALL SUCH ASSETS BE MANAGED?

Table 4 below summarizes aspects of water system operations that will be required.

Table 4
Functions of Utility Operations

Operations	Administration
Production	Operations Director
Transmission & Distribution	Engineering & Planning
Water Treatment	Ratemaking
Routine Operations	Customer Service
Field Customer Service	Billing & Accounting
Meter Reading & Repair	Human Resources
Maintenance	IT, Cyber Security, GIS, & SCADA
Water Quality Monitoring	
Asset Management & Construction	

The District already performs each of these functions, but on a smaller scale. Cal-Am utilizes approximately 74 employees in its Monterey District for water services.⁵ The District would have to scale up operations and should be confident it can do so.

As discussed earlier in this report, it is recommended that the Board determine whether it is feasible to operate the system in a manner that provides a quality of water service as good as or better than the current operator. In its examination of financial feasibility, the District should examine two operating scenarios: (i) integration of operations with existing employees of Cal-Am, and (ii) contract operations, using a third-party service provider such as Jacobs, Veolia, Suez, IDE, or others. At this point, the District can make simple assumptions for financial decision-making, but prior to a decision to move forward with a Resolution of Necessity it is recommended that the Board more fully develop alternate operating plans.

The District will want to review the American Water Works Association (AWWA) 10 Guiding Principles for Effective Utility Management (EUM) and establish the District's own strategic goals and level of service (LOS) standards for operation of the water system in the following areas:

- Product Quality
- Customer Satisfaction
- Employee Leadership and Development
- Operational Optimization
- Financial Viability
- Infrastructure Strategy and Performance
- Enterprise Resiliency

⁵ 2019 General Rate Case, Minimum Data Requirement II.B.7

EXHIBIT 16-A

- Community Sustainability
- Water Resource Sustainability
- Stakeholder Understanding and Support

The District may also wish to undertake a system-wide risk assessment, identifying vulnerabilities and mitigations for water quality, supply, storage, production, transmission and distribution, pump stations, and fire protection.

Based on these assessments, an operating plan can be developed that will inform the Board's decision to move forward to acquire property by negotiation or through a condemnation action.

NON-POTABLE WATER SERVICES

Paragraph C of Rule 19.8 states: "The plan may differentiate treatment of non-potable water services." At this time, all non-potable water delivery services – other than small well irrigation systems – are already publicly owned. This includes the Carmel Area Wastewater District/Pebble Beach Community Services District/Monterey Peninsula Water Management District Reclamation Project in Pebble Beach and the proposed RUWAP project by Marina Coast Water District. Monterey One Water also owns a large non-potable system, the Castroville Seawater Intrusion Project, but no aspects are within the District's territory. It is recommended the District exclude non-potable systems from consideration, except Cal-Am wastewater systems located within the District's boundaries.

RECOMMENDATIONS

Recommendations to the District Board in this report are summarized as follows:

- Develop criteria to determine which water systems should be considered for acquisition.
- Consider acquisition of only Public Water Systems within the District's territory and facilities located outside the District's boundaries that directly benefit and serve customers located within the District's boundaries.
- Initially examine the feasibility of acquiring the Cal-Am Main System (including Bishop, Hidden Hills, and Ryan Ranch) and only consider public ownership of the smaller Public Water Systems and District WDS, if the District has become owner/operator of the larger system.
- Develop criteria for public ownership of any other Public Water System or WDS in its territory only if the District first becomes owner/operator of the larger Cal-Am system.

EXHIBIT 16-A

Such criteria might include number of connections, voluntary (arms-length) acquisition vs eminent domain, cost to customers, water quality considerations, and other factors.

- Evaluate whether the following four measures, taken together, indicate it is in the public interest to acquire the system and sufficiently satisfy the criterion of “feasible” inherent in paragraph A of Rule 19.8:
 - A. Cost to ratepayers: Will the system be less costly to operate; how soon will total cost savings (including acquisition costs) inure to ratepayers?
 - B. Quality and delivery of service: Can the District provide operations and quality of water service as good as or better than the current operator?
 - C. Governance; Will public ownership provide greater local control, oversight, and transparency in rate-setting, capital planning, and operations?
 - D. Legally Permissible. Will the acquisition pass muster under California’s Eminent Domain Law if Cal-Am challenges the District’s “right to take” its Main System?
- Ensure there is significant potential for cost savings (with an adequate cushion to account for unanticipated cost increases) before deciding to move forward with acquisition.
- Meet with the District’s legal consulting team the first week of October 2019 to discuss assumptions related to preparation of a formal appraisal, satisfaction of legal constraints applicable to acquisition (*e.g.*, applicability of CEQA), and related property acquisition issues. This meeting should be held in closed session under the safe harbor of real property negotiations.
- More fully develop alternate operating plans before deciding whether or not to consider a Resolution of Necessity
- Focus only on water assets identified earlier in this report at this time.
- Exclude non-potable systems from consideration.

Respectfully submitted,



David J. Stoldt, General Manager
August 19, 2019

EXHIBIT 16-A

Appendix A Public Water Systems in MPWMD Territory

