Final

RESOLUTION NO. 2023-14
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT MODIFYING RULE 160 – REGULATORY PRODUCTION TARGETS FOR CALIFORNIA AMERICAN WATER SYSTEMS

WHEREAS, the Monterey Peninsula Water Management District has developed a set of rules to facilitate compliance by California American Water systems with the regulatory and legal water production limits set by the State Water Resources Control Board and the Seaside Basin Adjudication as administered by the Seaside Groundwater Basin Watermaster;

WHEREAS, District Rule 160 specifies the regulatory water production targets that are used to trigger higher stages of water conservation to ensure compliance with these legal and regulatory water production limits;

WHEREAS, these limits are subject to change by action of the State Water Resources Control Board and Seaside Groundwater Basin Watermaster;

WHEREAS, the State Water Resources Control Board adopted Order WR 2016-0016 on July 19, 2016, which requires California American Water to divert no more than 3,376 acre-feet in Water Year 2024 from its Carmel River system sources;

WHEREAS, the Monterey County Superior Court adopted an Amended Decision in the Seaside Groundwater Basin Adjudication on February 9, 2007 (*California American Water v. City of Seaside, et al.*, Case No. M66343), which requires California American Water to divert no more than 1,474 acre-feet from the Coastal Subareas and 0 acre-feet from the Laguna Seca Subarea of the Seaside Groundwater Basin in Water Year 2024;

WHEREAS, the Seaside Groundwater Basin Watermaster has not yet determined the amount of carryover credit, if any, that California American Water has from Water Year 2023 that will be available for diversion in Water Year 2024; and

WHEREAS, it is necessary to modify the monthly and year-to-date at month-end water production targets in Tables XV-1, XV-2 and XV-3 to reflect the projected quantities of production available to California American Water for diversion from the Carmel River and Seaside Groundwater Basins for Water Year 2024.

NOW THEREFORE, BE IT RESOLVED:

1. District staff shall modify Tables XV-1, XV-2 and XV-3 of District Rule 160 to reflect the projected quantities of production available to California American Water for diversion from the Carmel River and Seaside Groundwater Basins for Water Year 2023.

2. Specifically, District staff shall replace the monthly and year-to-date at month-end values presently shown in Tables XV-1, XV-2 and XV-3 of Rule 160 with the monthly and year-to-date at month-end values shown on the attached tables (**Attachment 1**).

On motion of Director Eisenhart, and second by Director Anderson, the foregoing resolution is duly adopted this 18th day of September 2023, by the following votes:

AYES: Directors Edwards, Riley, Eisenhart, Paull, Anderson, Oglesby and Adams

NAYES: None

ABSENT: None

I, David J. Stoldt, Secretary of the Board of Directors of the Monterey Peninsula Water Management District, hereby certify that the foregoing is a resolution duly adopted on the 18th day of September 2023.

Dated: September 19, 2023

David J. Stoldt,
Secretary to the Board

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APPENDIX A
TO DRAFT RESOLUTION NO. 2023-13
DESCRIPTION OF THE MONTEREY WATER SYSTEM

The property interests to be acquired, referred to herein as "MWS" include: (1) all real property interests and assets (whether held in fee, leasehold, easement, license, or otherwise), including without limitation land, improvements pertaining to the realty, construction work in progress, equipment and fixtures, and water rights, all incidental intangible property interests and assets (including without limitation: easements; licenses; water rights; franchise rights; contracts; customer and billing information; water quality records; inspection, maintenance, and repair logs and reports; planning, design, and engineering data and reports; plans and specifications; and other books and records), and all personal property assets (including without limitation computer equipment, office furnishings, vehicles, supplies, and other inventory) comprising the retail water system owned and operated by Cal Am and any of Cal Am's affiliated entities within the District's boundaries in Monterey County, California, which boundaries encompass what are generally known and referred to as the Monterey Main, Bishop, Hidden Hills, and Ryan Ranch portions of Cal Am's Central Division; and (2) all of Cal Am's intangible and personal property interests and assets located outside Cal Am's retail service area (and the District's boundaries) that currently are utilized by Cal Am to provide retail water service to the areas described in clauses (1)-(2) above, including without limitation all of Cal Am's intangible and personal property interests and assets relating to the delivery of advance purified water from Monterey One Water's Advanced Water Purification Facilities (located adjacent to its Regional Treatment Plant approximately two miles north of the City of Marina) to Cal Am's retail service area (and the District's northerly boundary).

The MWS specifically excludes Cal Am's real, intangible, and personal property assets relating to its Ambler, Ralph Lane, Chualar, Toro, and Garrapata service areas (referred to as the "Central Satellites"), all of which are located outside the District's boundaries, as well as Cal Am's real, intangible, and personal property interests relating to its wastewater service areas in Monterey County, California (referred to herein as the "Monterey Wastewater Systems"). The MWS proposed to be acquired in connection with this offer also excludes any working cash held by Cal Am with respect to the MWS.

To the extent any property or asset of Cal Am is used by Cal Am in connection with both the MWS (as defined above, and as the same may hereafter be modified), on the one hand, and one or more of the Central Satellites and Monterey Wastewater Systems, on the other hand, such property and assets are intended to be part of the MWS as that term is used herein. Thus, for example, if a Cal Am vehicle is used in conjunction with the inspection, servicing, maintenance, or repair of both the MWS and one or more of the Central Satellites and Monterey Wastewater Systems that vehicle is part of the MWS within the meaning of this letter. The MWS includes without limitation the following:

1. Real Property Ownership Interests.

MSW has identified the properties described in **Table 1** attached hereto and incorporated herein as being owned by Cal Am that are part of the MSW.

1. Facilities.

1.1 Wells. The wells included within the MWS are identified in Tables 2-3, 2-4, 2-5 and 2-6 of the Raftelis Appraisal.

1.2 Storage Facilities. The water storage facilities included within the MWS encompass approximately 80 storage facilities included within the Monterey Main system, the 6 water storage facilities included within the Hidden Hills system, the 7 water storage facilities included within the Bishop system, and the single water storage facility included within the Ryan Ranch system, further described in Section 2.2.9 and Table 2-10 of the Raftelis Appraisal.

1.3 Booster Pumps. The MWS includes approximately 58 booster pump stations in the Monterey Main System, the "Hilby Pump Station" added in 2018, the Carmel Valley Pump Station completed in approximately July 2022, and Forest Lake Tanks Station recently completed, all of which are further described in Section 2.2.8 of the Raftelis Appraisal.

1.4 Water Treatment Systems. The water treatment facilities included within the MWS are identified in Table 2-7 of the Raftelis Appraisal.

1.5 Sand City Desalination Plant. The MWS includes Cal Am's lease agreement for the Sand City Desalination Plant and any facilities appurtenant thereto, including without limitation any brackish water feed wells, or other components constructed and owned by Cal Am in support of the Sand City Desalination Plant operations.

1.6 Water Transmission and Distribution Pipelines. The water transmission and distribution pipelines for Cal Am's "Central System," which includes transmission and distribution pipelines within both the MWS and Central Satellites, are identified and described in Sections 2.2.7 and 2.2.10, and Table 2-9, of the Raftelis Appraisal. Due to the fact that public documents do not include a breakdown of the water transmission and distribution pipelines in each system, and Cal Am's refusal to voluntarily provide documentation that would assist in that breakdown, the appraisers have identified the specific pipelines included in the public documentation for both systems. Only those transmission and distribution lines located within the MWS are the subject of the District's acquisition.

1.7 Additions, Deletions, Alterations to Cal Am's Facilities. The District acknowledges that the facilities encompassed within the MWS are not static and change over time. The District believes the descriptions of Cal-Am's facilities identified hereinabove, and in Section 2.2 of the Raftelis Appraisal, are accurate and complete, but to the extent the District's prior purchase offer to Cal-Am inadvertently failed to expressly describe one or more of Cal Am's facilities or Cal Am adds to, improves, or alters its facilities after the date of that purchase offer and before a final acquisition is consummated, the acquisition to be implemented herein

shall include all of Cal Am's facilities within the MWS.

2. Easements, Franchise Rights, and Similar Interests. All of Cal Am's easements, licenses, rights-of-entry, franchise rights, and other similar property interests in and with respect to the MWS.

3. Water Rights. All groundwater, appropriative, riparian and pre-1914 water rights, if any, of Cal Am in and with respect to its MWS.

4. Books and Records. All of Cal Am's books and records (herein, collectively, "Records") relating to its MWS, including without limitation (1) all Records containing customer account information, including without limitation all customer billing records, payment records, delinquent payment history information, security deposit information, and the like; (2) all Records containing planning, design, and engineering information related to the MSW, including without limitation plans and specifications, as-built drawings, CAD files, inspection, maintenance, and repair and replacement logs and reports; and (3) to the extent not addressed in clauses (1) and (2) of this subparagraph (5), all Records relating to the items listed in subparagraphs (1)-(4) above, inclusive. As used herein, the term "Records" includes all writings prepared, owned, used, or retained by Cal Am or any of its affiliated entities regardless of physical form or characteristics. As used herein, the term "writing" means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

5. Prepaid Fees and Charges and Refundable Deposits. To the extent Cal Am possesses or holds any prepaid fees and charges or any refundable deposits from property owners, customers, or ratepayers as of the date the MWS (collectively, "Prepaid Funds") as of the date of closing, the acquisition shall either (1) acquire such Prepaid Funds as part of this acquisition or, alternatively, (2) deduct the amount of such Prepaid Funds from the just compensation amount to be paid.

Table 1

SUBJECT PARCELS IDENTIFICATION TABLE

Appraisal of Proposed Fee Acquisitions
From - California American Water Monterey District (Cal-Am Water System)
By - Monterey Peninsula Water Management District
Date of Value: December 15, 2022

No.	Assessors Parcel Number (APN)	Parcel Size Sq. Ft.	Parcel Size Acres *(1)*	Street or Location	City / Mailing Address	In City?	Current Use
1	001181002000	55,490	1.27	1650 David Ave	Monterey	Yes	Corporate Yard
2	001213021000	23,514	0.54	620 Devisadero St	Monterey	Yes	Withers Tanks
3	001423031000	13,754	0.32	6 Shady Ln	Monterey	Yes	Lower Toyon Tank
4	001761036000	71,436	1.64	599 Viejo Rd	Monterey	Yes	Viejo Tank
5	001931024000	2,500	0.06	52 Linda Vista Dr	Monterey	Yes	Lower Monte Vista Tank
6	006528001000	2,861	0.07	Sinex Ave	Pacific Grove	Yes	Eardley Roundabout
7	006694005000	9,877	0.23	2nd St	Pacific Grove	Yes	Corporate Yard
8	006694006000	390,000	8.95	Hillcrest Ave	Pacific Grove	Yes	Corporate Yard
9	007491015000	664,725	15.26	2949 Bird Rock Rd	Pebble Beach	No	3 Tanks
10	008111016000	12,521	0.29	4041 Sunset Ln	Pebble Beach	No	Huckleberry Hill Tanks
11	008111017000	9,817	0.23	4039 Sunset Ln	Pebble Beach	No	Huckleberry Hill Tanks
12	008111022000	32,234	0.74	4045 Sunset Lane #4059	Pebble Beach	No	Huckleberry Hill Tanks
13	008161003000	22,106	0.51	17 Mile Dr	Pebble Beach	No	Unknown
14	008171011000	8,966	0.21	Ronda Rd	Pebble Beach	No	Pebble Beach Tanks
15	008293008000	5,328	0.12	Portola Rd	Pebble Beach	No	Unknown
16	009142010000	8,896	0.20	24739 Upper Trail	Carmel	No	Carmel Woods Tank
17	010233004000	3,150	0.07	2nd Ave	Carmel	Yes	Unknown
18	011051018000	814	0.02	1635 Military Ave	Seaside	Yes	Well
19	011061004000	44,870	1.03	1987 Park Ct	Seaside	Yes	Well, Tank, Treatment
20	011071018000	9,106	0.21	Luzern St	Seaside	Yes	Luzern #2 Well & PS
21	011091017000	39,627	0.91	1237 Playa Ave	Seaside	Yes	Playa #3 Well
22	011355004000	7,906	0.18	598 Harcourt Ave	Seaside	Yes	Vacant Lot
23	011493028000	7,622	0.17	2104 Paralta Ave	Seaside	Yes	Paralta #1 Well
24	012193016000	6,172	0.14	1257 Palm Ave	Seaside	Yes	Vacant Lot
25	012324032000	49,231	1.13	1561 Hilby Ave	Seaside	Yes	Hilby Tank & Pump Station
26	012432004000	21,757	0.50	1453 Plumas Lane	Seaside	Yes	Plumas #4 Well
27	012532013000	3,019	0.07	Via Verde	Del Rey Oaks	Yes	Land Locked
28	012681005000	10,802	0.25	1245 Yosemite	Seaside	Yes	Upper Hilby Tank
29	012681006000	10,306	0.24	1235 Yosemite St	Seaside	Yes	Upper Hilby Tank
30	012681007000	9,246	0.21	1225 Yosemite St	Seaside	Yes	Upper Hilby Tank
31	012831013000	2,865	0.07	1833 Luxton St	Seaside	Yes	Vacant Lot
32	012834001000	8,930	0.21	1898 Waring St	Seaside	Yes	LaSalle #2 Well
33	012843005000	3,690	0.08	1860 Harding St	Seaside	Yes	Vacant Lot
34	012843013000	7,381	0.17	1849 Darwin St	Seaside	Yes	Darwin #1 Well
35	012843016000	1,843	0.04	1865 Darwin St	Seaside	Yes	Vacant Lot
36	014111010000	9,931	0.23	Skyline Dr	Monterey	Yes	Upper Toyon Tank
37	015031013000	13,539	0.31	25231 Pine Hills Dr	Carmel	No	Rio Vista Tank
38	015031087000	21,470	0.49	24735 Outlook Dr	Carmel	No	Carmel Views Tank
39	015162038000	9,147	0.21	5258 Carmel Valley Rd	Carmel	No	Rancho Canada #1 Well
40	015251030000	174,240	4.00	26530 Rancho Sn Carlos Rd	Carmel	No	San Carlos #2 Well
41	015441001000	22,867	0.52	498 Del Mesa Dr	Carmel	No	Del Mesa Tank
42	015441005000	13,832	0.32	100 Del Mesa Dr	Carmel	No	Pump Station
43	015481001000	29,240	0.67	24750 High Meadow Dr	Carmel	No	High Meadows Tank
44	101031004000	778	0.02	1199 Aguajito Rd	Monterey	No	Castro Plant 7A
45	103011011000	9,866	0.23	500 Aguajito Rd	Carmel	No	Aguajito Tank
46	103071005000	12,434	0.29	625 Monhollan Rd	Carmel	No	Fairways Tanks

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No.	Assessors Parcel Number (APN)	Parcel Size Sq. Ft.	Parcel Size Acres *(1)*	Street or Location	City / Mailing Address	In City?	Current Use
47	103102008000	9,299	0.21	Loma Alta Rd/Aguajito Rd	Carmel	No	Unknown
48	103121014000	3,048	0.07	3741 Raymond Way	Carmel	No	Mar Monte Tank
49	103181002000	12,411	0.28	Landlocked by Jacks Park	Monterey	No	Unknown
50	169111008000	164,823	3.78	4 Scarlett Rd #A	Carmel Valley	No	Scarlett #8 Well
51	169131023000	327,108	7.51	28005 Dorris Dr	Carmel	No	Berwick #7 Well
52	169141016000	117,536	2.70	9210 Carmel Valley Rd	Carmel	No	Iron Removal Plant
53	169141023000	42,207	0.97	S. of Carmel Valley Road	Carmel	No	Iron Removal Plant
54	169181021000	18,358	0.42	27539 Via Sereno	Carmel	No	Schulte #2 Well
55	169221012000	2,400	0.06	7240 Carmel Valley Rd	Carmel	No	Cypress #1 Well
56	169262002000	2,595	0.06	25863 Tierra Grande Dr	Carmel	No	Pump Station
57	169271007000	22,964	0.53	25723 Tierra Grande Dr	Carmel	No	Lower Tierra Grande Tank
58	169342011000	15,231	0.35	25451 Tierra Grande Dr	Carmel	No	Middle Tierra Grande Tank
59	169381007000	28,648	0.66	25329 Tierra Grande Dr	Carmel	No	Upper Tierra Grande Tank
60	173071047000	7,102	0.16	Laguna Seca Golf Ranch	Monterey	No	Bishop WTP
61	173071051000	1,859	0.04	Laguna Seca Golf Ranch	Monterey	No	Bishop Well
62	173071052000	931	0.02	Near Pasadero Sub.	Monterey	No	Unknown
63	173071054000	7,001	0.16	9385 York Rd	Monterey	No	York Rd Tank
64	173101053000	25,608	0.59	23729 Spectacular Bid Ln	Monterey	No	Spectacular Bid Tank
65	187021024000	9,583	0.22	13471 Middle Canyon Rd ***(2)***	Carmel Valley	No	Upper Middle Canyon Tank
66	187111017000	28,897	0.66	71 Oak View	Carmel Valley	No	Ranchitos Tank
67	187221001000	39,695	0.91	64 Middle Canyon Rd	Carmel Valley	No	Middle Canyon Tank
68	187221011000	7,885	0.18	50 Middle Canyon Rd	Carmel Valley	No	Middle Canyon Tank & PS
69	187231005000	2,271	0.05	11 Rancho Rd	Carmel Valley	No	Pump Station
70	187301002000	4,125	0.09	308 Country Clb Heights Ln	Carmel Valley	No	Country Club Heights Tank
71	187331004000	3,814	0.09	6 Loma Ln	Carmel Valley	No	Tank Lot
72	187351004000	474	0.01	358 Ridge Way	Carmel Valley	No	RidgeWay Plant No. 65 (well)
73	187442013000	2,550	0.06	5 Via Contenta	Carmel Valley	No	Pump Station
74	187601009000	10,500	0.24	396 El Caminito Rd	Carmel Valley	No	Upper Airway Tank
75	187611014000	8,736	0.20	191 Chaparral Rd	Carmel Valley	No	Lower Airway Tank
76	187611015000	11,479	0.26	58 Chaparral Rd	Carmel Valley	No	Lower Airway Tank
77	189091015000	5,530	0.13	35 W Garzas Rd	Carmel Valley	No	Garzas #3 Well
78	189141001000	629	0.01	94 Boronda Rd	Carmel Valley	No	Well
79	189191007000	4,934	0.11	96 Panetta Rd	Carmel Valley	No	Well
80	189191010000	664	0.02	90 Panetta Rd	Carmel Valley	No	Panetta Well No. 2
81	189211005000	3,337	0.08	46 W Carmel Valley Rd	Carmel Valley	No	Vacant Lot
82	189311033000	10,782	0.25	5 De Los Helechos	Carmel Valley	No	Robles Del Rio #3 Well
83	189352006000	10,490	0.24	57 Piedras Blancas	Carmel Valley	No	Lower Robles Tank
84	189401004000	5,929	0.14	46 Camino De Travesia	Carmel Valley	No	Upper Robles Tank
85	189401005000	6,223	0.14	48 Camino De Travesia	Carmel Valley	No	Upper Robles Tank
86	189561029000	18,805	0.43	94 W Garzas Rd	Carmel Valley	No	Garzas #4 Well
87	197081032000	1,149,984	26.40	W. of E. Carmel Valley Rd	Carmel Valley	No	Carmel River/Open Space
88	197081033000	4,153,445	95.35	W. of E. Carmel Valley Rd	Carmel Valley	No	Tularcitos Creek/Open Space
89	241112003000	930	0.02	179 Fern Canyon Rd	Carmel	No	Unknown
90	241261012000	43,782	1.01	247 Lower Walden Rd	Carmel	No	Lower Walden Tank & PS
91	259031011000	13,321	0.31	15 Upper Ragsdale Dr	Monterey	Yes	Ryan Ranch #2 Well (NA)
92	259031012000	8,069	0.19	15 Upper Ragsdale Dr #1/2	Monterey	Yes	Ryan Ranch #11 Well (NA)

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No.	Assessors Parcel Number (APN)	Parcel Size Sq. Ft.	Parcel Size Acres *(1)*	Street or Location	City / Mailing Address	In City?	Current Use
93	259041013000	23,817	0.55	5 Upper Ragsdale Dr	Monterey	Yes	Ryan Ranch #9 (NA)
94	259091012000	37,141	0.85	Enlace Road	Monterey	No	Segunda Tanks
95	259093014000	32,234	0.74	Enlace Road	Monterey	No	Segunda Tanks
96	416111002000	15,428	0.35	25219 Casiano Dr	Salinas	No	Hidden Hills WTP/Bay Ridge Well
97	417051003000	3,380,242	77.60	San Clemente Drive	Carmel Valley	No	Carmel River / Open Space
98	417051004000	17,829,277	409.30	45 Sleepy Hollow	Carmel Valley	No	Watershed Open Space
99	417051005000	12,665,506	290.76	San Clemente Road	Carmel Valley	No	Carmel River / Open Space
100	417051010000	1,932,849	44.37	S. of Carmel River	Carmel Valley	No	Watershed Open Space
101	417051011000	7,814,279	179.39	W. of Carmel River	Carmel Valley	No	Watershed Open Space
102	417091005000	8,771,677	201.37	W. of Cachagua Road	Carmel Valley	No	Camel River/Watershed Open Space
103	418191003000	15,645,010	359.16	S. of Carmel River	Carmel Valley	No	Watershed Open Space
104	418191005000	13,939,200	320.00	W. of Carmel River	Carmel Valley	No	Camel River/Watershed Open Space
105	418191034000	7,509,744	172.40	S. of Nason Road	Carmel Valley	No	Camel River/Watershed Open Space
106	418191035000	27,878,400	640.00	S. of Nason Road	Carmel Valley	No	Danish Creek, Camel River/Watershed
107	418191043000	20,908,800	480.00	S. of Nason Road	Carmel Valley	No	Camel River / Watershed Open Space
108	418191053000	3,484,800	80.00	S. of Nason Road	Carmel Valley	No	Watershed Open Space
109	418191080000	6,926,040	159.00	Nason Road	Carmel Valley	No	Watershed Open Space
Totals		**157,070,141**	**3,605.83**				

(1) Parcel Size based on Assessor Records

(2) Possessary Interest

Sources: MPWMD, Monterey County Assessor Records, Data Tree, County of Monterey Resource Management Agency

22-78 Chris Carneghi, MAI December 2022

APPENDIX B
TO DRAFT RESOLUTION NO. 2023-13

Findings and Evidence
In Support of a Resolution of Necessity
For Acquisition of the California-American Water Company (Cal-Am)
Monterey Water System

It is hereby found and determined:

Section 1. The Cost-of-Service Issue: The Monterey Peninsula Water Management District (MPWMD or District) will be able to serve the Monterey Water System (MWS) customers (hereafter referred to as ratepayers) at a significantly lower cost than California-American Water Company (Cal-Am) would if it were to continue ownership and operation of the MWS to provide water service to those same ratepayers.

1. FINDING: The cost of water to ratepayers in Cal-Am's MWS is the highest of any comparable water system along or near the California Central Coast.

EVIDENCE: Based on a survey completed by MPWMD, the overall cost of water that Cal-Am charges to its MWS ratepayers is higher than the cost of water charged by any other comparable retail water provider. (See Exhibit A, attached hereto.)

Pro forma monthly bills were compared for twelve local communities including the Monterey Peninsula, Marina, Salinas, Soquel Creek Water District, Santa Cruz, Scotts Valley, Gilroy, San Jose, Palo Alto, Fremont, San Francisco, and East Bay MUD. This comparison assumed water use of 35 hundred gallons per month (CGL) through a 5/8" meter.[1]

MPWMD found Cal-Am's typical bill to be 206% – more than twice – the average bill of the other eleven communities; this was 31% higher than the highest of the other eleven.

2. FINDING: The cost of water to ratepayers in Cal-Am's MWS is among the highest of any comparable water system in the United States.

EVIDENCE: Based on a national survey by Food and Water Watch, Cal-Am is shown to have one of the most costly water systems in the entire United States. (See Exhibit B, attached hereto.)

[1] 3,500 gallons per month (approximately 470 cubic feet) is typical monthly usage on the Monterey Peninsula.) In finding No. 3, below, a slightly higher value is used to represent typical use across California.

3. FINDING: The cost of water to ratepayers in Cal-Am's MWS is the least affordable among all of Cal-Am's water systems in California, as measured by the California Public Utilities Commission's ("CPUC") own affordability indices.

EVIDENCE: The MWS Affordability Ratio is two to three times worse than other Cal-Am districts. The table below provides a comparison of Affordability Ratios for major Cal-Am districts. The Affordability Ratio ("AR") describes the impact an essential service bill has on a household budget; that is, the percent of income required to be spent on each type of essential utility service after housing and the remaining essential utility services are considered.

Essential service for water is defined in terms of essential indoor water usage; that is, the usage "adequate for human consumption; cooking; and sanitary purposes." In its most recent version, CPUC staff recommended using a monthly value of six hundred cubic feet (ccf) of water use per household.[2]

Spreading any Cal-Am expense on a statewide customer-count basis impacts Cal-Am Monterey ratepayers more than any other districts or divisions of Cal-Am because Monterey ratepayers are already burdened by a much higher Affordability Ratio.

Cal-Am Water Affordability Ratios[3]

Cal-Am Division/District	2020 Essential Usage Bill ($/mo)	Water AR_{20}[4]
Los Angeles – Duarte	38.22	2.24%
Monterey Main	**114.86**	**6.64%**
Sacramento	37.73	2.76%
San Diego	49.36	3.71%
Ventura	41.77	2.23%

4. FINDING: In addition to the fact that the cost of water in Cal-Am's MWS is already extremely high, over the past decade these costs have increased much more rapidly than percentage increases for both inflation and the rates charged by comparable water service providers. It is reasonable to assume that if Cal-Am remains as the service provider, this trend will continue.

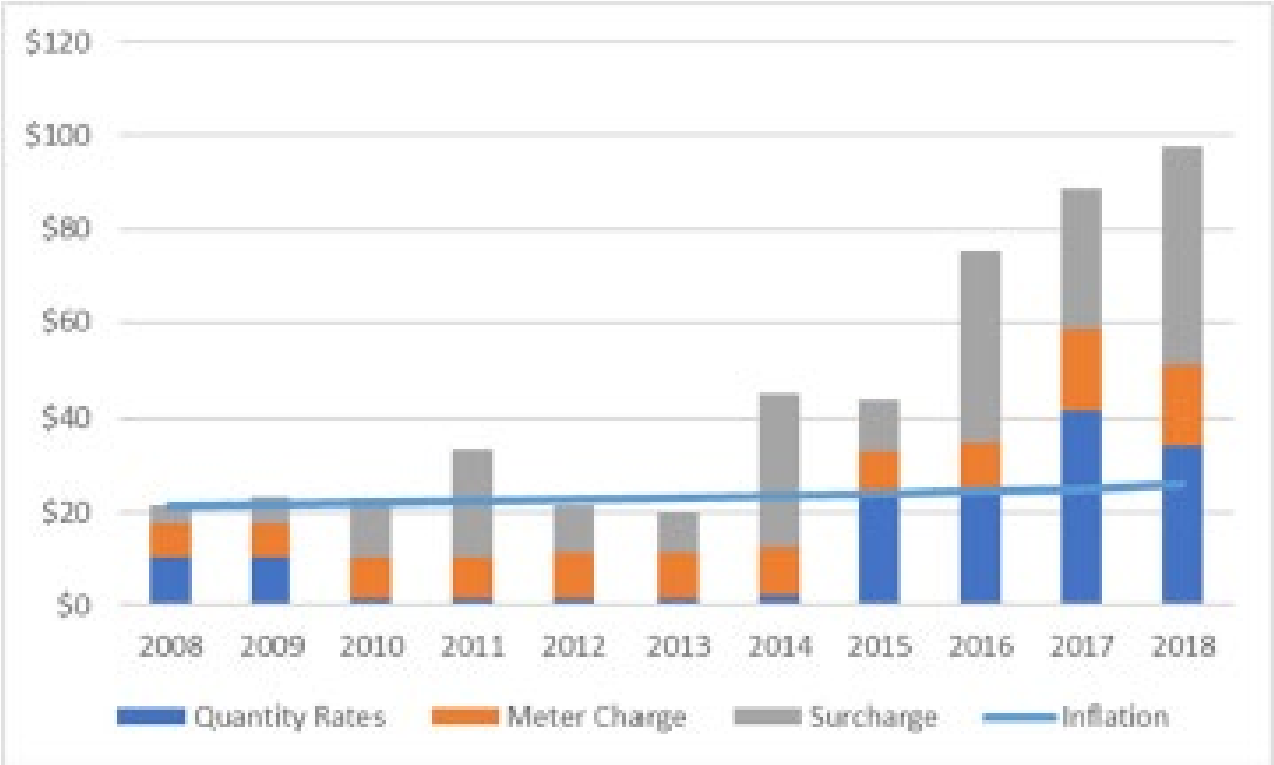
EVIDENCE: The cost of water charged to ratepayers in Cal-Am's MWS has escalated rapidly over the past 20 years, much more rapidly than increases in CPI and increases in the rates charged by other comparable service providers.

[2] Affordability Metrics Framework, CPUC Staff Proposal in R.18-07-006, January 24, 2020.
[3] Cal-Am's 2022 General Rate Case filing before the CPUC, A.22-07-001, Linam Supplemental Testimony, Attachment 2.
[4] AR calculation for households that fall in the 20th percentile of the income distribution for the service area.

The continual escalation of costs of water to ratepayers in the MWS has drawn the attention of the CPUC on multiple occasions. For example, the CPUC Public Advocates Office's ("PAO")[5] 2/14/20 report lodged in Cal-Am's General Rate Case ("GRC") application (Application 19-07-004)[6] noted Cal-Am's Monterey service area average residential water bill jumped nearly 17.5% per year from 2008 to 2018, a period during which the average rate of inflation was only 1.92% per year. The average residential water bill across all of Cal-Am's California Districts, including Monterey, increased only 9.3% over the same 10-year period, demonstrating that Monterey customers have been required to bear much, much higher rate increases than ratepayers in other regions.[7]

The PAO also noted that a Monterey "residential [water] customer's bill for 5.1 ccf of use in 2018 was over four times as much as the bill for the same amount of use in 2013."[8] The Cal-Am Monterey District residential bill compared to inflation from 2008 to 2018 is shown below:

Average Residential Bill for MWS 2008 – 2018



[5] As stated on the CPUC's website (www.publicadvocates.cpuc.ca.gov), the Public Advocates Office "is an independent organization within the CPUC that advocates solely on behalf of utility ratepayers… [Its] statutory mission is to obtain the lowest possible rate for service consistent with reliable and safe service levels." The PAO was formerly known as the Office of Ratepayer Advocates and, before that, the Division of Ratepayer Advocates.
[6] Pursuant to Pub. Util. Code § 455.2, as implemented in CPUC D.04-06-018, dated 6/9/04, and updated in CPUC D.07-05-062, dated 5/24/07, Class A water utilities such as Cal-Am are generally required to file General Rate Case ("GRC") applications to adjust customer rates every three years.
[7] Report and Recommendations on Rates and Surcharges, Jayne Parker, CPUC Application 19-07-004, 2/14/20, p. 4.
[8] Report and Recommendations on Revenues, Rate Design, and Special Requests, Suzy Rose, CPUC Application 19-07-004, p. 2-20.

In 2003, the CPUC approved $21,239,120 in Total Operating Expenses for Cal-Am's Monterey service area.[9] Fifteen years later (2018), the number of Monterey customers was essentially unchanged and CPI had increased approximately 37% but the CPUC's approved Total Operating Expense figure for Monterey had more than doubled, to $45,635,700.[10] In its 2022 Rate Case, Cal-Am has submitted its request for another 20.8% increase in water rates, spread over three years.

These increases are not recent or isolated occurrences. See the CPUC's 2009 assessment in its Decision 09-07-021, at p.21: "Cal-Am's Monterey system… has uniquely experienced… steeply increasing rates for many years." And later in the same CPUC Decision, at p.87: "From test year 2000 to proposed test year 2009, Cal-Am's payroll [in Monterey alone] has increased by 72%." At pages 111-114 of the Decision Cal-Am requested CPUC approval (in customer rates) of a 101% increase in costs in just 3 years to operate a customer service center; the CPUC approved "only" a 59% increase. In other words, Cal-Am's significant revenue requests and rate increases are not merely a recent phenomenon for the MWS, but instead have been a continuous pattern that has been repeated over decades.

5. FINDING: MPWMD can operate the MWS and provide water service at a lower cost than Cal-Am.

EVIDENCE: On October 29, 2019 Raftelis Financial Consultants issued its "Preliminary Valuation and Cost of Service Analysis Report" of Cal-Am's MWS, which included conservative, but reasonable budget assumptions relating to the fees and costs required to complete the acquisition of the MWS, transition costs related to the acquisition, and the certain financing assumptions reviewed and affirmed by Barclay's Capital Inc.

The 2019 cost of service modeling results indicate that significant annual reductions in revenue requirements and projected monthly water bills will be realized if MPWMD acquires and operates the MWS.[11] The estimated revenue requirement in the first year of operation under the MPWMD ownership scenario was projected to be approximately 11.9% lower than the status quo Cal-Am ownership scenario. MPWMD ownership was estimated to result in a net present value savings from 2021 to 2040 of approximately $267 million. The estimated revenue requirement under MPWMD ownership and contract operations, as an alternative to hiring all Cal-Am employees, was projected to be approximately $10.2 million or 8.9% lower than the status quo Cal-Am ownership scenario. This was estimated to result in a net present value of savings from 2021 to 2040 of approximately $213 million. These net present value savings estimates

[9] CPUC Decision 03-02-030, dated 2/13/03, Appendix A.
[10] CPUC Decision18-12-031, dated 12/13/18, Appendix A, page 9 of 168.
[11] See https://www.mpwmd.net/wp-content/uploads/PreliminaryValuationAnalysisReport.pdf

include the debt service costs associated with MPWMD paying fair market value to acquire Cal-Am's Monterey Water System. The 2019 analysis included the assumption that a desalination plant would be built prior to acquisition and would be included in the purchase price. To date, final permits have not been perfected for Cal-Am's proposed desalination plant, and its completion is speculative. Due to the little substantive progress that Cal-Am has made to implement its desalination plant proposal, valuation of the plant was not included in the formal appraisal and offer to purchase made to Cal-Am on April 3, 2023.

6. FINDING: On April 3, 2023, MPWMD made an offer to Cal-Am to purchase the MWS. The formal appraised value upon which the offer was based will enable MPWMD to provide water service at a lower cost than Cal-Am.

EVIDENCE: Raftelis updated its cost-of-service analysis and presented the results to the MPWMD Board on June 16, 2023. The updated analysis utilized the Appraisal Report dated March 10, 2023 and includes the following assumptions:

- Acquisition Cost: $448,810,000
- Transition Costs: 9,500,000
- 90-Days Working Cash: 10,052,000
- Average 4.0% operating cost escalation per year
- System acquisition costs financed over 30 years at 4.0% interest
- Cash funding of District's annual CAPEX[12]
- Minimum operating cash target of at least 90 days of O&M expense
- Debt Service Coverage Ratio of at least 1.5x

The principal conclusions of the analysis are:

- Acquisition of the MWS by MPWMD is economically feasible.
- Estimated savings to MWS ratepayers in 2026 would be $7.5 million dollars annually; these savings will exceed $13 million annually by 2030, and net present values (NPV) savings will exceed $195 million over 20 years (assuming a 7% discount rate).
- Water rates and average bills for both residential and commercial customers are anticipated to be lower under District Ownership than under Cal-Am ownership. (See Exhibit C attached hereto.)

7. FINDING: Savings to ratepayers under District Ownership as compared to Cal-Am ownership will increase after thirty years.

EVIDENCE: After the bonds used to finance the acquisition of the MWS are retired in 30 years, even assuming no additional savings can be attributed to MPWMD's ownership and operation of the system, the annual savings to ratepayers are estimated to jump by an additional $29 million per year. This can be

[12] CAPEX means "capital expenditures" on physical plant for renewal and replacement.

calculated as an additional reduction of approximately 13% of the total revenues required for MPWMD to own and operate the MWS.

Even if the "all-in" cost of water to the ratepayers of the MWS would *not* be significantly reduced in the short term after the transition to MPWMD ownership (note that this hypothetical is not supported by the facts set forth above), MWS ratepayers should nonetheless be given the opportunity to invest in their future by owning their water system, starting the clock to ultimately pay off the acquisition bonds required for public purchase of the MWS, and thereafter enabling future generations to enjoy the large cost savings for all time. In effect, the community has the right to own, not rent, the MWS and look forward to the equivalent of holding a "burn the mortgage" party in 30 years.

8. FINDING: Public agencies such as MPWMD, which make no profit, are inherently able to provide retail water service to their customers at a lower cost than privately owned, for-profit, CPUC-regulated water companies such as Cal-Am.

EVIDENCE: MWS ratepayers will realize substantial cost savings under MPWMD's ownership. This result is not entirely a function of MPWMD's unique efficiencies or Cal-Am's unique inefficiencies. From a cost-of-service standpoint, a public water district such as MPWMD has six (6) inherent advantages over a private, for-profit, water company such as Cal-Am which will reflect in the expectation of lower water rates: (1) public agencies are non-profit entities and do not need to, and indeed legally cannot, receive a "return on investment" to shareholders; (2) public agencies do not pay taxes; (3) public agencies are not required to pay franchise fees (albeit they may choose to do so); (4) public agencies do not pay "regulatory fees" to the CPUC; (5) public agencies can borrow funds to perform major capital improvements at tax-exempt rates, which is much less expensive than the non-exempt borrowing rates available to private borrowers such as Cal-Am; and (6) public agencies have greater potential to receive grant funding in the form of local, state or federal subsidies for both operational and capital improvement purposes, based on studies of public vs. private water utilities.

These advantages of public ownership of the MWS are explained more fully below.

9. FINDING: Savings to ratepayers will occur because ratepayers will no longer pay for a "return on investment" or profit.

EVIDENCE: Public agencies are non-profit service providers and cannot charge their ratepayers a higher price for water than the actual cost of providing the service. (California Constitution, Article XIII D, § 6(b) [Proposition 218].)

Private CPUC-regulated water companies such as Cal-Am, by contrast, are for-profit corporations that recover a substantial – and near-guaranteed – profit (or rate of return) on their investment.

In the last approved General Rate Case ("GRC") for Cal-Am's "Central Division" (*i.e.*, Monterey County), the CPUC authorized Cal-Am to charge ratepayers $11,586,970 in pure "profit" in "Test Year" 2020 – with the amount escalating in the succeeding 2 years – and these figures do not take into consideration the substantial additional return on investment the CPUC authorizes Cal-Am to earn on its various balancing and memorandum accounts and surcharges.[13]

As of the date of this writing, there has been no final CPUC decision in the GRC filed in 2022, where Cal-Am is seeking $21,226,100 in "Utility Operating Income" or profit in 2024, but the outcome will be similar: The enormous profit MWS ratepayers currently pay to Cal-Am will be eliminated when MPWMD acquires ownership of the MWS.

10. FINDING: Some of the savings to ratepayers will occur due to removal of the requirement to pay taxes. Further, the non-payment of such taxes is not a shift of the burden to other taxpayers who will pay more in taxes, therefore does not constitute a cost of acquisition. The impact of non-payment of taxes has a negligible, or de minimis, impact on tax receiving entities.

EVIDENCE: Public agency water retailers are tax-exempt entities. They pay no federal or state income taxes and no local property taxes and, accordingly, do not "pass through" any such costs to their ratepayers. Private CPUC-regulated water companies such as Cal-Am, by contrast, must pay federal and state income taxes as well as local property taxes – these payments in turn are passed through to the public utility ratepayers in their rates.

The property tax paid is part of the operating expense of the water system. Cal-Am, in turn, passes all of its operating costs through to its ratepayers in the form of water rates.

In its most recent 2022 GRC for Cal-Am's "Central Division" (*i.e.*, Monterey), Cal-Am states that its estimated ad valorem property tax bill in the 2024 Test Year will be $3,198,300[14], that Cal-Am's estimated California state income tax bill will be $1,717,700, and that its federal income tax bill will be $3,460,900[15]. Cumulatively this results in a total annual Cal-Am tax liability of $8,376,900. Public acquisition of the water Cal-Am system would provide significant savings for ratepayers. Cal-Am's property, federal income, and state income tax liability vary from year to year, but long-term trends make it almost inevitable that all of these costs ultimately payable by the MWS ratepayers will increase over time.

[13] (See, in this regard: (1) CPUC Decision 18-03-035, 3/27/18, the CPUC's "cost of capital" decision for Cal-Am and other Class A water companies, which authorized Cal-Am to earn a 7.61% rate of return on its investment (combined equity and debt), and (2) CPUC Decision 18-12-021, 12/13/18, at App. A, pp. 9 and 127 of 168, which establishes Cal-Am's "weighted average rate base" for "Test Year" 2020, the figure to which the rate of return is applied, at $152,259,800. $152,259,800 X .0761 = $11,586,970.)

[14] Cal-Am GRC Application 22-07-001, Results of Operation (RO) Tbl 5.1.

[15] Cal-Am GRC Application 22-07-001, RO Tbl 2.2.

Regarding property taxes, an independent third-party consultant requested by the Monterey County Local Agency Formation Commission (LAFCO) examined the potential loss of property tax receipts to local agencies and determined: (a) only 11 public agencies would be affected by greater than a $15,000 loss in 2021 dollars; (b) only 4 public agencies would lose more than $100,000 a year; (c) the impacts of the declining tax revenue for those agencies would be ameliorated within a year:

"Over the past 20 years the values in Monterey County, all jurisdictions and the county unincorporated area have posted average growth of 5.08%. While there were years of negative change and one flat year over year of value change reported during the Great Recession, in the years prior to the 2008-09 through 2012-13 period there was not a single year that posted less than 7.5% growth year over year. Since the recovery began in 2013-14, there has not been a year with less than 3.5% year over year growth and in six of the past 10 years the growth has exceeded 5%. … data suggests that the impact of the removal of these properties from the taxable roll will result in a 0.31% average reduction in revenues received by the taxing agencies affected. Given the current growth experienced due to sale transactions, new construction additions, the annual applied CPI and other factors, ***this loss could be offset by positive changes in the first year after the values are off the roll.***"[16] (Emphasis added.)

With regard to income taxes, Cal-Am ackowledges that it increases costs to customers due to gross-ups for taxes. In Cal-Am's 2019 GRC, the company stated with respect to its Northern Division: "In early 2015, the Placer Vineyards Development Group ("PVDG") initially approached the Placer County Water Agency ("PCWA") regarding the provision of retail water service to the Placer Vineyards development. PVDG's initial preference for PCWA as the water retailer was driven in part by the lack of a gross up on contributions for utility plant. As a public entity, PCWA does not pay income taxes and hence is not required to apply a gross up on contributions and advances. It was this competitive advantage that motivated PVDG to approach PCWA."[17] And: "If the overall playing field was going to be leveled as PVDG's testimony suggests, California American Water could get more grants, local and state subsidies, and low interest loans; would pay no income taxes or local franchise fees; would not have to treat contributions, advances, grants, and loans as taxable income;"[18]

Regarding California state income taxes, Cal-Am's current GRC projected Test Year (2024) amount to be paid is $1,717,700[19], which represents just under 2% of potential customer savings on the annual Cal-Am revenue requirement, if not paid. By comparison, this amount is only 0.004% of total

[16] California-American Water Company Parcel/Revenue Analysis, June 29, 2021, HdL Coren & Cone, submitted to LAFCO, pp.6-7.
[17] Rebuttal Testimony of Wes Owens in CPUC A.19-07-004, p. 70, beginning at line 9.
[18] Rebuttal Testimony of Stephenson-Hawks in CPUC A.19-07-004, p. 60, beginning at line 13.
[19] Cal-Am GRC Application 22-07-001, RO Tbl 2.2.

State corporate tax collections for 2022, a de minimis amount. In fact, the amounts paid by Cal-Am are negligible compared to the annual fluctuations in total corporate income tax received by the State of California (or "lost in the noise"…). Hence, these savings are meaningful to the water ratepayers, but are not meaningful to Statewide programs and do not constitute a mere shift to other taxpayers who will pay more in taxes. (See Exhibit D, attached hereto.)

Regarding federal income taxes, Cal-Am's current GRC projected Test Year (2024) amount to be paid is $3,460,900 which represents 3.5% of potential customer savings on the annual Cal-Am revenue requirement However, this amount is only 0.0009% of total US federal corporate tax collections for 2022, a de minimis amount. In fact, amounts paid by Cal-Am are negligible compared to the annual fluctuations in total corporate income tax received by the US Treasury. Hence, these savings are meaningful to the water ratepayers, but are not meaningful to federal programs and do not constitute a mere shift to other taxpayers who will pay more in taxes. (See Exhibit E, attached hereto.)

11. FINDING: Savings to ratepayers may occur due to removal of "Franchise Fees" and "Business Fees."

EVIDENCE: Public agencies such as MPWMD are also exempt from the obligation to pay local agencies' franchise and business fees and, accordingly, do not need to "pass through" those costs to their ratepayers either. However, California law has demonstrated that public agencies may choose to pay franchise fees. Private CPUC-regulated water companies such as Cal-Am, by contrast, **must** pay franchise fees if imposed by each local jurisdiction in which they do business and they then include those franchise fees in increased billing rates charged to their customers. MPWMD may choose to continue to pay such franchise fees, sunset them at some point, or may simply decline to pay those fees at the time they are subject to renewal to the extent such franchise may be time-limited. To date, MPWMD has adopted a position of continued payment of franchise fees, but it may be subject to future change. In contrast, MPWMD cannot pay business fees. Based on rate tariffs in place in 2022, the potential savings as a percent of the gross revenues related to water sales (meter plus volumetric charges) are: Franchise fees: Ryan Ranch 1.00%, City of Pacific Grove 2.00%, City of Carmel-by-the-Sea 2.00%, City of Seaside 1.00%, City of Del Rey Oaks 2.00%, City of Monterey 1.00%, and unincorporated areas of Monterey County 1.00%. Business Fees: City of Del Rey Oaks 0.11% and City of Sand City 0.12%.

12. FINDING: Savings to ratepayers will occur due to reduced "Regulatory Expenses."

EVIDENCE: Private investor-owned CPUC-regulated water companies such as Cal-Am incur substantial regulatory expenses in the CPUC process, which are then passed on to ratepayers through increased billing rates. For example, the CPUC's rate-making for Cal-Am comprises not fewer than three (3)

separate CPUC processes: (a) a General Rate Case to establish Cal-Am's revenue requirement, its "rate base," and a number of other matters relating to various surcharges, "balancing accounts," "memorandum accounts," and related billing practices and procedures which, under CPUC rules and practice, occurs every three (3) years; (b) a "Cost of Capital" proceeding in which the CPUC sets the (near-guaranteed) return on investment Cal-Am is entitled to receive on its rate base; and (c) Cal-Am initiates separate CPUC proceedings for major projects such as the Monterey Peninsula Water Supply Project ("MPWSP"), discussed below.

A fourth CPUC process includes so-called "Advice Letters" that companies use to obtain CPUC approval to recover many different kinds of costs tracked in "balancing accounts" and "memorandum accounts." Each of these CPUC processes (with the exception of the more routine Advice Letters) typically entail a lengthy administrative review process, often litigated in the manner of a judicial proceeding, that requires heavy use of attorneys, expert witnesses, discovery proceedings, evidentiary hearings, motions, and adversarial proceedings involving Cal-Am and the CPUC (in particular, the CPUC's Public Advocates Office) and a host of interested third parties (such as MPWMD) who may object and elect to formally intervene in the proceedings.

"Regulatory Expenses" include the CPUC's own costs incurred in the regulatory process, the regulated utility's costs (in this case, Cal-Am's), and, in some cases, fees awarded by the CPUC to intervenors in the process who the CPUC determines have added substantial value to its deliberations. In the end, the MWS ratepayers thus may be required to pay for several parties that participate in the process.

The CPUC has no jurisdiction over public agency water retailers, so the CPUC surcharge on customer bills to fund CPUC operations will disappear under public ownership – a savings. Even greater savings will occur under MPWMD ownership of the MWS because all CPUC-related regulatory expenses payable by Cal-Am will disappear.

Cal-Am's regulatory expenses have historically been extremely high and continue to grow rapidly. In 2003, the CPUC held Cal-Am to regulatory expenses of $40,000 per year for the 3-year cycle spanning 2003-2005.[20] In the 2018 GRC Decision, the CPUC authorized Cal-Am to bill its Monterey water customers $241,000 per year in regulatory expenses for the 2018-2020 years—a more than 6-fold increase.[21] In Cal-Am's 2019 GRC application, Cal-Am asked the CPUC for another massive increase—to an average of $350,233 per year for the 2021-2023 rate cycle.[22] In the current rate case Cal-Am is asking for $630,700 in each of 2025 and 2026, or nearly

[20] CPUC Decision 03-02-030, dated 2/13/03 at p. 11 and D.03-06-036 dated 6/5/03, at pp. 4-5 [denying rehearing].
[21] CPUC Decision 18-12-021, dated 12/13/18, Appendix A, Table G-1.
[22] Cal-Am Update to General Rate Case Application, A.19-07-004, dated 10/19/19, Tables 2.1-2.3 and 4.1.

16 times the regulatory expense amount charged to Monterey ratepayers 2 decades ago.

The CPUC's Public Advocates Office recently commented on Cal-Am's inordinately high regulatory expense:

"… Cal-Am's recorded regulatory commission expenses for years 2015-2017 are approximately three times higher than other Class A water utilities in California. Cal-Am's proposed budget for years 2021-2023 is approximately four times higher than that of other Class A water utilities in California on a per customer basis."[23]

13. FINDING: Savings to ratepayers will occur due to access to tax-exempt financing.

EVIDENCE: As a public agency, MPWMD can borrow funds at tax-exempt rates whereas Cal-Am generally must borrow at the higher rates charged to private businesses. The California Legislature noted that public agencies have "the ability to raise sufficient capital for necessary public works, contract with, or provide assurances to, federal and state agencies for financing of water projects and supplying of water."[24]

Cal-Am's current allowable Return on Rate Base is 7.26%[25], which requires a much higher pre-tax return, all of which is passed-through to ratepayers in the annual revenue requirement. Presently, MPWMD could borrow in the tax-exempt marketplace at 4.0%, only slightly more than half of Cal-Am's cost of capital. This means infrastructure-oriented utilities with high capital expenditure needs will be less costly to finance under public ownership – resulting in future savings to ratepayers. This result is over the long-term, thus lowering future costs to ratepayers going forward.

14. FINDING: Savings will accrue to ratepayers from the greater potential that public agencies have to receive grant funding in the form of local, state or federal subsidies for both operational and capital improvement purposes.

EVIDENCE: As a public agency, MPWMD has greater eligibility to obtain local, state and federal grant funds. No-cost federal and state grants are available frequently for certain water utility system improvements and upgrades, or for other public interest objectives. MPWMD and M1W have demonstrated this with the Pure Water Monterey project and its current Expansion project. These are not ordinarily available to Cal-Am as a private, for-profit business. Cal-Am must pass its costs through to ratepayers as part of its annual revenue requirement, with fewer or no grants. Eligibility to receive grant funds means capital and operational requirements will be less costly

[23] Public Advocates Office "Report and Recommendations on Operations and General Expenses, Labor Expenses, Balancing and Memorandum Accounts and Special Requests #2, 3 and 13", 2/14/20, filed in Application 19-07-004, at pp. pp. 15-16.
[24] Statutes of 1977, Chapter 527, the Monterey Peninsula Water Management District Law, §118-2.
[25] Cal-Am CPUC Advice Letter No. 1415, June 30, 2023.

to finance under public ownership – resulting in future savings to ratepayers.

15. FINDING: Savings to ratepayers will occur by eliminating the Cal-Am multi-level and widely dispersed management structure which imposes significant redundant administrative and overhead charges on its MWS ratepayers. MPWMD has a plan to eliminate certain Cal-Am overhead, even while adding certain jobs locally, resulting in overall savings.

EVIDENCE: Cal-Am is a wholly owned subsidiary of American Water Company and, in addition to the management and administrative functions performed in its local Monterey office, Cal-Am has separate levels of corporate management spread out in offices all over the country, each of which bills overhead to Cal-Am's MWS customers:

American Water Works Company, Inc., ('Service Company') – with headquarters located in New Jersey and customer call centers in Alton, Illinois, and Pensacola, Florida – as a corporate entity is responsible for support and operational services such as accounting and finance, administration, business development, communications, compliance, education and training, engineering, health and safety, human resources, information systems, internal audit, investor relations, legal and governance, operations, procurement, R&D, rates and regulatory support, security, risk management and insurance, treasury, and water quality. Service Company also provides call handling, billing, a major accounts program and other related services. Authorized in the last General Rate Case the Service Company had no fewer than 1,411 employees.[26]

Cal-Am's General Office in California, provides services only to Cal-Am's California districts, including Monterey. This corporate entity is located in offices in San Diego, but has direct employees stationed in the Cal-Am divisions or district offices. Authorized in the last General Rate Case, Cal-Am's General Office had an additional 81.4 employees.

Under Cal-Am's multi-tiered ownership structure, MWS ratepayers are required to pay for literally thousands of officers, managers, and employees in this corporate empire, spread out across the entire country. The level of redundancy and inefficiency created by Cal-Am's sprawling organizational structure grossly inflates the administrative and overhead charges borne by MWS ratepayers. MPWMD, by contrast, operates with a near-volunteer Board of Directors and a lean and efficient staff in a single local office. Ratepayers will save many millions of dollars per year in administrative and overhead charges after ownership of the MWS is transferred to MPWMD.

The cost of the number of employees in Cal-Am's multiple levels of corporate management are reflected in payroll costs billed (in part) to MWS ratepayers. These costs are staggering.

[26] Cal-Am GRC Application 22-07-001, MDR II.A.6.

MPWMD's financial consultant, based on the 2022 GRC filing by Cal-Am estimates savings from eliminating the corporate overhead will be $10.0 million, comprised of the following:

General Office Return on Rate Base:	$1,430,000
General Office Allocation:	$6,082,000
Service Company Costs:	$3,069,000
Adjustment for MPWMD Ownership:	($575,000)
Net Savings to Ratepayers:	$10,006,000

16. FINDING: Significant savings to MWS ratepayers will occur due to not having to fund Cal-Am corporate overhead, including very high levels of compensation and legal expenses. Such overhead costs are not normally incurred by California public water agencies.

EVIDENCE: In 2022, the top 5 American Water Company executives received base pay of $3.4 million, plus an annual performance plan (bonus) totaling an additional $3.2 million, or $6.2 million total. Under public ownership, MWS ratepayers would not have to contribute to such executive pay, the compensation for its board of directors, nor the compensation for most of the other 1,406 Service Company employees.

According to Cal-Am's 2022 Annual Public Access Report filed with the CPUC pursuant to CPUC General Order No. 77-M, in 2021 at least 14 officers of Cal-Am' General Office each received over $200,000 in gross compensation. This figure, it should be noted, appears to exclude several million dollars more in stock and option awards, what Cal-Am refers to as "non-equity incentive plan compensation," and unidentified "other" compensation.

Based on historical trends it is reasonable to conclude that as long as Cal-Am continues to own and operate the MWS the cost burden on MWS ratepayers for the Service Company and General Office allocation will continue to swell. For example, between 2003 and 2018 (a period of 15 years), CPI increased by approximately 36.4%,[27] whereas the General Office allocation imposed on ratepayers in Cal-Am's MWS increased by 100%.[28] By contrast, MPWMD is community-based with offices in only a single location (in the District) and has only one layer of management, supervision, and staffing.

17. FINDING: Cal-Am inflates its water rates far beyond the cost of providing service to its MWS customers (1) by allocating to the MWS costs attributable to other

[27] United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index—All Urban Consumers, comparing Index of 181.7 in January 2003 vs. 247.867 in January 2018.

[28] In CPUC D.18-12-021, the CPUC approved a General Office return on rate base for Cal-Am's Central Division, which is primarily comprised of the MWS, of $528,200. Applying Cal-Am's authorized 7.61% rate of return at that time, this converts to a General Office allocation of $6,938,239, plus the $528,200 in profit allocation—or a total General Office allocation of $7,466,439.10/year. Compare this to CPUC D.03-02-030, dated 2/13/03, App. A, p. 1, which approved a "General Office Prorated Expense" for Cal-Am's Monterey Division of "only" $3,727,130.

Cal-Am activities and operations and (2) by making (or trying to make) MWS customers pay for activities and operations that benefit Cal-Am's shareholders, not ratepayers. The CPUC acts as a partial brake on Cal-Am's efforts to charge MWS ratepayers costs for operations and activities that do not benefit them, but the CPUC oftentimes fails to do so. By contrast, upon acquisition of the MWS, MPWMD's water rates will be strictly limited to the amounts needed to cover the cost of providing water service to its MWS customers.

EVIDENCE: Another reason the cost of water for MWS ratepayers is so extraordinarily high is that Cal-Am ratepayers are required to subsidize various Cal-Am operations and activities that provide no benefit to the MWS. This subsidy greatly exceeds the cost of providing water service to the MWS.

Cal-Am serves approximately 675,000 customers in numerous locations in Northern, Central, and Southern California. Cal-Am's parent, American Water, is the largest investor-owned utility company in the country and serves an estimated 1700 communities in 14 of the 50 states. The sheer size and scope of Cal-Am's and its parent's operations provide many opportunities for Cal-Am to shift costs from other California regions and other states onto Monterey ratepayers.

This conglomerate water provider and its affiliates serve customers in many other locations throughout the State of California and across the nation. The existence of these other service areas enables Cal-Am to allocate – or attempt to allocate – costs to the MWS that are more properly borne by customers in those other service areas. Cal-Am's profit motive and "cost-plus" business model also incentivize Cal-Am to inflate costs as much as it can and impose costs on ratepayers that should more properly be borne by the shareholders of Cal-Am's corporate parent.

In other words, Cal-Am as a for-profit company with a publicly traded parent company and business model, is incentivized to shift onto ratepayers in the MWS, costs that benefit its shareholders and not its ratepayers.

For three fundamental reasons, when MPWMD acquires ownership of the MWS, ratepayers will be assured water rates will be strictly limited to actual costs incurred by MPWMD to provide water service: (1) MPWMD is restricted by statute to serving customers within its boundaries; it has no incentive or ability to make its MWS customers subsidize operations or activities that benefit customers in other far-flung locales; (2) MPWMD is a non-profit entity with no profit motive and no incentive to inflate costs in order to earn higher returns; and (3) MPWMD is prohibited by the California Constitution (Article XIII.D, § (b)) ("Proposition 218") from charging its Monterey customers more than the actual cost of providing water service. As to the first of the foregoing 3 points, it bears emphasis that, subject to narrow exceptions not applicable here, MPWMD is restricted by statute to serving customers within its boundaries. (Government Code § 56133; *Community Water Coalition v. Santa Cruz*

County Local Agency Formation Commission (2011) 200 Cal.App.4th 1317, 1325-1327; and *Attard v. Board of Supervisors of Contra Costa County* (2017) 14 Cal.App.5th 1066, 1078.)[29] There is no risk that MPWMD might try to have MWS ratepayers pay for operations or activities that benefit and should be paid for by customers outside MPWMD.

None of these three "checks" on water rates apply to Cal-Am. As noted above, Cal-Am serves customers throughout the State of California and its parent company serves many millions of customers throughout the country, so the risk of externalizing costs always exists for MWS ratepayers. Cal-Am and its parent are for-profit companies running a "cost-plus" business model and are constantly incentivized to increase costs in order to increase profits. And Proposition 218 is applicable only to public agencies and does not apply to or constrain Cal-Am's water rates. Cal-Am is allowed to charge whatever amount that it may persuade the CPUC to authorize. Public ownership will eliminate such freedom in rate-setting.

Cal-Am has had an extensive history of shifting or attempting to shift unjustified and excessive costs onto MWS ratepayers. The CPUC has a spotty record in stopping this wrongdoing. One example of excessive costs imposed onto ratepayers is the removal of the defunct San Clemente Dam. In that case, the CPUC allowed Cal-Am to *capitalize* the expenditure as if it was an investment in a productive facility (which it was not.) This sleight-of-hand unreasonably allowed Cal-Am to earn a profit on the removal costs. In another example, the CPUC allowed Cal-Am to avoid a fine imposed by the State Water Resources Control Board, which would have been paid by shareholders, and instead to make a capitalized investment in fishery facilities. Only when CPUC jurisdiction is removed and MPWMD acquires ownership of the MWS will these abusive practices end.

MPWMD, on the other hand, is a non-profit public entity. There is no risk that MPWMD will attempt to drive up costs (and corresponding customer rates) in order to earn revenues for shareholders, due to voter accountability. To the contrary, given that (1) MPWMD Board members are elected and are subject to being voted out of office, (2) a decision to increase customer rates is one of the most if not *the most* unpopular decisions a Board member can make, and (3) voters also have the right under Article XIII.D § 6 of the California Constitution to challenge a rate increase through the initiative process,[30] MPWMD can be expected to do everything possible to minimize the need for future rate increases.

Under Article XIII.D § 6(b) of the California Constitution (Proposition 218), public agencies such as MPWMD are constitutionally prohibited from charging customers more for water than the actual cost to provide the

[29] One exception to the prohibition on a public agency serving water utility customers outside its boundaries is extra-territorial service that has been approved by the local agency formation commission. MPWMD has not sought and does not intend to seek such approval.

[30] *Bighorn-Desert View Water Agency v. Verjil* (2006) 39 Cal.4th 205

service.[31] CPUC regulated investor-owned water utilities are not. And this prohibition has teeth that are legally enforceable. If a public agency is challenged in court on the basis that its water rates exceed the cost of providing service to a given parcel, the court exercises its independent judgment in reviewing the matter and the public agency bears the burden of proving its rates are justified. Cal. Const., Art. XIII.D, § 6(b)(5); *Capistrano Taxpayers Association, Inc. v. City of San Juan Capistrano,* 35 Cal.App.4th (2015) 235 Cal.App.4th 1493.

By contrast, Cal-Am is not a public agency and is not subject to Proposition 218.[32] Cal-Am's water rates can be whatever the CPUC determines to be "just and reasonable" and to challenge a CPUC rate decision in court the petitioner must convince the California Supreme Court to grant a discretionary writ of review (*i.e.*, there is no automatic right of judicial review). And even if a court of appeal or the Supreme Court were to grant review, it would show extreme deference to the CPUC; the challenger would have to overcome what the courts describe as a "strong presumption" favoring the validity of the CPUC's decision.[33]

18. FINDING: MWS ratepayers have been forced to subsidize Cal-Am' acquisitions of water utilities elsewhere in California. These subsidies are contributing to higher MWS rates with no benefits. Under public ownership MWS ratepayers will not have to subsidize any further Cal-Am acquisitions.

EVIDENCE: In 2001, Cal-Am convinced the CPUC to make all of Cal-Am's existing California ratepayers, including ratepayers in the MWS, reimburse Cal-Am for the $64.6 million "acquisition premium" that Cal-Am voluntarily agreed to pay to Citizens Utilities Company for the purchase of 4 water systems owned by Citizens in Sonoma, Santa Cruz, San Mateo, Sacramento, and Placer counties (none of these systems are located in Monterey County).

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[31] Cal. Const., Art. XIII.D § 6(b), entitled "Requirements for Existing, New or Increased Fees and Charges," reads in pertinent part as follows:

> "A fee or charge shall not be extended, imposed, or increased by any agency unless it meets all of the following requirements:
> (1) Revenues derived from the fee or charge shall not exceed the funds required to provide the property related service.
> (2) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.
> (3) The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel. . . ."

Amounts billed to customers for delivery of domestic water are properly characterized as fees and are subject to Article XIII.D. *Bighorn-Desert View Water Agency v. Verjil* (2006) 39 Cal.4th 205, 213-227, fn. 5 and accompanying text (*Bighorn*); *Richmond v. Shasta Community Services Dist.* (2004) 32 Cal.4th 409, 426-427. "Article XIII D, section 6, subdivision (b)(3) of the California Constitution, as interpreted by our Supreme Court in [*Bighorn*], provides that water rates must reflect the "cost of the service attributable" to a given parcel." *Capistrano Taxpayers Association, Inc. v. City of San Juan Capistrano* (2015) 235 Cal.App.4th 1493, 1497.

[32] California Constitution, Art. XIII.D, §§ 1 and 2(a) and (e) and Art. XIII.C, § 1(b).

[33] Public Utilities Code §§ 451, 454, 728, and 1756-1757; *SFPP, L.P. v. Public Utilities Commission* (2013) 217 Cal.App.4th 784, 793-794.

This reimbursement takes the form of a surcharge that the CPUC has authorized Cal-Am to place on its water bills for *40 years.* The current amount of the surcharge billed to Monterey customers is nearly $900K per year. Under Cal-Am's ownership this surcharge will not expire until 2042.

Cal-Am's purported justification to the CPUC for this massive surcharge was that Cal-Am's decision to acquire the 4 relatively small and geographically remote water systems, in scattered locations throughout California would supposedly result in synergies and economies of scale and, thus, lower water rates for all of Cal-Am's California customers. In fact, Cal-Am achieved no such synergies or economies of scale. Instead, water rates charged to Cal-Am's MWS have increased sharply ever since, and Cal-Am's payroll/general office expenses have increased most rapidly of all.

The history of how MWS ratepayers ended up being forced to pay a 40-year subsidy via this surcharge on their bills, a cost that now totals approximately $900K per year, is summarized below:

On 9/20/01, the CPUC approved the sale by Citizens Utilities Company to Cal-Am of 4 water utility systems Citizens then owned and operated in locations far from the Monterey Peninsula—the Larkfield system in Sonoma County, the Felton system in Santa Cruz County, the Montara system in San Mateo County, and multiple water systems in scattered locations in Sacramento and Placer Counties.[34] Cal-Am agreed to pay Citizens a total purchase price of $161.3 million, which at the time exceeded Citizens' CPUC-approved rate base or book value for the 4 systems by $64.6 million. The CPUC approved the transaction, including the $64.6 million "acquisition premium" that Cal-Am voluntarily agreed to pay, and authorized Cal-Am to recover that premium, in addition to a return calculated at the same rate as Cal-Am's approved cost of capital, through a surcharge to be imposed "Company-wide," including on Cal-Am's MWS ratepayers, over a period of 40 years, commencing in 2002.[35] Cal-Am pitched its "justification" that the CPUC require Cal-Am ratepayers to pay the Citizens acquisition premium based on the theory that Cal-Am would generate greater economies of scale for all its customers and rates would be lower than they would have been absent consolidation. Cal-Am represented to the CPUC at the time that customers rates would decline as the supposedly more efficient Cal-Am took over Citizens' California operations.[36]

Cal-Am's MWS ratepayers did *not* benefit from any supposed economies of scale by virtue of the transfer of Citizens' far-flung water systems to Cal-Am. The MWS, with its nearly 40,000 customers, was already large enough to be efficiently served without the need for Cal-Am to acquire a handful of

[34] CPUC Decision D.01-09-057, in particular at p. 7.
[35] CPUC Decision D.01-09-057 at pp. 2-3, 6, 17-25, 66 ¶¶ 2-3, and 73 ¶ 4.
[36] CPUC Decision D.01-09-057 at pp. 5 and 66-67 ¶¶ 5-6.

small, scattered systems in Sonoma, Santa Cruz, San Mateo, Sacramento, and Placer counties, and Cal-Am's assurances of future mythically lower water rates, as efficiencies were realized, turned out to be completely untrue. As the CPUC itself noted in 2009, several years after the Cal-Am and Citizens transaction closed, "Cal-Am's Monterey system… has uniquely experienced… steeply *increasing* rates for many years." (emphasis added.)[37] Moreover, the primary category of operating expense that theoretically might be expected to decline on a per customer basis after an acquisition – payroll expense – increased most of all. "From test year 2000 to proposed test year 2009," the CPUC acknowledged in the same decision, "Cal-Am's payroll [in Monterey alone] has increased by 72%."[38]

The lack of synergies and efficiencies attributable to the Citizens acquisition is further illustrated by the fact that, in the same GRC cited above, Cal-Am had requested CPUC approval for funding no fewer than 15 new employee positions in its Monterey Division, which would have resulted in a whopping 42% increase in payroll expense for which Cal-Am's Monterey customers would pay. The CPUC rejected 12 of the 15 proposed new positions as being insufficiently justified. In doing so, the CPUC repeatedly criticized Cal-Am with remarks such as the following: "cursory presentation, without a single numerical quantity, [which is] particularly troublesome because the record hints that such information may be readily available"; supporting information provided by Cal-Am was "internally inconsistent, confusing, and ultimately, unpersuasive"; and "one half a page of testimony with no numerical analysis whatsoever."[39]

As of January 1, 2022, the present value of the MWS's share of the unrecovered portion of the Citizens Acquisition Premium is approximately $8.4 million.[40] Nearly 20 years after Cal-Am acquired Citizens, MWS ratepayers still are required to pay a Citizens Acquisition Premium surcharge of $898,000 per year and the surcharge does not expire until 2042.[41]

In addition to its success in offloading the massive Citizens Acquisition Premium on MWS ratepayers (and other Cal-Am customers statewide), in its previous and current GRC, Cal-Am is requesting authority to foist upon its ratepayers statewide (including Monterey) nearly $32.5 million in "acquisition premiums" incurred or to be incurred by Cal-Am for its planned acquisition of the Rio Plaza, Fruitridge, Hillview, Bellflower, East Pasadena, Warring, and Bass Lake water systems, which are located in far-flung and scattered locations in Los Angeles, Ventura, Sacramento, and

[37] CPUC Decision 09-07-021, 7/9/09, at p. 21.
[38] *Id.*, p. 87.
[39] *Id.,* pp. 84-85 and 87-89.
[40] Raftelis Financial Consultants, "Monterey Water System Fair Market Value Opinion," 3/10/23.
[41] See CPUC D.18-12-021, pp. 69-70.

Madera counties.[42] [43] In practice, Cal-Am acquires water systems at extraordinarily high valuations, which both enriches sellers of the systems and also increases Cal-Am's profit by increasing its rate base. Not only that, Cal-Am is proposing that repayment of these costs be spread out through surcharges imposed on customer bills over a period as long as *47 years* and amortized with interest using the high rate of return on investment the CPUC authorizes Cal-Am to receive.[44] Cal-Am's euphemistic term for this cost shifting is the "Utility Plant Acquisition Adjustment" ("UPAA"). Based on Raftelis's 2019 feasibility analysis, if the CPUC were to approve this most recent Cal-Am cost-shifting request in full, MWS ratepayers would wind up with an additional cost burden of $6.51 million.[45] None of these costs would provide one iota of benefit to MWS ratepayers in Monterey.

MPWMD serves only customers located within its geographical boundaries. It is not attempting to acquire water systems in distant locations. MWS ratepayers need assurances that they need not fear they will be obligated someday to pay an "acquisition premium" for Cal-Am to acquire water systems in Los Angeles County, San Diego, Sonoma, Santa Cruz, San Mateo, Sacramento, Sacramento, Placer County or any other location outside MPWMD's boundaries.

All "costs" that form the basis for Cal-Am's proposed UPAA, it should be emphasized, are being incurred voluntarily by Cal-Am. Cal-Am could easily eliminate the costs by not acquiring the other water systems. In its Bellflower water system acquisition, in particular, Cal-Am could avoid the "cost" entirely by not agreeing to pay $7 to 12 million more for the system than what CPUC's Administrative Law Judge Bemesderfer had originally determined was its fair market value.[46] Alternatively, if Cal-Am believes that expanding service in the 4 counties in question provides a corporate benefit to Cal-Am, Cal-Am should be prepared to have its shareholders shoulder the costs for that expansion, not already over-burdened ratepayers, especially on the Monterey Peninsula.

Moreover, Cal-Am's proposed UPAA costs are almost entirely "phantom" costs. Cal-Am is simply attempting to artificially pump up its rate base statewide by granting it a rate of return on amounts in excess of the purchase

[42] At this time, the approximately 39,376 connections in Cal-Am's MWS comprise approximately 22.3% of its total of 176,171 connections statewide. (See CPUC D.18-12-021, at pp. 20-21.) Since Cal-Am proposes to allocate these acquisition premiums on a per connection basis statewide, this means that MWS ratepayers would end up paying $7,239,815 of Cal-Am's costs. ($32,465,539 X .223 = $7,239,815.) (Direct Testimony of Linam filed in support of CPUC Application A.19-07-004 on 7/1/19 at pp. 83-84.

[43] See CPUC Application A.19-07-004, p. 12 (Special Request No. 11); Linam testimony, *supra,* at pp. 12, 83-83; Direct Testimony of Stephen (Wes) Owens filed in support thereof on 7/1/19, at pp. 50-69; Direct Testimony of Garry Hofer filed in support thereof on 7/1/19, at pp. 68-77; and 2/14/20 Public Advocates Office "Report and Recommendation on General Office Rte Base and Special Request #9 and #111, at pp. 4-6.

[44] *Id.*, Owens testimony, at pp. 55-56, 57, 59-61, and 62-64.

[45] See Raftelis report referred to in fn. 11, *supra,* at p. 4-13.

[46] Proposed Decision of ALJ Bemesderfer in A.18-09-013, 3/30/20, at p. 13 [recommending that the CPUC *deny* approval].

prices it chooses to pay – based on what it believes to be a higher "value" of the systems using the Replacement Cost New Less Depreciation ("RCNLD") method of valuing them.[47] If the CPUC were to approve such an artifice, it would violate the basic premise underlying every CPUC GRC decision throughout its history – which requires customer rates to be based on a utility's actual (and reasonable) costs and *not* the supposed value of the utility's plant determined in accordance with a methodology that is not cost-based. As long as Cal-Am owns the MWS, MWS ratepayers are at risk that Cal-Am will convince the CPUC to impose these excessive costs on customers – *using the excuse that if the CPUC spreads the cost widely enough the incremental pain per ratepayer will be too small to be noticed.*

Cal-Am's purchase of other scattered water systems hundreds of miles from the Monterey Peninsula generates no benefits to the already heavily burdened MWS ratepayers. Unless MPWMD acquires ownership of the MWS, ratepayers remain at risk of having their rates increase whenever Cal-Am chooses to exercise its expansionist corporate objectives.

19. FINDING: Cal-Am also seeks CPUC approval to require MWS ratepayers reimburse Cal-Am for losses it alleges to have suffered due to 2017 wildfires in Sonoma County, costs which have nothing to do with the cost of service in Monterey County. Cal-Am's request negatively impacts Monterey Peninsula ratepayers and would not be permissible as a reimbursable expense under public ownership.

EVIDENCE: Cal-Am is pursuing another cost-shifting attempt in its last and current GRC, asking the CPUC to require its statewide customers, including those in Monterey County, to cover losses Cal-Am allegedly suffered as a result of the 2017 wildfires in its Larkfield District *in Sonoma County*. Larkfield is approximately 175 miles from Monterey. Cal-Am does not attempt to justify this request on the basis of any benefit conferred on Monterey customers. Monterey customers, it should be noted, have always had to bear the full burden of paying all extraordinary costs relating to the MWS.

The facts relating to its current effort to get the CPUC to make MWS customers pay a portion of Cal-Am's costs relating to 2017 Sonoma County wildfires are summarized below:

On 7/24/91, the CPUC adopted Resolution E-3228 which authorized Cal-Am to establish a so-called "Catastrophic Event Memorandum Account" ("CEMA") to recover costs relating to a catastrophic event declared as a disaster by "competent federal or state authorities." In D.19-07-015 (in Rulemaking R.18-03-011) the Commission adopted an emergency disaster relief program for electric, natural gas, water, and sewer utility customers. In its decision, the Commission approved recovery of costs recorded to the CEMA or Emergency Customer Protections Memorandum Account "across

[47] See Owens testimony referred to in fn. 43 and 44, *supra*, at pp. 55-56, 57, 59-61, and 62-64, which explains how the Cal-Am's proposed UPAA amounts were calculated for each of the transactions in question.

each utility's entire customer base." Cal-Am then filed Advice Letter 1267 on November 8, 2019 to activate its CEMA account to record extraordinary costs and activate customer protections.

In Cal-Am's 2019 GRC it also sought CPUC approval to shift nearly $2.4M in costs recorded in the CEMA from Cal-Am's Larkfield district in Sonoma County to Cal-Am customers statewide, including customers in Monterey County. The costs in question relate to losses Cal-Am allegedly suffered as a result of the 2017 Sonoma County wildfires.[48] In its current 2022 GRC Special Request #6 Cal-Am is requesting not only wildfire expenses, but also COVID-19 financial impacts and costs associated with earthquake insurance to be recovered from ratepayers statewide.

Cal-Am's justification for shifting its Sonoma County wildfire losses onto customers in Monterey County (and elsewhere around the State) is Cal-Am's assertion that all customers should help to pay for some of the fire cost as it would be too much of a burden for the small number of remaining Larkfield customers.[49] Cal-Am does not even attempt to justify the proposed cost shifting on the basis that Monterey County ratepayers will receive any corresponding benefit (they will not). Curiously, Cal-Am has *not* chosen to use the same rationale to shift *off* of the MWS customer base the extraordinarily high costs that have been incurred for projects such as the San Clemente Dam removal, the abandoned Carmel River Dam project, the failed Coastal Water Project, the failed Regional Desalination Project, the MPWSP, or others. Cal-Am fails entirely to consider the possibility that Cal-Am's shareholders should be required to absorb some or all of the Sonoma County wildfire costs as part of the inherent risks of acquiring and operating a for-profit business.

MWS ratepayers can be certain that when MPWMD acquires the system they won't be called upon to pay for wildfire costs occurring 175 miles away.

20. FINDING: MWS ratepayers have historically paid 100% of the cost for local groundwater management activities and programs. Now, however, Cal-Am is asking the CPUC to impose an additional cost on MWS ratepayers to fund statewide costs for a portion of Cal-Am's Sustainable Groundwater Management Act (SGMA) expenses incurred in and with respect to Cal-Am's other service areas.[50] These expenses are not associated with Cal-Am costs pertaining to the local MSW service area. The inevitable result, again, will be MWS ratepayers subsidizing activities and programs that provide

[48] See CPUC Application A.19-07-004, pp. 10, 76, and 83-86 (Special Request No. 2); Direct Testimony of Jeffrey T. Linam filed 7/19/19, at pp. 13-15 and Attachment 1 thereto, at p. 2.
[49] Linam Direct Testimony, *supra,* at p. 14.
[50] In CPUC Application 16-07-002, Special Request #18, Cal-Am requested CPUC authorization to establish a memorandum account that tracks Cal-Am's costs of complying with SGMA. In CPUC Decision 18-12-021, Ordering Paragraph 25, the CPUC approved Cal-Am's creation of the SGMA Memorandum Account. On 2/21/19, Cal-Am filed Advice Letter #1228 with the CPUC in which it stated (at p. 1) that "Cal-Am expects to incur significant costs to comply with new SGMA regulations…" The CPUC approved Cal-Am's filing on 3/27/19.

little or no incremental local benefit. Under public ownership such subsidies will not occur.

EVIDENCE: Since its formation in 1978, MPWMD has been the lead agency responsible for groundwater management in the Carmel River Basin. In fact, MPWMD was recognized as the Groundwater Sustainability Agency for the Carmel River Basin by the State of California in 2015. Since the 2006 Superior Court adjudication of the Seaside Groundwater Basin, the other groundwater basin situated largely within MPWMD's boundaries, that Basin has been managed by the Seaside Groundwater Basin Watermaster, which is primarily funded (through Cal-Am) by MWS ratepayers.[51]

All of MPWMD's and Cal-Am's groundwater management activities that benefit the MWS have been 100% paid for at the local level. There are not expected to be any additional costs related to SGMA in the local MWS because the Seaside Basin is adjudicated, therefore not subject to SGMA, and the Carmel River Basin has been determined to be surface water flowing in a known and definite channel underground and therefore not subject to SGMA.

Cal-Am ratepayers *outside* its Monterey service area have never subsidized any of the local groundwater management or water conservation activities or programs that benefit the MWS. Now, however, Cal-Am is asking the CPUC to make MWS ratepayers pay into a statewide fund to subsidize a portion of the cost for groundwater management elsewhere that provides no benefit to the MWS. It will benefit local ratepayers to have MPWMD acquire the MWS and remove this expense.

21. FINDING: Cal-Am frequently attempts to have MWS ratepayers pay for a portion of expenses properly allocable elsewhere, a practice that will go away under public ownership.

EVIDENCE: As an example, in Cal-Am's 2019 GRC Application (Application 19-07-004), Cal-Am allocated to its California ratepayers (over 20% of whom are situated within the MWS) General Office expenses attributable to Cal-Am's Hawaii affiliate.[52] After the PAO caught this improper charge, Cal-Am acknowledged that its "General Office" (GO) also provides services to Cal-Am's Hawaii affiliate ("HAW") and Cal-Am proposed allocating 3% of its GO labor cost to HAW.

[51] MPWMD is one member of the 9-member Watermaster Board and wields 2 of the 13 (weighted) votes. Cal-Am also is a member of the Watermaster's Board and possesses 3 of the 13 (weighted) votes. Cal-Am is responsible for paying 83% of the Watermaster's administrative budget and 91% of both the operating budget and capital improvement budgets. (See the Rules and Regulations of the Seaside Groundwater Basin Watermaster, revised as of 10/5/11, which can be found at http://www.seasidebasinwatermaster.org/Other/Rules%20and%20Regulations.pdf. District staff anticipates that upon its acquisition of the MWS, Cal-Am's Board seat, 3 weighted votes, and budget payment responsibilities will all transfer to MPWMD.

[52] See, in this regard, the 2/14/20 "Report and Recommendations on Operations and General Expenses, Labor Expenses, Balancing And Memorandum Accounts and Special Requests #2, 3 and 13 submitted by the CPUC's Public Advocates Office ("PAO") in A.19-07-004 at pp. 36-37 and 42-44, and the 2/14/20 PAO "Report and Recommendations on General Office Rate Base and Special Request #9 and #11 at pp. 7-9.

Based upon a spot check, however, the PAO determined that many more Cal-Am employees were performing services for Hawaii than the ones identified by Cal-Am. Using the standard approach used by the CPUC to allocate Cal-Am's GO labor costs among its California service areas on a per customer basis, the PAO recommended doubling the GO labor allocation to Hawaii (to 6%), which would result in a cost savings to California ratepayers, including those in the MWS, of nearly $700K.

In addition, Cal-Am had proposed that the Hawaii portion of labor costs be capitalized—on the theory that the employees performing work for HAW were all working on capital projects – such that California's ratepayers would not receive the full deduction for the cost allocated to Hawaii in the current year(s). The PAO instead determined a number of Cal-Am's GO employees provide Hawaii operations with services including human resources, public relations, regulatory accounting, and other general management services that are typically not capitalized.

Finally, the PAO determined that Cal-Am did not allocate to Hawaii any of the incidental costs attributable to its employees who provide GO services to HAW (*i.e.*, rent, utilities, benefits, etc.), nor any of the office infrastructure attributable to those employees (furniture, computers, communication equipment, etc.) – instead imposing the entire cost on California ratepayers. PAO recommended reducing Cal-Am's GO expense budget by over $3.6M – over $700K of which would have been imposed directly on MWS ratepayers – to account for these "oversights."[53]

It cannot be determined if other instances of such mis-allocations have occurred, as this issue arose only in the context of a PAO "spot check." Unfortunately, the records of American Water's national accounts, Cal-Am's California service area accounts, and Hawaiian accounts, are massive and complex. MWS ratepayers must rely upon Cal-Am's good faith to be sure they pay *only* for Cal-Am costs that benefit the MWS. MWS ratepayers will have no such concerns when MPWMD acquires the MWS.

22. FINDING: Cal-Am repeatedly and persistently asks the CPUC to require MWS ratepayers to bear costs that benefit Cal-Am's (and its parent company's) shareholders, not ratepayers. The CPUC has disapproved these costs on multiple prior occasions. Once again, MWS ratepayers must rely upon the PAO and CPUC to catch these abuses, a problem they won't have when MPWMD acquires the system.

EVIDENCE: Over the past two decades Cal-Am has frequently sought CPUC approval to require ratepayers to pay for activities and programs that benefit American Water shareholders, not ratepayers. Cal-Am persists in these efforts to shift unwarranted costs onto ratepayers even when the CPUC says no. As long as Cal-Am owns the MWS, ratepayers have no choice except to rely on the CPUC to catch these abuses; there is no way to tell if Cal-Am

[53] *Id.*

hasn't "buried" ineligible costs somewhere in its massive General Office budget. MPWMD has no shareholders and makes no profit, so these concerns will disappear once MPWMD acquires the MWS.

In reviewing some of Cal-Am's past GRC filings, MPWMD staff has located several instances of Cal-Am seeking reimbursement of ineligible costs.

In its GRC Application for 2003-2005, Cal-Am asked the CPUC to approve having its Monterey ratepayers pay for a "new" Director of Governmental Affairs. When pressed, Cal-Am's witnesses provided inconsistent testimony as to whether this was a new position. In addition, while Cal-Am "resisted" calling this a lobbying position, it turned out that "one of the major functions" of the position was in fact lobbying, which should be shareholder funded. As the CPUC found: "Three of the remaining four principal responsibilities were directed at promoting the company's media and public relations. Not one principal responsibility specifically mentioned water quality standards, water reliability, implementing environmental rules, or indeed, promoting any interest of Cal-Am's ratepayers whatsoever. With already high rates and a 16% increase request pending for this GRC cycle, we would be hard-pressed to explain to ratepayers on the Monterey Peninsula why their rates should be further increased to fund this position." At the same time, the CPUC also denied Cal-Am's request for ratepayers to pay $400,000 to fund its "Management Incentive Plan" for which awards were based on earnings per share growth and total return to company shareholders.[54]

In its GRC Application for Years 2009-2011, Cal-Am asked the CPUC to require Monterey District customers to reimburse it for $1.5 million "for business development and retention bonuses at the corporate headquarters level." This, notwithstanding that the CPUC found it "ha[d] previously rejected [this category as] costs properly borne by shareholders, not ratepayers."[55]

Similarly, Cal-Am tried to foist on MWS ratepayers part of Cal-Am's $475,864 in "business development" expenses – costs related to the cost of Cal-Am personnel involved in purchasing *other* water systems elsewhere in California – plus costs for corporate charitable contributions Cal-Am elected to make, and for unspecified "sales and marketing expenses." The CPUC ruled "Cal-Am's presentation on business development expense fails to quantify or demonstrate specific benefits to customers from the substantial amounts Cal-Am forecasts spending on business development" and its attempt to bill ratepayers for its charitable contributions and sales and marketing expenses violated long-standing CPUC policy. Notwithstanding that CPUC had historically ruled as far back as in Cal-Am's 2003 GRC that Cal-Am was not entitled to be compensated for

[54] CPUC Decision 03.02-030, dated 2/13/03, pp. 21-23.
[55] CPUC Decision 09-07-021, dated 7/9/09, pp. 4-5.

lobbying expenses, Cal-Am nevertheless tried to secure an additional $218,212 of funding for the very same type of activities, with the CPUC noting that Cal-Am's testimony was evasive and inconsistent and its denial that the expenses were lobbying expenses was contradicted by the record.[56]

Notwithstanding the CPUC's explicit denial of these expenses in CPUC D.09-07-021, Cal-Am again attempted to push through CPUC approval for the very same categories of business development expenses, expenses for seeking "legislative influence," sales and marketing, and charitable expenses on ratepayers in its very next rate cycle; once again, the CPUC denied the request.[57]

In its 2019 GRC, Cal-Am ignored three recent CPUC decisions and obstinately proposed that ratepayers cover 100% of the "incentive compensation" Cal-Am pays to its employees in the form of stock options, despite the fact the CPUC had consistently ruled on multiple occasions that the lion's share of benefits accrue to Cal-Am's (and its corporate parent's) shareholders, not ratepayers. Once again, the CPUC rejected this attempt by Cal-Am to pad its projected expenses with incentive compensation.[58] As a public entity, MPWMD would not incur "business development expenses" of the type incurred by American Water, nor would MPWMD make charitable contributions such as those the CPUC allows to be reimbursed to American Water.[59]

Cal-Am's efforts to impose this same type of ineligible expense on local ratepayers continues. In its 2019 GRC filing, Cal-Am again asked that the CPUC allow it to pass through to ratepayers the costs Cal-Am will incur to fund short-term and long-term employee incentive compensation programs (the Annual Performance Plan or "APP" and the Long-Term Performance Plan or "LTPP," respectively), notwithstanding that at least 50% of the expressed objectives of the short-term plan and 100% of the expressed objectives of the long-term plan relate to benefits to shareholders, not ratepayers. As the PAO pointed out, *the CPUC has consistently rejected this very same type of request in the last 6 successive Cal-Am GRCs* and under established CPUC policy ratepayers should not be required to fund incentive programs that primarily benefit shareholders.[60]

Considerable effort – and therefore costs – are incurred by the PAO, MPWMD and other interested parties in their efforts to continually identify and oppose Cal-Am's recurring efforts to have the CPUC require ratepayers to pay for or reimburse its ineligible expenses. These abuses, and costs

[56] *Id.* at pp. 103-107.
[57] CPUC Decision 12-06-016 at p. 9.
[58] CPUC Decision 18-12-021, dated 12/13/18, pp. 76-78 and pp. 102-115.
[59] Article XVI, Section 6 of the California Constitution prohibits any political subdivision such as MPWMD from making gifts to private parties.
[60] See 2/14/20 "Report and Recommendations on Operations and General Expenses, Labor Expenses, Balancing and Memorandum Accounts and Special Requests #2, 3 and 13 submitted by the PAO in Cal-Am's Application A.19-07-004 at pp. 49-52.

related to constant vigilance (and costs related to the failure to "catch" any of these hidden costs and charges) will cease when MPWMD acquires the MWS.

23. FINDING: Over the past 3 decades, Cal-Am has recklessly and unwisely spent massive amounts of MWS ratepayer funds on a variety of capital projects that Cal-Am ultimately chose to abandon or massively modify. These projects ended up providing ratepayers with little or no benefits. They were either ill-conceived, oversized, or unneeded. In some cases, Cal-Am elected to continue spending money on them long past the time it should have stopped work and cut its losses. The CPUC nevertheless forced MWS ratepayers to reimburse Cal-Am for such wasteful and non-productive expenditures. Under public ownership the community will not be subject to Cal-Am's defective decision-making or the CPUC's authority to make MWS ratepayers pay for Cal-Am's failed projects and unproductive expenditures.

EVIDENCE: Cal-Am is in a "cost-plus" business. The greater its capital costs (at least those costs approved by the CPUC), the greater the revenues it generates to recover those costs – and the more profit it earns. This business model provides an incentive for Cal-Am (and any other CPUC-regulated public utility) to spend more and more money. This incentive is fundamentally at odds with the interests of MWS ratepayers.

The financial incentives for a local, publicly owned, non-profit service provider such as MPWMD are just the opposite. MPWMD has a long history of promoting cost-effective water supply solutions. MPWMD can be expected to be acutely sensitive to the local community's desire to hold down costs and to spend its constituents' funds in a cost-effective manner and only to the extent necessary to achieve demonstrable public benefits. Only when ownership of the MWS is transferred to a local public agency which is directly accountable to its ratepayers will this constant battle over excessive expenditures on unnecessary public works projects and unjustifiable rate increases disappear.

The problem is not merely an abstract and academic debate over motives and incentives. Summarized below are facts relating to 5 recent (and one still pending) real-world Cal-Am "projects" that illustrate why the cost of water under Cal-Am's stewardship is already excessive and escalating: (1) seismic retrofit of the San Clemente Dam; (2) the Carmel River Dam; (3) the Coastal Water Project/Regional Project; (4) the Sand City desalination plant; and (5) the MPWSP.

The Abandoned San Clemente Dam Seismic Retrofit Project. For several decades following its acquisition of the MWS in 1966,[61] Cal-Am failed to maintain the San Clemente Dam on the Carmel River. While some siltation behind the dam had occurred prior to Cal-Am's acquisition of the MWS and the dam, Cal-Am chose not to maintain or dredge the reservoir during the

[61] See CPUC Decision D.12-06-040, dated 6/21/12, p. 47 ¶ 6.

following decades when most of the siltation appears to have occurred.[62] As a result, the reservoir feature of the dam ceased to function by the early 1990s, the spillway gates went out of service by 1996, and the dam last acted as a diversion point to supply water to customers in 2002-2003. By that time the San Clemente Dam had a storage capacity of only 137 AF – less than 6% of the original capacity.[63] As MPWMD testified to the CPUC a few years later – in opposing Cal-Am's request to saddle ratepayers with many millions of dollars in additional costs required to "seismically retrofit" what by then was a nearly useless facility, Cal-Am "failed to exercise reasonable managerial skill and care in maintaining the dam" and it "ignored the reservoir sedimentation problem to the point that the dam is no longer used and useful."[64]

In 1980, the California Department of Water Resources, Division of Safety of Dams ("DSOD"), performed an inspection of the dam, determined the dam was seismically unsafe, and directed Cal-Am to take remedial action. After failing to take any action whatsoever for over a decade, Cal-Am eventually, with CPUC approval, commenced work on an expensive plan to seismically retrofit the by-then essentially useless dam, justifying the expense with the excuse that removing the dam would risk releasing a large amount of sediment into the river (sediment which, again, Cal-Am itself had failed to periodically remove in prior decades).[65]

Cal-Am failed to seriously study the alternative of removing the dam entirely – instead of retrofitting it – in a manner that would not dump sediment into the river. Cal-Am continued to ignore the dam removal option even after two species dependent upon a fuller flowing river – the South-Central California Coast steelhead and California red-legged frog – were identified (in 1992) and then listed (in 1996-97) for protection under the federal Endangered Species Act. In the face of mounting criticisms from resource agencies with jurisdiction over the project, including the National Marine Fisheries Service ("NMFS") and other important environmental organizations that dam removal was the environmentally superior alternative, Cal-Am continued to spend money on its seismic retrofit plan.

In 1993, before Cal-Am had even come up with a proposed project to address seismic safety issues related to the San Clemente Dam, the CPUC approved adding $790,000 of Cal-Am costs for a retrofit project that would never be undertaken directly into rate base, and directed Cal-Am to track other costs relating to the Dam in a Memorandum Account.[66]

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[62] CPUC Decision 12-06-040, beginning at p. 16, detailing the events occurring between 1972-1999 that contributed greatly to sedimentation and the loss of storage capacity.
[63] Six years later, the CPUC noted that the storage capacity of San Clemente Dam had shrunk further, to 100 AF, and that at a normal rate of sediment inflow, this 100 acre feet will be gone between 2013 and 2017. CPUC Decision 12-06-040, p. 20.
[64] *Id.*, pp. 41-42.
[65] See CPUC D.06-11-050, dated 11/30/06, at p. 42 (citing testimony submitted by MPWMD); CPUC D.12-06-040, *supra*, at pp. 7 and 17.
[66] See CPUC Decision 12-06-040, *supra,* at p. 24.

After DSOD assumed "lead agency" status under CEQA, NMFS sent a letter dated 2/12/99 commenting upon DSOD's Draft EIR for Cal-Am's dam buttressing project and asserting that outright removal of the dam would be far more beneficial than buttressing. A little over a year later, on 4/3/00, the NMFS wrote to the U.S. Army Corps of Engineers and criticized Cal-Am for failing to "seriously consider a dam removal option, even though several natural resource organizations have set this as a priority." The NMFS went on to note that "Cal-Am's proposed seismic retrofit project does not provide flood storage, hydropower, or water storage" and the NMFS asserted that the Draft EIR was inadequate because "Cal-Am failed to fully develop a dam removal alternative."[67] After taking hesitant steps to revise the DEIR, DSOD withdrew the environmental document entirely.

In 2000, the California State Coastal Conservancy, not Cal-Am, spent the funds needed to devise a feasible approach to remove the San Clemente Dam without dumping silt downstream and thereby endangering the river and critical habitat of the steelhead trout and red-legged frog.[68] The entire impetus for seismically retrofitting the dam collapsed. Even *then,* Cal-Am continued for nearly another decade to expend millions *more* dollars in support of its original seismic retrofit idea.

In 2003, even as the CPUC's Office of Ratepayer Advocates ("ORA") warned and Cal-Am admitted that the proposed seismic retrofit of the San Clemente Dam faced "hurdles before any construction could begin" and that it was "far from assured that [the project] will ever be completed," Cal-Am nevertheless convinced the CPUC to approve tracking $7,073,000 in a Memorandum Account for potential reimbursement of costs incurred continuing to pursue the doomed dam buttressing/seismic reinforcement proposal, plus an assumed 8.56% return on investment.[69]

On 2/16/05, Cal-Am filed its next GRC application for the MWS (A.05-02-012). By this time it was clear beyond doubt that the San Clemente Dam was essentially useless and would never again serve its historical intended purpose (water supply), that key environmental agencies were opposed to seismic buttressing, and that only dam removal would be acceptable. Even Cal-Am admitted that it was "currently participating in negotiations with governmental agencies and organizations to share in the cost of dam removal..." Nevertheless, with little or no concern for its ratepayers, Cal-Am included in its application a request that the CPUC approve a whopping $20,781,525 in *additional* costs Cal-Am estimated it would incur in the next 3-year rate cycle to seismically retrofit the dam. The Division of Ratepayer Advocates and MPWMD both vigorously opposed the request, based on Cal-Am's history of failing to properly maintain the dam, the dam's lack of utility, the opposition of NMFS and other regulatory agencies to anything other than outright removal of the dam, the massive cost of the seismic

[67] *Id.* pp. 9, 17-18, and 48, ¶ 9.
[68] *Id.*, p. 10.
[69] CPUC Decision 03-020-030, at pp. 19 and 39-43.

retrofit project, and the likelihood that funds spent on the retrofit project offered no value.[70]

Finally, in 2010, Cal-Am abandoned its proposal to seismically retrofit the dam and switched to the Coastal Conservancy-formulated plan for dam removal. It did not, however, abandon its demand that MWS ratepayers reimburse it for nearly $27 million in wasted pre-development expenses it claimed to have spent by that point to seismically retrofit the dam. The CPUC's Division of Ratepayer Advocates and MPWMD vigorously opposed Cal-Am's request to shift to ratepayers the cost of Cal-Am's ill-conceived and belatedly abandoned seismic retrofit project from which they would derive absolutely no benefit. In 2012, the CPUC rejected those objections, however, and approved Cal-Am's request in full—plus interest at Cal-Am's approved rate of return (currently, 7.26%)—through a multi-year surcharge on customers' water bills.[71]

Cal-Am finally completed removal of the San Clemente Dam in 2015. In 2023, eight years later, MWS ratepayers are collectively responsible for paying an annual surcharge of approximately $6,245,400[72] for removal of a dam that silted up and became useless, that never got seismically retrofitted, and that no longer exists. This surcharge will remain in place for another 14+ years (until 12/31/37) unless MPWMD acquires the MWS. The San Clemente Dam financial excess is emblematic of Cal-Am decision-making that harms ratepayers and will be eliminated under public ownership.

The Abandoned Carmel River Dam Project. From 1995-2003, Cal-Am spent nearly $8.4 million pursuing the Carmel River Dam Project (also known as the New Los Padres Dam and Reservoir Project), a project that was doomed to fail based on overwhelming voter disapproval in 1995, and the project's significant adverse environmental impact (particularly the impacts on two species – the red-legged frog and steelhead trout – which were listed as threatened under the Federal Endangered Species Act in 1996 and 1997. Cal-Am's pursuit of an infeasible project for several years was reckless and wasteful. Nevertheless, ignoring past CPUC practice that required shareholders, not ratepayers, to pay for abandoned projects if they do not provide ratepayer benefits, the CPUC instead allowed Cal-Am to recover the entirety of these costs from MWS ratepayers.

This unfortunate history is summarized below.

MPWMD (not Cal-Am) was initially the proponent of the New Los Padres Dam, later referred to as the Carmel River Dam (and uniformly referred to by that name in this Appendix B to minimize confusion). The Carmel River Dam Project was one of the earliest proposals to emerge after the mid-1970s

[70] CPUC Decision 06-11-050, pp. 40-43.
[71] CPUC Decision D.12-06-040, *supra*, at pp. 10, 14, 22-26, 31, and 35-36.
[72] Cal-Am GRC Application 22-07-001, RO Tbl 2.2.

drought years in the effort to close the demand-supply gap for Monterey Peninsula water users. MPWMD filed its first application with the State Water Board ("SWRCB") for approval of the dam on December 16, 1982 (Application 27614). MPWMD amended its application on January 14, 1986, and again on March 26, 1992.[73]

As proposed by MPWMD, the project would have consisted of an on-stream storage reservoir on the Carmel River about 23 river miles upstream from the ocean, with provisions for (1) release/re-diversion of water downstream at the San Clemente Dam (2) recharge of the Carmel Valley aquifer and subsequent re-diversion by 34 wells located at several points downstream, (3) maintenance of instream flow, and (4) diversion of water at 34 points downstream. The proposal requested authorization to store 24,000 acre-feet annually (AFA) and to directly divert 47 cubic feet per second (cfs), with a combined limitation of 29,000 AFA.[74] As lead agency, MPWMD certified the EIR for the dam in September 1994.[75]

On 7/6/95, the SWRCB conditionally approved the Carmel River Dam Project over the objections of 53 protestors – including the California Department of Fish & Game, the California Department of Parks and Recreation, the Sierra Club, California Trout, and the Carmel River Steelhead Association – who raised both water rights and environmental concerns.[76] In doing so, the SWRCB acknowledged the project would have a number of significant unmitigated environmental impacts – including impacts on steelhead trout. In light of the then-pending application for listing of the steelhead trout as an endangered or threatened species under the Federal Endangered Species Act, the SWRCB imposed a special condition (#37) stating that if the steelhead trout was listed under either the Federal or California Endangered Species Act prior to construction, MPWMD would be required to seek a formal Biological Opinion from the United States Fish & Wildlife Service before proceeding further.[77]

Soon after the SWRCB's conditional approval of MPWMD's proposed Carmel River Dam Project, a series of events occurred which, individually and cumulatively, destroyed the Project's feasibility.

First, in November 1995, Monterey Peninsula voters rejected (by a solid 57-43% margin) MPWMD's proposal to issue up to $116.5 million in bonds to finance the Carmel River Dam Project. MPWMD, respecting the will of its voters, dropped its sponsorship.

From its corporate offices in San Diego County, however, Cal-Am failed to get the message that the Carmel River Dam Project lacked essential public support. Instead, Cal-Am conducted a highly questionable survey and

[73] See SWRCB Decision 1632, dated 7/6/95, p.7.
[74] *Id.*, p. 6.
[75] See CPUC D.06-11-050, *supra*, p. 55.
[76] *Id.*, pp. 14-18 and 78-84; see SWRCB Decision No. 1632.
[77] *Id.*, pp. 68 and 109.

based on its results, speculated voters might still support the Project if Cal-Am pursued it rather than MPWMD. Years later, the CPUC Division of Ratepayer Advocates highlighted opposed saddling ratepayers with the bill for Cal-Am's by-then abandoned Carmel River Dam Project on the ground that Cal-Am had not "properly assess[ed]. . . the risks of community opposition" and, instead, "continu[ed] to actively pursue the project and incur costs for six years when the. . . political risks that led to abandonment were well known for some time. . . .")[78]

A second reason the Carmel River Dam Project soon proved to lack viability was the rapidly changing regulatory environment. In 1996, the U.S. Fish & Wildlife Service ("USFWS") listed the red-legged frog as a threatened species and, on 8/18/97, NMFS listed the steelhead trout as "threatened." (62 Fed. Reg. 43937.) Both the CPUC's DRA and, years later, the California Coastal Commission staff, recognized these listings, which effectively rendered the Carmel River Dam Project infeasible.[79]

Cal-Am nevertheless continued to burn through ratepayer funds pursuing a project that clearly would never be approved or built, offering to the CPUC as justification that "due to [SWRCB] Order 95-10, it had to continue with the project until it was certain there was a viable alternative." Cal-Am asserted that "due to the requirements of Order 95-10, it did not have the option to withdraw the Carmel River Dam project until it had approval for another alternative."[80] In other words, Cal-Am continued spending ratepayer funds on a doomed project that it fully *knew* was doomed, just so it could keep up a charade with the SWRCB that the company was working to resolve the problem of unlawful extractions from the Carmel River it had no chance of resolving in the manner proposed.

Ignoring the political, legal, and regulatory headwinds, Cal-Am nevertheless blindly pushed forward with its doomed project. On 3/28/97, Cal-Am filed a formal application with the CPUC for approval of the Carmel River Dam Project and "to recover all present and future costs in connection therewith in rates."[81] The adverse political, legal, and regulatory climate only got worse for solutions on the Carmel River. In 1998, the California Legislature passed Assembly Bill 1182 (Stats. 1998, Chap. 797) directing the CPUC to come up with a solution to the Monterey Peninsula's water supply deficit problems that did *not* include construction of a dam along the Carmel River. The Legislature's mandated solution became known as "Plan B" – with "Plan A" having been the Carmel River Dam Project.

On 2/16/00, NMFS designated the Carmel River and tributaries as critical habitat for steelhead. (65 Fed. Reg. 7764-01; 50 CFR Part 226.) On

[78] CPUC Decision 06-11-050, at pp. 48-50 and 55-56.
[79] CPUC Decision 06-11-050 and 11/14/19 Coastal Commission report in Cal-Am's Application No. 9-19-0918 https://documents.coastal.ca.gov/reports/2019/11/Th8a_9a/Th8a_9a-11-2019%20staff%20report.pdf at p. 15.
[80] CPUC Decision 06-11-050, at pp. 54 and 56.
[81] CPUC Application A.97-03-052.

7/10/00, NMFS published protective regulations prohibiting the "take" of threatened steelhead in the Carmel River watershed by all persons, including federal, state and local agencies and private entities (65 Fed. Reg. 42422-01; 50 CFR Part 223).

After observing several years of this nonsense, in January 2002, MPWMD formally requested that Cal-Am dismiss its CPUC application for approval of the Carmel River Dam Project.[82]

It was not until 2/11/03 that Cal-Am finally did so, through a notification to the CPUC that it was abandoning the Carmel River Dam Project since the Project "would have potentially unacceptable impacts… impacts on endangered species… [and] obtaining the permits to build it would be impossible."[83] *Even after withdrawing its request for CPUC approval of the Carmel River Dam Project, however, Cal-Am still continued to spend money – ratepayer money – in support of that very same project!* Cal-Am's justification? "[I]t needed to always have an active project before the SWRCB or it would face substantial fines."[84] In other words, rather than leveling with the SWRCB and seeking a viable project, Cal-Am chose to hide the truth, mislead the regulatory agencies, spend millions more dollars in worthless costs, and stuck the bill to its ratepayers for a project it knew would never be approved.

To MPWMD's chagrin (and the detriment, once again, of the MWS ratepayers), the CPUC nevertheless rewarded Cal-Am for its egregious behavior in its Decision 03-02-030 issued on 9/4/03, whereby the CPUC *granted* Cal-Am's request to impose on the MWS ratepayers $5,102,900 of "construction work in process" costs incurred by Cal-Am with respect to the Carmel River Dam Project. The CPUC added those costs to Cal-Am's rate base, thereby authorizing Cal-Am to collect a profit on the wasted expenditures at Cal-Am's authorized rate of return (at that point in time, 8.56%). The only "silver lining" in Decision 03-02-030 from the ratepayers' standpoint was that the CPUC said its ratemaking treatment of the Carmel River Dam Project costs was temporary and in Cal-Am's next GRC the MWS ratepayers "will retain the opportunity to challenge the projects' costs when they are finally completed or abandoned."[85]

The glimmer of hope afforded to MWS ratepayers in CPUC Decision 03-02-030 that they ultimately would not have to pay Cal-Am's years of wasted expenses for the abandoned Carmel River Dam Project was snuffed out in Cal-Am's next GRC. Not only did the CPUC refuse to "back out" the over $5.1 million in charges for the abandoned Carmel River Dam Project it had imposed on MWS ratepayers back in 2003, it granted Cal-Am's request to impose *additional* charges of $3,290,103, in the form of a meter surcharge

[82] See CPUC D.06-11-050 at p. 50.
[83] *Id.* pp. 47-48.
[84] *Id.* p. 50,
[85] *Id.* pp. 19, 39-42.

to be paid out over a 4-year period and with interest on the deferred balance of this new surcharge at the 90-day commercial paper rate.[86]

In the Decision, the CPUC noted that utility shareholders [not ratepayers] must normally bear the full costs of abandoned projects and that exceptions to this rule are "rare and only done in extraordinary circumstances." "Ratepayers," the CPUC continued, "should be responsible to cover the cost of an abandoned project only 'during times of dramatic and unanticipated change where the utility can demonstrate that it exercised reasonable managerial skill.'"[87]

Applying the CPUC's own standard, the CPUC's DRA argued forcefully that Cal-Am's shareholders, not ratepayers, should have borne the cost of the abandoned Carmel River Dam Project. As the DRA correctly asserted, "Cal-Am did not undertake this project in a time of extraordinary change or great uncertainty and did not act reasonably in (1) selecting this project rather than pursing other alternatives, (2) properly assessing and regularly reevaluating the risks of community opposition and environmental uncertainties, and (3) continuing to actively pursue the project and incur costs for six years when the legal, regulatory, and political risks that led to abandonment were well known for some time prior to this."[88] The DRA further pointed out that MWS ratepayers had already paid MPWMD for MPWMD's preliminary work on the same Project, that the voters had *rejected* the project, that the survey Cal-Am conducted in November 1995 after the MPWMD ballot measure was resoundingly defeated simply did not support Cal-Am's conclusion that the voters would reverse their position and support the very same project if it "was funded and managed by a private water utility instead of MPWMD," and that Cal-Am was wrongly asking the ratepayers to pay twice for the same thing. Finally, the DRA objected that even though Cal-Am formally notified the CPUC in February 2003 that it was withdrawing the Carmel River Dam Project it was still spending money on that project as late as August 2003, for which it sought reimbursement from the ratepayers.[89]

Nonetheless, the CPUC accepted Cal-Am's position that, in light of the SWRCB Order 95-10, Cal-Am had to be seen as having an "active" project to address the water supply problem, there were no other feasible alternatives on the horizon at the time, and this justified continuing to burn through ratepayer funds even after it became apparent the Carmel River Dam Project was environmentally, politically, and legally infeasible.[90]

The CPUC's 2006 decision brought the total burden thrust on MWS ratepayers for Cal-Am's reckless and wasteful expenditures for the abandoned Carmel River Dam Project to $8,393,003 (plus Cal-Am's profit).

[86] *Id.* pp. 57-59.
[87] *Id.*, pp. 46-47 and 51.
[88] *Id.* p. 48.
[89] *Id.*, pp. 48-56.
[90] *Id.*, pp. 52-57.

All this for an ill-conceived project Cal-Am pushed for far too long, after it was clear to everyone involved – even Cal-Am – that construction of another dam across the Carmel River was never going to be approved by the voters or the environmental agencies with jurisdiction.

The Abandoned Coastal Water Project/Regional Project. From 2003-2012, Cal-Am spent well over $30 million pursuing yet another failed project – the "Coastal Water Project." The Coastal Water Project actually consisted of three successive proposals to locate a desalination plant somewhere along the northern Monterey County coastline. Cal-Am's first proposal proved infeasible. Its successor proved similarly infeasible. Cal-Am then shifted to the third proposal that, before long, also collapsed due to various technical, legal, regulatory, and financial obstacles. These impediments should have been apparent much sooner than Cal-Am acknowledged them.

In the end, after a decade of Cal-Am stops and starts, none of the three desalination plants was constructed, not a drop of water was produced, and Cal-Am had no viable plan to resolve the Monterey Peninsula's water supply problem. The CPUC nevertheless authorized Cal-Am to recover all $30+ million in wasted costs from MWS ratepayers – in the form of yet another hefty surcharge on their bills.

The history of the Cal-Am's unsuccessful Coastal Water Project is summarized below.

On 2/11/03, at the same time Cal-Am notified the CPUC (in A.97-03-052) that it was abandoning the Carmel River Dam Project, it filed a motion requesting authorization to substitute a new project, consisting of a desalination facility, along with aquifer storage and recovery ("ASR") facilities (collectively, the "Coastal Water Project").

On 9/4/03, the CPUC issued its Decision 03-09-022 designating itself as the "lead agency" under the California Environmental Quality Act ("CEQA") for environmental review of the project. As summarized below, this would prove to be a fatal error. In that same decision, the CPUC authorized Cal-Am to establish a memorandum account to record its costs associated with preliminary engineering studies, environmental studies, analysis of necessary permitting requirements, and development of cost estimates for the Coastal Water Project.

On 9/20/04, Cal-Am filed its formal application with the CPUC (A.04-09-019) to construct the Coastal Water Project. At the time, Cal-Am described its proposed project as a 9,400 AFA desalination facility at the Moss Landing Power Plant located 15 miles north of the northernmost limit of the main portion of Cal-Am's Monterey service area, together with transmission pipelines to transport the water from Moss Landing to the Monterey Peninsula, a reservoir, pump stations, and ASR facilities.[91]

[91] See also, CPUC D.09-12-017, dated 12/17/09 (certifying the FEIR for the Coastal Water Project), at p. 16, where

The design of the Moss Landing Project soon proved to be highly controversial and could not overcome regulatory obstacles. The California Coastal Commission, whose approval of the Moss Landing Project was essential, opposed the Project based upon its plan to use source water supplied from the outfall at the existing power plant. As Cal-Am (belatedly) acknowledged to the CPUC some years later: "the original Moss Landing Project is no longer viable due to active opposition by the California Coastal Commission and other governmental and permitting agencies to the development and siting of a desalination plant using source water supplied from the existing Moss Landing Power Plant." As Cal-Am's witness Mr. MacLean explained, "[t]he Moss Landing Project's open intake and once-through cooling design is environmentally controversial and subject to increasingly restrictive regulations."[92]

The Moss Landing Project also suffered from significant technical and cost concerns, primarily relating to the need to construct pipeline facilities to transport and pump water for 15 miles to reach the northernmost boundary of Cal-Am's MWS service area.

As a result, Cal-Am came up with an alternative to the Moss Landing Project – the so-called "North Marina Alternative" The North Marina desalination plant would have been sited on 10 acres at the Armstrong Ranch near the Monterey Regional Water Pollution Control Agency ("MRWPCA") wastewater treatment plant and supposedly would have been able to produce 8,800 AFY of desalinated water in non-drought years and 10,900 AFY in drought years to be delivered to MWS customers.[93] It would have utilized a seawater intake system consisting of six new subsurface beach slant wells, an open-water brine discharge system through the MRWPCA outfall, plus project water conveyance and storage infrastructure.[94]

Unfortunately, Cal-Am's North Marina Alternative was every bit as infeasible as its original Moss Landing Project proposal for a number of reasons, including the fact that Cal-Am didn't own or control the land upon which the desalination plant would be constructed, the owner – Marina Coast Water District ("MCWD") – was not a willing seller, and

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Cal-Am's "proposed project" was described as follows: "The Moss Landing Project would be sited on 16 acres at the Moss Landing Power Plant and would be owned and operated by Cal-Am. The proposed project includes a desalination plant sized to produce 10 million gallons per day (mgd) of desalinated water. The proposed project also includes a seawater intake system using source water supplied from the existing Moss Landing Power Plant once-through cooling water return system, an open-water brine discharge system through the Moss Landing Power Plant, and a variety of conveyance and storage facilities, including approximately 28 miles of pipeline and an aquifer storage and recovery system. The aquifer storage and recovery system consists of two existing and two proposed injection/extraction wells. [fn. omitted] The proposed project would produce 8,800 afy of desalinated water in nondrought years (and 10,900 afy in drought years) that would be delivered to Cal-Am's Terminal Reservoir for distribution to its customers."

[92] See Cal-Am's Opening Brief in A.04-09-019 filed with the CPUC on 7/2/10, at p. 7.

[93] MRWPCA later changed its name to "Monterey One Water," which is sometimes abbreviated to M1W. The terms are used interchangeably in this document.

[94] See CPUC D.09-12-017 at pp. 17-19.

condemnation of the land appeared to be the only means for Cal-Am to gain site control. As Cal-Am stated in its Opening Brief filed on 7/2/10 in CPUC A.04-09-019 (at p. 7):

"[T]he North Marina Alternative is similarly infeasible. This project would invoke the Agency Act, without the required cooperation and involvement of the public agencies to meet the requirements of the Agency Act. With this project, California American Water would be required to 'engage in controversial property acquisitions along the coastline. These site acquisitions would likely lead to public animosity against the project, and they could result in costly and time consuming litigation.' As with any project developed and owned by California American Water, both the Moss Landing and North Marina Projects could involve litigation regarding a Monterey County Ordinance that prohibits private ownership of desalination plants. Furthermore, it would be less likely that California American Water, if it owned the project, would be able to obtain the lower cost public financing that would be available for [Phase 1 of the Regional Project]."

Notwithstanding the infeasibility of Cal-Am's own selected project (Moss Landing) and its own selected alternative (North Marina), between the initiation of those project proposals and the end of calendar year 2008, Cal-Am expended $18,146,927 pursuing those pipedreams and the CPUC ordered that all of these costs – costs it would soon become clear were wasted – should be paid/reimbursed (with interest) by the MWS ratepayers.[95]

Perhaps seeing the handwriting on the wall, Cal-Am cobbled together and in June of 2008 it presented to the CPUC a *third* alternative desalination plant proposal—what came to be known as the Regional Desalination Project or, simply, the "Regional Project."[96] Under the Regional Project, MCWD, not Cal-Am, would construct, own, and operate a new desalination plant adjacent to MRWPCA's existing Salinas Valley Reclamation Plant. MCWD's desal plant was supposed to utilize six vertical intake wells to provide source water. Significantly, Cal-Am did not propose that the CPUC shift CEQA lead agency status to MCWD.

In January 2009, the CPUC issued a Draft EIR for the three alternative versions of the Coastal Water Project. In December 2009, in the face of what by that time was overwhelming information that the original Moss

[95] See (1) CPUC Decision 06-12-040, dated 12/14/06, authorizing Cal-Am to establish the "Special Request 1 Surcharge Balancing Account" allowing Cal-Am to recover preconstruction costs incurred with respect to the Coastal Water Project; (2) CPUC Decision 08-01-007, dated 1/10/08, authorizing Cal-Am to recover $9.31 million in preconstruction costs incurred with respect to the Coastal Water Project through 11/31/06; (3) CPUC Decision 08-12-034, dated 12/18/08, authorizing Cal-Am to recover an additional $3,741,714 million in preconstruction costs incurred by Cal-Am in 2007 with respect to the Coastal Water Project; and (4) CPUC D.10-08-008, dated 8/12/10, authorizing Cal-Am to recover an additional $5,095,213 in preconstruction costs incurred by Cal-Am in 2008 with respect to the Coastal Water Project.

[96] See CPUC Decision 09-12-017 at pp. 17-19; Final EIR, pp. ES-3 to ES-5.

Landing and North Marina project alternatives were infeasible and with the details relating to the newly proposed Regional Project still to be worked out, the CPUC certified the Final EIR for all *three* proposals, including the Regional Project, without selecting a preferred option.[97]

On 4/7/10, Cal-Am, MCWD, the Monterey County Water Resources Agency ("MCWRA"), MRWPCA, the Public Trust Alliance, and Surfrider Foundation filed a motion requesting the CPUC approve a Settlement Agreement and two implementing agreements (a Water Purchase Agreement and an Outfall Agreement) that Cal-Am hoped would enable the parties to implement the Regional Project. The Settlement Agreement proposed a complicated ownership, operational, and financial structure: MCWRA would own, construct, operate, and maintain the source water wells and raw water conveyance facilities to the desalination plant; MCWD would own, construct, operate, and maintain the desalination plant and the product water conveyance facilities to the delivery point, which would then become Cal-Am's intake point; Cal-Am would own, construct, operate, and maintain the pipeline, conveyance, and pumping facilities necessary to deliver the water to its customers; and MRWPCA would own, operate, and maintain the outfall for return of the brine to the sea.[98]

MPWMD did *not* join in the Settlement Agreement. (See the District's 4/7/10 "Notice of Non-Settlement," its 4/30/10 Comments, and its 5/27/10 Proposed Modifications filed in A.04-09-019.) Among other things, the District challenged the Settlement Agreement's lack of openness (failure to address open meeting rules, public records rules, or ethical conduct rules), the lack of adequate representation for Monterey Peninsula citizens in future governance decisions, the lack of adequate cost controls, and the unfairness of the Settlement Agreement to MWS ratepayers (a concern that should have been, but wasn't addressed by Cal-Am). MPWMD also supported the objections submitted by the CPUC's Division of Ratepayer Advocates, including the DRA's recommendation that if the CPUC were inclined to approve the Settlement Agreement it impose a cost cap for water delivered to MWS ratepayers (DRA proposed a figure of $2,200/AF) to prevent costs spiraling up to as high as $7,600/AF (or higher).

The CPUC ignored the pleas of MPWMD and the DRA. Instead, on 12/2/10, the CPUC unconditionally approved the Settlement Agreement and issued Cal-Am a Certificate of Public Convenience and Necessity ("CPCN") for the Regional Project. (CPUC D.10-12-016.)

Cal-Am's bills for the Coastal Water Project/Regional Project kept mounting. On 3/10/11, the CPUC authorized Cal-Am to recover from MWS ratepayers an additional $5,425,799.87 in preconstruction costs

[97] *Id.,* pp. 1, 3-4, and 24.
[98] CPUC D.10-12-016, p. 5.

incurred in 2009, thereby increasing the total surcharge on MWS ratepayers for the Coastal Water Project to $23,572,726.[99]

Within a few months of the CPUC's approval of the Settlement Agreement and issuance of the CPCN for the Regional Project, however, the Settlement Agreement and Regional Project fell apart: First, in April 2011, allegations emerged that a MCWRA Director had a conflict of interest with respect to the Water Purchase Agreement and other project agreements. The director resigned from the MCWRA Board on 4/11/11 and was eventually charged with two felony counts of conflict of interest relating to the Regional Project, as well as thirty-one felony counts and six misdemeanor counts for acts unrelated to the Regional Project.

In letters dated 7/7/11, 7/20/11, and 8/22/11, MCWRA advised Cal-Am that because conflict of interest laws had been violated, the Water Purchase Agreement and related agreements were void. Cal-Am took the position that, by declaring the Water Purchase Agreement and related agreements void, MCWRA anticipatorily repudiated the agreements and, on 9/28/11, Cal-Am informed MCWRA and MCWD it was terminating the agreements.

Second, MCWD and MCWRA failed to meet the 5/11/11 Water Purchase Agreement deadline to obtain financing for their portions of the Regional Project.

Third, an entity named Ag Land Trust filed lawsuits against both MCWD and MCWRA alleging, among other things, that (1) MCWD, not the CPUC, should have been the lead agency under CEQA for the Regional Desalination Project and (2) the EIR did not properly consider a number of issues, including Ag Land Trust's right, as an overlying property owner, to use Salinas Basin groundwater. In December 2011, Monterey County Superior Court Judge Lydia Villarreal ruled that Ag Land Trusts was correct that MCWD, not the CPUC, should have been the lead agency under CEQA for the Regional Project. In February 2012, she amended her ruling to include findings that the EIR did not properly consider a number of issues, including Ag Land Trust's right, as an overlying property owner, to use Salinas Basin groundwater.

Fourth, in August 2011, the California Coastal Commission refused to act on the Coastal Development Permit application for a slant test well for the Regional Project due to the alleged conflict of interest concerning the MCWRA board member and then-pending lawsuits alleging that MCWD and MCWRA violated CEQA.[100]

In August 2011, Cal-Am, MCWD, and MCWRA "entered into Commission-sponsored mediation" to address unresolved issues relating to

[99] CPUC Decision 11-03-008, pp. 5-7.
[100] See Cal-Am's Petition for Modification and Clarification of CPUC D.10-12-016, at p. 1, its 1/18/12 CPUC "Compliance Filing: Mediation Update," at p. 1; and Cal-Am's 3/1/12 CPUC "Compliance Filing," at pp. 2-5.

the Regional Project.[101] The mediation was unsuccessful and Cal-Am then abandoned the Coastal Water Project/Regional Project altogether. Litigation then ensued between and among Cal-Am, the County of Monterey, MCWRA, and MCWD.

Notwithstanding Cal-Am's abandonment of the Coastal Water Project/Regional Project and the lack of benefit provided to MWS ratepayers, Cal-Am insisted that ratepayers foot the bill for its ineptitude and waste. The CPUC went along with Cal-Am's requests. On 7/3/12, CPUC Administrative Law Judge Minkin authorized Cal-Am to recover an additional $5,111,493 in preconstruction costs incurred by Cal-Am in 2010 for the Coastal Water Project, which thereby increased the ratepayer's burden for the abandoned project to $28,684,218.[102]

On 12/4/14, the CPUC authorized Cal-Am to recover from ratepayers an additional $222,375 in pre-development costs spent on the abandoned Coastal Water Project/Regional Project through 2011 (plus interest), which brought the total ratepayer burden for the debacle to $28,906,593. (CPUC D.14-12-008, pp. 2-3 and 8)[103]

On 3/12/15, the CPUC approved (in part) a Settlement Agreement in the pending litigation matter between Cal-Am, the County, and MCWRA (but not MCWD), which resulted in yet another "hit" to MWS ratepayers – this time $1,918,033 of costs that Cal-Am had previously advanced to MCWRA under the terminated Regional Project agreements for "outside legal fees, county counsel fees, employee labor costs, employee travel expenses, other expenses and other outside consultant expense," plus an unspecified amount of interest and fees. (CPUC D.15-03-002, dated 3/12/15, at pp. 9 and 25.) This increased the total MWS ratepayer cost for never-to-be-built Coastal Water Project/Regional Project to at least $30,824,626.[104]

Over 10 years after Cal-Am's abandonment of the Regional Project, its litigation battle with MCWD continues. Cal-Am has not yet made application to the CPUC to recover the more than $1M in litigation costs

[101] See Cal-Am's 11/14/11 Petition for Modification and Clarification of D.10-12-016, p. 1 and its 1/18/12. "Compliance Filing: Mediation Update," p. 1.

[102] See Cal-Am and DRA Joint Motion filed in A.11-06-030 on 6/22/12. This total amount, it should be noted, differs slightly from a figure cited shortly afterward by the CPUC. On 7/12/12, the CPUC issued its Decision 12-07-008 in which it noted that, "[t]hus far, $26,568,651 has been approved for recovery in pre-construction costs related to the Coastal Water Project," which amount did not include the $5,111,492.96 approved by ALJ Minkin a few days earlier." (*Id.*, pp. 1-2, 19-20, 23-24, ¶¶ 6, 8, 9.) It is entirely possible that District staff failed to locate one or more other CPUC rulings granting rate recovery to Cal-Am for the abandoned Coastal Water Project.

[103] In addition, the CPUC authorized Cal-Am to file a future application to recover $532,614.41 in legal costs and accrued interest incurred with respect to the same proceeding. In its 2019 GRC application, Cal-Am reported that its litigation with MWCD concerning the Coastal Water Project/Regional Project fiasco was still pending five years later, that Cal-Am has not yet filed a new application to recover these legal fees, but that it reserved the right to do so. See 7/1/19 Direct Testimony of Stephen (Wes) Owens in A.19-07-004, Line Item #152.

[104] In addition, the CPUC authorized Cal-Am to file another future application to recover $764,557 in additional costs to be paid to MCWRA that the CPUC did not approve at that time.

and fees referred to in CPUC Decisions 14-12-008 or 15-03-002 or what must be by now millions of dollars of additional litigation expenses.[105]

While imposing well over $30 million in surcharges on MWS ratepayers for the abandoned Coastal Water Project/Regional Project, the CPUC did not mention, much less address, its supposed rule that utility shareholders – not ratepayers – must bear the full costs of abandoned projects, and its claim that exceptions to this rule are rare and only applied in extraordinary circumstances. In the end, Cal-Am accomplished nothing, not a drop of additional water was delivered through any of the Coastal Water Project desalination plant proposals, and the losers, once again, were the MWS ratepayers. For its part, Cal-Am was "made whole."

The Sand City Desalination Plant: Cal-Am attempted to saddle its MWS ratepayers with a very costly, extremely risky, and open-ended contract for a small amount of water. The Sand City desalination plant is one other example of Cal-Am's willingness to risk, even betray, MWS ratepayers' interests when those interests collide with Cal-Am's desire to gamble on a large public works project. The project to be addressed is the Sand City Desalination Project. Fortunately, this time the CPUC *did* stick up for the MWS ratepayers and rejected Cal-Am's unfair and risky business proposition.

In November 2007, Cal-Am signed a lease with the City of Sand City to operate a 300 AFY desalination plant then under construction by the City, with limited rights to the water to be produced.[106] As the CPUC later found, the terms of the lease were extremely one-sided in favor of the City and manifestly unreasonable to the MWS ratepayers.[107] Among the lease terms the CPUC found to be unreasonable were the following:

(a) Even assuming Cal-Am's cost projections for operating the plant turned out to be valid (but see below), it would end up paying $850K/year in rent and over $1M per year in rent and O&M costs, and the cost of water produced by the plant would have come to an extremely high $3,510/AF.

(b) Over the 15-year lease term, Cal-Am agreed to pay, in net present value terms, almost 90% of the capital costs of the plant but Cal-Am would not own the plant or have any rights in the plant. The plant was projected, however, to have a useful life of at least 25 years.

(c) Cal-Am further signed a blank check by agreeing to pay the same almost 90% portion of any cost increases incurred by Sand City before the completed plant was turned over to Cal-Am.

(d) Sand City had obtained a State grant for $2.9 million of the capital cost of the plant and additional City costs would have been received in the

[105] See 7/1/19 Direct Testimony of Stephen (Wes) Owens in A.19-07-004, Line Item #s 152 and 153.
[106] CPUC Decision 09-07-021, dated 7/9/09, pp. 63-64.
[107] Id. pp. 58-71.

form of customer hook-up fees, further reducing the City's capital expenditures. Nevertheless, Cal-Am "imprudently agreed" (the CPUC's term) to have its lease costs pegged to the City's gross cost amount, without reduction to account for these "known offsets."

(e) Cal-Am unconditionally agreed to assume the risk of ensuring that the plant was continuously operated to produce potable water and was maintained in "the same condition as delivered," all "in compliance with all governmental and environmental laws and permits 'now existing or . . . hereafter enacted or promulgated, of every government, municipality and of any agency thereof having jurisdiction…'" The CPUC quite properly explained the huge risks Cal-Am was blithely ready to assume as follows:

"If, in year 14 of the 15-year term, compliance with significant new environmental requirements necessitates multi-million dollar plant upgrades, Cal-Am will be obligated to absorb these costs in total and turn over the upgraded plant one year later. Similarly, if sky-rocketing operations and maintenance costs render water produced at this plant uneconomic as compared to other sources then available, Cal-Am will nevertheless remain obligated to continue production for the term of the lease."

(f) Sand City's purpose in building the plant was not to serve Cal-Am's customers but, rather, to serve future industrial and commercial development in the City. Accordingly, "Sand City reserved the unilateral right to allocate up to the entire projected capacity of 300 acre-feet per year to 'new and expanded uses within Sand City,'" which would have left Cal-Am and its ratepayers) with exactly nothing to show for their investment and major assumption of risk.

Despite all of these onerous and negative provisions in the Lease, Cal-Am urged the CPUC to approve it on the basis that it provided "the only new source available to deliver water" to Cal-Am's customers, such that "the costs did not require written justification in [Cal-Am's] rate increase application." Even after being pressed by the DRA, Cal-Am "provided no analytical cost data whatsoever," "no written analysis… such as budget justification documents," "no evidence… of Cal-Am's evaluation or negotiation of the proposed terms of the lease, before entering into the lease," In addition, the CPUC noted that Cal-Am gave no consideration to alternatives, including "reduced water consumption from additional conservation programs or enhanced measures to reduce unaccounted for water."[108] The CPUC could only conclude that "[s]o far as the record reveals and the terms of the agreement bear out, Cal-Am acquiesced in all respects to Sand City's desired terms."

To its credit, in this instance the CPUC prohibited Cal-Am from compromising the interests of its ratepayers: "Specifically, the record

[108] *Id.,* at pp. 65-66 and 61-62.

reveals no negotiation of risk allocation or demonstration of trade-offs among components of the lease agreement. Cal-Am has accepted virtually all the risks of ownership without the long-term benefits, and now seeks to transfer this risk to ratepayers… There may be circumstances that could justify the price and risk allocation terms of this lease and operating agreement. Cal-Am has not, however, presented such circumstances for the record… We, therefore, must conclude that Cal-Am has failed to meet its burden of demonstrating that the terms of the Sand City Desalinization Plant lease are reasonable and prudent."[109]

Notwithstanding the CPUC's clear articulation of its reasons for rejecting the Sand City Lease, seven months later Cal-Am returned to the CPUC asking for approval of an Amended and Restated Lease Agreement which contained most of the same flaws the CPUC had just identified. (CPUC A.10-04-019, filed 4/12/10.)[110] Once again, the CPUC rejected Cal-Am's application, finding it "has failed to meet its burden of proving that terms of the [amended] lease are reasonable and prudent."[111]

Instead of the bad deal Cal-Am negotiated, the CPUC instead authorized Cal-Am to pay Sand City $2,599/AF for the amount of water actually delivered to MWS customers. That way, the CPUC reasoned, Cal-Am's shareholders, not MWS ratepayers, would bear the risk of Cal-Am's "guarantee of production regardless of cost."[112]

The CPUC's concerns with Cal-Am's proposed original Lease and its Amended and Restated Lease were well-founded. Since the Sand City desalination facility became operational in April 2010 it has never produced 300 AFY of water, and in only four years has it produced over 200 AFY. If Cal-Am had guaranteed 300 AFY, as it proposed to do, the cost of water to MWS ratepayers would have been much, much higher.

In summary, under Cal-Am's original Lease proposal for the Sand City desalination plant, its cost of water would have been $4,833 per acre foot for 15 years. After vigorous opposition from the DRA, in the approved Lease, Cal-Am's cost of water was reduced to $2,599/AF. Fortunately, on this occasion the CPUC prevented Cal-Am from selling out the interests of its MWS ratepayers. Unfortunately, this one relatively small ratepayer victory was not to be repeated with the next much, much larger desal plant that was then on the horizon.

<u>MPWSP Desalination Plant vs. Pure Water Monterey Expansion: Cal-Am insists upon saddling MWS ratepayers with several hundred million dollars in additional rate increases in order to pay for an unneeded desalination plant.</u> There is perhaps no better example of Cal-Am's indifference to ratepayer concerns, its profit-motivated bias in favor of overly expensive

[109] *Id.,* pp. 69-71.
[110] See CPUC Decision 13-04-015, dated 4/18/13, pp. 6-9 and 26.
[111] *Id.*, p. 2.
[112] *Id.,* at pp. 29-35.

capital improvement projects, and its failure to properly assess legal and regulatory risks than its decade long quest to build the Monterey Peninsula Water Supply Project ("MPWSP") desalination plant.

Since 2012, Cal-Am has spent a staggering $218 million[113] in pre-development costs on the MPWSP desalination plant. In spite of this massive outlay, the only physical assets that exist are a single test slant well and less than 5 miles of pipe. MPWMD anticipates its final all-in construction cost will be in the range of $400 to $500 million, if the project is ever completed. The MPWSP desalination plant is still mired in controversy and it is becoming increasingly clear that (1) this large desalination project is not needed to satisfy the MWS's reduced need for a supplemental water supply to replace Carmel River water after all, (2) there is a much less expensive (and environmentally superior) alternative to satisfy the Monterey Peninsula's water supply need (the Pure Water Monterey ("PWM") Expansion Project), and (3) the MPWSP desal plant will struggle to satisfy the heavily conditioned Coastal Development Permit issued by the California Coastal Commission.

Cal-Am proposed its MPWSP in April 2012, three months after it notified the CPUC it was abandoning the Regional Project. (See Cal-Am's CPUC Application 12-04-019, filed 4/23/12.) The MPWSP originally consisted of two phases. Phase 1 (the portion of the overall project which is uncompleted and which MPMWD believes is unnecessary and far too costly) consists of (1) a 6.4 MGD desalination plant and appurtenant facilities located on a 46-acre vacant parcel near Charles Benson Road, northwest of Monterey One Water's Regional Wastewater Treatment Plant and the Monterey Regional Environmental Park; (2) a source water intake system consisting of subsurface slant wells and appurtenant facilities placed on a 376-acre coastal property located north of the city of Marina and within the CEMEX retired sand mining area and extending offshore into the Monterey Bay; (3) new pipelines to convey the source water from the slant wells to the MPWSP desalination plant; and (4) pipelines to convey the brine produced during the desalination process to the existing Monterey One Water ocean outfall for discharge to the Monterey Bay. Phase 2 of the project – many parts now completed for several years and which MPMWD has consistently supported – is sometimes referred to as the "CAW-Only Facilities" and consists of approximately 21 miles of water conveyance pipelines and mains (the Transfer Pipeline, the Seaside Pipeline, the Monterey Pipeline, the Aquifer Storage and Recovery Pipeline, the ASR Recirculation and Backflush Pipelines, the ASR Pump Station, and Valley Greens Pump Station. The CPUC approved construction of many of facilities back on 12/2/10 (in D.10-12-016), as part of its consideration of the Coastal Water Project, but when the proposed desalination plant was

[113] See Cal-Am's April 2023 Form 10-Q filed with the SEC, in which Cal-Am states that it has incurred $218 million in aggregate costs as of March 31, 2023 related to the Water Supply Project, which includes $60 million in AFUDC (Allowance for Funds Used During Construction).

relocated/modified as part of Cal-Am's application for the MPWSP the distribution facilities were redesigned and needed to be reauthorized.

he MPWSP took on a second purpose as planning for the PWM Project progressed. The PWM Project (sometimes referred to in the CPUC proceedings as the "Groundwater Replenishment Project") was in its early planning stages at the time Cal-Am submitted its initial MPWSP application to the CPUC in April 2012. PWM was a joint project between Monterey One Water and the MPWMD and consisted of a new advanced water purification facility constructed at MRWPCA/Monterey One Water's Regional Wastewater treatment Plan located two miles north of the City of Marina. The purpose of the initial PWM Project was/is to provide an additional 3,500 AFY of purified recycled water for injection to the Seaside Groundwater Basin and recovery by Cal-Am for delivery to customers.

PWM began product water deliveries to the injection facilities in February 2020 and deliveries to Cal-Am customers continuously since September 2020.

When Cal-Am abandoned the Regional Project in January 2012 and filed its new application with the CPUC for approval of the MPWSP in April of that same year, it justified its abrupt change of course by stating there was an "urgent need to find an alternative water supply" and meet the SWRCB's then applicable 12/31/16 deadline for cutting back its illegal diversions from the Carmel River.[114] At the time, Cal-Am projected the CPUC would be in a position to finally approve the (entire) MPWSP by February 2013 – a mere 10 months later.[115] Cal-Am missed its mark by a country mile. Over the next decade, the already massive projected cost of the desal plant increased significantly, the water supply deficit the desal plant was designed to address shrank significantly, and a feasible and more cost-effective alternative – the PWM Expansion Project – emerged. Nevertheless, Cal-Am fought recommendations that the MPWSP desal plant should be downsized or abandoned or that serious consideration should be given to a different – and less costly – course of action.

Cal-Am initially provided to the CPUC (and other parties to the proceeding) an estimate that the "all-in" construction cost of its proposed 6.4 mgd desalination plant would be $210.6 million and annual operations and maintenance ("O&M") costs would be $9.12 million.[116]

Four years later, in September 2017, Cal-Am's estimated construction cost for the desalination plant had jumped to $279 million—an almost 32.5% increase—and its estimated annual O&M costs had more than doubled to $19,280,000 (albeit in slightly inflated 2017 dollars).[117]

[114] CPUC Application A.12-04-019, at pp. 2, 9.
[115] *Id.,* p. 26.
[116] See 7/31/13 Settling Parties' Motion to Approve Settlement Agreement in CPUC A.12-04-019, at pp. 6-7.
[117] See 9/15/17 Direct Testimony of Christopher Cook, Cal-Am's Central Division Manager of Engineering—Project Delivery, at pp. 3-5, 7-8, and Attachment 1 thereto. The Consumer Price Index increased approximately 7%

In addition, by mid-2017, it was becoming evident that Cal-Am's determination of the need for and sizing of the MPWSP was plagued by a fundamentally false assumption – its overstatement of the amount of the shortfall in the MWS water supply – in particular, the system water demand. Yet, Cal-Am moved forward with poor planning, disregard for the facts, and faulty analysis.

In its 4/23/12 application Cal-Am told the CPUC that the MPWSP had to be sized based on the premise that the existing MWS water usage was 15,250 AFY.[118] This high figure was based on Cal-Am's 2009 EIR for the abandoned Coastal Water Project. (See above.) That EIR – itself 3 years out of date by that point – was itself based on a 2006 study (6 years out of date) which, in turn, was based on average water usage figures in the MWS between 1996-2006 (6-16 years out of date.)[119]

What Cal-Am did *not* tell the CPUC was that MWS water usage had steadily declined since the 1990's—and, in fact, had declined *every single year* between 2007 and 2012, when it filed its MPWSP application--from a high of 14,503 AFY in 2007 to 12,244 AFY in 2011.[120]

Over the next several years, as a result of "significant" conservation measures implemented largely by MPWMD and rapidly escalating Cal-Am water rates, MWS water usage continued to drop steadily – from 12,052 AF in 2012 to 9,599 AF in 2022.[121]

On 8/28/17, based on information provided by multiple parties concerning Cal-Am's overstatement of water demand and rising costs of the MPWSP desal plant, the Administrative Law Judge assigned to Cal-Am's CPUC application issued a "Ruling Setting Issues and Schedule for Further Evidentiary Hearings and Requiring Submission of Supporting Documents," in which he requested additional testimony on whether the PWM Project could be expanded to produce more than 3,500 AFY and, if so, in what amounts and at what cost. This became the triggering event for formulation of the PWM Expansion Project.

Monterey One Water (M1W) responded to the ALJ's request a month later and indicated it had analyzed three potential scenarios for expansion of the PWM Project – including one, "Scenario B," that M1W and MPWMD would later select for more detailed study, CEQA review, and implementation. Scenario B, M1W advised the CPUC, would produce an additional 2,250 AFY of purified recycled water for delivery to the Seaside

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between April 2012 and September 2017.

[118] *Id*, pp. 5-6.

[119] *Id;* 2009 Coastal Water Project Final EIR at pp. 2-5 to 2-10 and Appendix B thereto. The 2009 FEIR can be found online at http://www.landwatch.org/pages/issuesactions/northcounty/CWP-FEIR-2009.pdf.

[120] See 9/28/17 Direct Testimony of MPWMD General Manager David Stoldt submitted in CPUC A.12-04-019, at pp. 10-11.

[121] *Id.*

Basin.[122] Mr. Sciuto, General Manager for M1W, testified that M1W already had secure rights to the source water needed to implement Scenario B, all of the needed Scenario B facilities could be constructed for only $51.6M above the "base" cost of the PWM Project (as compared to Cal-Am's then-estimated $279M construction cost estimate for the MPWSP desal plant, and annual O&M costs for the original PWM Project *and* the PWM Expansion would come to only $6.2M per year (both figures being *far, far less* than the nearly $20M Cal-Am then estimated as the annual O&M costs for the desal plant). The total cost of "Scenario B" water to Cal-Am, M1W projected, would be only $1,858/AF, a mere fraction of the then-estimated cost MWS customers would end up paying for water produced by the MPWSP desal plant.[123]

In its own September 2017 CPUC filing, Cal-Am acknowledged the continuing declines in MWS water usage/demand, but it nevertheless argued that its sizing decision for the proposed desal plant remained appropriate. In doing so, Cal-Am continued to peg its projected MWS water supply needs to outdated water usage figures (averaging in higher water usage data going back as far as 10 years) and flawed methodologies, arguing without foundation that demand would "rebound over time after these new water supplies are available, the drought conditions continue to subside, the moratorium on new service connections is lifted, and strict conservation and water use restrictions are eased." Cal-Am calculated existing MWS demand at 12,350 AFY and total demand (including additional demand based on build-out of undeveloped and under-developed lots of record and tourism "bounce-back") at 14,355 AFY.[124]

MPWMD effectively rebutted Cal-Am's water demand analysis by applying a much more realistic (and lower) MWS water demand estimate of 10,400 AFY (nearly 16% less).[125] MPWMD also rebutted other aspects of Cal-Am's inflated water demand analysis. While MPWMD did not at that time propose that Cal-Am abandon the 6.4 mgd MPWSP desal plant altogether, it did suggest to the CPUC that it issue a conditional Certificate of Public Convenience and Necessity ("CPCN" for *both* the MPWSP and Pure Water Monterey ("PWM") Expansion Projects since, if the MPWSP were delayed, the PWM Expansion Project and other interim solutions would be sufficient to satisfy MWS demands and satisfy the SWRCB's Cease-and-Desist Order for at least 15-20 years.[126]

Several other interested parties provided the CPUC with even lower water demand estimates than MPWMD provided and they argued, based on the significantly smaller water supply deficit, that Cal-Am's proposed desal plant was not needed and it should instead explore other less costly means

[122] Direct Testimony of Paul Sciuto in CPUC Application A.12-04-019, 9/29/17, pp. 3-12.
[123] *Id.*
[124] Direct Testimony of Ian Crooks dated 9/15/17,p. 9; and Errata Version dated 9/27/17, p. 10.
[125] Direct Testimony of District General Manager David Stoldt submitted in CPUC A.12-04-019, 9/28/17, pp. 4-14.
[126] *Id.*, pp. 4-5, 15-20.

of meeting its supply needs. (See, *e.g.*: (1) Prepared Direct Testimony of Dr. Lon House for the City of Marina filed 9/30/17, at p. 14 [total 2021 MWS water demand figure should be 9,300 AF; total water supply deficit only 1,555 AFY; desal plant of any size not cost-effective]; (2) Direct Testimony of MCWD General Manager Keith Van Der Maaten filed 9/30/17 at pp. 3-14 and 17-18 [Cal-Am's "projected system demand volume… is significantly inflated; water conservation measures have permanently reduced system demand and reductions will not be reversed when drought conditions end; MWS actual 2016 water usage of 9,285 AF, rather than Cal-Am's projection of 12,350 AFY, is a far better estimate for planning purposes; reduced demand attributable to MWS usage and other system needs, plus increased water supply available from other sources, including MCWD and potential PWS Expansion, at lesser cost, makes even a downsized MPWSP desal plant unnecessary]; and (3) Direct Testimony of Jonas Minton on behalf of Surfrider Foundation and the Planning and Conservation League filed 9/29/17, at pp. 4-15 [existing MWS customers' water demand is only 9,398 AFY, total water supply deficit is only 654 AFY over the next 15 years; an expanded PWM Project is a more realistic means to address future water supply needs]).[127]

If Cal-Am had truly been interested in solving the MWS water deficit problem in a cost-effective manner in the interest of its ratepayers, one would have expected it to welcome the news about a feasible alternative to its hugely expensive desalination plant. Instead, Cal-Am's reaction to the substantial testimony of lower water demand and the availability of a much more cost-effective alternative to the desal plant (the PWM Expansion) was quick, harsh, and defensive:

> "Cal-Am's Monterey district has been faced with a supply shortage for over two decades. *Every potential solution to the supply shortage has been met with criticism and denigration.* Our duty as a water provider is to provide a safe and reliable water supply and we are committed to doing just that. *Arguing about details of the current and future demand, of which all are estimates only, and price are irrelevant* given the seriousness of the supply shortage and the State Water Resources Control Board ("SWRCB") Cease and Desist Order ("CDO"). In the case of water supply, we must plan for having adequate supplies. Intervener testimony alluded to our short-term demand projections being too high, but *it is impossible to forecast accurately future water use.* We must take a conservative long-term view when planning future supplies."[128]

[127] The differing positions of the parties with respect the water demand and available supply for Cal-Am's MWS as of December 2017-January 2018 were summarized in Appendix B to CPUC D.18-09-017.
[128] Rebuttal Testimony of Ian Crooks dated 10/13/17, p. 3; see also, pp. 5-19; emphasis added.

District staff objected to Cal-Am dismissing questions regarding the need for the MPWSP desal plant as amounting to nothing more than unwarranted "criticism and denigration." District staff also rejects Cal-Am's assertion that the truth about water demand and the price of water are "irrelevant" or "impossible to forecast."

MPWMD – speaking for itself and the many other stakeholders participating in the CPUC's proceedings on the MPWSP, as well as for the ratepayers whose interests Cal-Am often seems to forget – also objects to Cal-Am's characterization of the information brought forward to the CPUC regarding (reduced) water demand and a more cost-effective water supply solution as an effort to "delay any type of project from happening." It is MPWMD and M1W, it should be noted, that have done more than anyone over the past two decades – including Cal-Am – to plan, design, construct, and implement new projects to help close the water supply deficit on the Monterey Peninsula (*i.e.*, the ASR and PWM Projects). MPWMD also rejects the notion that "not wanting to pay higher water bills" is somehow an illegitimate basis for questioning Cal-Am's desire to proceed with its massively expensive desal plant. Cal-Am's hostility to ratepayer interests could not be more clear.

By March 31, 2023, Cal-Am had already sunk *$218 million of pre-development expenses* into its proposed MPWSP desalination plant project. Cal-Am was well aware of the risk that, if it failed to complete the MPWSP, the CPUC could apply its "general rule" for abandoned projects and require Cal-Am's shareholders, not its ratepayers, to pay the pre-development costs incurred on the desal plant.[129] In fact, Cal-Am's most recent Form 10-Q filed with the SEC states: "While Cal Am believes that its expenditures to date have been prudent and necessary to comply with the Orders, as well as relevant final decisions of the CPUC related thereto, Cal Am cannot currently predict its ability to recover all of its costs and expenses associated with the Water Supply Project…"[130]

No doubt it has also crossed Cal-Am's corporate mind that if it ultimately abandons the desal plant or the CPUC were to disapprove it in favor of the PWM Expansion, Cal-Am would earn only a tiny fraction of the profit it stands to make on the desal plant, because the PWM Expansion Project would be constructed, owned, and operated by M1W at a much lesser cost, and Cal-Am's role would be limited to purchasing the treated water produced. On the other hand, if Cal-Am gets to construct a $400 to $500 million desal plant and incur over $30 million per year to operate it, the

[129] The CPUC itself pointedly emphasized this risk when, in the course of ultimately approving the MPWSP (see below), it issued the following warning to Cal-Am:

> "35. If circumstances require the Commission may require California American Water Company to submit a separate application or issue an order instituting an investigation to determine the reasonableness of its expenditures on the Monterey Peninsula Water Supply Project (MPWSP) if the MPWSP is not constructed in a timely manner or fails to operate appropriately." (CPUC D.18-09-017, dated 9/20/18, p. 214.)

[130] April 2023 Form 10-Q filed with the SEC.

CPUC will allow it to jack up MWS water rates and surcharges to recover 100% of the cost, plus a hefty profit (currently 7.26%).

It is this fundamental conflict of interest – shareholder interests vs. ratepayer interests – that explains why for several years Cal-Am belittled and resisted the PWM Expansion Project and downplayed the serious legal, regulatory, environmental, and financial problems with its own MPWSP.

24. FINDING: MWS ratepayers would save hundreds of millions of dollars if the PWM Expansion project is implemented and the MPWSP desal plant is abandoned.

EVIDENCE: No one really knows what the Cal-Am desalination project might cost today because Cal-Am has not updated its estimated capital costs since 2017 (or, at least, it has not released any such updated capital cost estimates publicly). In May 2013, when Cal-Am first released the proposed "design-build agreement" to contractors, Cal-Am said the following: "In the event the Construction Date occurs subsequent to October 1, 2015, due solely to a delay caused by the Owner, the Construction Component Price portion of the Fixed Design-Build Price will be adjusted by multiplying (i) the Construction Component Price, by (ii) the change in the Construction Component Price Escalation Index between October 1, 2015 and the actual Construction Date."[131] The last estimate for the Cal-Am desal project was in September 2017 at $298.2 million,[132] a year before they received permission to build the plant. As can be seen by gas prices or any other measure, a lot has changed. Since 2017, the statewide Construction Cost Index has shown costs are up 40.74% in the past five years.[133] Updating those stale Cal-Am estimates puts them at $426.0 million in today's dollars.

During the past five years, Cal-Am did update its numbers – not for construction cost reasons but, rather, for the Trump tax act, a revised cost of capital, reduced dependence on ratepayer dollars during construction, an anticipated $10 million state desalination grant, and an expectation of a low-interest state drinking water loan of over $200 million. Unfortunately, on October 3, 2022, the State removed Cal-Am from that loan funding list due to a "lack of progress" – stay tuned on the real costs and whether Cal-Am can requalify. As a result of those updates, in September 2019, Cal-Am submitted an "advice letter" to the CPUC which said Cal-Am would need $35.8 million per year from ratepayers for the new desalination plant. When divided by 6,252 acre-feet (AF) delivered, that **equals $5,726 per AF**.[134]

[131] From the Draft Design-Build Agreement included as exhibit to the Request for Proposals (RFP) for desalination plant design-build companies. May 20, 2013. SECTION 5.1.(C)(3).
[132] From the Cal-Am "MPWSP Model -V 2.1 – 6.4 MGD" Project Summary table on the "Assumptions" worksheet page.
[133] Escalation from 2017 in Capital Cost Index- CCI (source: California Department of General Services) and Consumer Price Index -- CPI (source: Federal Reserve).
[134] Cal-Am filed Advice Letter 1220 on 12/31/18 updating costs for reduced Construction Funding Charge collection, a new cost of capital, and the Trump tax act. Cal-Am also filed Advice Letter 1220-A on 9/10/19 updating costs for a Drinking Water State Revolving Fund loan, a $10 million State Department of Water Resources

Even though the public debt is now uncertain since the State removed Cal-Am from the funding list, let's assume they get reinstated for the low-cost debt. The interest rate would be one-half the State's General Obligation borrowing rate, which was 3.983% in November, so that's 1.992% for the loan. Updating the borrowing, the equity, and the O&M for escalation and inflation results in a $49.9 million annual requirement or **$7,981 per AF**, which is considerably more than twice the projected $3,429/AF cost of water to be delivered by the PWM Expansion Project.[135] Moreover, if the desalination plant is not fully utilized because customer demand is less than Cal-Am's projections (which is highly likely to be the case – see above), the cost per AF for the water produced by the MPWSP desalination plant would skyrocket even higher.

25. FINDING: The MPWSP desalination project faces many obstacles to permitting and construction that may take years to resolve. Some may be insurmountable. If, as MPWMD's Supply and Demand forecasts show, the desalination plant is not needed for many years, if ever, continued pursuit of the desalination plant is a gross waste of ratepayer dollars.

EVIDENCE: As of this date, it is not reasonably probable the Monterey Peninsula Water Supply Project (MPWSP) desalination facility will clear all conditions and regulatory issues in order to be constructed and become operational within a reasonable time and become part of the Monterey Water System. This is so for many reasons, including but not limited to the following:

Coastal Commission approval of the MPWSP is not final. A lawsuit (*Marina Coast Water District, et al. v. California Coastal Commission, et al.*, Monterey Superior Court Case No. 22CV004063) has been filed that challenges the issuance of the Consolidated Coastal Development Permit for the Cal-Am's proposed MPWSP desalination facility.

Four plaintiffs, including Marina Coast Water District, City of Marina, Monterey Peninsula Water Management District, and Marina Coast Water District Groundwater Sustainability Agency collectively claim that in approving the Coastal Development Permits (CDPs) for the MPWSP, the Coastal Commission abused its discretion, exceeded its jurisdiction, failed to proceed in the manner required by law and failed to support its findings with substantial evidence in violation of the California Coastal Act ("Coastal Act") (Pub. Resources Code, §§ 30000, et seq.), CEQA, and other applicable laws. Among its many errors, it is alleged that the Coastal Commission:

a. Unilaterally and illegally segmented and phased the Project in violation of determinations of the CPUC and other responsible agencies;

desalination grant, and elimination of the Construction Funding Surcharge.

[135] Direct Testimony of Ian Crooks in CPUC A.21-11-024 Corrected, 12/21/21, p.9, line 22.

b. Abandoned its duty to protect the disadvantaged communities harmed by the Project in direct contravention of the Coastal Commission's Environmental Justice Policy and associated Coastal Act regulations and other statutory requirements;

c. Failed to meet the rigorous "override" standards imposed by the Legislature for approving a project that the Coastal Commission acknowledges violates the Coastal Act and the City's Local Coastal Program ("LCP") (Pub. Resources Code, § 30260);

d. Failed to comply with the Coastal Act's mandate to protect Environmentally Sensitive Habitat Areas ("ESHA"), coastal public access, and vernal pond/wetlands areas, failed to protect the community from coastal hazard dangers, failed to prevent groundwater depletion, and failed to recognize or implement its public trust responsibilities;

e. Failed to adequately address concurrent court and agency proceedings on critical issues (including water supply and demand, alternative water sources, and water rights), all of which directly relate to whether the Project is feasible, or necessary;

f. Failed to comply with its CEQA obligations; and

g. Noticed and conducted its hearing in an unfair manner in violation of due process principles, the Coastal Act, and other applicable standards.

The plaintiffs contend that the decision process and the ensuing Coastal Commission decisions are substantively and procedurally deficient and must be set aside. Further, the plaintiffs contend the Coastal Commission also violated CEQA notice and comment requirements, and thereby undermined the public participation requirements that are the heart of CEQA.

Coastal Commission approval of the MPWSP is heavily conditioned; approval and implementation of the CDP is unlikely. The Final Adopted Findings in the De Novo Appeal Hearing and Consolidated Coastal Development for the MPWSP desalination facility include 20 "Special Conditions", many of which are unlikely to be completed in a timely manner.

For example, Special Condition No. 1 "Other Permits and Approvals" requires both a Monterey One Water (M1W) coastal permit to be issued that approves modifications to the ocean outfall and a NPDES permit to be issued that approves discharge of desalination effluent through the outfall. M1W has indicated that the process needed to achieve governmental approval will entail extensive negotiations leading to a negotiated agreement, with potential delays related to regulatory/permitting processes, entitlements/landowner agreements, and legal challenges to include lawsuits and related appeals. A realistic schedule to complete these

prerequisite requirements is a minimum of six years. The outcome is uncertain.

Condition No.1 also requires completion of the CPUC's pending proceeding (A.21-11-024) addressing water supply and water demand estimates for the MPWSP. This must include a conclusion by the CPUC that future projected demand will require, by or before 2050, additional water supply beyond that which will be provided by the Pure Water Project Expansion (i.e., the project that would increase the capacity of the previously CPUC-approved Pure Water project from 3,500 AFY to 5,750 AFY). Cal-Am will need to show it has authorization from the CPUC to proceed with the Project, in light of the most recent data regarding reduced customer demand in the MWS. The outcome of this proceeding is speculative and cannot now be predicted.

Condition No. 1 also requires local encroachment permits and rights of way (ROW) from Monterey County, Marina, Seaside, Sand City, and the Transportation Agency of Monterey County (TAMC). The Coastal Commission overlooked ROW that is required through the Seaside lands owned by the Presidio of Monterey (U.S. Army). At this time, the status of those permits and ROW remains as uncertain as it was in November of 2020. MPWMD is aware that such permits and ROW have not been issued in Marina, the County, TAMC, nor by the Presidio of Monterey.

Special Condition No. 2 "Project Phasing" may require separate CPUC approval of a 4.8 million gallon per day (MGD) alternative, which the CPUC did not review under CEQA and specifically declined to approve in 2018.

Special Condition No 16 imposes a "Low-income ratepayer relief" element that will require subsequent approval of programs by the CPUC. These proposals are likely to be evaluated in a "Rulemaking" proceeding that can require three years, or more, to complete, and cannot provide a guaranteed outcome.

The foregoing are just a few examples of the conditions imposed on the Coastal Commission approval of the MPWSP that are unlikely to be met in a timely manner.

The Coastal Commission's conditional approval means the California Public Utilities Commission (CPUC) must revisit its 2018 approval of the MPWSP project. This carries no guarantees of success. The Coastal Commission CDP was conditioned on a project sized at 4.8 MGD. The CPUC considered, but explicitly rejected this project size in its 2018 CPUC decision. Any effort to implement this option will require revision of the 2018 CPUC decision to reconcile its approval with the CDP.

The 2018 CPUC decision specifically provided that if a desal project and PWM Expansion were both to be done, Cal-Am would first need to identify

its operational strategy to specify ratepayer v. shareholder impacts under the decision.

The Coastal Commission secured agreement by Cal-Am to implement low-income ratepayer protections from desalination plant costs. Neither Cal-Am nor the Coastal Commission have the authority to implement any such utility rate treatment without CPUC approval. Approval of utility rates fall within the exclusive purview of the CPUC and may be implemented only following public rate-making procedures and a full CPUC hearing. This process may take 3 or more years.

The CPUC directed in 2018 that a "cost cap" be imposed on the project; the cap was expressed in 2017 dollars. It appears that costs have escalated by at least 40% based on the California Construction Cost Index for the interim period. Any effort to modify this cost cap will require a "petition for modification" of the CPUC decision. Such an effort ordinarily would require a process taking 18-30 months. Efforts to fast-track such a modification are likely to be opposed.

Other uncertainties. Monterey County permits for the MPWSP have been challenged and were subsequently vacated by the Monterey County Superior Court and sent back to the County. Additional environmental review required for approval has yet to be completed.

Marina Coast Water District contends Cal-Am lacks any right to export water from the CEMEX site in Marina. Water extractions on that site are limited by an agreement with CEMEX's predecessor Lonestar Cement. The referenced lawsuit is currently pending before the Monterey County Superior Court.

The State Lands Commission has not yet agreed to lease land for the MPWSP project intake wells.

On October 3, 2022 the State Water Resources Control Board removed Cal-Am's MPWSP from the State's Intended Use Plan for state revolving loan funding of $279.2 million due to a "lack of progress."

Cal-Am requires a Water Distribution Permit amendment for its Water Distribution System from the Monterey Peninsula Water Management District to import and wheel water from the MPWSP. Cal-Am has yet to apply for such a permit amendment.

26. FINDING: Cal-Am repeatedly pads its expenses in its CPUC rate proceedings in an effort to secure even higher rates in the MWS and attempts to mislead the CPUC. The CPUC catches many of these improper charges, but given the limitations inherent with the sort of "spot checks" the PAO can practically perform, it is almost certain that some improper expenses slip through. The process also results in additional administrative effort and expense to locate the improper charges, a process for which MWS ratepayers also must pay.

This never-ending battle over Cal-Am's attempt to have MWS ratepayers pay for improper charges would be eliminated if the MWS were owned and operated by a public entity such as MPWMD.

EVIDENCE: Recent CPUC GRC proceedings evidence a pattern whereby Cal-Am attempts to get MWS ratepayers to pay for non-existent, improperly allocated, or improper Cal-Am expenses, which constantly threatens to result in even further increases in Cal-Am's already extremely high rates. The CPUC's Public Advocates Office ("PAO") identifies and causes the CPUC to back-out or reduce many of these improper charges, but given the mass of data Cal-Am submits, the number of service areas in California and around the country that Cal-Am and its parent American Water serve, the thousands of employees and contracts that factor into the gross expense figures and allocations to the individual district/service area, and the limitations inherent with the sort of "spot checks" the PAO can practically perform, one has to wonder what Cal-Am overcharges the PAO *fails* to find. Consider a sample of bill padding the CPUC's staff *did* remark upon in recent years:

Start with the 2/14/20 "Report and Recommendations on Operations and General Expenses, Labor Expenses, Balancing And Memorandum Accounts and Special Requests #2, 3 and 13 submitted by the CPUC's PAO in Cal-Am's 2019 GRC application (Application 19-07-004), at pp. 7-8, which addressed Cal-Am's requested budget for "outside services" in the next 3-year GRC cycle (Years 2021-2023) as part of its G&A (General and Administrative) budget. As the PAO noted, the CPUC had previously authorized Cal-Am to amortize in customer rates the cost of performing a one-time study pertaining to the Los Padres Dam. The budget for that study was placed in customer rates as follows: "$200,000 in 2015; $350,000 in 2016; and $450,000 in 2017. "In the current GRC Application," the PAO noted, "Cal-Am forecasts outside services by escalating recorded expenses, including the cost of performing the one-time study related to the Los Padres Dam. This results in a TY [*i.e.*, Test Year] 2021 expense budget that incorrectly includes the cost of performing another one-time study. Removing the one-time cost of Los Padres Dam from recorded years decreases Cal-Am's TY 2021 forecast by approximately $145,713."

In the same report at pp. 11-13: Cal-Am's lease for its San Diego corporate headquarters expires in 2025. Cal-Am proposes to move its corporate headquarters from San Diego to Sacramento in 2024 and it wants its California ratepayers to pay for the move. Not only that, Cal-Am requested that ratepayers pay $553,600 in Test Year *2021*—three years prior to the move—for "early relocation" of employees, lease expenses in Sacramento, and capital expenditures for tenant improvements. As the PAO quite properly noted in recommending CPUC denial of the request: "If Cal-Am's proposed relocation budget is approved, ratepayers will fund rent for a redundant facility for four years prior to the current lease expiring in 2025. Furthermore, Cal-Am's 'early relocation' offer to employees is too

speculative to receive funding in this GRC cycle because Cal-Am has not yet completed its logistics study to support the requested move."

Also in the same report at p. 33: the PAO identified Cal-Am's double-count $1,080,880 of employee expenses in separate budgets for labor costs and conservation costs; *id.*, pp. 46-48: another instance of double-counting employees; also a request for funding of 10 positions for which no description or justification was provided—total excessive request amounts to over $935K; *id.*, p. 48: overtime expenses sought for employees "who are no longer in the company."

The PAO caught yet another instance of Cal-Am double-counting expenses in different accounts that would have caused double recovery, at pages 71-72 of the same report. As the PAO explained, Cal-Am maintains an Endangered Species Act ("ESA") Memorandum Account to track costs incurred for compliance with ESA requirements. In its then-pending GRC Application, Cal-Am requested recovery of $1,787,899 in this account. However, as the PAO noted after review, this amount includes "duplicate" amounts also being requested by Cal-Am elsewhere, including over $1.1M in costs related to the Los Padres Dam Fish Passage Project and over $1.2M in costs the CPUC had already authorized for recovery in Cal-Am's previous GRC. After the appropriate adjustments were made, the PAO recommended that Cal-Am be required to refund to ratepayers a "sur-credit" balance of $569,960.

In the prior General Rate Case, CPUC found that Cal-Am wrongly submitted projected expenses with higher-than-justified employee expense increases, a higher than justified increase to the number of employees in Cal-Am's Monterey District, higher than justified "incentive compensation" payments that don't benefit ratepayers, higher than justified "severance expense" charges, and excessive projected employee pension costs. Cal-Am also wrongfully attempted to charge ratepayers for Cal-Am's employee stock purchase plan.[136]

In the same GRC, Cal-Am attempted to justify a portion of its requested rate increase based on the assumption it would incur an extraordinary 12% per year increase in labor costs. The CPUC rejected the request, finding that Cal-Am had provided conflicting and inadequate information regarding the number of new positions added, the cost of these positions, and the cost reasonableness of its request.[137]

The CPUC rejected another particularly egregious instance based upon one of the DRA's spot checks of employee time records: "DRA also examined the American Water employee costs included in Cal-Am's tabulation of

[136] See CPUC Decision 18-12-021, 12/20/18, pp. 72-83.
[137] *Id.* at 72-76.

regulatory expenses and determined that five out of eight Cal-Corp employees were billing more than 100% of their time."[138]

One final instance of Cal-Am's improperly stated expenses in the same GRC is found in Decision 18-12-021. Cal-Am requested a huge 49% increase in its General Office overhead allocation in just a 3-year period. As the CPUC pointed out, Cal-Am's customer base had only increased 2% statewide and increased labor and non-labor escalation factors over this same time period had increased only 14.3%, resulting in a "standard" justification for only a 16.3% increase. Cal-Am's request assumed the number of General Office employees per customer would increase by 40%, including a 24% increase in the number of managers and supervisors, and that payroll would jump by 71%.[139]

The DRA battled Cal-Am on virtually a line-by-line basis. The CPUC noted that: "[T]he bulk of Cal-Am's presentation on general office labor costs consists of general task descriptions, without associated cost data, either historical or forecast. Employees added since the last general rate cases are not identified or their positions explained, much less cost justified. Employee count expansions are similarly not identified on a department by department basis, nor are specific new needs identified that might justify the proposed employee count expansion… At no point were proposed expenditures critically evaluated across the companies for necessity and cost justification."[140] Ultimately, the CPUC slashed nearly 60% ($3,220,400) from Cal-Am's increased funding request. (*Id.*, pp. 92, 96.)

Going back further, a sampling from Cal-Am's 2013, 2016, and 2019 General Rate Cases shows Cal-Am making additional unsupported expense claims:

Thus, in CPUC Decision 15-04-008, dated 4/9/15, for the 2013 GRC, the CPUC fined Cal-Am $870,000 for violating Rule 1.1 of the CPUC's Rules of Practice and Procedure for "misleading the Commission or its staff by an artifice or false statement." In that instance, Cal-Am failed to disclose to the CPUC no fewer than 58 capital projects for which the CPUC had granted compensation to Cal-Am in its previous GRC, but which Cal-Am never built. The result of Cal-Am's conduct, of course, was to allow it to overstate its expenses, pocket ratepayer funds, and prevent the CPUC from being able to "verify that Cal-Am is completing its authorized projects to the benefit of ratepayers."[141] This practice continues in the current 2022 GRC.

Three years earlier, in Decision 12-06-016, dated 6/7/12, at pp. 53-55, the CPUC noted that Cal-Am had tried to convince the Commission to approve labor and labor-related expenses of $19,660,781 (statewide) based on budgeted positions with the assumption there would be zero vacancies. The

[138] *Id.*, p. 71.
[139] *Id.*, pp. 92-96.
[140] *Id.*, p. 99.
[141] CPUC Decision 15-04-008, 4/9/15, pp. 10-11.

CPUC properly found this position "extreme," given "there will always be vacancies." The CPUC reduced Cal-Am's request by 22 positions "to account for vacancies."

In the same GRC, Cal-Am attempted to recover $960,000 for billing system modifications it had made in its Monterey County District, notwithstanding that it had entered into a settlement agreement with DRA in the previous GRC covering all administrative and general expenses, including the very same billing system modification costs and its later request to increase the approved costs by $945,720 by Advice Letter had previously been denied. The CPUC rejected Cal-Am's persistent attempt to override its own prior agreement and 2 prior CPUC decisions/actions and denied the request.[142]

In CPUC D.09-07-021, dated 7/9/09, the CPUC rejected Cal-Am's claim that it needed $130K per well to complete the rehabilitation of several water wells in the Monterey Division. As the DRA pointed out, Cal-Am's historical cost for well rehabilitation was in the range of only $34K per well, including mobilization and demobilization. "In rebuttal," the CPUC noted, "Cal-Am stated that it had provided 'substantial documentation for this project and its cost in the direct testimony of John Kilpatrick and in a data response which was attached to the rebuttal testimony. Reviewing the referenced testimony, however, shows only the proposed annual cost of $1,301,000 and a four-year total of $5,204,000, and the attached data response shows no cost data whatsoever." Later in the same decision the CPUC chided Cal-Am for submitting an unjustified and undocumented claim for "tank repainting" costs "Here, the record. . . shows. . . no rationale whatsoever for the proposed 130% increase in this line item."[143]

Yet another example of Cal-Am's attempted over-statement of expenses from CPUC Decision 09-07-021 related to its request for funding of no fewer than 15 new employee positions in the Monterey Division, which would have resulted in a whopping 42% increase in payroll expense for which Cal-Am's MWS customers would have had to pay. The CPUC rejected 12 of the 15 new positions – 4 utility workers, a "valve turner," a backhoe operator, 4 maintenance technicians, a senior operations engineer, and an "engineer in training," all as being insufficiently justified In doing so, the CPUC repeatedly criticized Cal-Am with remarks such as the following: "cursory presentation, without a single numerical quantity, [which is] particularly troublesome because the record hints that such information may be readily available" (at p. 84); supporting information provided by Cal-Am was "internally inconsistent, confusing, and ultimately, unpersuasive" (at p. 85); CPUC "disturbed" by Cal-Am's unilateral reassignment of previously authorized positions to other duties followed by its request for funding to replace the reassigned employees (at pp. 87-88); and "one half a page of testimony with no numerical analysis

[142] *Id.*, at pp. 40-41 and 75. Also see CPUC Decision 09-07-021, dated 7/9/09, at pp. 25-31.
[143] *Id.* at p. 79.

whatsoever" insufficient to show that two new positions "are necessary and will provide value to ratepayers" (at pp. 88-89).

MPWMD has no profit motive, no way to inflate its expenses or hide its income, and no incentive to engage in the sort of practices that Cal-Am has followed year after year. MPWMD staff believes the PAO and CPUC make good faith efforts to identify and correct unwarranted recovery of expenses by Cal-Am when they can, but the only way to ensure MWS ratepayers are not victimized by Cal-Am over-billing is to transfer ownership of the MWS to MPWMD.

27. FINDING: Cal-Am also seeks to push up its billing rates through the use of an excessive and increasing number of surcharges, rather than justifying rate increases through the CPUC's normal general rate case process. Surcharges are not disclosed in advance to ratepayers, so they are left in the dark about how much and how rapidly their cost of water is increasing. Currently, Cal-Am is also trying to increase rates even higher by charging an extraordinarily high rate of interest on many of its surcharge accounts.

EVIDENCE: The CPUC's Public Advocates Office recently addressed the growing problem of Cal-Am's excessive use of surcharges. As the PAO noted, Cal-Am's billings to its customers have 2 components: (1) the "base rates" that are determined by the CPUC in each 3-year GRC cycle (with the proposed percentage increases for each year disclosed in advance to customers); and (2) surcharges that are not reflected in base rates or the disclosures provided to ratepayers, such that "the full impact of surcharges is not known."[144]

In Cal-Am's Monterey District, surcharges are an extraordinarily high percentage of the total bill – thereby making it impossible for ratepayers to understand or calculate how much their bills will be or how rapidly they will increase. Surcharges on the average residential bill in Monterey averaged out to 41% from 2008-2018 and were as much as 53% of the total bill in 2011, 2014, and 2016.[145]

If Cal-Am continues as the Monterey Peninsula water provider, the lack of transparency will only grow worse and customers will continue to suffer from obtuse rates. As the PAO warned:

> "Surcharge accounts were first created to address unforeseen circumstances and, therefore, be temporary in nature. However, surcharges for Cal-Am's average residential customer have been remarkably persistent over the last ten years. More concerning, the forecasting methodologies and Special Requests proposed by Cal-Am in the current general rate case obfuscate the impacts to customer bills by shifting

[144] PAO "Report and Recommendations on Rates and Surcharges" in A.19-07-004, 2/14/20, pp. 1-3 and Attachment 2 thereto.
[145] *Id.*

> an increasing amount of base rates into surcharge accounts and applying a shareholder return to the account balances…
>
> The Commission has explained that the purpose of surcharge accounts is to protect utilities from 'unforeseen expenses, of a substantial nature, beyond the utilities' management or regulatory control.' However, the steady presence of surcharges on Cal-Am's customer bills for at least the past decade suggests something different has occurred. Instead of being temporary, surcharges seem to have become a permanent fixture on Cal-Am's customer bills.
>
> According to its 2019 Annual Report submitted to the CPUC, *Cal-Am was operating a total of 97 separate surcharge accounts at the end of 2018. Since filing its general rate case in July 2019, the Commission has authorized Cal-Am to create an additional five surcharge accounts and has pending requests for five more in separate proceedings.*
>
> *In particular, Cal Am is proposing to raise the recovery cap on its most comprehensive surcharge accounts [the WRAM/MCBA] and to begin applying its authorized rate of return (which currently includes a shareholder return of 9.2%) to the outstanding balance of many of its existing surcharge accounts.*" (Emphasis added; footnotes deleted.)[146]

The PAO went on to describe how surcharges "can mask the overall impact of utilities' proposals in general rate cases," resulting in a situation in which "the full impact of Cal Am's requests on customers' bills is not transparent." Cal-Am's proposals, the PAO noted, "appear deliberately designed to manipulate the [customer] notification process" and give customers the false impression that rate increases are much lower than they actually are. The surcharge process, the PAO also warned, "can diminish a utility's incentive to control or reduce expenses," since it has the near-automatic right to pass the costs through to customers.[147]

In its testimony in the 2019 GRC,[148] MPWMD supported the PAO's position and stated the true impact of rate increases on ratepayers is understated in the GRC process because the utility's requested rate increases only reflect the revenues captured from rates, not surcharges. The District identified at least five new surcharges and modifications (increases) to at least three existing surcharges then being sought by Cal-Am, all of

[146] *Id.,* pp.3, 6-7.
[147] *Id.*, pp. 9-11.
[148] Direct testimony of David J. Stoldt in CPUC A.19-07-004, pp. 5-7.

which would greatly affect the overall costs imposed upon MWS ratepayers.

The five new surcharges included (i) the so-called "Acquisition Rate Base Normalization" charge (Special Request #11)[149], (ii) the "Catastrophic Event Cost Normalization" charge (Special Request #2)[150], (iii) the "Purchased Water Surcharge"[151], (iv) a "High Cost Fund"[5], and (v) the "SDWSRF."[5] The Purchased Water Surcharge and the SDWSRF both appear to be in support of the Monterey Peninsula Water Supply Project, reflecting purchase of water from the Pure Water Monterey (PWM) project and financing of the desalination plant through the Safe Drinking Water State Revolving Fund--both expected (at that time) to come online during the 2021-2023 GRC period. Cal-Am has not adequately disclosed the amounts of these surcharges which MWS customers will be expected to pay.

The CEBA (Comprehensive Expense Balancing Account) surcharge was of particular concern in the 2019 GRC. The CEBA consolidates a wide variety of balancing and memorandum accounts. The CEBA in the MWS is projected to more than double[152] and become almost 10.5% of the base bill for single family ratepayers.

A lack of transparency also exists for surcharges that Cal-Am may request outside the General Rate Case process through the CPUC's informal "advice letter" proceedings. The Commission's standard practice does not require customer notification relating to Cal-Am recovery of any individual surcharge account that is less than 10% of its total gross utility revenue. However, there is no upper limit as to the total number of individual accounts or surcharges that Cal-Am can request between general rate cases.

PAO reported that "…Cal-Am's various proposals and forecasting methodologies in the current GRC are inflating the balance of surcharge accounts while providing the illusion of lower rates. Manipulating surcharge accounts to hide increases in customers' bills for costs, which can be reasonably estimated in the GRC, is contrary to the purpose of surcharge accounts, impacts the transparency of the GRC process, and creates undue burdens to ratepayers. It is unreasonable to burden ratepayers by allowing shareholder returns to accumulate on Cal-Am's surcharge accounts."[153]

Once MPWMD acquires ownership of the MWS, none of these problems – hidden rate increases, expedited processing of rate increases without full public review, incentivizing dodgy mechanisms for increasing customer costs, and capping it all off with a nearly 10% profit – will exist.

[149] Direct testimony of Linam in A.19-07-004, p 83, A112 and Owens p 53, A102.
[150] Linam p 38, A43 and Svindland p 7-8, A10.
[151] Final Application in A.19-07-004, Exhibit A, RO Report, Chapter: 10, "Detailed View of Bill Impacts."
[152] *Id.,* p 1-6.
[153] PAO "Report and Recommendations on Rates and Surcharges [Application 19-07-004], 2/14/20, p. 5.

28. FINDING: Under Cal-Am's ownership of the MWS, a substantial portion of ratepayer funds are exported beyond the Monterey Peninsula, which funds will remain in the local community under MPWMD ownership.

EVIDENCE: Under Cal-Am's ownership, a substantial portion of the rates paid by MWS ratepayers is exported out of the Monterey Peninsula. This income stream is paid to: (1) Cal-Am's owners (through the return on profit); (2) Cal-Am's parent corporation American Water, whose corporate headquarters is in New Jersey; (3) Cal-Am's corporate management, which is based in San Diego and other locales outside Monterey County; (4) the federal and state governments (in the form of income taxes and the approximately 50% portion of "local" property taxes that benefit the State general fund rather than local taxing agencies, based upon the AB 8 system for allocating property taxes to cover K-12 public education costs in California); and (5) Cal-Am employees and contractors who reside far outside Monterey County; and (6) the CPUC, which is based in Sacramento and San Francisco, in the form of various regulatory fees. In the 2024 Test Year alone, according to the filings in Cal-Am's current GRC, Cal-Am is expected to export beyond Monterey County over $38.4 million or 39% of its total revenue requirement.[154]

Under MPWMD's public ownership and local management and operation of the MWS, virtually all of the MWS ratepayer funds that are currently exported outside Monterey County will be eliminated or greatly reduced. This boost to the local income stream will benefit the local community as well through the well proven multiplier effect of macro-economics.

Section 2. The Quality-of-Service Issue: Cal-Am Has Been a Poor Service Provider in Many Respects; MPWMD Can and Will Provide Superior Service to its Customers and the Community.

In the Environmental Impact Report analyzing the District's proposed acquisition of the Cal-Am MWS, the District indicated its goal is to hire the majority of existing Cal-Am employees and operate the water system in a similar fashion for a year before identifying any required change in operations, even though several categories of operational changes can be identified today. There are, however, immediate service quality improvements that can be expected under MPWMD ownership, including improved managerial decision making, better planning, timely project execution, and more responsive local customer service.

29. FINDING: Since its purchase of the MWS in 1966, Cal-Am has repeatedly failed in performing the extremely important task of bringing "on line" sufficient water supplies to meet the demand of customers in the MWS. This failure to perform continues to this day. Within the historically more limited role

[154] Cal-Am 2022 GRC, Results of Operations model, SE Prop Rates ExA CH2 Tbl 2.2, certain categories, plus General Office.

MPWMD has played, MPWMD has a far better and more consistent record of water supply development.

EVIDENCE: There is no more important task for the water retailer on the Monterey Peninsula than to be the chief architect of solutions to the region's water supply deficiency. In over a half century of ownership of the MWS, Cal-Am has failed miserably in this task.

Cal-Am acquired the MWS from California Water and Telephone Company on April 4, 1966. The deficiencies of MWS the water supply system were or should have been immediately apparent. Within seven short years of Cal-Am's acquisition, on April 3, 1973, the CPUC initiated Case No. 9530, an "Order Instituting Investigation of Cal-Am's Monterey District." The first hearings occurred April 24th and 25th of that year. CPUC Order 81443 (May 30, 1973) and Order 84527 (June 10, 1975) were "imposed due to a determination that the normal water supply was insufficient to meet existing demands."[155] In general, the two Orders prohibited Cal-Am from expanding its distribution system, preventing the addition of new connections, and denied interconnection of the Cal-Am system with the Hidden Hills system. Order 84527 determined that there were enough water resources to increase supply, so long as Cal-Am undertook three phases of improvements: (1) near-term development of the Begonia treatment plant and the Canada de la Segunda pipeline, (2) mid-term development of four new Carmel Valley source wells, and (3) long-term development of a large dam solution on the Carmel River.

Cal-Am's water supply problem soon grew even worse. Between 1987 and 1991, four complaints were filed with the California State Water Resources Control Board (SWRCB) alleging that Cal-Am was illegally diverting an excessive amount of water from the Carmel River and thereby destroying public trust resources, including steelhead trout.[156]

On July 6, 1995 the SWRCB finalized its order on these four complaints (Order No. 95-10). In Order No. 95-10, the SWRCB concluded that Cal-Am lacked legal rights to about 10,730 acre-feet (AF) annually that Cal-Am was then diverting from the Carmel River, that these diversions were having an adverse effect on the public trust resources of the river, and that Cal-Am in fact had the legal right to divert only 3,376 AFY from the river.[157]

As summarized in the evidence under Findings 23-25, *supra*, since it acquired the MWS in 1966 and, more recently, in the nearly 30 years since SWRCB Order No. 95-10 was issued, Cal-Am has struggled and failed in its efforts to identify and implement a solution to the water supply deficiency on the Monterey Peninsula. During this period of time, Cal-Am

[155] Report of Staff Investigation, Case No. 9530, California-American Water Company, Monterey District, "Modification of the Existing Order Limiting Water Service", testimony of Eugene M. Lill, May 1, 1978, p.1.
[156] See SWRCB Order 95-10, referred to below, at pp. 7-8.
[157] *Id.* at pp. 39-45. At the time, Cal-Am's extractions from the Carmel River during non-drought years averaged approximately 14,106 AFY. See MPWSP EIR/EIS, pp. 2-7 to 2-10.

has spent massive sums of money – most of which it has already gotten the CPUC to require the ever more heavily burdened MWS ratepayers to pay or reimburse – lurching from one ill-conceived or wrongheaded and expensive capital improvement project to another. The ratepayers, not shareholders, have borne the brunt of such Stranded Costs.

Cal-Am failed to meet the schedule specified in SWRCB Order 95-10 for reducing its excess diversions from the Carmel River. As a result, in 2009, the SWRCB issued a Cease-and-Desist Order (WR 2009-060) against Cal-Am requiring Cal-Am to reduce its Carmel River diversions from 11,285 AFY to 10,429 AFY until 2017, setting 3,376 AF annually as the Carmel River diversion limit beginning in 2017, and requiring Cal-Am to impose a moratorium on new connections.

Cal-Am was also unable to meet the revised schedule specified in the SWRCB's 2009 Cease-and-Desist Order. Through proactive negotiation by MPWMD, local mayors, and Cal-Am in 2016 the SWRCB issued its Order WR 2016-0016 superseding the requirements of Orders WR 95-10, WR 2009-0060, and other SWRCB orders, and extended until December 31, 2021, the date by which Cal-Am must terminate unlawful diversions from the Carmel River. Order WR 2016-0016 also set an Effective Diversion Limit from the Carmel River of 8,310 AF annually starting in Water Year 2015-2016.

The CPUC decision authorizing Cal-Am to construct and operate the MPWSP was issued on September 13, 2018. A finding central to approval of the MPWSP (over other alternatives) was that Cal-Am's water supply portfolio would not provide sufficient water to its customers after December 31, 2021, absent a new source of supply and that the MPWSP was the most reasonable solution to provide that supply.

However, the MPWSP desalination facility has not been constructed. On April 27, 2021, MPWMD filed a formal Complaint with the CPUC over Cal-Am's failure to do so. The Complaint alleged[158], among other things, the MPWSP desalination facility cannot be constructed until or unless the Coastal Commission ("CCC") issues a Coastal Development Permit ("CDP") permitting Cal-Am to do so. After Cal-Am's initial attempts to secure a CDP were delayed, Cal-Am submitted a revised application to the CCC on November 5, 2020. On December 3, 2020, the CCC sent Cal-Am a "Notice of Incomplete Coastal Development Permit Application" and requested further information to complete the application. Cal-Am filed a partial response to the Notice of Incomplete Coastal Development Permit Application on March 5, 2021, and indicated that it would file a complete response "sometime in the near future…"

The CCC held a hearing on Cal-Am's revised submittal seeking authority to construct the project. CCC conditionally approved a CDP for the project

[158] Complaint, MPWMD v. Cal-Am, Complaint 21-05-005 filed with the CPUC April 27, 2021, pp.4-5.

in November 2022. However, as discussed earlier in Finding 25, Cal-Am has not satisfied the conditions and is not expected to do so for several years, if ever.

As to Cal-Am's use of groundwater, its track record is equally hapless. Prior to the mid-1990's, Cal-Am's pumping from the Seaside Groundwater Basin provided it with approximately 4,000+/- AF annually.[159] The Seaside Groundwater Basin was in a condition of severe overdraft, however. In the ten years prior to the 2006 groundwater adjudication, water levels in the Santa Margarita aquifer had declined 20 feet from approximately 5 feet above sea level to 15 feet below sea level. During the 42-year period December 1960 through December 2002, water levels dropped from approximately 50 feet above sea level to 10 feet below sea level. Similarly, groundwater levels in the eastern end of the Laguna Seca Subarea for a 13-year period from 1989 through 2001 in the Santa Margarita (SM) aquifer declined about 25 feet from 230 feet above sea level to 205 feet above sea level, with seasonal fluctuations throughout the period of analysis.

Given the extreme overdrafting that was occurring in the Seaside Groundwater Basin and the water rights claims made by multiple users that far exceeded the basin's "natural safe yield," on August 14, 2003, Cal-Am filed a lawsuit in Monterey County Superior Court to adjudicate the various interested parties' water rights in the basin, including its own. (Case No. M66343.)

Three years later, in March 2006, the Court rendered its decision. First, the Court established the maximum "natural safe yield" for all users that would protect the basin from long-term damage associated with potential seawater intrusion, subsidence, and other adverse effects that commonly result from over-pumping. Next, the Court allocated that safe yield among the various claimants. The Court substantially reduced the amount of groundwater available to Cal-Am over time – from approximately 4,000 AF annually to 1,474 AF annually today.

Cal-Am itself once "characterize[d] the SWRCB in Order WR 95-10 as having, in essence, directed it to solve the water supply problem."[160] Twenty-eight years later it is unassailable that Cal-Am has failed.

30. FINDING: MPWMD has developed new water supplies and is the most likely entity to solve the long-term Monterey Peninsula water supply problem at the lowest cost to ratepayers.

EVIDENCE: From development of the Paralta Well and creation of the Pebble Beach Reclamation Project to the establishment of the Aquifer Storage and Recovery and Pure Water Monterey Projects, MPWMD is responsible for developing approximately 7,000 AF of new water supply for the Monterey

[159] MPWSP EIR/EIS, pp. 2-8 to 2-10.
[160] CPUC Decision 03-02-030, 2/13/03, p. 4.

Peninsula.[161] Completion of the Pure Water Monterey Expansion will add another 2,250 AF to the total.

31. FINDING: Cal-Am has failed to timely develop redundant water production capacity, resulting in difficulty producing Pure Water Monterey ("PWM") water, harming the Aquifer Storage and Recovery ("ASR") project performance, undermining the PWM Emergency Response Plan, and potentially violating the requirements of CCR Title 22 section 64554 (meeting Maximum Day Demand (MDD) and Peak Hourly Demand (PHD).

EVIDENCE: As early as December 2017, M1W and its consultants began to collaborate with Cal-Am and MPWMD regarding PWM Expansion, including "extraction capabilities." This included the Technical Memorandum "Pure Water Monterey Expansion: CalAm Extraction Wells Feasibility" shared and commented upon by Cal-Am, M1W, MPWMD, and Todd Groundwater and submitted to the CPUC in May 2018. Cal-Am at that time recognized the need for additional redundant extraction capacity in the Seaside Basin for the Pure Water Monterey base project, *not just for the PWM Expansion*. This was reiterated during a September 2018 "PWM ASR Extraction Coordination Meeting" held between Cal-Am, M1W, and MPWMD, and the May 2, 2019: "PWM Backup Expansion Workshop: Cal-Am Water Supply Extraction Facilities" meeting held at M1W's offices. Cal-Am failed to act on the need by including additional extraction well capacity in a GRC or separate CPUC application until the November 2021 Application to the CPUC for the PWM Expansion project, which was not finally decided until early 2023 and will not be built for at least another year – a loss of 6 or more years from the realization of the need.

Since approximately 2016, water quality conditions at ASR-4 and potential remedies were discussed with Cal-Am, in order to make it available for production of water. No activity was undertaken by Cal-Am to permit the ASR-4 well with DDW as an extraction well until recently.

The draft SEIR for PWM Expansion dated 11/7/2019 indicated that with the PWM Expansion project the ASR-1 well would no longer be available for production. Cal-Am did not express any concerns in its 1/30/20 comments on the draft SEIR. In May 2021 Cal-Am finally signaled it would like to move forward with the PWM Expansion and negotiate an amended Water Purchase Agreement. However, Cal-Am failed to take prompt action to evaluate and advance alternatives to the ASR-1 well. Then on June 30, 2021, M1W, MPWMD, and representatives from Todd Groundwater and Trussel Tech met with Cal-Am for discussions focused on the impact on ASR-1 of PWM water travel times and the likely need to prohibit use of ASR-1 as a production well during operations of the PWM base project. Unfortunately, this had the effect of accelerating the non-use of ASR-1. Cal-Am signaled that it was caught unaware and the loss of the ASR-1 well

[161] Pure Water Monterey (3,500 AF), ASR (1,300 AF), Reclamation Project (1,000 AF), Paralta Well (980 AF); Total = 6,780 AF.

would be debilitating, despite having been made aware of the need for redundancy over three years earlier.

The failure of Cal-Am to act in a timely manner to build redundant production capacity made the wells ASR-3 and ASR-4 unavailable for injection during the rainy winter of 2022-23. That reduced the injection capacity of ASR from 18 AF per day to 13 AF per day if there were no constraints in the Carmel Valley, or a possible additional 760 AF for the 152 operational days, or 345 AF for the 69 operational days that were not constrained by problems in the Carmel Valley.

Further, in April/May 2023 M1W made several proposals to the State Division of Drinking Water as part of the Pure Water Monterey "Emergency Response Plan." In all cases, Cal-Am disagreed with the proposals, saying that the company lacked sufficient redundant production well capacity in the Seaside area. To date, M1W has not been able to get an approved Emergency Response Plan, due to Cal-Am's failure to develop additional well capacity.

Further, California Code of Regulations (CCR) section 64554 requires a water system to meet the Maximum Day Demand (MDD) and Peak Hourly Demand. MPWMD estimates that the Cal-Am system must legally meet a Maximum Daily Demand of just over 16 million gallons per day (MGD). It is not clear that Cal-Am's summer production well capacity can presently meet the MDD. Certainly, Cal-Am's recent statements about zero redundancy show how fragile its system is. The system is even more precarious in that if a single large capacity production well were to go off-line, it appears that remaining firm capacity would be insufficient to meet MDD.

32. FINDING: Cal-Am has a longstanding and chronic disregard for accuracy in reporting to regulators and compliance with regulatory requirements. MPWMD has demonstrated greater attention to detail and will be a better steward of regulatory reporting.

EVIDENCE: Five examples of Cal-Am's behavior are presented below.

Cal-Am unlawfully ignored the Monterey County "Agency Act." Chapter 52 of the Monterey County Water Resources Agency Act (the "Agency Act") states under Section 9(u) that it will "prevent the export of groundwater from the Salinas River Groundwater Basin." However, from 2015 to 2022 Cal-Am transferred 5,309,000 gallons (16.3 acre-feet) of potable water supply from its Toro system in the Salinas River Groundwater Basin into its Hidden Hills system in the MWS, outside of the Salinas River Groundwater Basin. Cal-Am has made no notable attempt to repay the Salinas Basin its water. This omission is a clear violation of the Agency Act.[162]

[162] Cal-Am Annual Report filings to the CPUC, 2016-2023.

Cal-Am persistently misrepresents the cost of water from its proposed desalination plant in regulatory filings. Cal-Am developed a complex model to demonstrate expected operations of its proposed desalination plant in the Monterey Peninsula Water Supply Project ("MPWSP"). In the model, there has been an output page that Cal-Am has repeatedly filed with the CPUC. It contains an error in the cost per acre-foot of desalinated water. It has been cited as an exhibit in the Cal-Am Rebuttal Testimony of Jeff Linam in CPUC A.12-04-019 (Attachment 1, p. 3), Cal-Am Advice Letter AL-1220 dated 12/31/18, p. 47, and Cal-Am Advice Letter 120-A 9/10/19, p. 51 (Attachment C-3). The error overstates the denominator of the cost per acre-foot calculation, thereby providing an erroneous appearance of reduced costs for desalinated water. In its 2019 filing, Cal-Am left out the entire cost of debt because it would not begin until the second year. Such reporting misleads regulators, sends inaccurate messages to the public about the cost of water, and confuses perceptions and analysis of water supply alternatives.

MPWMD pointed out this mistake in the model output in an email to Cal-Am's President Richard Svindland February 1, 2019, and this error was acknowledged by Cal-Am on February 14, 2019. However, the error was never corrected and persists as a continual understatement of the cost of MPWSP desalinated water in public documents filed by Cal-Am with their regulators.

Cal-Am has made multiple mistakes in compliance reports it has submitted to the State Water Resources Control Board. Cal-Am has been under State Water Resources Control Board ("SWRCB") orders since 1995 and 2009, respectively, for which each have required quarterly and then annual reporting of data as to Cal-Am's production of water from the Carmel River. In 2018, MPWMD identified discrepancies in the Cal-Am compliance filings, which Cal-Am subsequently acknowledged and amended. In 2019, MPWMD again found errors in the Cal-Am filing and informed Cal-Am on May 6, 2019.

Cal-Am acknowledged errors in its reporting for the previous three years. As a result of MPWMD intervention 16 quarterly reports filed by Cal-Am to the SWRCB have been amended.

Cal-Am failed to fulfill requirements of the 2009 SWRCB Cease-and-Desist Order ("CDO"). SWRCB Order WR 2009-0060 included a specific requirement (Condition 5) that required Cal-Am to implement one or more small projects that, when taken together, will produce total not less than 500 AF annually to reduce unlawful diversions from the Carmel River. Within 90 days of entry of the order, Cal-Am was required to identify to the Deputy Director for Water Rights projects that it would implement within 24 months of entry of the order.

To satisfy Condition 5, Cal-Am asked MPWMD to transfer ownership of proposed aquifer storage and recovery ("ASR") Well No. 3 to Cal-Am, which MPWMD did, including ASR Well No. 4, as well. Cal-Am

proceeded to develop ASR Wells 3 & 4, but it has not, to date, created an average of 500 acre-feet per year from the project consistent with the Order. Instead, since 2012 for ASR Well No.3 and since 2015 for ASR Well No. 4, Cal-Am has only injected 1,456 acre-feet for its "small project," and has recovered even less water. Cal-Am is significantly out of compliance with its small project obligations as required by the CDO.

Cal-Am has wildly over-reported forecasted water demand for fire flows, but never corrected use of the data after learning of the error. In its 2020 Urban Water Management Plan filed with the State of California in June 2021, Cal-Am made the following statement: "Additionally, water use for fire service increased in 2019 and 2020 to an average of 400 AFY, when prior to 2019 the average fire demand was only 3 AFY. The increase is attributed to both better metering of fire services in 2019 and 2020, when some demand may have been tracked as water loss previously, as well as a warmer and drier climate increasing fire potential and lengthening the fire season, resulting in more fire flow use. Water use for fire service is projected to remain at about 400 AFY in the future."[163]

However, responding to a 2022 inquiry, Cal-Am stated: "Due to the appearance of high water use for metered fire service connections in 2019 and 2020, an internal data review was conducted, and it was concluded that some of the metered fire service use was not calculated correctly by the billing system due to reverse water flow through customer backflow devices. This reverse flow caused the meter dial to turn back approximately one numerical unit, which the billing system interpreted as the meter turning over and thus reported a high usage, in other words, resulted in 'phantom usage.'"[164] In the response, Cal-Am affirmed the actual usage for fire flows was only 2.39 to 2.63 acre-feet per year. The company overstated the demand forecast in the early years of the UWMP by 4% and allowed that misstatement to be utilized in presentations made to the CPUC, the Coastal Commission, and modeling exercises for the Seaside Watermaster. This egregious overstatement of water demand due to "phantom usage" exaggerates the projected need for new supplies; which quantities of water are not, in fact, required.

33. FINDING: Cal-Am has a history of neglect with respect to its operations, to the detriment of service quality and the environment. The State legislation creating MPWMD found the Monterey Peninsula area to be a region of prime scenic cultural, and recreational resources, which are particularly sensitive to the threat of environmental degradation. MPWMD will demonstrate a greater attention to such events because environmental stewardship has been a core mission of MPWMD for over 40 years

EVIDENCE: Two examples of Cal-Am behavior are presented below.

[163] Cal-Am's 2020 Urban Water Management Plan, June 2021, pages 4-7 & 4-8.
[164] Cal-Am response to Data Request "MPWMD DS 01 Q001 - Fire Service Water Use" in CPUC A.21-11-024, 8/12/22.

Cal-Am Los Padres Dam Siphon Issue, September 2021. In 2021, the Cal-Am siphon at Los Padres Dam started to fail and caused the death of threatened steelhead. The May 1, 2019, landslide affecting the amount of flow going out of the 980-foot outlet had been known for quite some time and should have been addressed on an emergency or fast-track basis, but Cal-Am failed to cure or address the problem until 2021. A permanent repair still has not occurred as of the date of this writing. Cal-Am failed, during that interim, (a) to meet the SWRCB requirement to release 5 cubic feet per second ("cfs") to maintain the fishery in good condition downstream; (b) adhere to State Fish and Game Code Section 5937 concerning releasing enough flow to maintain fish and aquatic life in a good condition below a dam; and (c) likely violated the Endangered Species Act, in that it is doubtful that Cal-Am's current Settlement Agreement with NMFS has a "take" statement that allows harm from what appears to be a preventable occurrence of a take of endangered Steelhead at the base of Los Padres Dam.

The siphon started to fail at 7 am on September 20, 2021. By 10 am the flow was down to 0.31 cfs. Cal-Am did provide a reservoir elevation for that day of 1018.89', which means they were up at the reservoir at some point. Cal-Am is supposed to check the water surface elevation at the gage pool and reservoir elevation every day during the week. Cal-Am shares this information with MPWMD almost daily. Cal-Am doesn't check it on the weekend.

A MPWMD employee saw an email early on 9/21/21 from a property owner downstream in Syndicate Camp who said the river looked low. He checked the system and at 6:49 am informed his supervisor there was a problem with Cal-Am's release.

The MPWMD employee observed no flow coming out of the siphon and a fish kill (approximately 240 steelhead multiple life stages) in the space between the plunge pool and MPWMD's stream gage (approximately 150' cascade riffle)

MPWMD decided it would be best to have a conference call with Cal-Am, NOAA, and CDFW. All parties agreed the best way to release water was from the 980' outlet and that it also would be necessary to check turbidity and dissolved oxygen because Cal-Am currently did not have a pump at the site to draw water out of Los Padres Reservoir.

Rather than reduce pumping and address the environmental resources of the Carmel River with new water supply after Order 95-10, Cal-Am moved slowly, caused injury, and negotiated a payment scheme with the federal government to pay for its slow pace of action. On or about August 29, 1997 Cal-Am turned on the Scarlett Well, the largest in the upper Carmel Valley at the time, dewatering what was reported as more than a mile of the river "killing or stranding" threatened steelhead or red-legged frogs, "not the first time an upstream well has been activated without adequate notice resulting

in extensive habitat destruction and loss of all aquatic life forms."[165] Cal-Am has never submitted an application to the National Marine Fisheries Service ("NMFS") for an incidental take permit or habitat conservation plan regarding the effects of its diversion and dam operations on the steelhead species. Rather, Cal-Am has attempted to work informally with NMFS, CDFW, and other agencies to develop annual operating plans with the objective of providing more water in the Carmel River by pumping water as far down-stream as possible.

On September 18, 2001, NOAA and Cal-Am entered into a Conservation Agreement ("Conservation Agreement"), which required Cal-Am to implement certain measures to reduce the impact of its operations in the Carmel River on steelhead and their habitat. Since September 2001, Cal-Am has implemented the measures set forth in Phase l of Tier I of the Conservation Agreement. These measures include ceasing surface water diversions at San Clemente Dam during low flow periods, ceasing diversions from the Upper Carmel Valley Wells during low flow periods, and installing a booster station to move water from the lower Carmel Valley to the Upper Carmel Valley.

Phase II of Tier I of the Conservation Agreement required Cal-Am to maintain a continuous surface flow in the Carmel River as far downstream as possible in AQ3 (a defined area of the Carmel Valley Aquifer) by offsetting its water diversions in upstream sections of AQ3 with expanded diversion capability in AQ4, in the lowermost reaches of AQ3, and the Seaside aquifer storage and recovery ("ASR") expansion. Phase II required Cal-Am to increase well capacity downstream. Cal-Am retrofitted the Rancho Canada Well and increased its capacity initially by 140%. The reconditioned well was put into service on March 31, 2003. At about the same time, the California Department of Health Services determined that extractions from the nearby San Carlos Well constituted groundwater under the influence of surface water. The San Carlos well was therefore taken out of service, as there is no means of providing surface water treatment at that location. This resulted in no net gain in pumping capacity in the lower aquifer.

These measures did not, however, result in sufficient improvement to steelhead mortality caused by Cal-Am's diversions. In a Supplemental Agreement signed June 29, 2006, Cal-Am and NOAA agreed that in light of Cal-Am's need to focus its financial and personnel resources on a long-term water supply project, rather than those interim measures in the Carmel River, Cal-Am would not be obligated to proceed with the additional measures set forth in the 2001 Conservation Agreement. Under the supplemental Agreement with NMFS, Cal-Am agreed to continue to implement all of the measures described in Phase I of Tier I of the Conservation Agreement and to provide funding for projects of $3.5 million the first year and $1.1 million the second "to improve habitat conditions for,

[165] Correspondence from Carmel River Steelhead Association to MPWMD, September 12, 1997.

and production of, SCCC steelhead and/or otherwise aid in the recovery of SCCC steelhead in the Carmel River watershed."

In the Supplemental Agreement Cal-Am obligated itself to pursue a long-term water supply for the Monterey and in return for Cal-Am's agreement to the terms and conditions of the June 29, 2006 Agreement, NOAA agreed that "In light of the substantial amounts of time and money that have been, and will continue to be, expended by CAW on steelhead conservation measures, NOAA agrees that prosecution of CAW for ESA violations relating to its pumping operations and water withdrawals from the Carmel River is not the preferred course of action." and to "exercise enforcement discretion relative to any potential violation of the ESA committed by CAW involving its pumping operations or water withdrawal from the Carmel River."[166]

In recognition of the likelihood of on-going take of steelhead, NOAA and Cal-Am entered into two additional supplemental agreements in 2009 and 2017 all with recurring financial requirements of $1.1 million per year from 2009 through 2021 that Cal-Am was to collect from ratepayers to offset the costs of environmental remediation to reduce the risk of take. In total, Cal-Am obligated its ratepayers to $16.7 million in Settlement Agreement payments.

34. FINDING: For many years, Cal-Am has wasted an excessive amount of its limited water supply by failing to properly maintain, repair, and replace its pipelines, meters, and valves, resulting in excessive pipeline blow-outs, leaks, and water loss. These failures are appreciably greater in Cal-Am's Monterey system than elsewhere in its statewide holdings and represents a unique disregard by Cal-Am of the MWS. Under public ownership, MPWMD expects to reduce leaks and repairs to a level more consistent with other systems.

EVIDENCE: According to the CPUC, the most cost-effective way to make limited water supplies go further is to reduce water waste: "The water supply situation in [Cal-Am's Monterey] district is desperate and requires continuous reductions in water waste on both the company and customer sides of the meter."[167]

Nevertheless, Cal-Am historically has a poor record of minimizing water wastage caused by leaks and breaks in the system. CPUC records reveal the following in this regard:

From 2014 to 2021, the Monterey Division had more leaks in its mains and service lines than any other Cal-Am service area (Los Angeles, Sacramento, San Diego, and Ventura) and in fact had 61% of all leaks combined in the Cal-Am system statewide during that time frame. Its total leaks per

[166] June 29, 2006 Settlement Agreement between Cal-Am and NOAA, Section V, p.5.
[167] CPUC Decision 12-06-016, dated 6/7/12, p. 72.

customer were over twice (208%) of the average leak rate per customer of the remaining four service areas (see Exhibit F.)

In the same time period, the Monterey Division had significantly more costs spent on leaks in its mains and service lines than any other Cal-Am service area (Los Angeles, Sacramento, San Diego, and Ventura), by a mile. Clearly the MWS is a very leaky and needy system that Cal-Am has neglected since 1966 and the costs have come home to roost. In fact, in the eight year period analyzed through 2021, $28.5 million was spent in the Monterey Division to repair leaks, 55% of all costs to fix such leaks in the Cal-Am system statewide during that time frame. Its total cost to fix leaks per customer in Monterey was over four times (420%) of the average cost per customer in Cal-Am's remaining four service areas. (see Exhibit G.)

On the basis of hourly time invested to fix leaks in the same time period, the Monterey Division had significantly more hours spent on leak repairs in its mains and service lines than any other Cal-Am service area (Los Angeles, Sacramento, San Diego, and Ventura), also by a mile. The 327,428 hours over eight years in the Monterey Division to repair leaks was 46% of total time to fix such leaks in the Cal-Am system statewide during the same time frame. Its total time to fix leaks per customer in Monterey was three times the average time per customer in Cal-Am's four other service areas for leak repair. (see also Exhibit G.)

The recent pattern is not new. Cal-Am has a history of neglect of its MWS over the years. From 2003-2007, roughly a decade after the SWRCB had slashed Cal-Am's legal right to extract water from the Carmel River and continuing after the Monterey County Superior Court further reduced Cal-Am's right to pump water from the Seaside Groundwater Basin, Cal-Am's average amount of "unaccounted-for water"[168] was an abysmal 11.59% which compares extremely unfavorably both to the nationwide industry standard of 10% (a standard, it must be emphasized, applicable to water systems that do not suffer from extreme supply deficits) and MPWMD's own much lower target standard of 7%.[169] Indeed, over that same time period Cal-Am's percentage and volume of unaccounted-for water actually increased.

Rather than attempting to bring its water wastage under control, however, Cal-Am adopted a passive/defensive position. In its 2009 GRC Decision, the CPUC rebuked Cal-Am as follows:

> "Cal-Am is facing dramatic supply limitations which urgently require continuous reductions in water waste on both the utility and customer sides of the meter… Cal-Am's

[168] Unaccounted-for water, sometimes referred to as "non-revenue water," reflects the difference between water produced by a utility and water billed to customers. (See CPUC D.09-07-021, dated 7/9/09, at p. 49.) The primary component of unaccounted-for or non-revenue water is water wastage from broken and leaking pipelines, valves, and meters.

[169] CPUC Decision 09-07-021, dated 7/9/09, at p. 140.

> approach to reducing unaccounted-for water does not reflect the necessary level of urgency. For example, because it had failed to meet the Monterey Peninsula Water Management District's 7% standard, Cal-Am was required to engage an outside firm to perform a review of unaccounted-for water in the Monterey system. The August 2007 Report calculated apparent losses due to customer meter error as 659 acre-foot/year, and real losses at 1,024 acre-foot/year. This review, however, was based only on water audit software developed by the American Waterworks Association, and did not include any field inspections, although a limited number of small and large meters were tested. The preliminary report included 10 specific immediate recommendations and proposed a Phase II, with 18 points for further work. Following up the August preliminary report, the firm wrote to Cal-Am on September 28, 2007, proposing to begin immediately on Phase II. The letter targeted leakage reduction through pressure management, with an estimated saving of 150 to 350 acre-foot/year, and 'proactively and diligently reducing apparent losses from customer meter error' providing 100 to 300 acre-foot/year in reductions to unaccounted-for water... The record shows no further action on Cal-Am's part to proceed with Phase II, and Cal-Am derided the Phase I work as a 'largely academic exercise.' The record does not reflect an alternative, urgent program by Cal-Am to reduce unaccounted-for water, and its proposal for the rate period is a 'business as usual' historical average..."[170]

It was not until 2009, *43 years* after it took over ownership and operation of the MWS, that Cal-Am for the first time performed a comprehensive assessment of the physical condition of its buried infrastructure in its Monterey District, a report entitled "2009 Conditions Based Assessment of Buried Infrastructure," (the "2009 Conditions Based Assessment"). The study showed the extent to which Cal-Am had ignored maintenance and repair and allowed its distribution system to deteriorate. For one thing, the 2009 Conditions Based Assessment revealed that, notwithstanding a national average of pipeline main breaks of 0.25 breaks/mile/year, Cal-Am's Seaside North and South areas were experiencing main break rates of 3.5 breaks/mile/year, *14 times the national average*.[171] As the CPUC noted, "Cal-Am has experienced nearly 500 leaks per year" in its Monterey water system. The hearing testimony of that year's GRC provided a vivid description of the system failures: "When the Seaside wells are turned on, the resulting change in the Seaside system causes so many pipeline breaks

[170] *Id.,* pp. 49-52.
[171] *Id.,* at pp. 37, 83, 138.

that well operators first contact the distribution repair crews, who deploy in advance to Seaside to see 'who can find the breaks first.'"[172]

In addition to water main breaks and leaks, the 2009 Conditions Based Assessment also disclosed that, for many years, Cal-Am had tolerated an excessive number of service connection leaks/failures. As of 2009, approximately 8% of the water service connections in Cal-Am's Monterey District (approximately 3,500 total) were made of polybutylene, a material that was used between 1978-1987 and then abandoned due to poor performance and frequent breaks. The break rate was over *10 times* that for other materials and was resulting in an estimated loss of 1.8 million gallons of water per year.[173] Cal-Am, however, had not even installed devices on the water meters in its Monterey District to enable it to detect the extensive leaks that were occurring.[174]

Cal-Am also "fell behind" in inspecting and replacing old and deteriorating water meters, which led to an unknown increase in its unaccounted for water. As the CPUC found in 2009, Cal-Am was "out of compliance with [the CPUC's] General Order 103 standards for meter testing or replacement," but nevertheless offered no explanation or excuse – even though it had previously acknowledged that compliance with GO 103 "is essential to… minimizing unaccounted-for water" and that it had been allocated funds by the CPUC (paid for by ratepayers) to perform meter replacements that were not made.[175] While GO 103 required that a minimum of 2,060 meters smaller than 1 inch be replaced per year, Cal-Am was operating at a pace of replacing only 2,000, and while GO 103 required that a minimum of 360 1-inch meters be replaced annually, Cal-Am was replacing only 300. In order to "ensure that ratepayers are only charged for the level of meter replacements Cal-Am actually delivers," the CPUC instituted an annual "tracker" program to document actual meter replacements and costs incurred.[176]

Instead of replacing its defective, aging, and failing pipelines and water meters, Cal-Am's primary proposed solution was instead to hire more repair crews, which resulted in increased water rates to pay this expense. Thus, after admitting (correctly) that "its Monterey system experiences an extraordinarily high frequency of leaks," Cal-Am attempted to use that deficiency to justify an enormous 42% increase in its payroll expense, primarily to enable it to hire 4 additional water utility workers. According to Cal-Am, its "existing utility crews are 'spending all of their time addressing leaks and do not have time to address normal distribution work.'" As the DRA pointed out, however, Cal-Am's own leak repair records showed that the percentage of time its utility crews were spending

[172] *Id.* at pp. 37.
[173] 2009 Conditions Based Assessment, pp. 4.1-4.2.
[174] *Id.*, p. 2.12; and CPUC Decision 09-07-021, p. 40.
[175] CPUC Decision 09-07-021, p. 48; and see 2009 Conditions Based Assessment, at pp. 4.2-4.3.
[176] *Id.*, p. 139.

on leak repairs *declined* from 43% to approximately 18-28% during the previous 3 years. The CPUC denied Cal-Am's request.[177]

Cal-Am fought the CPUC's efforts to lower its water loss rate percentage—arguing that even a loss rate of 10% was too low and Cal-Am's historical loss rate of 11.59% should be accepted.[178] To its credit, the CPUC refused to accept Cal-Am's contention on this issue, although in the end it compromised:

> "[Cal-Am's] proposal [that the CPUC accept Cal-Am's historical 11.59% historical water loss as a going-forward standard] is at odds with the water supply and ratemaking facts confronting the Monterey system.
>
> Cal-Am's claimed lack of control over its water supply system is not a persuasive rationale for maintaining the status quo. We, therefore, conclude that system supply constraints and conservation rate design in the Monterey district mandate the highest quality program to reduce unaccounted-for water.
>
> Adopting Cal-Am's proposed historical average has the effect of financially insulating Cal-Am from its failure to reduce unaccounted-for water. The CPUC rejected Cal-Am's proposal as being inconsistent with the water supply and rate design needs of the Monterey district. The CPUC found that the public interest required an appropriate financial incentive for Cal-Am to improve its unaccounted-for water performance and adopt unaccounted-for water allowances that necessitate improvement. DRA recommended an 8.5% allowance for unaccounted-for water, which would represent a significant shift in Cal-Am's operations and move Cal-Am much closer to the Monterey Peninsula Water Management District's goal of 7%. While the CPUC agreed that Cal-Am's performance on unaccounted-for water must improve significantly, moving from 11.59% to 8.5% is too sharp of a change. The CPUC found, however, that a significant improvement is necessary for the main Monterey system and adopted 9% as the target for that System."

In order to "provide Cal-Am with strong financial incentives to reduce unaccounted-for water to the standards set out" in its Decision, the CPUC further ordered Cal-Am to pay a penalty of $1,820.30 per AF to the extent it exceeded the 9% unaccounted-for water cap.[179]

[177] *Id.,* pp. 80-82.
[178] *Id.*, pp. 49-55.
[179] *Id.*, pp. 55-58 and 157-158 (Ordering Paragraph 30).

Notwithstanding the CPUC's 2009 actions, in the following years Cal-Am failed to achieve even the compromise 9% cap on non-revenue water and 3 years later its non-revenue water amounts had actually *increased* to 12%.[180] So what was Cal-Am's response? It insisted the problem was outside its control and rather than doubling down to solve the water wastage problem it instead requested the CPUC reduce its penalty for non-compliance (from $1,820.30 per acre foot to $275 per acre foot). The CPUC again refused, finding Cal-Am's proposal not to be "in the public interest" and reiterating that "[t]he water supply situation in the Monterey County District is dire and requires continuous, vigilant efforts to reduce the amount of non-revenue water."[181]

Scolding from the CPUC and even penalties for excessive water loss did not work. The very next year (2013) the CPUC noted Cal *still* had "not exhausted the unique features of the Monterey District to reduce Carmel River withdrawals" by, among other options, "aggressively pursuing opportunities to reduce unaccounted-for water."[182]

Cal-Am's poor track record of maintaining, repairing, and replacing its aging, leaking, and broken water distribution system continues to this day. Thus, for example, CPUC's Decision in Cal-Am's 2018 General Rate Case noted Cal-Am's Monterey Peninsula water system still suffers from an extraordinarily high amount of non-revenue water from leaking pipes.[183] In Cal-Am's 2019 GRC (A.19-07-004), the admissions of Ian C. Crooks, Cal-Am's Vice-President of Engineering, demonstrate Cal-Am made only minimal, if any, progress in reducing water wastage resulting from leaking and broken pipes, meters, and valves:

> "The 2012 CBA [an update of Cal-Am's 2009 Conditions Based Assessment] identified that approximately 40 percent of the 13,000 valves in the Monterey System were over 40 years-old. Operations staff reported that often during shut downs to isolate main breaks they found many of the valves broken or inoperable, which resulted in the necessity to shut down larger numbers of customers… [Cal-Am is] regularly discovering broken valves during shutdowns while addressing main breaks.
>
> California American Water's 2015 Main Repair Report found high frequency of leaks related to small diameter galvanized pipelines, and small diameter unlined cast iron pipelines. The Report also identified problem areas that existed in Monterey, Pacific Grove and Carmel Valley. The 2013 CBA provides a more detailed analysis of areas containing high concentrations of main breaks. The CBA identified over 30,000 lineal feet of

[180] CPUC Decision 12-06-016, pp. 25, 73.
[181] *Id.,* pp. 7-8 and 24-32.
[182] CPUC Decision 13-04-015, dated 4/18/13, p. 48.
[183] CPUC Decision 18-12-021, dated 12/20/18, pp. 52-61.

> mains that have exceeded their useful life as evident by excessive break records and need to be replaced."[184]
>
> "The Central Division has approximately 630 miles of water main in its distribution system. A large percentage of this pipe is nearing the end of its expected useful life. Much of this pipe… is …experiencing a higher rate of breaks and leaks, leading to water loss and disruption to customers. Much of this pipe has a smaller diameter than current standards and therefore impedes the ability of the system to deliver adequate fire flow; this pipe is also experiencing a higher rate of breaks and leaks, leading to water loss and disruption to customers."[185]

In summary, during the past 20 years, when Cal-Am was required to figure out how to close the gap between reduced water supply sources and higher MWS system demand, it failed to aggressively take the most cost-effective action possible – eliminating water waste – and instead focused its efforts – unsuccessful to date – planning to build massively expensive new capital improvement projects (first the Coastal Water Project and for the past 11 years the MPWSP desalination plant). While the CPUC did ultimately order Cal-Am to reduce its non-revenue water, Cal-Am's record is one of foot-dragging, a lack of leadership, and poor service.

35. FINDING: Cal-Am has failed to properly maintain, repair, and replace its pipelines while persistently ignoring its own rules regarding customer leak repairs.

EVIDENCE: Cal-Am's Rule 14.1.1 lays out its four stage Water Shortage Contingency Plan for the Monterey District. CPUC Tariff Schedule MO-14.1.1 sets forth charges that Cal-Am is required to impose on customers who remove flow restrictors, customer fines for those that violate water use restrictions, and higher "emergency" conservation water use rates. The collective effect of Rule 14.1.1 is evidence of the community's (and Cal-Am's) need to further reduce water use.

Section G.3 of Rule 14.1.1 defines "Water Waste" by Cal-Am customers as "the indiscriminate, unreasonable, or excessive running or dissipation of water. Water Waste is defined to include, but not be limited to, the following:

> "Waste caused by correctable leaks, breaks or malfunctions. All leaks, breaks, or other malfunctions in a Customer's plumbing or distribution system must be repaired within 72 hours of notification that a leak exists. This loss of potable water may be cited for water waste after the time period established in Schedule 14.1.1 in which a leak or malfunction was to have been corrected."

[184] Crooks Direct Testimony in CPUC A.19-07-004, dated 7/1/19, at pp. 120-122.
[185] *Id.*, at p. 194.

This standard requires customers to repair leaks within 72 hours, but this standard is not adhered to by Cal-Am itself. As an example, the leak shown in the photo below was reported June 16, 2023. The site was scoped and the road painted on June 17, 2023, but it had not been repaired as of June 28, 2023. This time-lag is fairly typical of Cal-Am's leak repair response within the MWS.

36. FINDING: Cal-Am MWS main breaks and other leaks have become so common that it has become an expectation, rather than an exception, and is a regular subject of conversation in the community.

EVIDENCE: As shown in Exhibit H, Cal-Am leaks are regularly reported on websites such as "Peninsula Crime Watch & Information" and "Nextdoor." It has become part of day-to-day customer expectations.

37. FINDING: Cal-Am further allows unnecessary water waste by failing to adopt a responsible system to recapture water that Cal-Am uses to flush its own pipelines. In the alternative, Cal-Am fails to flush its distribution system in a timely manner, negatively affecting water quality.

EVIDENCE: Cal-Am experiences excessive water loss by utilizing wasteful procedures to flush its pipelines. The problem was explained in a 2018 report prepared for Cal-Am by Trussell Technologies, Inc.:

> "Flushing has not been performed in the Cal-Am distribution [system] for the three years preceding this study due to drought conditions. Though the severe drought of 2014 – 2017 has dissipated, water conservation continues to be a high priority with the prospect of more droughts in the near future. It is, therefore, inappropriate for flushing

> to be continued in the same way that it was undertaken prior to the drought; there is a need to develop approaches that reduce water wastage such that effective pipe cleaning is achievable under these low-water conditions. It is recommended that a study be conducted to develop revised distribution system cleaning protocols for the years ahead to determine when traditional flushing is still appropriate and when alternative protocols should be used. Cleaning methods that do not consume as much water as traditional methods should receive special attention, especially closed-loop methods like the system promoted by NO-DES. NO-DES presents a method in which flushing is accomplished by pumping water from one hydrant to another, cleaning the extracted water before it is returned to the system."[186]

Cal-Am prides itself on being an arm of the largest private water retailer in the country, but size does not equate to expertise. It is commendable that Cal-Am commissioned the 2018 Trussell study, but inexcusable that it took Cal-Am this long – more than half a century after Cal-Am has known it has a serious water supply problem and almost 30 years after the SWRCB issued Order 95-10 – to identify and change a standard operating procedure that could result in more significant water savings.

In 2023 testimony, a representative of the CPUC Public Advocates Office stated: "In multiple inspection reports, DDW [State Water Board Division of Drinking Water] recommended that Cal Am implement dead-end flushing frequencies as a best management practice, and DDW strongly recommends that all dead ends are flushed at least annually. Flushing protects water quality in the distribution system. Flushing can be an important maintenance technique to remove stagnant water, restore disinfectant residual, remove loose deposits, and scour pipe surfaces. Flushing can reduce water age and address water quality complaints. Flushing is part of overall maintenance of a distribution water system to maintain high quality drinking water, improve capacity of pipes, and ensure hydrants and valves work properly."[187]

Rather than accept the recommendation, Cal-Am once again became defensive. In rebuttal, Cal-Am disputed the CPUC PAO's flushing recommendations. However, the March 6, 2019 "Sanitary Survey Report and Deficiency List – Cal Am Monterey", the most recent sanitary survey by the State Division of Drinking Water stated "The water system reported a total of 1,295 dead-ends in the distribution system. All dead-end mains have blowoffs. Cal Am Monterey does not have a flushing program. Flushing of water mains is only performed as needed due to water quality

[186] "Monterey Peninsula Water Supply Project Integration Study Phase 1", Trussell Technologies, dated January 2018, p. 7 and pp. 53-54.
[187] Courtney Sorensen, CPUC Public Advocates Office, Supplemental Testimony in CPUC A.22-07-001, 6/14/23, pp. 2-3.

complaints. Cal Am Monterey should flush all dead-ends annually. The system must develop a program and schedule for flushing distribution system mains."[188] The 2020 Sanitary Survey for the Cal-Am Bishop System and the 2020 Sanitary Survey for the Cal-Am Hidden Hills System contain similar recommendations by the State. MPWMD is more dedicated to following the recommendations of the state regulators.

38. FINDING: Cal-Am has failed to consistently maintain adequate water pressure for customers and adequate fire flow pressure in a number of its transmission mains and distribution lines. This failure has put customers at risk for many years. MPWMD will make it a priority to fully address this problem under public ownership.

EVIDENCE: One essential responsibility of a water retailer is to consistently maintain adequate water pressure in its lines – for customer usage and for fire flow pressure in the event of an emergency. Cal-Am has consistently failed to meet this responsibility.

Under CPUC General Order 103-A, a potable water distribution system is required to operate at "the minimum operating pressure at each service connection throughout the distribution system." The standard is a pressure range of not less than 40 psi (pounds per square inch) nor more than 125 psi. If a utility is unable to meet the minimum 40 psi requirement during Peak Hour Demand (PHD) due to cost or system limitations, the utility is required to submit a request to the CPUC for an exception to be allowed.

MPWMD is not aware that Cal-Am has publicly acknowledged its failure to provide adequate fire flow pressure at any time during the first 40+ years after Cal-Am acquired its MWS system; nor is MPWMD aware of Cal-Am ever having sought an exemption or exception to this standard from the CPUC.

As noted above, in 2009, Cal-Am (finally) commissioned the 2009 Conditions Based Assessment, which report acknowledged that Cal-Am's water mains must have a minimum diameter of 4 inches to provide adequate fire flow pressure. To the contrary, Cal-Am's MWS transmission system includes 116 miles of 4-inch mains which have reduced capacity due to substantial corrosion, and 26 additional miles of 2-inch or lesser diameter mains. The same report further noted a water main must provide minimum available fire flow capacity of 1,000 gallons per minute in residential neighborhoods and 1,500 gallons per minute in commercial areas. To the contrary, the report shows 32% of Cal-Am's MWS fails to provide even the minimum 1,000 gpm of pressure.[189]

Similarly, the 2009 the Cal-Am Comprehensive Planning Study identified numerous areas of its MWS system where the company may not be able to

[188] Cal Am Monterey 2710004 2018 Sanitary Survey, March 6, 2019, p.18.
[189] 2009 Conditions Based Assessment, pp. 2.9-2.11.

meet the desired fire flow under a projected maximum daily demand scenario while maintaining 20 psi residual pressure in the system, as shown in Exhibit I, hereto. The study identified ten recommended fire protection upgrades.

Fourteen years later, not much has changed. Ian C. Crooks, Cal-Am's Vice-President of Engineering, testified in Cal-Am's 2019 GRC, that Cal-Am has no fewer than 28 Low Pressure Areas ("LPAs") in the MWS distribution system "where, under normal operation, water pressure is less than 40 pounds per square inch ("psi") or, under peak-hour demand conditions, water pressure tends to be less than 30 psi." and "There are several pressure zones in MPWMD that do not have the pumping capacity and/or storage capacity to provide the recommended fire flow."[190]

Crooks also testified, "The Central Division [*i.e.*, the MWS] has approximately 630 miles of water main in its distribution system. A large percentage of this pipe is nearing the end of its expected useful life. Much of this pipe has a smaller diameter than current standards and therefore impedes the ability of the system to deliver adequate fire flow; this pipe is also experiencing a higher rate of breaks and leaks, leading to water loss and disruption to customers."[191]

As a further example of Cal-Am's failure to provide system upgrades, the proposal to provide a new 320 gallons-per-minute booster pump at the Airway – Lower tank to provide greater pressure at the Airway - Upper tank was not completed until 2022. In 2020, Cal-Am issued an Advice Letter for a "Pressure Requirement Exception" for a property on Camino de Travesia in Carmel Valley, implying that the Robles – Upper tank improvement identified in 2009 had still not been accomplished.

Cal-Am is now – finally – proposing to begin efforts to remedy the fire flow pressure problem, but given the extent of existing deficiencies and how long these have been allowed to accumulate, the high cost (estimated at $13 million) to fix flow pressure issues, and the "rate shock" that a vigorous program to remedy this deficiency would impose on severely over-burden MWS ratepayers Cal-Am is proposing to stretch out completion of the work over a period of many years. Mr. Crooks testified that a single fire flow pressure improvement had been completed in the previous 3-year GRC cycle, after having to be changed to fit within the small budget available.[192]

If Cal-Am had been more responsible decades ago and had not allowed the fire flow pressure issue to become so severe, the intertwined fire flow pressure/excessive billing rate concerns could have been avoided. or at least significantly mitigated.

[190] Direct Testimony of Ian C. Crooks in CPUC A.19-07-021, dated 7/1/19, pp. 15-16 also p. 195.
[191] Id., pp. 199-200.
[192] *Id.,* pp. 80-81.

39. FINDING: Cal-Am has not consistently maintained the MWS in compliance with minimum water quality and other applicable public health standards. Public ownership will improve the quality of service in this area as well.

EVIDENCE: California Public Utilities Code §451 and CPUC General Order 103-A Section II. 2. A. require Cal-Am, as a public utility, to deliver safe, high quality water to its customers. Water quality is especially important to ensure maintenance of public health and public safety. Water Quality requirements mean that utility-provided water should not be harmful or dangerous to human health, and should be as free from odors, taste, color, and turbidity as is practicable.[193] MPWMD is better equipped to respond more quickly to water quality issues.

In a number of respects, and over a period of many years, Cal-Am has failed to consistently operate its MWS in compliance with these and other applicable water quality and public health standards. Evidence supporting this conclusion includes the following:

In 2002, Cal-Am committed numerous "violations of state or federal drinking water regulations: eight "boil orders" in the Monterey Division and a compliance order issued against it by the California Department of Health Services."[194]

In the 3 years between 2004-2006, Cal-Am logged a staggering 764 customer complaints relating to water quality – including 82 complaints relating to taste and odor and 559 complaints relating to discolored water.[195] The cause of these extensive water quality problems was Cal-Am's failure to replace old, unlined, steel galvanized, and cast iron mains.[196]

The SWRCB's Division of Drinking Water reports that between 2004 and 2012 Cal-Am's MWS violated State drinking water standards on 7 separate occasions, with sources of the violations including asbestos, coliform, turbidity, nitrate, chlorine, "gross alpha particle activity," and "gross beta particle activity."[197]

In October-November 2011, the California Department of Public Health ("DPH") conducted an inspection of Cal-Am's MWS. On January 25, 2013, the DPH issued a 17-page single-spaced report identifying more than one hundred deficiencies in Cal-Am's wells, treatment facilities, storage tanks, and pump stations, including a great number of "Priority Deficiencies" requiring immediate attention. (See Exhibit J hereto.)

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[193] "Report and Recommendations on California American Water Company's Safety, Water Quality, Service Quality and Compliance with Commission Rules," Public Advocates Office, CPUC Application 19-07-004, dated 2/18/20, at p. 27.
[194] CPUC Decision 03-02-030, dated 2/13/03, p. 22.
[195] 2009 Conditions Based Assessment, p. 2.9.
[196] 2009 Conditions Base Assessment, p. 2.9.
[197] CA Drinking Water Watch "Violation Detail" reports can be found at https://sdwis.waterboards.ca.gov/PDWW/.

In early May 2012, Cal-Am was required to issue a boil water advisory for about 200 customers in the Fisherman Flats, Deer Flats and Josselyn Canyon areas of its MWS after a water main valve broke and two other nearby leaks hit the system.[198]

On 10/31/16, Cal-Am, along with the SWRCB and the Monterey County Health Department, issued a boil notice to customers in the vicinity of Carmel Valley Village, from roughly Sleepy Hollow Drive to Los Laureles Lodge, after a truck backed into a valve connecting the mainline that delivers water to Carmel Valley from the location of the recently removed San Clemente Dam. The boil notice remained in effect for 2 days.

Cal-Am's 2018 Annual Water Quality Report (also known as a Consumer Confidence Report) for the MWS filed with the SWRCB's Division of Drinking Water states the following, at p. 10:

> "During the system sanitary survey conducted in June 2018, the Division of Drinking Water staff identified deficiencies in the water system's water storage tank operations and maintenance program. On August 15, 2018, the State Water Board issued the system a compliance order (No. 02_05_ 18R_005). The order required the water system to correct deficiencies identified during the sanitary survey, develop a Water System Operations and Maintenance Plan pursuant to the California Code of Regulations, Title 22, Section 64600, that includes a description and schedule for routine inspection of all distribution reservoirs at a frequency of every six months and a schedule and procedures for cleaning, maintaining, and repairing reservoirs, and operate the system in accordance with the State Water Board approved plan. The water system implemented corrective actions and developed the required plan in October 2018 and is currently operating in accordance with that plan.

The 2018 report prepared for Cal-Am by Trussell Technologies, Inc., cited earlier, identifies the source of many of the extensive and ongoing water quality complaints:

> "The Monterey System has a long history, including both some of the oldest and some of the newest water infrastructure in the state. Over the course of the existence of this system, technology for this infrastructure has continued to evolve and the material in the Monterey System reflects that history… The data show significant amounts of galvanized, cast iron and unlined steel pipe of small

[198] Boil orders result when a water distribution system loses pressure, possibly permitting contamination to enter. Customers are advised to boil the water they consume until the system has been tested and once again declared safe.

> diameter. Both galvanized pipe and cast iron are often associated with red water, as is unlined steel pipe. Moreover, a substantial fraction of the cast iron pipe in the system is classified as 'unknown' with respect to its lining. The longevity of mortar linings on cast iron and ductile iron pipe ranges from 10 to more than 80 years, but the bulk of the cast iron pipe in this system is 75 years and older.
>
> "A review of data on water quality complaints, source water qualities, and pipe materials suggest a strong correlation between materials and complaints. The presence of galvanized pipe, unlined cast iron pipe and unlined steel pipe in small diameters appears to correlate strongly with customer complaints. These data suggest the sensitive areas in the system are the Seaside area, Monterey and the adjacent interior areas, Pacific Grove, and Carmel-By-The-Sea. These areas are likely to be sensitive in the future as well, until the materials issues are resolved. Water quality management strategies should be focused on controlling problems associated with these materials."[199]

See also, the same report at pp. 24-27:

> "…the four materials that compose at least 10% of the pipe in the system (by total mileage) are PVC, AC and both lined and unlined cast iron. Lined steel, unknown material and ductile iron make up between 5 and 10% of the pipe in the system. All other materials compose less than 5% of the pipe in the system, most less than 1%. From the standpoint of this study, unlined cast iron, unlined steel and galvanized pipe are all important. These materials expose ferrous material directly to the water and, as a result, all three of these conduit types are often associated with the formation of a heavy iron-based 'rust' or 'scale' on the inside surface of the pipe. Dissolution or mobilization of this iron oxide-based scale is the principle cause of red water when a new water supply enters a distribution system whose surfaces are accustomed to or at equilibrium with water of another quality…"
>
> Figure 5 [of the report] shows the pipe materials by age of pipe, with the pipe materials arranged in order of descending fraction of the distribution system. Most notable are the materials that include pipes of over 75 years of age, especially unlined CI as it is the only material for which a

[199] "Monterey Peninsula Water Supply Project Integration Study Phase 1", Trussell Technologies, January 2018, pp. 2-3.

majority of the pipe is over 75 years old (>80% of the unlined CI in the system).

… [I]t is evident that unlined cast iron makes up a significant portion of the distribution system in Monterey, Pacific Grove, and Carmel-By-The-Sea. Recall… that unlined cast iron makes up 16.5% of the pipe in the entire distribution system, thus the percentage is higher in these three specific locations. It also appears that a transmission main extending from Pacific Grove to Carmel-By-The-Sea is made of unlined cast iron. Unlined steel is present in small sections throughout the distribution system, more concentrated in the Seaside/Del Rey Oaks area, including a long section in this area as well. Unlined steel represents only 1.4% of the pipe materials in the system. Lastly, galvanized pipe represents only 1.1% of the distribution system and is present as small sections scattered throughout the system. Nevertheless, because of its small diameter, it is likely a significant source of water quality risk."

It is also apparent from this same Trussell Technologies report that, as late as 2018 – over half a century after it acquired the MWS – Cal-Am had not even studied the source of its extensive water quality problems. The authors recommended that Cal-Am conduct a "pipe characterization study":

"The discussion of pipe material included in this document is limited to what can be gleaned from information in Cal-Am's current network data base. The available data has led to an understanding of the presence of significant amounts of materials like galvanized iron, cast iron and unlined steel, which are classic sources of water quality/corrosion problems. Field samples of these materials should be taken at strategic locations in the system and their condition examined so that the potential for red water can be more accurately assessed. The condition of the surface of the lined cast iron pipe should also be examined. The network database currently classifies the lining of much of the cast iron pipe as 'unknown' and, because this pipe is so old, even the condition of lined pipe requires assessment. In addition, existing data do not provide information about the potentiality for the portions of the system composed of AC or PVC pipe to harbor scale containing iron and/or manganese. These minerals may have accumulated over the years and may present a problem if the scales are mobilized when water quality changes occur.

A draft proposal for a pipe characterization study is outlined [that] envisions collection of samples of galvanized, cast

> iron and unlined steel pipe from five segments of the system, as well as samples of AC and PVC pipe from the Seaside and Carmel Valley areas. This program will be a significant undertaking so a careful review is appropriate to ensure that the most effective choices are made."[200]

It is inexcusable that Cal-Am has operated the MWS for over half a century and it is only now getting around to identifying and correcting an ongoing water quality problem that adversely affects a substantial portion of its customers.

In July 2019, Cal-Am issued another boil water notice after an 8-inch Cal-Am water main break occurred near the intersection of Del Monte Avenue and Alvarado Streets.

On June 29, 2018, engineers from the California Division of Drinking Water ("DDW") discovered a dead rodent inside Cal-Am's Crest Reservoir in the Monterey District. Part of the reservoir's hatch had corroded, and the tank vent's screens had large gaps that allowed small animal ingress to the tank. Subsequently, DDW issued a compliance order for Cal-Am to inspect all finished water storage tanks on a semi-annual basis."[201]

Often Cal-Am receives notice of, but fails to act promptly on, deficiencies in its system that are flagged by DDW. The March 15, 2018, DDW Sanitary Survey Report and Deficiency List for Cal-Am's Bishop System specifically stated "The Spectacular Bid tank site must be secured with a fence and a locked gate to prevent unauthorized access. Permit condition No. 25 of water supply permit No. 02-05P-2701882 requires Cal Am Bishop to protect reservoirs from any activities that would create a contamination hazard, including intrusion to the reservoir sites by unauthorized animals or persons. Construction of a security fence for the Spectacular Bid tank site must be completed by December 31, 2019." This was again identified as a deficiency in the State's 2020 Sanitary Survey Findings of the Bishop System with a required completion date of December 31, 2020. Two and a half years later, this required work has not yet been started.

The State's 2020 Sanitary Survey Findings for the Cal-Am Bishop System also identified a requirement for ladders for roof access for both Spectacular Bid tanks by July 10, 2020, which have not been built. The State's 2020 Sanitary Survey Findings for the Cal-Am Hidden Hills System required the overflow pipe outlet on Carola Tank #2 to be modified to face downward by July 10, 2020, which has not been completed. For the Main System, there

[200] *Id*., pp.6-7, pp. 51-52, and p.57.
[201] See 2/18/20 "Reports and Recommendations on California American Water Company's Safety, Water Quality, Service Quality and Compliance With Commission Rules" submitted by the CPUC's PAO in Cal-Am's recent GRC (Application 19-07-004) at p. 28.

remain several deficiencies identified by the State in 2018 that have still not been addressed five years later, well past the State's deadline.

This is just another example of lack of attention and failure to follow through by Cal-Am management. Public ownership will improve service in this area because the pace at which MPWMD can approve and execute projects is faster.

40. FINDING: The CPUC Public Advocates Office found that "Cal-Am's emergency action plans contain blanks and are incomplete, leaving potential threats without plans or prepared responses. These are significant gaps in emergency preparedness that Cal-Am should remedy immediately."

EVIDENCE: Evidence presented by the CPUC Public Advocates Office in CPUC A.19-07-004, 2/14/20, pp. 4-5.[202]

41. FINDING: Customers in Cal-Am's MWS have long been dissatisfied with the level and quality of Cal-Am's service; Cal-Am's record of customer service falls below the minimum standards prescribed by the CPUC, and the number of customer complaints is the highest of the Cal-Am divisions statewide. Under public ownership, MPWMD can improve the quality of customer service through establishment of a local call center that has a better understanding of the service area and will provide a shorter, more timely response time.

EVIDENCE: One of the best indicators that the quality of service provided by Cal-Am is unsatisfactory is the high level of dissatisfaction among its MWS customers. While some customers may have stopped complaining because many of the problems tend to be ongoing and never get fixed, other customers have not yet given up and have made their displeasure known. In past years, the CPUC has found Cal-Am's level of customer service to fall below CPUC minimum performance standards. Consider the following:

The CPUC Public Advocates Office in 2020 stated: Cal-Am "has not met the telephone performance standard" established by the CPUC and "demonstrates clear issues with answering customer calls and rendering [accurate] customer bills promptly."[203]

From 2016 to 2018, the Monterey Division received more complaints than any of its other six major divisions (Los Angeles-Baldwin Hills, Los Angeles-Duarte, Los Angeles-San Marino, Sacramentos, San Diego, and

[202] Cameron Reed, CPUC Public Advocates Office, "Report and Recommendations on California American Water Company's Safety, Water Quality, Service Quality and Compliance with Commission Rules," in CPUC A.19-07-004, 2/14/20, pp. 4-5.
[203] Cameron Reed, CPUC Public Advocates Office, "Report and Recommendations on California American Water Company's Safety, Water Quality, Service Quality and Compliance with Commission Rules," in CPUC A.19-07-004, 2/14/20, pp. 33-34.

Ventura) in actual number and the complaints on a per customer basis were 72% higher than the average of the six other divisions (see Exhibit K).

Similarly, although the CPUC allowed Cal-Am to cease quarterly reporting of customer complaints after the first quarter of 2021, the data for the seven quarters of Q3 2019 through Q1 of 2021 show that complaints lodged by customers at the Customer Service Center, local office, or at the CPUC in Monterey were the second highest in number only to Sacramento, and were the highest on a complaints per customer basis, 28% higher than the average of the six other divisions (see Exhibit L).

This record of substandard customer service is nothing new. Cal-Am has a long history of poor customer service. In Cal-Am's 2003 General Rate Case, DRA and MPWMD testified that service in Cal-Am's MWS had deteriorated to an unacceptable level. Cal-Am presented rebuttal testimony attributing many customer complaints to start-up problems with its national call center located in Illinois,[204] which had been opened by American Water in mid-January 2002. Cal-Am testified that complaints would return to more normal levels as startup problems were worked out. The CPUC concluded that "while there are indications in the record that all may not be well in Cal-Am's Monterey Division, no party has made a competent showing of what the underlying problems might be, or how they should be corrected."[205]

Customer dissatisfaction only increased following the CPUC's 2003 GRC Decision. In the 3 succeeding years (2004-2006), Cal-Am logged a staggering 764 customer complaints relating to poor water quality issues alone – including 82 complaints relating to taste and odor and 559 complaints relating to discolored water.[206]

In 2006 the CPUC again addressed the great many customer complaints with Cal-Am's service in the MWS:

> "DRA is aware of a great deal of customer dissatisfaction with Cal-Am's service as evidenced by speakers at the [Public Participation Hearings] in Felton and Monterey on May 12 and May 13 [2006]. A number of complaints were raised in those hearings, on topics ranging from no water service, low water pressure, improper notification of boil orders, billing disputes, meter reading issues, hazardous construction practices, noise, a chemical accident, the

[204] At this time, customer service for Cal-Am customers is handled remotely--from 2 national service centers run by American Water. One is located in Alton, Illinois, and the other in Pensacola, Florida. (See CPUC D.09-07-021, p. 112.) It is evident that staffs at those national service centers, who have to deal with hundreds of thousands of customers from around the country, know virtually nothing about the Cal-Am MWS, its environs, and its unique water resource challenges. By contrast, the District is able to maintain a local customer service operation and will staff that operation with employees who know the area, the system, and local water issues.
[205] CPUC Decision 06-11-050, dated 11/30/06, p. 35.
[206] 2009 "Conditions Based Assessment," p. 2.9.

> inability to get prompt or courteous service from the call center in Illinois, the failure of the call center to resolve emergency issues and the failure of the call center to register complaint calls."[207]

In order to motivate Cal-Am to more effectively resolve the excessive number of customer complaints and provide itself with some oversight ability, the CPUC ordered Cal-Am to file quarterly reports logging and characterizing all of the complaints it received and how and when it responded to and resolved them:

> "Cal-Am shall develop (a) a new quarterly report that provides California-specific statistics, by district, from the national call center and that breaks out type of calls and final disposition of all complaints; and (b) a new quarterly report on all complaints received at district and regional levels and their final disposition. These reports shall be developed within 60 days of this decision and routinely filed on a quarterly basis with the Commission's Consumer Service and Information Division (CSID), and Water Division, and served on all parties to this proceeding."[208]

Over the following 3 years, however, Cal-Am not only failed to resolve the problem of excessive customer complaints, but it failed to file customer complaint reports as required by the CPUC. After again noting the complaints from 2006, the CPUC quoted language from its 2006 order requiring Cal-Am to file quarterly customer complaint reports, and then found:

> "There is no factual dispute among the parties that Cal-Am filed one such report ***but did not timely file and serve the next four reports***."[209]

The CPUC went on to state (in the same Decision at pages 77-78), "Cal-Am's customers continue to testify at Public Participation Hearings that Cal-Am's customer service is inadequate." In particular:

> "Customers expressed substantial dissatisfaction with Cal-Am's telephone system, which has numerous levels of options that make it difficult to reach an actual person. Their biggest frustration is that, even after successfully navigating the telephone system, the company representative is located far away and is often uninformed about issues pertinent to

[207] CPUC Decision 06-11-050, dated 11/30/06, pp. 34-35.
[208] *Id.*, Ordering paragraph 9.
[209] CPUC Decision 09-07-021, 7/9/09, p. 76, emphasis added.

> the Monterey district. No option is available for a local contact, only the '888' number. This issue attracted much agreement from customers present at the hearing."[210]

The CPUC noted Cal-Am's actions in "[d]isregarding a statutory or Commission directive [to file the required customer complaint reports] is accorded a high level of severity because compliance is absolutely necessary to the proper functioning of the regulatory process." "Cal-Am's conduct," the CPUC went on, "clearly undermines the proper functioning of the regulatory process because the Commission cannot identify and correct poor utility customer service without adequate data." Ultimately, the CPUC fined Cal-Am $40,000 for its violations.[211]

In January 2018, Cal-Am received the Trussell report, referenced above, that addressed Cal-Am's largely antiquated infrastructure that degrades water quality in Cal-Am's MWS. The report stated the consultant reviewed Cal-Am customer complaint data for just 4 months – March to July 2015 – focusing only on the single issue of water quality, identified several dozen complaints, and summarized the situation as follows:

> "Categories of complaints included discolored water, particles/sediment, illness, boil warnings, stained laundry, general inquiries, the taste and odor issues of earthy/musty, chlorine, rotten egg and petroleum, and other[s]. The areas with the most complaints included Seaside and Pacific Grove with 29 and 32 complaints over this time period, respectively. These two locations experienced complaints from many of the categories listed above, but the majority of complaints in both areas were regarding discolored water. Next, the areas of Carmel-By-The-Sea and Monterey received 11 and 12 complaints, respectively, again mostly regarding discolored water. The Carmel Valley (both Lower and Upper) received four complaints in total and the Carmel Highlands and Del Monte Forest both received only one complaint…"[212]

The CPUC considers a water utility's level of customer complaints "acceptable" if no more than 6% of customers file written or verbal complaints about service in any one year.[213] This seems extraordinarily deferential to the utility company, particularly given that human nature would seem to indicate that customers will eventually stop complaining if their complaints continue to be ignored or are not adequately addressed. Even measured against this extremely deferential standard, however, Cal-

[210] *Id.*, pp. 7-8.
[211] *Id.,* at pp. 76-79 and p. 142.
[212] "Monterey Peninsula Water Supply Project Integration Study Phase 1", Trussell Technologies, January 2018, pp. 30-33 and 6.3-1 (Appendix C.)
[213] See the PAO's "Report and Recommendations on California American Water Company's Safety, Water Quality, Service Quality and Compliance With Commission Rules," in A.19-07-004, 2/18/20, pp. 36-38.

Am exceeded the 6% complaint rate in its Monterey service area in one of the 5 years preceding issuance of the PAO's report for which data was available – in 2014, when fully 2,575 of the approximately 39,600 Monterey customers lodged a complaint – a 6.58% complaint rate. Cal-Am also came close to the 6% standard in its Monterey service area many years since – with 2016 being the year with the lowest number (1,752) and percentage (4.41%) of complaints.[214]

CPUC General Order (GO) 103-A includes a number of customer service quality metrics, including: (1) telephone performance standards; (2) billing performance standards; and (3) work completion performance standards. As the PAO recently reported to the CPUC, Cal-Am failed on multiple occasions over the past several years for which data is available to meet *all 3* of these performance standards.[215]

The CPUC's telephone performance standards require that a minimum of 80% of customer calls be answered within 30 seconds and with no more than 5% of customers choosing to abandon their calls. Cal-Am failed to meet both of these standards in the most recent year for which data is available (2018). Cal-Am's abandoned call rate also failed to meet minimum standards in the previous year (2017).

Cal-Am's abandoned call rate in 2017 was over twice the permitted maximum (12%). In 2018, Cal-Am's abandoned call rate skyrocketed to five times the permitted maximum (25%). While Cal-Am pleaded an excuse for this flagrant deterioration in customer service and said the problem had been fixed, it still projected substandard performance for 2019 and the PAO noted that there was again "a spike in abandoned call rates for July through September of 2019"[216]

The same report showed that in 4 of the 5 years recently reviewed by the PAO (2014 and 2016-2018), Cal-Am failed to meet the CPUC's standard that a minimum of 99% of bills be rendered within 7 days after the scheduled billing date.[217]

In 2 of the 5 years examined by the PAO report (2014 and 2015), Cal-Am failed to meet the CPUC's minimum standard that no more than 5% of customer work orders not be completed. In 2014, Cal-Am failed to complete customer work orders at a rate that was over 3 times the permitted maximum (15.5%). The following year Cal-Am still failed to complete 6% of customer work orders; again, this exceeded the CPUC minimum standard.[218]

[214] *Id.*, and Attachments 3 and C-17 thereto.
[215] See the PAO's "Report and Recommendations on California American Water Company's Safety, Water Quality, Service Quality and Compliance With Commission Rules," in A.19-07-004, dated 2/18/20, pp. 32-36.
[216] *Id.*, pp. 33, 34-35.

[217] *Id.*
[218] *Id.*, p. 34.

42. FINDING: MPWMD will be a highly qualified and capable retail water service provider. When the California legislature established the District in 1977 it saw fit to authorize the District to perform the functions currently being performed by Cal-Am, including the provision of retail water service.

EVIDENCE: Several provisions in the District's Enabling Act (Cal. Water Code Appendix, Chapter 118 [Stats. 1977, ch. 527] [the "Enabling Act"]) authorize the District to provide retail water service, in addition to its other functions:

Enabling Act, § 326: "The district shall have the power… (c)… to provide for the sale, distribution, and use of water, and the services and facilities of the works…"

Enabling Act, § 325: "The district shall have the power as limited in this law to do any and every lawful act necessary in order that sufficient water may be available for any present or future beneficial use or uses of the lands or inhabitants within the district, including, but not limited to, irrigation, domestic, fire protection, municipal, commercial, industrial, recreational, and all other beneficial uses and purposes."

Enabling Act, § 325.5: "To the extent feasible, the district policy shall require development of the water resources within the district boundaries before utilizing water originating outside its boundaries."

Enabling Act, § 301: "The district may exercise the powers which are expressly granted by this law, together with such powers as are reasonably implied from such express powers and necessary and proper to carry out the objects and purposes of the district."

43. FINDING: MPWMD is and will continue to be a highly qualified and capable retail water service provider. It presently provides many activities associated with retail water service.

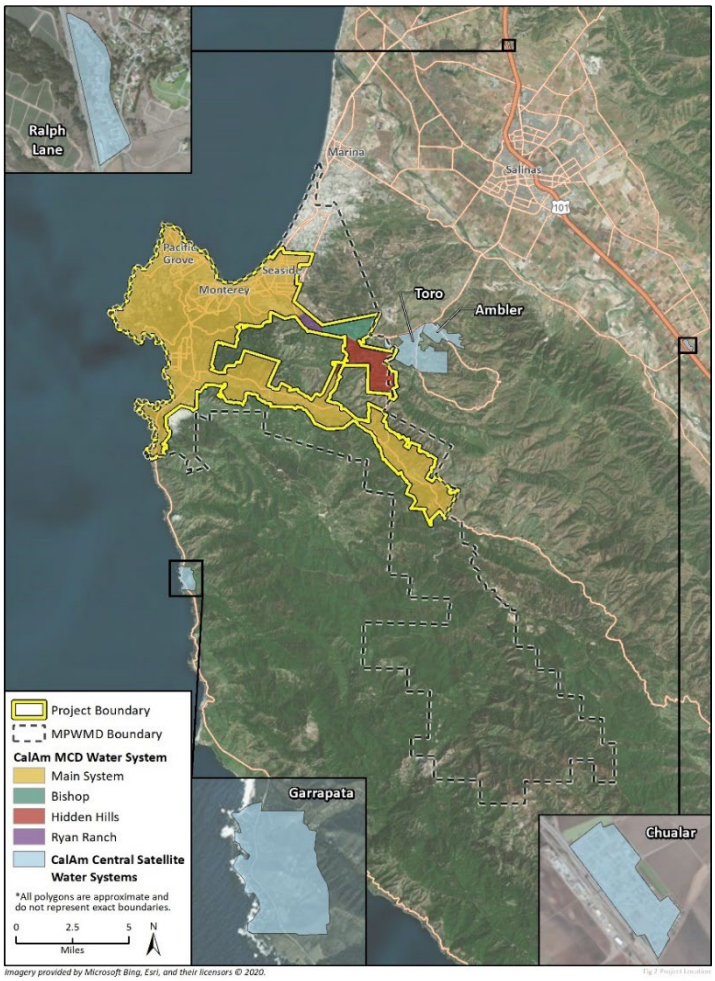
EVIDENCE: Activities presently performed by MPWMD include:

- Production of water for treatment and sale
- Treatment of raw water to potable levels
- Sale and distribution of potable water to residential, commercial, and other customers
- Sale and distribution of purified recycled water to customers
- Storage of treated water
- Water quality monitoring and reporting
- Maintenance of water production, treatment, and storage facilities
- Regulatory compliance
- Capital planning and engineering
- Installation, maintenance, and reading of customer meters
- Ratemaking

- Billing and accounting
- Customer service and response
- Public outreach
- Conservation education and supplies
- Water supply and demand forecasting
- Environmental stewardship (rescue and rear threatened species, habitat improvement, and monitoring measurement)

44. FINDING: If there is to be an alternative to Cal-Am as the retail water service provider for ratepayers in the MWS, MPWMD is the logical choice since MPWMD's boundaries align with the area served by Cal-Am's MWS.

EVIDENCE: MPWMD's boundaries contain the entire service area served by Cal-Am's MWS as shown in the map below.



45. FINDING: The Monterey County Local Agency Formation Commission ("LAFCO") determined that MPWMD is a capable service provider.

EVIDENCE: In compliance with Cortese-Knox-Hertzberg Act Section 56425(i), the Commission found and affirmed that the District provides the following functions and classes of service within its jurisdictional boundaries:[219]

- Water management,
- Water augmentation,
- Water reuse and reclamation,
- Water conservation,
- Limited water services,
- Environmental protection and mitigation, and
- Permitting and regulatory compliance.

In accordance with Government Code section 56430, LAFCO adopted a *2021 Municipal Service Review and Sphere of Influence Study for the Monterey Peninsula Water Management District* ("Study") and made recommended Municipal Service Review determinations and recommended Sphere of Influence determinations in accordance with Government Code sections 56430(a) and 56425(e), respectively, as set forth in the Study. Following are key findings of the Study:[220]

MPWMD is effectively and dependably carrying out its mission. **"**The District has a consistent track record of successfully providing water management, water augmentation, water reuse and reclamation, water conservation, limited retail water service, environmental protection and mitigation, and permitting and regulatory compliance services to its residents. The District is governed by a board of directors and is professionally managed and staffed. The District functions as a responsive and accountable form of local government for the communities it serves. The District has been awarded special recognition by receiving the Certificate of Excellence in Financial Reporting award from the Government Finance Officers Association of the United States and Canada in 2016, 2017, and 2020 and receiving the District Transparency Certificate of Excellence from the Special District Leadership Foundation in 2020."

MPWMD currently carries out a broad range of water-related functions. Potential future expansion of MPWMD's services throughout the MWS to include retail potable water services appears to be feasible. **"**Since its formation in 1978, MPWMD's services have increased and broadened in scope as the District has constructed additional facilities in furtherance of its legislative mission. District services have incrementally evolved into a broad range of activities over the decades... MPWMD has submitted to LAFCO detailed reports – including the "Raftelis Report" among other information – as part of its Proposal, to demonstrate that the District will have sufficient revenue to acquire Cal-Am's Monterey Water System and carry out retail potable water services. An independent third-party

[219] Monterey County Local Area Formation Commission Resolution 21-10.
[220] "2021 Municipal Service Review & Sphere of Influence Study: Monterey Peninsula Water Management District," Monterey County Local Area Formation Commission, 12/6/21, pp.7-8.

consultant hired by LAFCO to financially review the District's Proposal concluded, in part, that "The Raftelis Report provides a reasonable basis for a LAFCO determination that the MPWMD proposal will have sufficient revenues, although uncertainties exist. A review of key assumptions and methodologies indicates that the conclusions are reasonable; however, major cost items could change as a result of eminent domain proceedings."

The District proactively plans for its long-term capital improvement needs and funding levels. **"**MPWMD has adopted and annually adjusts a capital improvement plan that identifies future infrastructure needs and corresponding funding needs. The capital improvement plan ensures continuity of high-quality public services. The District's stable revenue base and proactive financial policies and practices will allow the District to build reserve funds to meet future needs."

The State Water Resource Control Board's 2009 Cease-and-Desist Order, as amended, which requires the reduction of California American Water's pumping from the Carmel River by 2022 (through an approved time extension), and projected future water needs within the District's boundaries remain significant challenges for the District's long-term water supply. **"**In the context of the State Water Resource Control Board's 2009 Cease-and-Desist Order, unauthorized diversions of Carmel River water accounted for a use of approximately 3,400 acre-feet per year (AFY) within the District at the time the order was issued. As required by the Cease-and-Desist Order, this 3,400 AFY of water must be replaced by an alternate permanent source or sources. Informed by these facts, MPWMD is taking active measures to diversify the water supply within the District through its own efforts and partnering with other entities to focus on conservation, aquifer storage and recovery, Pure Water Monterey, and other projects; thereby reducing reliance on Carmel River pumping and addressing future water needs of the communities it serves."

LAFCO made the following municipal service review determinations per Government Code Section 56430(a):[221]

"The District is a capable provider of water management, water augmentation, water reuse and reclamation, water conservation, limited retail water service, environmental protection and mitigation, and permitting and regulatory compliance services within its existing boundaries. The District has constructed, acquired and adequately maintains its water supply and other infrastructure. Concerns regarding the adequacy of the regional water supply will continue throughout the Monterey Peninsula and the Carmel Valley areas. Availability of water will continue to be a constraint on future development until replacement water supplies are developed."

[221] *Id.,* p.35

"The District has demonstrated a financial ability to provide services within its boundaries. The District has historically maintained a positive balance of revenues over expenses. The District budgets revenues and expenses annually and concurrently updates its three-year capital improvement plan. Its financial status is reviewed annually in professionally prepared audits. This service review's Finance section, above, outlines relevant financial information for the District, and demonstrates the District's financial soundness."

"The District commissioned the Raftelis Report which found that acquisition of the Cal-Am water system is financially feasible and would lead to reduced water rates to consumers. In response, Cal-Am's counsel refuted the acquisition costs and assumptions in the Raftelis Report. To gain more understanding regarding this conflicting information the Commission retained a consultant (Berkson Associates) to prepare an independent review of the financial documents received entitled *Financial Review of MPWMD Proposal to Provide and Distribute Potable Water*. The Berkson Associates report concluded, in part, that "The Raftelis Report provides a reasonable basis for a LAFCO determination that the MPWMD proposal will have sufficient revenues, although uncertainties exist. A review of key assumptions and methodologies indicates that the conclusions are reasonable; however, major cost items could change as a result of eminent domain proceedings."

46. FINDING: The Monterey County Local Agency Formation Commission ("LAFCO") determined that MPWMD has a consistent track record of successfully providing retail water service.

EVIDENCE: LAFCO's adopted 2021 Municipal Service Review and Sphere of Influence Study for the Monterey Peninsula Water Management District ("Study") determined the District, among other its activities, consistently and successfully provided limited retail water service to residents, stating: "the District is a capable provider of water management, water augmentation, water reuse and reclamation, water conservation, limited retail water service, environmental protection and mitigation, and permitting and regulatory compliance services within its existing boundaries."

47. FINDING: The voters in the District – Cal-Am's own customers – strongly support MPWMD's acquisition and operation of the MWS.

EVIDENCE: The voters in the District demonstrated strong support for MPWMD taking over ownership and operation of the MWS through the grass roots voter-initiative to qualify Measure J for the November 2018 general election ballot and by the overwhelming vote (58-42%) in favor. The will of the voters should be given significant weight in a democratic system, particularly when the issue is whether to support public ownership of a vital public resource. This finding is expanded upon in the next section.

48. FINDING: MPWMD will be a highly qualified and capable retail water service provider, because for many years, MPWMD has provided retail water service on a limited basis[222], and has taken the lead in monitoring, regulating, and controlling use of the limited water supplies within its boundaries. As part of this resource management function, MPWMD has been primarily responsible for formulation and implementation of voluntary and (in times of emergency) mandatory water conservation programs.

Through a number of activities and programs, MPWMD is the leading force in monitoring, regulating, and strictly controlling use of the limited water supplies within the District boundaries. Cal-Am is itself one of the District's regulated entities. District acquisition of the MWS will enable the District to accomplish directly what in some circumstances it now accomplishes indirectly, through its regulation and oversight of Cal-Am's operations.

EVIDENCE: Some of the District's activities and programs in this field are summarized below.

MPWMD wrote and implemented the 2016 Monterey Peninsula Water Conservation and Rationing Plan (MPWMD Regulation XV & MPWMD Rules 160-167) adopted February 17, 2016, which was wholly accepted by Cal-Am as its Rule 14.1.1 and Tariff 14.1.1. It is the Monterey Peninsula's guidance on conservation and rationing.

MPWMD monitors, regulates, and controls water use through the issuance of Water Distribution Permits for distributors of water, including Cal-Am, and through the issuance of Water Permits for new connections and modifications of existing connections to Water Distribution Systems within the District, including Cal-Am's ratepayers. The District determines the Water Use Capacity for both residential and non-residential uses and proposed modifications thereto. Based upon these determinations, the District imposes Capacity Fees on water users, including Cal-Am's customers, which fees are separately accounted for and expended for the sole purpose of planning for, acquiring, and/or reserving augmented water supply capacity for District water distribution facilities. The District also grants Water Use Credits to Cal-Am customers, enabling permanent abandonment of some or all of a prior authorized water use. (See, generally, District Rules 20-25.5, which can be found on the District's website.)

The District monitors all wells located in the District, including all wells owned and operated in the Cal-Am MWS. Subject to very limited exceptions, Cal-Am and every other owner or operator of an existing or new well within District boundaries must register with the District, maintain a water meter on the well, and file an Annual Water Production statement with the District.

[222] *Id.*

By May 1 of each year, District staff prepares a report which analyzes rainfall and unimpaired streamflow in the preceding twelve (12) months and estimates the amount of water in reservoirs and aquifers and other Sources of Supply that will be available for use by Cal-Am and every other Water Distribution System in the succeeding water year. The report includes a summary of the status of the operating equipment submitted by Cal-Am and every other Water Distribution System owner/operator, including but not limited to all wells, pumps, transmission mains, treatment plants, pumping stations, auxiliary reservoirs, and tanks. The report further evaluates the projected demands of Water Distribution Systems (including the MWS) and determines the number of months that the water projected to be available for use will support expected demands. The information is used to make conservation and/or rationing decisions going forward, or in the alternative to plan the water production budget going forward.

MPWMD partners with Cal-Am and state and federal regulators to develop quarterly "Operational Water Supply Budgets" to regulate how Cal-Am is satisfy projected demands and comply with water supply management constraints established by regulators and the court. The MPWMD Board then reviews and approves (or disapproves) those submittals. Cal-Am and other owners/operators of Water Distribution Systems are also required to file monthly reports with the District to demonstrate ongoing compliance and, if necessary, revisions to their operational water supply budgets to come back into compliance.

When the District acquires the MWS the current regulatory oversight of Cal-Am described above will be replaced with a more efficient direct control – rather like the difference between driving a vehicle from the front seat rather than providing navigation instructions from the rear seat.

The same holds true regarding conservation and rationing, when needed. MPWMD instituted the Monterey Peninsula's first stand-by rationing plan in 1981. Over the years MPWMD has supplemented and amended its water conservation and rationing program to meet the combined challenges of periodic drought conditions and limitations on water supply and storage capacity. MPWMD's current Water Conservation and Rationing Program (previously referred to as Regulation XV) is set forth in District Rules 160-167 (adopted by Ordinance No. 169), and can be found on the District's website. This program imposes requirements and water use limitations both on Cal-Am as the current water provider, and directly upon Cal-Am's customers as the ultimate water users.

Again, when the District acquires the MWS it will be better situated to implement and enforce all stages of the voluntary and mandatory conservation and rationing requirements that it has enacted, will be better able to directly interact with water customers, rather than indirectly through, or with the assistance of, Cal-Am. This will eliminate redundancy, improve efficiency and accountability, and provide clarity and understanding to the public and to the ultimate water users.

49. FINDING: MPWMD is and will continue to be a highly qualified and capable retail water service provider. The District has taken a leading and active role in protecting environmental resources in and around the Monterey Peninsula.

EVIDENCE: One of the District's three functional responsibilities is to monitor the effects of water production on the environment and work to reduce the negative impacts.[223] In the 1980s, the District implemented several programs designed to sustain healthy riparian vegetation and a viable fishery, and to maintain the bed and banks of Carmel River, to offset the deleterious environmental impacts of Cal-Am pumping in the Carmel Valley. The Mitigation Program now incorporates all these activities into one plan for mitigating the adverse environmental effects of Cal-Am pumping.

In its July 1995 Order WR 95-10, the SWRCB endorsed the District's Five-Year Mitigation Program and directed Cal-Am to carry out any aspect of that Program should the District not continue after June 1996.

At its May 3, 2004 meeting, MPWMD's Board of Directors reaffirmed the District's commitment to the Mitigation Program by passing Resolution 2004-03, which states that the District will continue the mitigation program. The program presently accounts for a significant portion of the District budget in terms of revenue (derived primarily from the MPWMD User Fee on the Cal-Am bill) and expenditures.

The Mitigation Program focuses on potential impacts related to the steelhead fish population, fisheries, riparian vegetation and wildlife, and the Carmel River Lagoon, and includes special status species and aesthetics. Activities required to avoid or substantially reduce negative impacts to the environment include: irrigation and erosion prevention programs; fishery enhancement programs; establishing flow releases from the existing dams to protect the fish and riparian habitat; monitoring and managing groundwater supplies in Carmel Valley and in the Seaside Groundwater Basin; monitoring surface and groundwater water quality; reducing municipal water demand through water conservation; and regulating activities within the Carmel River riparian corridor. Each year, a detailed Annual Report is prepared that describes the District's specific mitigation activities, data collected, and results.

50. FINDING: MPWMD is and will continue to be a highly qualified and capable retail water service provider. The District has taken a leading and active role in regulating and developing major components of the MWS water supply system. The District is responsible for allocating all local water supplies for future water use and regulates requests that expand existing water use or that create new water uses for all customers within the Cal-Am MWS. The

[223] The other two functional responsibilities are water supply development and water demand permitting & conservation.

District manages competing demands for new water uses among all municipalities on the Monterey Peninsula.

EVIDENCE: MPWMD's current regulation of Jurisdictional Water Allocations is set forth in Regulation III in District Rules 30-33 (adopted and amended by Ordinances No. 1, 6, 39, 60 and 125), and can be found on the District's website. This water allocation program imposes requirements and water use limitations both on Cal-Am as the current water provider, and directly upon Cal-Am's customers as the ultimate water users, related to use of water from any unused supply of water. The Jurisdictional Water Allocation program affects new or expanded water use by any consumer in the Cal-Am MWS proposed within the cities of Carmel-by-the-Sea, Del Rey Oaks, Monterey, Pacific Grove, Sand City and Seaside, or within unincorporated areas of Monterey County that lie within the Distict boundaries. District Rule 32 requires "Each new water Connection or Water Permit for expanded water use shall be strictly accounted for, and each new water use shall [allocation] be debited from the appropriate Jurisdiction or Entitlement."

Since 1990, MPWMD persisted in its goal of creating new water supply and did so by creatively examining where this water could be found. From the expansion of the Paralta Well in 1993, the creation of the Pebble Beach Reclamation Project online in 1994, a proposed dam in 1995 the voters rejected, the establishment of Aquifer Storage and Recovery in the early 2000's, and the Pure Water Monterey Project coming online in February 2020, the Water Management District is responsible for over 7,000 acre-feet of new water supply for the Monterey Peninsula. In the same period Cal-Am developed zero new supplies. This focus on water supply is evidenced by the changing face of the District's expenditures. The District's expenditures on water projects has been a steady $5 to $10 million each year recently. What's more, beginning in 2020 with the completion of Pure Water Monterey the District's expenditure on purchased water for resale to Cal-Am has gone from $6 million to almost $11 million expected in FY2022-23.

51. FINDING: MPWMD is and will be a better qualified and more capable water service provider than Cal-Am because the District takes a "bigger picture" view as the overall manager of the Monterey Peninsula Water Resource System, which includes over 1,000 wells and several small Water Distribution Systems that Cal-Am does not consider in its operations.

EVIDENCE: All owners and operators of Water Distribution Systems (WDS), including all well owners, within the District are required to annually submit water production information to the District. In 1980, District Ordinance No. 1 defined a WDS as *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*. Therefore, all wells within the District are considered to be WDSs. Refinements to the

MPWMD Rules and Regulations governing WDSs were added with the adoption of Ordinance No. 105 in 2002; Ordinance No. 106 in 2003; Ordinance No. 118 in 2005; Ordinance No. 122 in 2006; Ordinance 160 in 2014; and Ordinance 175 in 2016. Each WDS must report the amount of water produced and where required, the amount of water delivered, in addition to the number of existing and new connections served during the reporting period. The District maintains a superior position to Cal-Am regarding the overall stewardship of the complete water resources of the service area.

52. FINDING: MPWMD is and will be an equally qualified and capable water service provider as compared to Cal-Am because the District constructs, operates, maintains, and repairs an extensive system of water improvements and has the knowledge, experience, and capability to take over the physical operation, maintenance, and repair of Cal-Am's facilities, as well.

EVIDENCE: The District is already accomplished in its management of the pumps, pipes, valves, and operations relating to various projects to support its wholesale sales. As discussed previously, MPWMD also currently sells water retail to a small set of customers, but has a billing system capable of scaling up easily to 40,000 customers. The goal in this acquisition is to hire Cal-Am employees into the MPWMD organization to continue with seamless operations. However, the District's knowledge of operations affords it the opportunity to incorporate 3rd-Party operators and staff if necessary.

53. FINDING: MPWMD is and will be a highly qualified and capable retail water service provider, because the District is financially responsible and well managed.

EVIDENCE: MPWMD presently provides retail water service on limited basis.[224] Each year the District prepares a Comprehensive Annual Financial Report ("CAFR"), which is a set of government financial statements comprising the financial report of a California special district that complies with the accounting requirements promulgated by the Government Accounting Standards Board. The Government Finance Officers Association of the United States and Canada ("GFOA") has awarded a Certificate of Achievement for Excellence in Financial Reporting to the District for its CAFR for each of the past 7 consecutive fiscal years.

54. FINDING: MPWMD has experience setting water rates.

EVIDENCE: Unlike Cal-Am, as an investor-owned public utility regulated by the CPUC, public agencies are instead subject to compliance with California Proposition 218 (Prop. 218) that regulates how those agencies are authorized to set rates and charges. The District completed the Prop 218 rate-setting process in 2008 and again in 2012. The District also performed rate analyses related to the acquisition of the Cal-Am assets and has shown

[224] "2021 Municipal Service Review & Sphere of Influence Study: Monterey Peninsula Water Management District," Monterey County Local Area Formation Commission, 12/6/21.

costs needed to operate the system will be lower under District ownership. This is the basis for the District's conclusion that its rates to operate the water system will be lower than Cal-Am's rates.

55. FINDING: MPWMD has participated in most CPUC proceedings involving Cal-Am over the past few decades, including all of Cal-Am's recent 3-year general rate cases (GRCs). Through this participation, MPWMD has gained substantial knowledge of Cal-Am's operations and billing practices.

EVIDENCE: The District has filed protests, intervened and been granted party status, or otherwise participated in each of Cal-Am's 3-year GRC applications over the past 30-plus years, as well as Cal-Am's lengthy CPUC proceedings relating to the San Clemente Dam, the Carmel River Dam, the Coastal Water Project, the MPWSP, and the Pure Water Monterey project. Through its active participation, MPWMD has kept itself informed as to all major actions affecting the MWS, such that it is well prepared to step in and operate the system itself, with a focus on improving operations.

56. FINDING: MPWMD is led by a highly qualified and experienced management staff.

EVIDENCE: The existing key leadership of the MPWMD can absorb issues pertaining to acquisition of the Cal-Am MWS. However, the stated goal of the MPWMD in this acquisition is to retain employees from Cal-Am who are familiar with operations of the MWS. Alternatively, the District has a contingency plan by which a third-party could operate the system.

The MPWMD leadership team includes Division Managers who oversee four key functions: Water Resources, Environmental Resources, Conservation & Permits, and Administrative Services. These efforts will be seamlessly integrated with the production, transmission, and distribution activities of Cal-Am.

MPWMD employees include professional engineers, professionally certified hydrogeologists, certified operators, individuals familiar with valves, pumps, pipes and other water infrastructure. Certainly, staffing will scale up with the hiring of pre-existing Cal-Am staff or third-party operators, but the parameters of water utility planning, operations, construction, service, and compliance are understood.

David J. Stoldt has been the District's General Manager since 2011. In that capacity, Mr. Stoldt is responsible for all activities of MPWMD, including oversight of the operations in administration and finance, water resources, environmental resources, and water conservation and demand management. Mr. Stoldt holds an MBA and Certificate of Public Management from Stanford University, a MS in Energy and Resources from University of California, Berkeley, and a BS in Civil Engineering (Environmental and Hydrosystems) from the University of Illinois. Mr. Stoldt served as board member of the University of Illinois Civil and Environmental Engineering Alumni Association from 2004-2008.

Mr. Stoldt has extensive experience in developing cash flow scenarios, structuring complex capital financings, and advising about cost allocation and inter-agency issues primarily for public entities such as water, wastewater, public power, and solid waste agencies. Prior to 13 years in investment banking, Mr. Stoldt worked four years at a major California investor-owned utility and was involved in sales contract negotiations, regulatory issues, and demand forecasting.

Mr. Stoldt has also served as an elected or appointed member of six governmental committees dealing with land acquisition, building design, construction, master planning, EIR review, conservation easements, negotiating funding agreements, "green energy" procurement, and management of architects, engineers, and developers. He has also served as funder, CFO, or CEO of several early-stage private companies.

Due to the strength of its management team, and its Board of Directors, MPWMDis clearly capable of the transition to public ownership, and more importantly, capable of guiding integration of Cal-Am employees into the new organization.

Section 3. The "Governance Issue": MPWMD will provide a more open, accessible, democratic, transparent, and accountable governing structure than that which currently exists under Cal-Am ownership and CPUC regulation.

57. FINDING: MPWMD's acquisition is supported by a strong grassroots voter mandate. In a representative democracy, citizens should have the right to decide whether a vital public resource such as water is owned and controlled by the people themselves, through their elected public representatives, or by a private for-profit corporation. In this case, the citizens and residents within MPWMD's boundaries have loudly spoken in favor of MPWMD's acquisition of Cal-Am's Monterey Main System. As a public entity, the District's governance is required to comply with a variety of "sunshine" laws that include, but are not limited to, the Ralph M. Brown Act[225], the Public Records Act[226], and the Political Reform Act[227]. The District as a public entity is also governed by special rules that prevent self-dealing[228], and by the California Constitutional prohibition against the making of any gift of public funds.[229] These doctrines of law do not apply to a private, investor-owned utility such as Cal-Am.

EVIDENCE: The citizens of the Monterey Peninsula have attempted to self-determine their water supply and distribution for decades. In June 1935 voters

[225] Government Code § 54950, et seq.
[226] Government Code § 7920, et seq.
[227] Government Code § 81000, et seq.; California Code of Regulations, Title 2, Division 6 (§§18110-18998).
[228] Government Code § 1090, et seq.
[229] Cal. Const. art. XVI, § 6.

unsuccessfully attempted to create a utility district. In November 1958 a vote to create the Monterey Peninsula Municipal Water District was successful, but a later ballot measure to issue $17.5 million in bonds by which that Municipal Water District was to acquire the MWS (then owned by California Water and Telephone Company (CWT&TC) failed in 1965. CWT&TC was thereafter sold to Cal-Am on April 4, 1966, and the Municipal Water District was disbanded in 1967.

The current MPWMD, created by Act of the California Legislature as a water management district and not as a municipal water district,[230]was enabled by a vote of 14,010 to 11,026 in 1978. That same year the CPUC recognized MPWMD as the "appropriate public agency to be concerned with such matters as the solution to the development of a supplemental long-term water supply if needed, and administration of water rationing programs in the event of future droughts."[231]

In September 2005 a vote to authorize a surcharge on Cal-Am customer bills to fund a study to acquire the MWS failed, as also did Measure O in 2014 which would have directed MPWMD to adopt a policy to move toward public ownership of all water systems within its boundaries by conducting a feasibility study, and if deemed feasible, move forward with acquisition of all such water systems' assets.

Within a few years, the public's mood shifted dramatically. On 11/6/18, the voters within the District passed Measure J resoundingly, 56% to 44%. Measure J directed that Rule 19.8 be added to the MPWMD Rules and Regulations to provide as follows:

"Rule 19.8. Policy of Pursuing Public Ownership of Monterey Peninsula Water System.

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

[230] District's Enabling Act (Cal. Water Code Appendix, Chapter 118 [Stats. 1977, ch. 527.]
[231] CPUC Decision No. 89195, Finding No. 18.

> 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."

In accordance with this voter directive, MPWMD's Board of Directors engaged a highly competent team of consultants to assist the District in performing the feasibility analysis mandated by Rule 19.8. After an interim report by the General Manager that was presented to the Board on August 19, 2019, a full feasibility report was presented to the Board at its November 12, 2019, meeting. That report determined that acquisition of Cal-Am's Monterey Main System *is* in fact feasible.

Since the Board received the initial feasibility analysis in 2019 and in furtherance of the voters' expression of their will in Measure J, the District has completed the CEQA process, prepared a full operations plan detailing how it will provide retail water service to the MWS, obtained LAFCO approval for the annexation of approximately 58 parcels into the District's boundaries, completed its appraisal, and presented its offer of just compensation to Cal-Am.

58. FINDING: In a closely analogous case, the California court of appeal recently recognized the strong public interest in having a public agency exercise its eminent domain powers to obtain "local control" of privately owned CPUC-regulated water systems.

EVIDENCE: The governance benefits of public vs. private ownership of a community's water system were eloquently summarized by the California Court of Appeal in its recent decision in *Golden State Water Company v. Casitas Municipal Water District* (2015) 235 Cal.App.4th 1246, 1249-1250. In that case, which also involved an effort by a public water agency to acquire the system of a Class A California investor-owned water utility, the court cited evidence justifying the acquisition in words that are equally applicable here:

> "Residents of Ojai, fed up with sky-high water bills, voted to oust appellant Golden State Water Company (Golden State), the private utility that monopolizes water service to their city, and replace it with respondent Casitas Municipal Water District (Casitas), a municipal utility that they hope will be more responsive to their concerns …
>
> Golden State is unwilling to sell its business. Casitas therefore plans to acquire the assets by eminent domain…
>
> … Golden State charges its customers rates that are more than double those charged by Casitas, and the disparity is growing. Over a 20-year period, Golden State's average annual rate increase was nearly twice that of Casitas.

> After several failed attempts to redress their grievances with the Public Utilities Commission (PUC), Golden State's regulatory agency, local residents formed respondent Ojai Friends for Locally Owned Water (Ojai FLOW), an interest group 'with the intent to declare independence from the economic tyranny of Golden State.' Ojai FLOW, supported by Ojai's city council and more than 1,900 registered voters, petitioned Casitas to take over Golden State's water service in Ojai.
>
> Casitas concluded that the Ojai community would benefit from having its water utility run by a locally controlled entity rather than an out-of-area corporation seeking to maximize profits for its owners. Casitas's board members live in the community and its customers have the right to participate in management decisions. Unlike Golden State, Casitas is subject to the Brown Act ([Government Code] § 54950 et seq.) and the California Public Records Act (§ 6250 et seq.), and its meetings are conducted in public within its service area. Under Proposition 218 (Cal. Const., art. XIII D), Casitas's rates can be reduced by a majority of voters in its service area. (*Bighorn-Desert View Water Agency v. Verjil* (2006) 39 Cal.4th 205, 217…) The only recourse for Golden State's customers is to contend with the formal PUC process involving officials and staff located hundreds of miles away, whereas Casitas's customers can express their wishes at the local level."

59. FINDING: California law guarantees citizens/ratepayers' rights to obtain access to public records and to participate directly in the governmental decision-making process; these rights do not exist in citizen/ratepayer interactions with Cal-Am. This legal framework requires and enables greater transparency with the District's ownership and management of the MWS.

EVIDENCE: The California Public Records Act. Under the California Public Records Act (Cal. Government Code §§ 7920 *et seq.*), public records "are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record [subject to very narrow enumerated exceptions]." In addition, except as to records that are exempt from disclosure, "each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable." These requirements – fleshed out in numerous other statutory protections, reflect the Legislature's findings "that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state."

The Public Records Act does not apply to or bind private corporations such as Cal-Am, however. Moreover, even many of the public records Cal-Am files with the CPUC are not available on-line, are kept confidential, and are not produced by the CPUC even in response to formal Public Records Act requests (or else are produced only after several months-long delays, frequently with redactions). To cite just one recent example, on 2/14/20 the CPUC Public Advocates Office ("PAO") filed its "Report and Recommendations on California American Water Company's Proposed Plant, Depreciation and Special Request #16 (A.19-07-004) and, responding to what appears to have been a confidential filing by Cal-Am, redacted and marked "CONFIDENTIAL" virtually all of the PAO's entire discussion/analysis relating to Plant Additions and the corresponding budget amounts. The public can't monitor, assess, and potentially object to plant additions and cost projections as to which it is kept in the dark. It is typically the case that Cal-Am and other regulated utilities file a Comprehensive Planning Study (CPS) in support of its capital program and General Rate Case, but such CPS is not made available to the public. Under public ownership, Capital Improvement Plans identifying planned capital additions and costs are readily available.

Similarly, the General Rate Case process at the CPUC is an obtuse process, in which it is difficult for the public to participate. Workpapers in support of rate increases are typically made available by Cal-Am to CPUC staff and only made available to intervenors upon request, if they know what to ask for, and what is produced in response is often heavily redacted. Such workpapers are never available to a member of the public who is not a formal intervenor. In contrast, to use just one example, under public ownership a Rate Study in support of the setting of new rates would be a public document.

The Brown Act. California's Ralph M. Brown Act (Cal. Government Code §§ 54950 *et seq.*) is also referred to as the State's "sunshine law." (See, *e.g.*, *Shapiro v. Board of Directors* (2005) 134 Cal.App.4th 170, 180-181.) Among the Brown Act's many requirements (and subject to certain narrow exceptions) are that: (1) all meetings of legislative bodies of local public agencies must be open to the public; (2) all meetings must be held within the territorial jurisdiction of the local agency; (3) an agenda must be publicly posted and available online at least 72 hours prior to each meeting describing all items to be discussed and considered at the meeting; (4) no action may be taken and no substantive discussion may occur with respect to any item that is not properly agendized; and (5) any member of the public has the right to address the legislative body conducting the meeting with respect to any item on the agenda. (See Government Code §§ 54952, 54954-54954.3.)

There is no counterpart to the Brown Act in the realm of private utility companies such as Cal-Am. MWS customers and ratepayers and persons and organizations interested in the affairs of the MWS are not invited into Cal-Am's corporate boardroom—or into its staff meetings. Rather, Cal-Am

operates in a private, secret world. Moreover, even the CPUC, which has regulatory oversight authority, conducts very few public meetings concerning Cal-Am, and many of those meetings are held in San Francisco or Sacramento, far away from MWS citizens, customers, and ratepayers.

60. FINDING: California law provides more direct guidance and oversight of public agency decisions as compared to CPUC regulatory decisions pertaining to an investor-owned public utility. Judicial review of CPUC decisions related to water corporation operations rarely occur.

EVIDENCE: Decisions of a public entity such as the MPWMD are subject to review by a local court under the rules of traditional mandate (Code of Civil Procedure §1085, et seq) or under the rules of administrative mandate (Code of Civil Procedure §1094.6). Any trial court decisions may thereafter be contested before an appellate court by right, or before the California Supreme Court by discretion.

In contrast, California Public Utilities Code §1756 provides extraordinarily limited opportunities to review CPUC decisions related to Cal-Am operations. This statute provides, in part, "review of [CPUC] decisions pertaining solely to water corporations shall only be by petition for writ of review in the Supreme Court." See, *Monterey Peninsula Water Management Dist. v. Public Utilities Commission (California-American Water Co.)* (2016). 62 Cal. 4th 693, 197 Cal. Rptr. 3d 514, 364 P.3d 404. Citizens, ratepayers, and other third parties have no right of review before a Superior Court judge or Court of Appeal. The request for review must be made directly to the Supreme Court and the grant of such review is discretionary; a hearing is not a matter of right. Historically, the Supreme Court has rarely granted review of such cases.

61. FINDING: Cal-Am's MWS customers and ratepayers have no right to participate in Cal-Am management decisions, as they will with MPWMD.

EVIDENCE: MPWMD's ratepayers have never been and never will be represented on the Board of Cal-Am (or its parent, American Water), nor in Cal-Am management affairs. As a practical matter, they do not have any control, or even an effective participatory role, over the operations of the CPUC—a distant state bureaucracy.

By contrast, MPWMD's constituents elect the members of the Board (Cal. Water Code App. § 203). Any voter residing in the District is eligible to run for and be elected to the Board. (*Id.*, §§ 204-205.). Any Board member who is not responsive to his/her constituents can be voted out at the next election.

In short, MPWMD's acquisition of the MWS provides local customers and ratepayers a practical means to obtain accessible, responsive, and accountable operations and management of one of the most precious resources of life – water.

62. FINDING: Unlike the situation with Cal-Am, MPWMD's Board members and senior management staff live in the community and are accessible and accountable to local residents.

EVIDENCE: If a Cal-Am customer complains to Cal-Am, the complaint goes to a remote call center in Illinois or Florida, or perhaps to a regional manager who is responsible to corporate management in San Diego or, in a few years, in Sacramento – hundreds of miles away. While the CPUC allows the filing of complaints, the same burdens that face persons who wish to participate in other CPUC proceedings apply to the complaint process

By contrast, if an MPWMD customer has a complaint, the complaint goes through MPWMD's General Manager, who is responsible to a locally elected board. If a customer does not receive a satisfactory answer, he/she can contact a Board member directly or show up at the District's next Board meeting, address the Board, and put District staff on the spot. MPWMD Directors live in the divisions that elected them and are therefore more directly responsive. The mere potential that citizens may complain to the Board provides an incentive for management staff to be responsive to customer concerns.

The MWS ratepayers comprise only about 21% of Cal-Am's California customer base.[232] If MPWMD were to take over serving the MWS, those ratepayers would constitute a full 100% of MPWMD's customer base. Being closer to one's constituents increases both accessibility and accountability.

63. FINDING: Under Proposition 218 (Cal. Const., Art. XIII.D), MPWMD's ratepayers/voters have numerous protections prior to having their water rates increased, including noticed public hearings in the community, the right to "protest out" proposed fee increases by majority vote, and the right to rescind or roll back rate increases through exercise of their powers of initiative and referendum. Cal-Am's ratepayers have no such rights and their only "recourse" is to attempt to pierce the technical, legalistic, expensive, and opaque CPUC process with officials and staff located over 100 miles away. When MPWMD acquires the MWS, ratepayers/voters will have numerous rights to protect them against unwarranted rate increases.

EVIDENCE: Approximately 85% of all urban water supplied in California is provided by public agencies, each of which is subject to Proposition 218[233]. Per Proposition 218, before water rates are increased, the protections summarized below will apply:

MPWMD will be required to calculate the amount of the increased fee to be imposed upon each parcel and "provide written notice by mail of the proposed fee or charge to the record owner of each identified parcel… the

[232] Cal-Am CPUC 2022 General Rate Case MDR Ch. 3, Table 3.2, Estimated 2023.
[233] Proposition 218; Cal. Const., Art. XIII.D

amount of the fee or charge proposed to be imposed upon each, the basis upon which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, together with the date, time, and location of a public hearing on the proposed fee or charge."[234]

By contrast, Cal-Am's ratepayers receive a single perfunctory notice when Cal-Am files its GRC applications that fails to identify any of this information except the proposed increase amount to its base rates (but not any of its many surcharges or balances in its Memorandum Accounts).

MPWMD will then be required to "conduct a public hearing upon the proposed fee or charge not less than 45 days after mailing the notice of the proposed fee or charge to the record owners of each identified parcel upon which the fee or charge is proposed for imposition. At the public hearing, MPWMD will be required to consider all protests against the proposed fee or charge. If written protests against the proposed fee or charge are presented by a majority of owners of the identified parcels, MPWMD will be prohibited from imposing the fee or charge.

By contrast, while the CPUC does hold a public participation hearing ("PPH") once every 3 years or so, prior to the CPUC adopting a general rate increase for Cal-Am, these rights do not exist for the many rate increases imposed as a result of Cal-Am's filing of Advice Letters (which are processed quietly at the CPUC staff level), ratepayers do not get to address the decision-makers themselves (*i.e.*, the CPUC commissioners) even in the GRC cases, the complexity and opaqueness of CPUC proceedings generally makes the "right" to appear at a PPH an illusory one, and ratepayers have no majority protest rights to prevent a proposed rate increase from going into effect.

If MPWMD voters/ratepayers are dissatisfied with a rate increase adopted by the Board, they can prevent the increase from going into effect or roll back the increase by exercising their constitutional powers of initiative or referendum. (See *Bighorn-Desert View Water Agency v. Verjil* (2006) 39 Cal.4th 205, 217.)

By contrast, Proposition 218 does not apply to Cal-Am or the CPUC and the CPUC's decisions are final.

64. FINDING: Under MPWMD ownership, rate increases will be fewer and more visible.

EVIDENCE: The Proposition 218 process described under Finding 63, above, is required for any rate increase under public ownership. Most public agencies undertake such a Prop 218 process every 3 to 5 years, or less frequently as necessary to maintain rates and charges. Such a Prop 218 process may adopt

[234] Id., at § 6(a)(1).

annual increases for that 3- or 5-year period, but seldom are rates scheduled to increase more than once a year under public ownership.

By contrast, as shown in Exhibit M, Cal-Am's rates for the MWS changed 40 times between September 2016 and November 2021, an average of 8 times per year.[235]

The CPUC Public Advocates Office has stated: "Presently, Cal Am can change customer rates by obtaining Commission authorization of advice letters regardless of the GRC schedule. This is not transparent to ratepayers who will face unknown rate changes at unknown times. In order to mitigate this issue, the Commission should affirm that no new advice letter projects or previously authorized advice letter projects will be authorized in this GRC."[236]

65. FINDING: In contrast to the open and accessible means by which the District will make decisions regarding the MWS, including rate adjustments, the Cal-Am/CPUC process is complex, technical, legalistic, expensive, and opaque.

EVIDENCE: Monterey residents have expressed considerable frustration and a sense of powerlessness in attempting to address their concerns through the CPUC. Much of the information submitted by Cal-Am to the CPUC is withheld from public view and is not available on the CPUC's public website. CPUC proceedings are handled in a highly formalized adversarial manner, managed by lawyers and replete with Motions, Briefs, Objections, witnesses who are required to submit their "testimony" in a formal written Question and Answer format, evidentiary rulings, and the like. Important CPUC proceedings are held far away from the local community, and even the local Monterey hearing(s) bring only an administrative law judge, not the decision-makers themselves. Local citizens either have to obtain volunteer legal counsel or cannot afford the lawyers it takes to fight.

The process of fighting a proposed Cal-Am rate increase at the CPUC is made even more complex by virtue of the fact that Cal-Am's rates are not the product of just one single CPUC proceeding, but several. These separate proceedings include: (1) the General Rate Case ("GRC") – with a new application filed every 3 years, about the time it takes to litigate the previous one to a conclusion; (2) the "Cost of Capital" case; and (3) other Applications for projects filed separately from a GRC. The GRC determines Cal-Am's "Adjusted Rate Base" "revenue requirement," and rate structure for each year in the 3-year period at issue, plus issues relating to surcharges, balancing accounts, etc., that affect how much ratepayers will end up paying in addition to their "base" rates. The Cost of Capital case determines the rate of return Cal-Am is entitled to receive on the "adjusted rate base" established in its General Rate Case.

[235] Cal-Am 2019 and 2022 General Rate Case filings to CPUC, MDR II.A.8.
[236] Daphne Goldberg, CPUC Public Advocates Office, "Report and Recommendations on Recorded Plant, Construction Work in Progress and Special Request #14," in CPUC A.19-07-004, 2/14/20, p.49.

Not only is it difficult for an outsider to penetrate the CPUC's rate-making process, the job is made even more difficult by virtue of the fact that each of the three separate components of the process – GRC, Cost of Capital, and other Applications – typically involve considerations that go far beyond Cal-Am's Monterey District. Cal-Am's three-year GRC's typically involve rate-setting not just for Cal-Am's Central/Monterey District, but for all of the more than 190,000 Cal-Am customers spread throughout the State of California in Cal-Am's many other water and wastewater districts/divisions. Similarly, Cal-Am's periodic Cost of Capital proceedings are used to determine the rate of return Cal-Am is entitled to receive not just in its Central/Monterey District, but in *all* of its California districts.[237]

This organization and breakdown of multiple statewide CPUC rate-related proceedings may well be more efficient for CPUC staff and the Commission to manage. It most definitely is *not* more efficient, however, for individual ratepayers in a particular Cal-Am district/division – such as Monterey – who might wish to provide input or actively participate. Any individual Monterey customer/ratepayer who wishes to become involved in any of Cal-Am's multiple CPUC proceedings must wade through a massive amount of irrelevant or at most marginally relevant information in order to focus on the information directly relevant to his/her concerns.

In addition to the complexity of the CPUC's "public" rate-related proceedings, the CPUC allows Cal-Am to impose and increase various surcharges by means of "Advice Letters," which receive essentially no public scrutiny and garner no public hearings at all. As previously noted, Cal-Am frequently avails itself of the speed and secrecy that these Advice Letters permit, as its surcharges comprise a large (sometimes over 50%) and seemingly ever-growing percentage of a customer's total water bill. To cite just one of many recent examples, the CPUC authorized Cal-Am to file an Advice Letter to recover its costs associated with its Phase 2 MPWSP pipeline and pump station facilities.[238] Following up on that authorization, on 4/3/19, Cal-Am filed Advice Letter 1238 (later amended) to add over *$56 million* to its rate base and increase its "revenue requirement" (*i.e.,* its annual billing amounts) for MWS ratepayers by a whopping *$7,924,300 per year* three years after discussion by the parties in San Francisco.

The adversarial nature of the CPUC process makes it difficult even for the CPUC itself to obtain straight answers and adequate information from Cal-Am. Thus, for example, in the CPUC's 2019 GRC decision, the Office of Ratepayers Advocates ("ORA") complained about "(1) Cal-Am's failure to provide necessary documents during discovery; (2) Cal-Am's inclusion of new information and new requests in rebuttal testimony; and (3) Cal-Am's

[237] Actually, Cal-Am's "cost of capital" proceeding is even more complicated for participants, since it involves not only Cal-Am, but other "Class A" water utility companies located throughout the State of California.
[238] CPUC Decision 16-09-021, pp. 38-42 and pp. 55-56 paragraphs 6-8.

substitution of witnesses during hearings." In the end, the CPUC denied certain Cal-Am requests because of its failure to open its books.[239]

The enormous expense of these CPUC proceedings—and the near-impossibility of individual ratepayers acquiring the technical and financial ability to navigate the CPUC's rules of procedure and effectively participate—is illustrated by the massive amount of money Cal-Am itself spends on the process (which expenses, of course, Cal-Am turns around and bills back to the very same ratepayers). Consider the following:

In 2018, the CPUC approved a MWS regulatory expense for Cal-Am of $3.5M for all of its California districts, which equates to approximately $780,500 for the MWS (based on Cal-Am's Monterey District comprising approximately 22% of its total number of connections statewide), or $6.80 per connection, an amount the CPUC acknowledged is *four times* the average amount requested by other Class A utilities in California.[240]

The trend continued into the next GRC cycle, filed in 2019. For Years 2021-2023, Cal-Am requested a dramatic 48.3% increase in its regulatory expense budget--to $5,192,979. This equates to $1,730,993 per year or $9.19 per connection. As the PAO commented, the requested amount "is approximately four times higher than that of other Class A water utilities in California on a per customer basis."[241]

Ordinary ratepayers cannot be expected to pay the massive amounts it takes to participate in a CPUC rate proceeding, or any other type of CPUC proceeding. Ordinary ratepayers cannot afford to retain the attorneys and expert witnesses that would be needed to rebut Cal-Am's presentations. In effect, the CPUC system cuts out the ordinary customer/ratepayer and leaves him/her powerless.

66. FINDING: Cal-Am's billing practices are opaque and have the effect of keeping ratepayers in the dark regarding the cost of water. The CPUC has stated that Cal-Am ratemaking appears "deliberately designed to obfuscate the impacts to customer bills."[242] In contrast, MPWMD's billing practices will be much more open and transparent.

EVIDENCE: District staff addressed this issue in findings above. Not only do MWS ratepayers have virtually no authority to participate in decisions relating to their water rates (or other subjects, for that matter), Cal-Am's billing system – authorized by the CPUC – is almost designed to keep customers in the dark regarding rate increases and changes in their total cost of water.

[239] CPUC D.18-12-021, dated 12/20/18, pp. 6-11.
[240] CPUC Decision 18-12-021, dated 12/20/18, pp. 88-89.
[241] Public Advocates Office "Report and Recommendations on Operations and General Expenses, Labor Expenses, Balancing and Memorandum Accounts and Special Requests #2, 3 and 13, filed in A.19-07-004, dated 2/14/20, pp. 15-16.
[242] Jayne Parker, CPUC Public Advocates Office, "Report and Recommendations on Rates and Surcharges", CPUC A.19-07-004, 2/14/20, p. 3.

Until recently, almost 2/3rds of Cal-Am's O&M and A&G expenses were tracked in balancing accounts and recovered as surcharges on the "base rates." This practice gives "the illusion of a smaller increase in customer rates" when Cal-Am submits and processes its GRC applications.[243] In its 2018 Annual Report filed with the Commission, Cal-Am lists no fewer than 97 separate balancing and memorandum accounts. As the PAO noted in its 2/14/20 report:

> "Authorizing recovery of these accounts typically results in surcharges on customers' bills. In the current GRC Application, Cal-Am presents 40 of its 97 surcharge accounts categorized by type with account balance as of May 31, 2019. The total under-collected balance for the 40 Cal-Am surcharge accounts as of May 31, 2019 is $199,252,617, which is around 73% of its total requested Revenue Requirement for TY 2021."[244]

In that rate case, Cal-Am sought funding (separate from its Revenue Requirement) for 29 of the 40 surcharge accounts referred to above and, in addition, it sought recovery of accrued balances in other balancing and surcharge accounts in a number of other separate proceedings (*e.g.*, the Water Revenue Adjustment Mechanism ["WRAM"] and Modified Cost Balancing Account ["MCBA"] that are extremely large in the case of the Monterey Water System).[245]

The CPUC has said that Cal-Am ratemaking appears "deliberately designed to obfuscate the impacts to customer bills by shifting an increasing amount of base rates into surcharge accounts and applying a shareholder return to the account balances."[246]

The high percentage of the overall cost of water represented by these surcharges and balancing accounts, the sheer number of surcharges and balancing accounts, the complexity of the calculation as to how much is accrued and owing in these various accounts, and the fact that the CPUC's GRC process does not obligate Cal-Am to consolidate, total, and inform Cal-Am's ratepayers of the impact of these *de facto* rate increases makes it virtually impossible for ratepayers to understand and plan for how much they will be required to pay.

When MPWMD acquires the MWS these balancing and memorandum accounts, surcharges, Advice Letters, and other secret adjustments made

[243] "Report and Recommendations on Operations and General Expenses, Labor Expenses, Balancing and Memorandum Accounts and Special Requests #2, 3 and 13 submitted by the CPUC's Public Advocates Office ("PAO"), 2/14/20, in Cal-Am's in Cal-Am's 2019 GRC application (Application 19-07-004), pp. 1-5.
[244] *Id.* at p. 54.
[245] *Id.*, pp. 54-58.
[246] Jayne Parker, CPUC Public Advocates Office, "Report and Recommendations on Rates and Surcharges", CPUC A.19-07-004, 2/14/20, p. 3.

without notice to ratepayers to customers' water bills will be eliminated. Ratepayers will know in advance what their cost of water will be.

67. FINDING: Cal-Am's planning practices, evidenced by the 5-year requirement by the State Department of Water Resources to develop, submit, and publish an Urban Water Management Plan ("UWMP"), are opaque and designed to keep ratepayers in the dark regarding future supply and demand and future capital and operating needs. In contrast, MPWMD's planning practices will be much more open and transparent.

EVIDENCE: Cal-Am's 2020 UWMP was not properly vetted publicly and reflects no input from the public or other local water suppliers in the area.

Ian C. Crooks, Cal-Am's Vice President of Engineering in 2022, made the following statement on page 20 of his Phase 2 Direct Testimony: "although it had the opportunity, MPWMD provided no comment or objection to California American Water's UWMP."[247] However, Cal-Am did not make its 2020 UWMP available in draft form until June 10, 2021, it then held a hearing on the UWMP only seven days later, and Cal-Am then adopted it verbatim, without change.

Providing comments on a 544-page document within 7 days, including a weekend, proved impossible. To the contrary, most public agencies provide greater time for review. By example, the Marina Coast Water District provided a full month between release of a draft and the public hearing. As owner of the MWS, MPWMD would do the same – provide adequate time for public input.

The timeline chosen by Cal-Am had the effect of ensuring neither MPWMD, nor anyone else, would have time to even review let alone provide relevant comments upon the UWMP. In the past, for example, MPWMD commented heavily on Cal-Am's 2010 and 2005 UWMPs – even though MPWMD's comments were then ignored by Cal-Am. In some respects, MPWMD has been frustrated in providing comment, because it appears Cal-Am finds its input to be adversarial. This is especially troubling since the Urban Water Management Plan Guidebook 2020 counsels efforts to foster cooperation between water agencies and providers in a region: "Regional planning can deliver mutually beneficial solutions to all agencies involved by reducing costs for the individual agency, assessing water resources at the appropriate geographic scale, and allowing for solutions that cross jurisdictional boundaries.

Some other possible benefits, depending on the level of regional cooperation, can include:

- More reliable water supplies
- Increased regional self-reliance

[247] Phase 2 Direct Testimony of Ian C. Crooks Corrected, in CPUC A.21-11-024, dated 7/25/22, p. 20.

- Improved water quality
- Better flood management
- Increased economic stability
- Restored and enhanced ecosystems
- Reduced conflict over resources

In support of regional UWMPs and regional water conservation targets, the UWMP portion of the Water Code provides mechanisms for water providers to participate in area-wide, regional, watershed, or basin-wide urban water management planning."[248] "Developing a cooperative 2020 UWMP may be a natural continuation of other regional coordination efforts, such as IRWM, or it may present an opportunity to begin regional collaboration.*"* The Code also states "Suppliers may find it beneficial to collaborate with other Suppliers to develop a RUWMP."[249] MPWMD has been a water supplier to Cal-Am since 2002 as part of its Aquifer Storage and Recovery (ASR) project and since 2020 for waters from the Pure Water Monterey project. Nonetheless, Cal-Am has never asked for or facilitated MPWMD's input into its UWMP preparation.

The Cal-Am 2020 UWMP represents only the view of Cal-Am. The process followed prior to its adoption effectively silenced regional input, and actively discouraged public comment. MPWMD ownership will open up that planning process to all stakeholders.

68. FINDING: Consolidation of the MWS under District ownership and control will result in greater efficiencies, cost savings, and coordination of important public policy relating to water resources.

EVIDENCE: Mindful that the "Monterey Peninsula Water Management District was created by the State Legislature in 1977, based on findings that integrated water management was necessary because of severe water shortages in the area" (as stated by the Sixth District Appellate Court in it published opinion, *Save Our Carmel River v. Monterey Peninsula Water Management District* (2006) 141 Cal. App. 4th 677), the District filed for intervenor status in each of Cal-Am's significant CPUC proceedings over the past 3 decades. So have a number of other local public agencies. These proceedings are costly and time-consuming. If CPUC jurisdiction is eliminated, these costs and expenditures of effort will be eliminated as well.

The District (often in partnership with other agencies) already owns, controls, manages, and provides retail water service from important parts of the water delivery system in the MWS service area – *e.g.*, the Pebble Beach water reclamation project, the Pure Water Monterey facilities, and ASR facilities in the Seaside Groundwater Basin. These facilities are soon to include the Pure Water Monterey Expansion Project.

[248] Urban Water Management Plan Guidebook 2020, California Department of Water Resources, pp. 2-5, 2-6.
[249] Id., pp. 2-6, 2-7.

The District has primary management control over the extraction of water from the Carmel River and environmental protection/enhancement related thereto. Further, the District is the primary entity with the authority to adopt, implement, and enforce mandatory and voluntary water conservation policies, programs, and regulations. The District is also the primary entity with jurisdiction over groundwater resources—which are the most important component of the long-term storage system that is needed to ensure an adequate water supply 12 months of the year, during the rainy season and times of drought. Finally, the District is the sole authority by which water supplies are allocated amongst the cities and county jurisdictions that exist within the District boundaries.[250]

Cal-Am collects the District's User Fee (District Ordinance 123) on MWS water bills and remits the fee to the District. The District applies this fee to mitigating the impacts of Cal-Am's diversions from the Carmel River, for its conservation activities, and its ASR program that enhances the water supply available in the MWS. When the District acquires ownership of the MWS, the current "2-step" process of Cal-Am billing and collecting the District's user fee and paying the fee over to the District will no longer be needed.

The District provides retail water service to customer accounts in the MWS – including several golf courses and a private high school. .

In short, a substantial overlap exists between the District's existing functions and water delivery services and Cal-Am's operation of the MWS. Consolidation of the MWS under District's ownership and control will lead to greater efficiencies and lower costs – in a way that Cal-Am's acquisition of the far-flung Citizens Utilities Company and other small utility acquisition "tuck-ins" of Cal-Am in other parts of the State did not.

69. FINDING: As a non-profit, public entity that will devote 100% of its attention to serving MWS ratepayers and the coastal Monterey community, the District can be trusted to govern in the interests of local stakeholders. The same is not true of Cal-Am. The District, as a public entity, is required to comply with "sunshine" laws related to governance, transparency, public participation and ethical standards. These doctrines of law do not apply to a private, investor owned utility such as Cal-Am.

EVIDENCE: As earlier noted, Cal-Am is a profit-making entity, beholden to its investors. The MWS is only a small part of Cal-Am's much larger California operation with over 190,000 connections statewide, which in turn is only a small part

[250] *Save Our Carmel River v. Monterey Peninsula Water Management District* (2006), 141 Cal. App. 4th 677, found that "Under the [Monterey Peninsula] Water [Management] District's water allocation program, the Water District allocates shares of Cal-Am's total annual water supply among its eight member jurisdictions." "Permits for new or intensified use of water require Water District approval." "Water District Rules provide that each new or expanded water use shall be "strictly accounted for." (citing District Rule 32-B.)"

of American Water's vast operations spread out over 14 of the 50 United States. Cal-Am is incentivized to understate its income, to increase and exaggerate its expenses, to try to get ratepayers to pay for benefits that accrue in whole or in part to corporate shareholders rather than ratepayers, and to try to allocate costs to one set of ratepayers (including those in the MWS) expenses that are properly allocable to another set of ratepayers. These Findings identify many, many examples of how these incentives have worked to the substantial detriment of the MWS ratepayers in particular and the Monterey Peninsula community in general.

The very size and complexity of the Cal-Am and American Water empire makes it a constant challenge to curb Cal-Am's abuses. The CPUC, particularly its PAO, does its best, but its oversight is far from perfect.

These governance problems will disappear with District ownership and operation of the MWS. The District has no incentive to play financial or accounting tricks, to understate income, or to pad expenses in order to earn a higher profit. The District has no operations elsewhere in California or around the country and will devote 100% of its effort to serving the local community. Oversight of the District's operations and financial dealings will be far simpler and more straightforward as a result.

70. FINDING: The District is able to identify and respond to pressing problems more quickly than Cal-Am, which is required to obtain CPUC approval for budgets and expenditures, a process which often takes years. Further, many of the CPUC hearings related to Cal-Am are protracted and are held in conjunction with statewide proceedings.[251]

EVIDENCE: Before Cal-Am is authorized to expend funds or otherwise embark on a new program to use ratepayer funds it must first obtain CPUC approval. The normal process for obtaining approval is the 3-year GRC cycle, one that typically takes at least 18 months to complete from the date the utility submits its application to the CPUC, and ending when the CPUC issues its final decision. This process can entail substantial delays before Cal-Am obtains approval and takes needed action.

One recent example is Cal-Am's identification of the need for it to replace main lines in its distribution system in order to eliminate water quality problems and improve fire flow pressure. Cal-Am commissioned the 2018 Trussell report and made its recommendation to the CPUC, seeking authorization to institute a 5-year main replacement program. The CPUC, however, chose to authorize only a subset of the request, funding pipeline replacement instead over a period of 10 years.

Even after the CPUC authorizes and approves Cal-Am projects, however, Cal-Am has failed to undertake them in a timely fashion. Unfortunately, the

[251] Cal-Am's "cost of capital" proceeding, by example, involves not only Cal-Am but all other "Class A" water utility companies located throughout the State of California.

CPUC does not monitor, or follow up on those efforts, or otherwise encourage Cal-Am to proceed. In the current General Rate Case the following "Previously Approved Carry-Over Projects" were authorized to be completed by the end of 2023, but these were not brought to completion:[252]

- Hidden Hills interconnect (I15-400097)
- 20 Standby Power/Emergency generators (I15-400108)
- Los Padres Dam Facilities Improvements (I15-400109) - Downstream outlet valves - ongoing since 2016 GRC approval
- Los Padres Dam Outlet Modifications (I15-400152) - Underwater outlet value covered in 2019 landslide. (The problems with the May 1, 2019 landslide affecting the amount of flow going out of the 980-foot outlet have been known for quite some time and should have been addressed on an emergency or fast-track basis.)
- Los Padres Dam DSOD (I15-400117) -From 2019 GRC, erosion protection of downstream outlet valves delayed by 2019 landslide
- BIRP Phase 1 Improvements (I15-400110) - Approved in 2016 GRC
- BIRP Phase 2 Improvements (I15-400133) - Approved in 2019 GRC
- ARC Flash Mitigation (I15-400135) - Approved in 2019 GRC
- Del Rey Regulation Station (I15-400137) - Approved in 2019; expects completion in 2025
- Rancho Fiesta Tanks and Pump Station - Approved in 2019 GRC; expects completion in 2024
- New Carmel Valley Well (I15-400141) - Approved in 2019 GRC for new well on Rancho Canada Golf Course

Cal-Am collects money, but slowly executes such projects, increasing interest earned during construction at a high rate. The CPUC Public Advocates Office stated: “Cal Am rarely completes all the projects funded in a general rate case.”[253]

It is irresponsible for Cal-Am’s needed water projects that had been approved by the CPUC at least three years ago, or even longer, to remain incomplete or to not even be started, altogether. Identified deficiencies in the Cal-Am MWS water supply system must be addressed. The District is not so constrained. If it identifies a problem that needs to be fixed, it can do so without having to go through a lengthy CPUC process – and then, potentially being further delayed depending upon whether the CPUC agrees or disagrees. Delays such as these not only result in poor water service or water quality, but also result in higher costs due to ever-increasing costs of labor and materials.

[252] Direct Testimony of Ian Crooks in CPUC A.22-07-001, beginning at p. 94.
[253] Daphne Goldberg, CPUC Public Advocates Office, “Report and Recommendations on Recorded Plant, Construction Work in Progress and Special Request #14,” in CPUC A.19-07-004, 2/14/20, p.49.

71. FINDING: Community priorities and values are more likely to be respected and achieved with local control of the MWS.

EVIDENCE: Cal-Am is an out-of-town (and if one considers that its sole owner is American Water, then "out-of-state") for-profit corporation whose business is to sell water, but whose motives are essentially to gain the highest return for its shareholders. Cal-Am's corporate goals – put together by executives in San Diego and New Jersey – do not reflect local community values. The CPUC is also a bureaucracy remote from the Monterey Peninsula and cannot be expected to serve local community interests.

The District is a local non-profit entity. The members of the District's governing Board live in the community, are elected by local citizens, reflect local values, and can be removed at the next election (or sooner) if the citizenry believes they are failing to serve in the local public's interest.

These local values can express themselves in a variety of actions that go beyond the technical aspects of providing an adequate supply of water – *e.g.,* environmental mitigation and enhancement; the details of mandatory and voluntary water conservation policies and programs (a subject already governed primarily by the District); the decision whether to prioritize the replacement of aging and failing water transmission pipelines that have been delivering undrinkable "red water" to customers for years or stretch out that replacement program for financial reasons; the decision whether to push construction of the massively expensive and unneeded MPWSP desalination plant or to focus instead on bringing the PWM Expansion online; *etc*. With respect to many of these decisions there are no simple "yes-no," "right-wrong" answers; that is why it is so important to place decision-making authority in the hands of the people's representatives who, presumably, better represent the people's balancing of interests. Democracy does not always work, but it has a much better chance of working than self-interested or underinformed decision-making from afar.

72. FINDING: California cities are primarily served by public water agencies. Investor-owned water utilities are an anomaly. Community priorities and values are consistent with the traditional 85% public ownership rubric desired by voters on the Monterey Peninsula.

EVIDENCE: The nine regulated Class A California investor-owned water utilities serve approximately 15% of California residents.[254] Approximately 85% of the state's residents are served under a different set of rules. Water served by public water agencies is governed by Article XIII D of the California Constitution, which ensures that rates and fees for water service are limited to the cost of service provided, specifically:

- Rates may only be used for the service provided;
- Rates collected cannot exceed the cost of service; and

[254] www.cpuc.ca.gov/water/ from paragraph describing the Water Division: 95% multiplied by 16% equals 15.2%.

- Rates assessed may not exceed the proportional cost of the service attributable to the property receiving the service.[255]

In its general rate cases at the CPUC Cal-Am has made many proposals that create subsidies between customer classes, between non-contiguous regions, and between customers who previously invested in their service territories to customers who have failed to do so. These are activities the California Constitution prevents public water agencies from doing in their efforts to serve the other 85% of all water users in the state.

Section 4. Additional evidence supporting the Resolution of Necessity 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.

73. FINDING: The proposed project is planned or located in the manner that will be most compatible with the greatest public good.[256]

EVIDENCE: The Findings previously set forth provide ample support that MPWMD's acquisition of Cal-Am's MWS is compatible with the greatest public good.

74. FINDING: Acquisition and operation of the MWS presents the "least private injury" as set forth below.

EVIDENCE: Cal-Am is entitled to receive "just compensation" for the taking of the MWS. MPWMD proposes to acquire the MWS in its entirety. This remedy eliminates any separate or private injury suffered by Cal-Am or its shareholders. The United States Constitution (Amendment 5), the California Constitution (Art. 1, § 19), and the Eminent Domain Law (Code Civ. Proc. §§ 1263.310-1263.320), provide that Cal-Am is entitled to receive "just compensation" for the "taking" of the MWS. As the California Supreme Court recently observed in *Property Reserve, Inc. v. Superior Court* (2016) 1 Cal.5th 151, 186, quoting from a U.S. Supreme Court decision, this means Cal-Am is "'entitled to be put in as good a position pecuniarily as if [its] property had not been taken.'" Accordingly, Cal-Am and its shareholders will not suffer any private financial or other injury from the taking.

75. FINDING: Acquisition and operation of the MWS presents the "least private injury" because MPWMD is prepared to offer comparable jobs to Cal-Am's local

[255] California Constitution Article XIII D, Section 6(b).

[256] While this particular finding seems more relevant to a decision on the size, configuration, and location of a planned public improvement or facility as compared to a decision on whether to acquire and assume operation of an existing private, investor-owned utility, in this instance the acquisition and operation of the MWS is most beneficial to customers when in public ownership, the benefits being lower cost, better quality of service, and more transparent and responsive governance.

staff who service the MWS. Those employees will thus not lose jobs or experience disruption in their careers.

EVIDENCE: MPWMD is prepared to offer comparable jobs to Cal-Am's local staff who service the MWS. Those employees will not be thrown out of work. Plus, to the extent any existing Cal-Am employees may elect to not work for MPWMD, MPWMD will replace them with new hires, which will offset any (voluntary) loss of employment by Cal-Am employees.

76. FINDING: Acquisition and operation of the MWS presents the "least private injury" because, due to the CPUC's policy of allowing Class A water companies to consolidate small water and wastewater systems with larger systems in order to spread costs, the small number of customers in Cal-Am's Central Division Satellite Systems who would not be acquired by MPWMD and will continue to be served by Cal-Am after MPWMD's acquisition of the MWS will likely not suffer any increase in costs.

EVIDENCE: MPWMD will acquire all of the approximately 39,700 water connections within MPWMD's boundaries, leaving only approximately 1,100 customers in the Satellite Systems within Monterey County, but outside MPWMD's boundaries (less than 3% of the total) to be served by Cal-Am.

In the short term, rates Cal-Am charges to the Satellite System ratepayers will continue to be governed by the CPUC-approved tariff schedule in the pending CPUC Decision in A.22-07-001 (*i.e.*, no immediate rate increase will take effect).

In the intermediate term, it is highly likely that Cal-Am, with the CPUC's concurrence and support, will consolidate the Satellite Systems for ratemaking purposes into Cal-Am's Northern Division. This direction is consistent with prior Cal-Am requests to the CPUC and the CPUC's actions to approve those requests over the past several years. The CPUC approved Cal-Am's acquisitions of the Dunnigan system in D.15-11-012, the Geyserville system in D.16-11-014, and the Meadowbrook system in D.16-12-014). The CPUC approved consolidating those small systems for ratemaking purposes with Cal-Am's much larger Sacramento system (by which the CPUC approved creation of Cal-Am's Northern Division). Even more recently, the CPUC approved consolidation of the sole remaining, small stand-alone Cal-Am service area in Northern California (Larkfield) into Cal-Am's Northern Division. This approval occurred at the same time the CPUC approved Cal-Am's effort to consolidate the Ambler, Toro, Ralph Lane, and Garrapata service areas, folding these small systems into Cal-Am's new "Central Division"[257] while at the same time keeping them separate for ratemaking purposes. Cal-Am followed up with acquisitions of Fruitridge (CPUC A.17-10-016), Rio Plaza (A.17-12-006), Hillview (A.18-04-025), Bellflower (A.18-09-013); East Pasadena (A.20-04-003), Warring (A.20-04-017); and Bass Lake (A.22-03-002).

[257] See CPUC Decision 18-12-021, pp. 7-9 and 25-29.

The CPUC has justified these consolidations on the basis of the "very low customer counts" in the smaller stand-alone service areas (a factor that also applies to the Central Division Satellite Systems). The CPUC found "consolidation will result in greater stability in rates because there will be a larger number of customers over whom to spread costs" (which would also be the case if the Satellite Systems were consolidated with the Northern Division).

Cal-Am's Northern Division has at least 73,000 customers over whom to "spread costs." Accordingly, even *assuming* for the sake of discussion that Cal-Am's per customer cost in continuing to service the Satellite System ratepayers marginally increases due to a loss of efficiencies or economies of scale, any increased costs soon would be spread over a much, much larger customer base, such that any marginal additional cost per customer would be negligible.

77. FINDING: For the same reason that the satellite system ratepayers would not financially suffer from MPWMD's acquisition of the MWS (by virtue of the CPUC's anticipated consolidation of the Satellite Systems into a larger Cal-Am service area and spreading of costs), Cal-Am itself would not suffer financial hardship.

EVIDENCE: As noted above, after MPWMD's acquisition of the MWS it is highly likely Cal-Am will apply for and the CPUC will approve a consolidation of the Satellite Systems into Cal-Am's Northern Division. Thus, even *assuming* Cal-Am's average cost of serving the Satellite System ratepayers increases due to a loss of efficiencies or economies of scale, those increased marginal costs would be spread to a larger pool of ratepayers. Again, Cal-Am would be "made whole."

Cal-Am is entitled to a fair and reasonable return on its investment. Even *assuming* Cal-Am does not recover any marginal loss in its net operating income attributable to its continuing obligation to serve the Satellite System Ratepayers, that loss would be compensated through the CPUC's normal rate-making process.

Section 5. The MWS property described in the Resolution of Necessity is necessary and required for the proposed project.

78. FINDING: The proposed project is to acquire all of Cal-Am's MWS property and facilities and operate for the benefit of MWS customers and the public at large. The acquisition is proposed to lower costs to customers, offer a better quality of service, and provide greater transparency and accessibility. For these reasons, acquisition of Cal-Am's MWS property is necessary.

All of the Cal-Am MWS property is used in its water utility operation and is therefore necessary for MPWMD to take over that operation and to offer the project benefits.

EVIDENCE: To further define "necessity" in regard to this acquisition, the California Public Utilities Commission (CPUC) recently released an Order[258] that addressed the District's 2021 complaint to the CPUC.[259]

This MPWMD complaint presented evidence that Cal-Am failed to provide adequate public utility services to its Monterey Peninsula customers, through a failure to timely build needed water supply, and thus provided a reasonable basis for the voters to direct that public acquisition of the Cal-Am water system became necessary.

The 2021 complaint addressed Cal-Am's operation of its MWS, and was based upon Public Utilities Code 761 which states, in part, "Whenever the Commission, after a hearing, finds that the rules, practices, equipment, appliances, facilities, or service of any public utility, or the methods of manufacture, distribution, transmission, storage, or supply employed by it, **are unjust, unreasonable, unsafe, improper, inadequate, or insufficient**, the commission shall determine and, by order or rule, fix the rules, practices, equipment, appliances, facilities, service, or methods to be observed, furnished, constructed, enforced, or employed." [emphasis added.][260]

The District's complaint to the CPUC was also based upon Public Utilities Code 762 which states, in part, "Whenever the Commission, after a hearing, finds that additions, extensions, repairs, or improvements to, or changes in, the existing plant, equipment, apparatus, facilities, or other physical property of any public utility or of any two or more public utilities ought reasonably to be made, or that new structures should be erected, to promote the security or convenience of its employees or the public, or in any other way to secure adequate service or facilities, the Commission shall make and serve an order directing that such additions, extensions, repairs, improvements, or changes be made or such structures be erected in the manner and within the time specified in the order."[261]

Public Utilities Code sections 761 and 762 collectively provide the sole bases and authority for Administrative Law Judge Zita Kline to issue the October 26, 2021 ruling in MPWMD v. Cal-Am, CPUC C. 21-05-005. The Order is required to provide "confirmation that (a) Cal-Am's rules, practices, equipment, appliances, facilities, or service…, or its methods of manufacture, distribution, transmission, storage, or supply employed by it, are unjust, unreasonable, unsafe, improper, inadequate, or insufficient, and that (b) additions, extensions, repairs, or improvements to, or changes in,

[258] Zita Kline**,** Administrative Law Judge**,** California Public Utilities Commission, Order in (MPWMD v. Cal-Am) CPUC C. 21-05-005, October 26, 2021.
[259] MPWMD v. Cal-Am, filed at the CPUC, Complaint C.21-05-005.
[260] *Id.*
[261] *Id.*

the existing [Cal-Am] plant, equipment, apparatus, facilities, or other physical property of any public utility… ought reasonably to be made… to promote the security or convenience of… the public, or… to secure adequate service or facilities."

Section 6. The MPWMD offer to acquire Cal-Am's MWS complies with Government Code § 7267.2.

79. FINDING: MPWMD made the required offer to acquire Cal-Am's MWS in accord with Government Code § 7267.2 .

EVIDENCE: On April 3, 2023 the District delivered to Cal-Am the "MPWMD Purchase Offer for Monterey Water System and Transmittal of Appraisal Report in lieu of Summary Statement of Appraisal (Gov. Code § 7267.2)," (the "Purchase Offer".) This Purchase Offer was delivered via email and via certified mail addressed to Mr. Kevin Tilden, President, and Ms. Sarah Leeper, Vice President and General Counsel of Cal-Am. (See Exhibit N hereto.)

Cal-Am provided a reply dated April 28, 2023, drafted by the Manatt law firm on behalf of Cal-Am, that stated "Cal-Am cannot and does not accept MPWMD's offer."

Section 7. MPWMD has full and proper authority to acquire Cal-Am's MWS via eminent domain.

80. FINDING: Exercise of eminent domain by the District to acquire ownership of Cal-Am's MWS assets is separate and distinct from any action or exercise of power by the District to sell water.

EVIDENCE: District acquisition and ownership of Cal-Am's MWS assets would enable the District to integrate management of water resources and to better regulate water use on the Monterey Peninsula.[262] Acquisition of ownership does not equate to direct exercise of the power to sell water.[263] The District could choose to employ the efforts of a wholly owned public utility, but in so doing could remove the profit motive ordinarily required by an investor-

[262] In its published opinion of *Save Our Carmel River v. Monterey Peninsula Water Management District* (2006) 141 Cal. App. 4th 677, the Sixth Appellate District reminds that "The Monterey Peninsula Water Management District was created by the State Legislature in 1977, based on findings that integrated water management was necessary.

[263] Section 398 of the District Enabling Act provides, "The legal title of all property acquired under the provisions of this law shall be in the district and shall be held for the uses and purposes of this law. The board may hold, use, acquire, manage, occupy, and possess such property… may sell or otherwise such property, or lease the same, in the manner provide by law for the disposition and sale of property by counties,"

owned utility.[264] A range of options could be exercised by which the District could exercise this integrated management responsibility, including retention of a third party to operate the MWS.[265] Of course, one option would be for the District to directly provide retail water service to customers within the District boundaries.[266]

81. FINDING: The District's Enabling Act and California eminent domain law authorize the District to acquire Cal-Am's MWS assets as needed to provide retail water service to customers within the District's boundaries.

EVIDENCE: The California Legislature empowered MPWMD to acquire private water systems, property, and assets as needed to carry out its functions, including the provision of retail water service.[267] [268] [269] [270] [271]

The referenced provisions of MPWMD Enabling Act grant it authority to acquire property located outside its boundaries. These provisions must also be read in conjunction with the extra-territorial condemnation authority granted in the District by Code Civ. Proc. § 1240.125, which provides as follows:

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[264] Section 328(a) of the District Enabling Act provides, "The district shall have the power: (a) To acquire public or private water systems necessary or proper to carry out the purposes of this law." The scope and effect of this provision is not limited to the provision of water service to customers.

[265] Section 391 of the District Enabling Act provides, "The district shall have the power to take absolutely or on condition, by grant, purchase, gift, devise, or lease, with or without the privilege of purchasing, or otherwise, real and personal property of any kind, or any interest in real or personal property, within or without the district, necessary to the full exercise of its powers and to hold, use, enjoy, and to lease or dispose of the same…"

[266] Section 404 of the District Enabling Act provides, "The district shall make and perform any agreement with the United States, the state, any public entity, public or private corporations, or any person for the joint acquisition, disposition, operation, or management of any property, works, water, or water supply, of a kind which might be acquired of, or operated by the district.

[267] Section 301 of the District Enabling Act provides: "The district may exercise the powers which are expressly granted by this law, together with such powers as are reasonably implied from such express powers and necessary and proper to carry out the objects and purposes of the district."

[268] Section 328 of the District Enabling Act provides: "The district shall have the power: (a) To acquire public or private water systems necessary or proper to carry out the purposes of this law. (b) To store water in surface or underground reservoirs within or outside of the district for the common benefit of the district. (c) To conserve and reclaim water for present and future use within the district. (d) To appropriate and acquire water and water rights, and import water into the district and to conserve and utilize, within or outside of the district, water for any purpose useful to the district."

[269] Section 391 of the District Enabling Act, provides: "The district shall have the power to take absolutely or on condition, by grant, purchase, gift, devise, or lease, with or without the privilege of purchasing, or otherwise, real and personal property of any kind, or any interest in real or personal property, within or without the district, necessary to the full exercise of its powers and to hold, use, enjoy, and to lease or dispose of the same…"

[270] Section 392 of the District Enabling Act, provides: "The district shall have the power within or outside the district to construct, purchase, lease, or otherwise acquire works useful or necessary for any purposes authorized by this law and to purchase, lease, appropriate, or otherwise acquire water and water rights useful or necessary to make use of water for any purposes authorized by this law."

[271] Section 397 of the District Enabling Act provides: "The district shall have the power of eminent domain to acquire within the district any property necessary for carrying out the powers and purposes of the district, except that the district shall not have the power to acquire by condemnation publicly owned property held or used for the development, storage, or distribution of water for public use…"

"Except as otherwise expressly provided by statute and subject to any limitations imposed by statute, a local public entity may acquire property by eminent domain outside its territorial limits for water… purposes or for… sewer purposes if it is authorized to acquire property by eminent domain for the purposes for which the property is to be acquired."

Notwithstanding its authority to do so, MPWMD does not at this time seek to acquire any extra-territorial properties held by Cal-Am as part of the its acquisition of the Cal-Am MWS.

82. FINDING: In submissions made by MPWMD to LAFCO, MPWMD asked LAFCO to recognize MPWMD's power for the retail sale of water. MPWMD's request was made in an abundance of caution because of the threat of legal action if MPWMD did not do so. This request was made in conjunction with other matters before LAFCO related to annexation of territory to MPWMD's boundary to ensure full alignment between it and the Cal-Am MWS service area. MPWMD was also before LAFCO to clarify and update its Municipal Services Review.[272] MPWMD contends that its power to sell water retail was not latent and had been historically exercised by MPWMD.

EVIDENCE: MPWMD's application to LAFCO did reference activation of MPWMD's power to sell water retail, but that application did also inform LAFCO that "since 1994 the District has sold water retail." The application also clarifies that "The District has many authorized powers, some of which may be viewed as inactive, while others are active on a limited scale."[273] Rather, MPWMD's sale of water on a retail basis precedes LAFCO's authority to approve new or different powers by special districts. Since MPWMD was before LAFCO for annexation and a Municipal Services Review, it was out of an abundance of caution that MPWMD sought activation of a power that was not latent and an approval that was not required.

MPWMD's application also stated: "Most if not all latent powers of the District are already in effect, but need expansion."[274] The sole reason MPWMD asked LAFCO to activate powers it already had was to forestall potential attempts by Cal-Am or others to challenge MPWMD's power by alleging deficiencies such as those analogized in *South San Joaquin Irrigation Dist. v. Superior Court* ((2008) 162 Cal.App.4th 146), which case distinguished between the provision of wholesale and retail services.

83. FINDING: LAFCO activation of MPWMD's latent power to sell water retail is not required as a necessary prerequisite to the acquisition and operation of the MWS.

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[272] LAFCO adopted the 2021 *Municipal Service Review and Sphere of Influence Study for the Monterey Peninsula Water Management District* ("Study") in accordance with Government Code section 56430.
[273] Monterey County LAFCO Amended Application Form / Justification of Proposal, "Monterey Peninsula Water Management District - 2021 Sphere of Influence, Annexation, and Latent Power Activation Proposal," May 3, 2021, p. 6.
[274] *Id.,* p. 35

EVIDENCE: In 1959, Governor Edmund G. Brown appointed a "Commission on Metropolitan Area Problems". The Commission's charge was to study and make recommendations on the "misuse of land resources" and the growing complexity of overlapping, local governmental jurisdictions. The Commission's recommendations on local governmental reorganization were introduced in the Legislature, resulting in creation of the Local Agency Formation Commission, or "LAFCO" in 1963, operating in each County except San Francisco, (which later formed in 2001).

The Legislature approved the District Reorganization Act (DRA) in 1965. This Act combined separate laws governing special district boundaries into a single law. Another law, the Municipal Organization Act of 1977 (MORGA) consolidated various laws on city incorporation and annexation into one law.

These three laws contained many parallel and duplicative provisions. However, similar procedures varied slightly from one law to another, and the procedures necessary for one type of boundary change were found in vastly different sections of the three laws. Although MORGA was the most current revision of city annexation statutes, many cities in the state were required to use DRA so that areas being annexed could be simultaneously detached from special districts. All three laws contained application and hearing procedures for LAFCOs, but there were inconsistencies among them. This made city and district boundary changes unnecessarily confusing and complicated for local agencies and LAFCOs, as well as for residents and property owners.

The Cortese-Knox Local Government Reorganization Act of 1985 (AB-115) followed several years of cooperative effort between Assembly Member Dominic Cortese, former Chair of the Assembly Local Government Committee and the California Association of Local Agency Formation Commissions (CALAFCO). The Act, which became operative January 1, 1986, consolidated the three major laws used by California's local governments for boundary changes into single, unified law.

Numerous sections had been added, amended, or repealed since 1986. Speaker Robert M. Hertzberg introduced AB 2838 in 2000 to comprehensively revise the Act. The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 further consolidated LAFCO law and enabled LAFCOs to play a lead role in the orderly development of all local agencies.

District Reorganization Act of 1965. Prior to the Cortese-Knox Local Government Reorganization Act of 1985, the District Reorganization Act of 1965 (DRA) dictated LAFCO requirements on special districts with respect to change of organization or reorganization. However, the DRA makes no reference to a new or a different class of service except in the

single instance of a "new or additional governmental or proprietary service", but only with respect to added territory that may not be entitled to receive such service (Sec. 56109.1). Nowhere in the DRA do the definitions of "change of organization", "plan of reorganization", or "reorganization" make any mention of a new or different class of service (Sec.56028, 56061, and 56068). Hence, it can be said that LAFCO did not at the time have powers over a special district activating powers it may have had been legislatively authorized, but not used.

Cortese-Knox Local Government Reorganization Act of 1985. The 1985 Act introduced classes of service in Section 56451, allowing a LAFCO to adopt, amend, or repeal regulations affecting the functions and services of special districts within the county. As stated at the time, the regulations shall designate the special districts, by type and by principal act, to which they apply and the regulations shall apply to, or affect the functions and services of any special districts not so designated, among other things. Monterey County LAFCO did not adopt specific regulations pursuant to the 1985 Act affecting MPWMD, or any other special district, prior to MPWMD's 1994 action to sell water to a number of large retail customers in the Del Monte Forest.

Further, the 1985 Act states (also in Sec. 56451): "The regulations shall not apply to the extension or enlargement, within the boundaries of an existing special district, of any function or service which the commission, pursuant to this section, has established is currently being provided by that special district." Because LAFCO of Monterey County had not adopted specific regulations limiting District services prior to 1994, the then retail sale of District water within the Del Monte Forest constituted a service "currently being provided by that special district." This provision of law also allows extension or enlargement of that function by MPWMD.

Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. Passed in 2000 and implemented into law in 2001, Stats. 2001 Ch. 667 – Article 1.5. addressed "a new or different function or class of service."

56824.12. (a) A proposal by a special district to provide a new or different function or class of services within its jurisdictional boundaries shall be made by the adoption of a resolution of application by the legislative body of the special district and shall include all of the matters specified for a petition in Section 56700, and be submitted with a plan for services prepared pursuant to Section 56653.

56824.14. (a) The commission shall review and approve or disapprove with or without amendments, wholly, partially, or conditionally, proposals for the establishment of new or different functions or class of services within the jurisdictional boundaries of a special district after a public hearing called and held for that purpose.

It is only after 2000 that a proposal to provide a new or a different function or class of service needs LAFCO approval. The Monterey Peninsula Water Management District's sale of retail water since 1994 long predated the 2000 Act.

MPWMD has provided retail water sales as a Class of Service since 1994. This is because MPWMD owns the water in the Pebble Beach Reclamation Project distributed to customer accounts in the Del Monte Forest. MPWMD has also sold potable water to the same retail accounts within its service area since 1994. These potable retail water sales were reported in MPWMD's annual financial reports in the 1990s and 2000s as an expense item "Potable Water" and under the revenue line item "Water Sales."[275]

In *South San Joaquin Irrigation District* v. *Superior Court*[276] the first claim for relief sought a judicial declaration as to whether South San Joaquin Irrigation District ("SSJID") had the right to provide retail electric service without prior LAFCO approval. SSJID contended approval from San Joaquin County LAFCO was unnecessary because the LAFCO had no power to prevent a special district from providing a new service in its existing territory. It further contended LAFCO approval was not required because, since SSJID already provided wholesale electric service, retail electric service was not a new or different service. The appellate court denied the SSJID appeal and stated in its opinion "retail electric service is a different class of service than wholesale electric service" therefore requiring LAFCO approval.

The holding in SSJID does not apply here because MPWMD has historically and continually sold and delivered retail water to customers since 1994. Since activated, MPWMD exercise of its power to sell water retail may grow or expand without additional LAFCO review.

The court in the SSJID lawsuit did not distinguish categories or classifications within retail service – e.g. high voltage (500kV), medium voltage (250kV), or low voltage (120V). In other words, the court was only concerned with the distinction between wholesale versus retail services.

There is no reason to distinguish classes of service within the retail class. The water industry treats all water as one water: "One Water" considers 'the urban water cycle as a single integrated system'.[277] "A One Water approach recognizes all urban water supplies as resources – surface water, groundwater, stormwater, and wastewater."[278] "One Water starts with the

[275] For example see "Financial Statements for the Year Ended June 30, 1999 and Independent Auditors Report", page 10.
[276] The LAFCO Act was amended in 2009 to strengthen the need for LAFCO review in situations such as an addition of a new service. The amendments were introduced and adopted as Assembly Bill 2484 as a response to South San Joaquin Irrigation District's (SSJID) appellate court legal challenge (*South San Joaquin Irrigation District* v. *Superior Court,* 162 Cal.App.4th 146 [2008]). Again, this is well after MPWMD began retail sales.
[277] Howe, 2015, "Pathways to One Water," Water Environment Research Foundation.
[278] "One Water: An integrated approach to managing local water resources," Juliet McKenna, Montgomery &

recognition that all water has an intrinsic value – the water in our reservoirs, rivers, lakes, seas, streams, and aquifers; the water we drink; the water used for food or energy production or for industrial needs; the water we waste or turn into waste flow; and the water that runs off from our lands and farms. All water can and must be managed carefully to maximize its benefit."[279] "These approaches exemplify the view that *all* water has value and should be managed in a sustainable, inclusive, integrated way. We call this perspective One Water."[280] In MPWMD's case, when it began retail sales in 1994 its water supplanted Cal-Am retail water that the customers had previously used for the same purpose, identical purposes – demonstrating the One Water philosophy.

Associates Water Resource Consultants, 11/29/17.

[279] "One Water Roadmap: The Sustainable Management of Life's Most Essential Resource", US Water Alliance, 2016, p.11.

[280] *Id.,* p.5.

Exhibit A

Exhibit A

Comparison of Monthly Water Bills / 12 Local Communities
(Assumes 5/8" meter and 35 Hundred Gallons Average Monthly Use)
As of June 2023

	Monterey (Cal-Am)			Marina Coast Water Dt			Salinas (Cal Water Service)			Soquel Creek WD			City of Santa Cruz			Scotts Valley WD		
	Units	Rate	Total	Units	Rate	Total	Units	Rate	Total	Units	Rate	Total	Units	Rate	Total	Units	Rate	Total
Meter Charge (5/8") less credits	1	$ 29.94	$ 29.94	1	$ 28.34	$ 28.34	1	$ 20.06	$ 20.06	1	$ 52.34	$ 52.34	1	$ 12.38	$ 12.38	1	$ 46.28	$ 46.28
Volumetric - Tier 1 (per CGL)	30.00	$ 1.1341	$ 34.02	35.00	$ 0.5080	$ 17.78	35.00	$ 0.4227	$ 14.79	35.00	$ 1.2166	$ 42.58	35.00	$ 1.3020	$ 45.57	30.00	$ 0.8700	$ 26.10
Volumetric - Tier 2 (per CGL)	5.00	$ 1.7011	$ 8.51	0.00	$ 0.7740	$ -	0.00	$ 0.5284	$ -	0.00	$ 5.5120	$ -	0.00	$ 1.9023	$ -	5.00	$ 1.3900	$ 6.95
Total Volume (CGS)	35.00			35.00			35.00			35.00			35.00			35.00		
Surcharges - Flat	1	$ 1.5900	$ 1.59	1	$ -	$ -	1	$ 0.8571	$ 0.86	1	$ -	$ -	1	$ -	$ -	1	$ -	$ -
Surcharges - Volumetric (per CGL)	35.00	$ 1.4820	$ 51.87	35.00	$ -	$ -	35.00	$ 0.3067	$ 10.74	35.00	$ -	$ -	35.00	$ 0.1337	$ 4.68	35.00	$ -	$ -
Other			$ -			$ -			$ -			$ -			$ -			$ -
TOTAL			$ 125.93			$ 46.12			$ 46.45			$ 94.92			$ 62.63			$ 79.33

	City of Gilroy			San Jose Water Co.			City of Palo Alto			City of Fremont (ACWD)			San Francisco			East Bay MUD		
	Units	Rate	Total	Units	Rate	Total	Units	Rate	Total	Units	Rate	Total	Units	Rate	Total	Units	Rate	Total
Meter Charge (5/8") less credits	1	$ 11.53	$ 11.53	1	$ 53.02	$ 53.02	1	$ 21.06	$ 21.06	1	$ 30.65	$ 30.65	1	$ 15.17	$ 15.17	1	$ 30.14	$ 30.14
Volumetric - Tier 1 (per CGL)	35.00	$ 0.4390	$ 15.37	35.00	$ 0.5543	$ 19.40	35.00	$ 0.9919	$ 34.72	35.00	$ 0.6390	$ 22.37	29.92	$ 1.2833	$ 38.40	35.00	$ 0.6149	$ 21.52
Volumetric - Tier 2 (per CGL)	0.00	$ 0.4930	$ -	0.00	$ 0.7934	$ -	0.00	$ 1.4652	$ -	0.00	$ -	$ -	5.08	$ 1.4317	$ 7.27	0.00	$ 0.8449	$ -
Total Volume (CGS)	35.00			35.00			35.00			35.00			35.00			35.00		
Surcharges - Flat	1	$ -	$ -	1	$ 1.5100	$ 1.51	1	$ -	$ -	1	$ -	$ -	1	$ -	$ -	1	$ -	$ -
Surcharges - Volumetric (per CGL)	35.00	$ -	$ -	35.00	$ 0.6395	$ 22.38	35.00	$ -	$ -	35.00	$ -	$ -	35.00	$ -	$ -	35.00	$ -	$ -
Other			$ -			$ -			$ -			$ -			$ -			$ -
TOTAL			$ 26.90			$ 96.31			$ 55.78			$ 53.02			$ 60.84			$ 51.66

Exhibit B

Top Ten Most Expensive Water Providers in the Country: 2017 Update

In 2015, Food & Water Watch surveyed the 500 largest community water systems in the United States to find out how much they charge a typical household using 60,000 gallons a year.[1] Since then, California American Water — a state arm of the nation's largest private water corporation[2] — has substantially increased its water rates on the Monterey Peninsula, California.[3] In April 2017, we reexamined the 10 most expensive providers to see how their rates have changed. Among these systems, California American Water charges typical Monterey households the highest water rates.

New Rank	Old Rank	Utility	State	Owner	2015 Bill	2017 Bill	Increase	% Increase
1	**9**	**California American Water – Monterey**	**CA**	**Private**	**$716.18**	**$1,202.59**	**$486.41**	**68%**
2	**2**	Padre Dam Municipal Water District	CA	Public	$826.94	$959.27	$132.33	16%
3	**8**	Goleta Water District	CA	Public	$736.62	$958.55	$221.94	30%
4	**3**	Pennsylvania American Water – West	PA	Private	$792.84	$847.59	$54.75	7%
5	**4**	Pennsylvania American Water – Pittsburgh	PA	Private	$792.84	$847.59	$54.75	7%
6	**5**	Pennsylvania American Water – Lake Scranton	PA	Private	$792.84	$847.59	$54.75	7%
7	**6**	Pennsylvania American Water – Norristown	PA	Private	$792.84	$847.59	$54.75	7%
8	**10**	West Virginia American Water – Kanawha Valley	WV	Private	$710.63	$827.37	$116.74	16%
9	**7**	Aqua Pennsylvania	PA	Private	$782.38	$782.38	$-	0%
10	**1**	Flint	MI	Public	$910.05	$710.83	$(199.22)	-22%

NOTES: Annual bills were calculated for households using 60,000 gallons a year, using rates inside the main service area, as of January 2015 and April 2017.

Endnotes

1 Food & Water Watch. "The State of Public Water in the United States." February 2016.

2 American Water Works Corporation, Inc. U.S. Securities and Exchange Commission. Form 10-K. February 21, 2017 at 3 and exhibit 21.1.

3 Johnson, Jim. "Cal Am water bills to rise as much as 79 percent by March; more increases pending." *Monterey County Herald.* January 21, 2017.

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THE STATE OF PUBLIC WATER
IN THE UNITED STATES

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About Food & Water Watch

Food & Water Watch champions healthy food and clean water for all. We stand up to corporations that put profits before people, and advocate for a democracy that improves people's lives and protects our environment. We envision a healthy future for our families and for generations to come, a world where all people have the wholesome food, clean water and sustainable energy they need to thrive. We believe this will happen when people become involved in making democracy work and when people, not corporations, control the decisions that affect their lives and communities.

Food & Water Watch has state and regional offices across the country to help engage concerned citizens on the issues they care about. For the most up-to-date contact information for our field offices, visit *foodandwaterwatch.org*.

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THE STATE OF PUBLIC WATER
IN THE UNITED STATES

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Executive Summary

Nearly nine out of ten people in the United States receive their water service from a publicly owned utility. Although water privatization receives a great deal of attention from policy makers, the dominant trend is in the other direction — toward public ownership.

There are many good reasons for this trend. By owning and operating their water and sewer systems, local governments have control over the decisions that determine the cost and quality of services that are essential for public health and wellbeing as well as economic viability. This control allows governments to direct development, planning and growth and to better protect the environment and sustain their local economies.

Food & Water Watch reviewed eight years of data from the Federal Safe Drinking Water Information System to document the ongoing annual shift toward public ownership.

Food & Water Watch also conducted a comprehensive survey of the water rates of the 500 largest U.S. community water systems and found that large for-profit, privately owned systems charged 59 percent more than large publicly owned systems. This is the largest water rate survey of its kind in the country.

Key Findings

Public water prevails across the country. The vast majority of people receive tap water from a publicly owned utility.

- Publicly owned utilities served 87 percent of people that have piped water service.
- For-profit water companies own only about 10 percent of water systems, most of which serve small communities.

There is an ongoing nationwide trend toward public ownership of water systems. More and more people each year receive their water service from a public utility.

- From 2007 to 2014, the portion of people with water service from publicly owned systems increased from 83 percent to 87 percent.
- Over that period, the number of private systems dropped 7 percent (a loss of nearly 1,700 privately

owned systems), while the number of people served by privately owned systems fell 18 percent (8 million people).

- At the same time, the number of publicly owned systems remained fairly constant, but these public systems saw their service population grow by 10 percent, adding 24 million people to their networks.
- Public water utilities are taking over and consolidating private systems.

Public service is the most affordable option. A survey of the 500 largest community water systems reveals:

- On average, private for-profit utilities charged households 59 percent more than local governments charged for drinking water service — an extra $185 a year.
- The average government utility charged $315.56 for 60,000 gallons a year, while the average for-profit company charged $500.96 (59 percent more) for the same amount of water.
- In New York and Illinois, private systems charged about twice as much as their public counterparts.
- In Pennsylvania, private systems charged 84 percent more than public systems, adding $323 onto the typical household's annual water bill.
- In New Jersey, private systems charged 79 percent more than public systems, adding $230 onto the typical household's annual water bill.

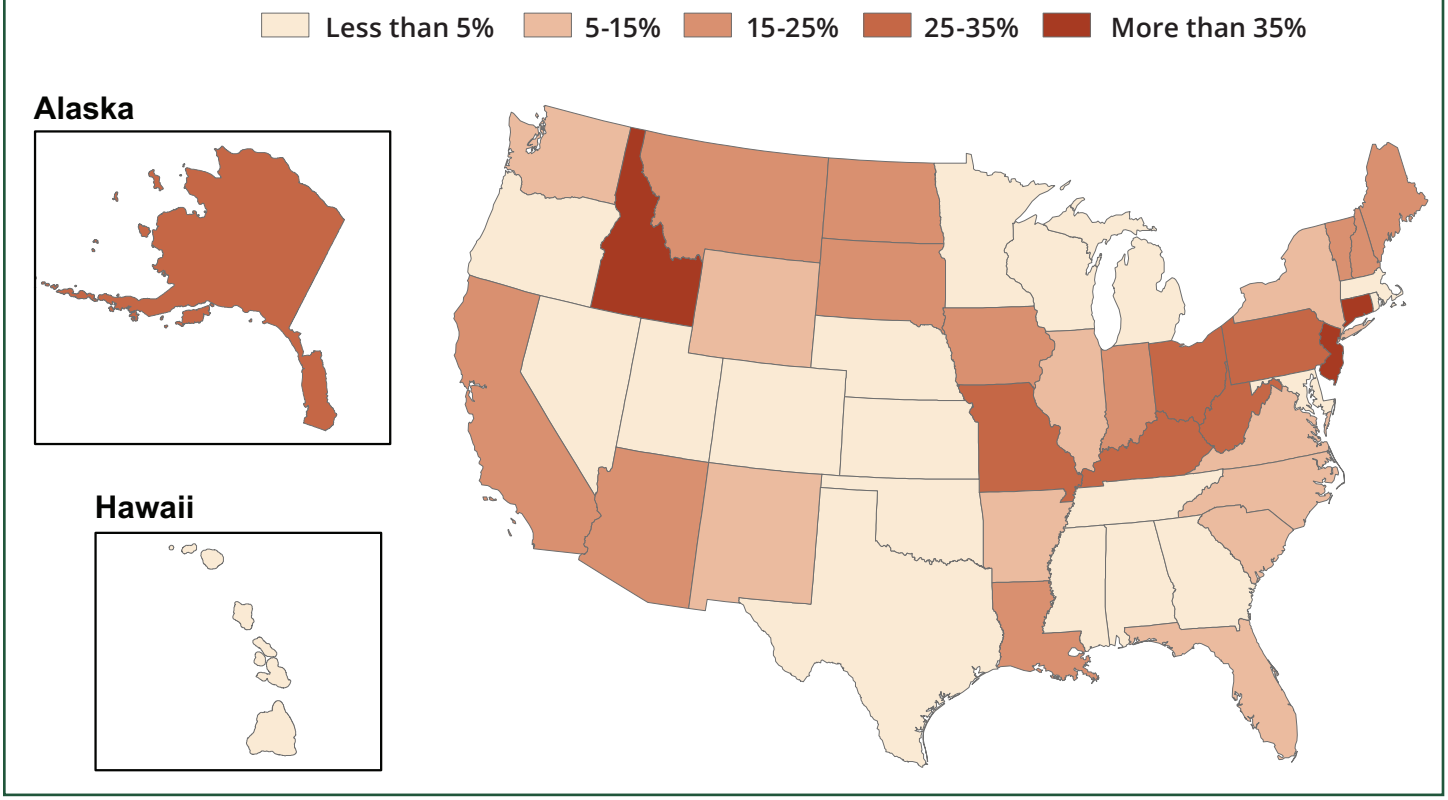
Background: The Progressive Era's Turn to Public Ownership of Water Systems

Historically, public provision of water services has led to better quality, less-expensive and more-equitable service, and substantial improvements in public health.

Private water companies had served many of the nation's largest cities until the turn of the twentieth century, when cholera outbreaks and destructive fires inspired a surge of cities to take over water provision for health and public safety reasons. From about 1880 to about 1920, thousands of cities — including Los Angeles and San Francisco — assumed public control of their water systems. This wave drew inspiration from earlier movements toward public water in Boston, New York City, Philadelphia, Baltimore and Chicago.[1]

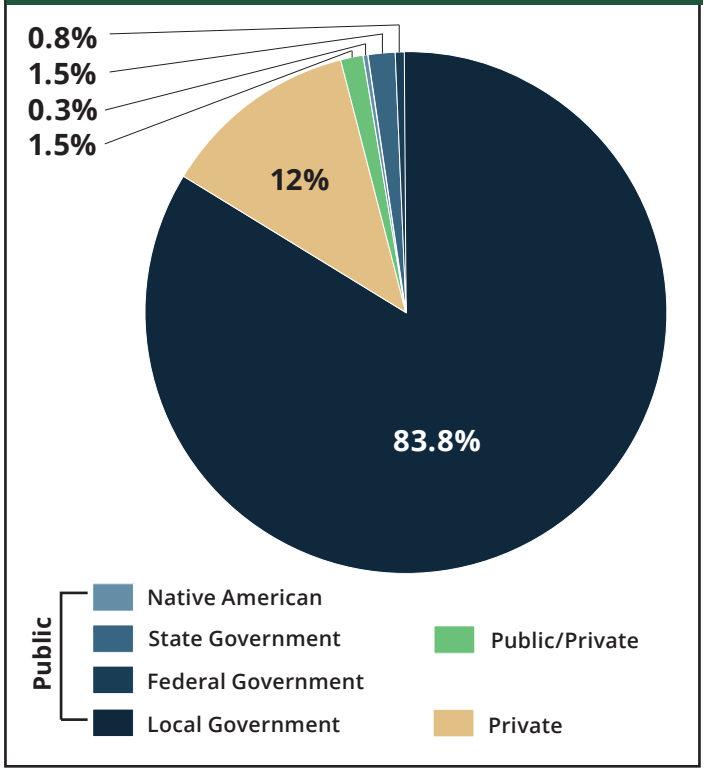
In the 1800s, New York City took over responsibility for providing drinking water services, creating a new system apart from the one privately held by the Manhattan

Figure 1: Private Ownership of Community Water Systems by Service Population (2014)



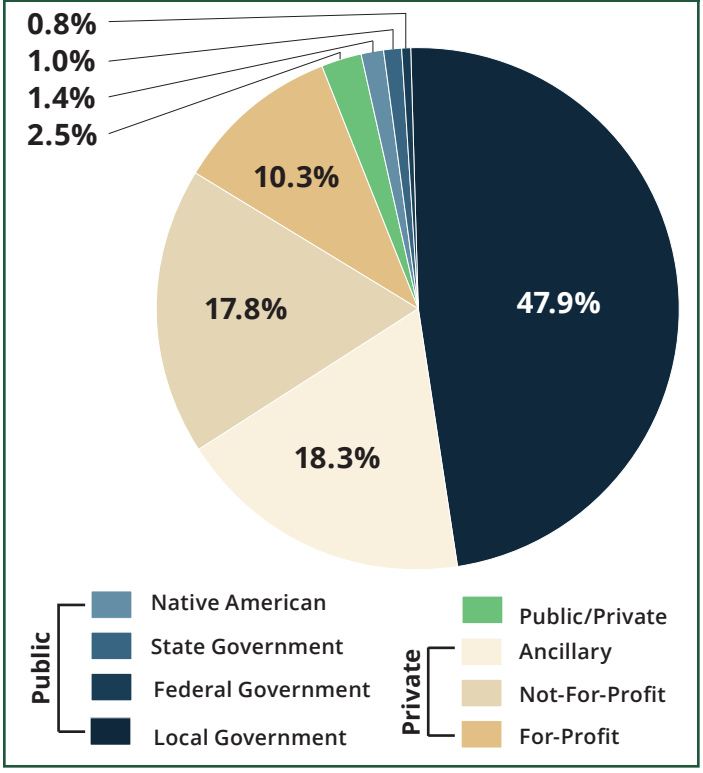
SOURCE: U.S. Environmental Protection Agency. Safe Drinking Water Federal Information System. FY2014 Inventory Data.

Figure 2: Community Water System Ownership By Number of People Served (2014)



SOURCE: U.S. Environmental Protection Agency. Safe Drinking Water Federal Information System. FY2014 Inventory Data. June 30, 2014.

Figure 3: Community Water System Ownership By Number of Systems (2014)



SOURCES: Food & Water Watch calculations based on U.S. Environmental Protection Agency (EPA). Safe Drinking Water Federal Information System. FY2014 Inventory Data; U.S. EPA. "2006 Community Water System Survey: Volume 1." February 2009 at 9.

Company.[2] The city did this after the Manhattan Company, the predecessor of JPMorgan Chase,[3] was blamed for an outbreak of cholera that killed 3,500 people and for inadequate water infrastructure to fight fires.[4] Similarly, by 1900, concerns about water supply, high prices and poor service had led both Los Angeles and San Francisco to take public control of their water systems from private entities.[5]

For customers, public ownership meant lower water prices. An 1899 federal survey found that public water utilities were charging rates that were 24 percent less than those of private water companies at the time.[6]

Public ownership also significantly expanded access and improved water quality, helping to prevent diseases.[7] Many cities made large improvements to their water supplies and built new treatment facilities.[8]

For example, after Billings, Mont., bought the Billings Water Company in 1915, the city built a purification plant and extended water lines to serve the whole city.[9] After New Orleans took over the local private water system in 1908, the city made investments that cut waterborne disease rates dramatically. The private water company that had served the city distributed unfiltered water from the Mississippi River, which was contaminated by sewage dumped upriver. After residents successfully organized to strip the company of its charter, the city purchased the system and, over the next 15 years, undertook massive improvement projects to expand service and install a filtration system.[10]

Public ownership reaped great public health outcomes in large part because it allowed for more-equitable service. Local governments extended water lines to low-income and black communities that had been neglected by private companies.[11] One analysis found that public ownership of water systems cut typhoid rates in black populations in the South by as much as 42 percent, yet public ownership had no statistically significant impact on typhoid rates among white populations.[12]

Public ownership remains the most affordable and equitable option today.

The State of the Industry Today

Publicly owned utilities provide most water and sewer services in the United States.[13] In 2014, public entities served about 87 percent of people with piped water service (see Figure 2).[14] Private water service is concen-

trated in a few states. In 25 states, private water companies serve less than 10 percent of the population, while 4 states have private water companies serving more than 35 percent of their population (see Figure 1).[15]

While most people in the United States have public tap water, only about half of U.S. water systems are publicly owned (see Figure 3). The reason is that there are many small private systems serving subdivisions and other small communities, while nearly every large city owns its own water system and serves a much larger population.

According to survey data from the U.S. Environmental Protection Agency (EPA), less than a quarter (22.3 percent) of the privately owned systems are for-profit water businesses.[16] The rest are non-profit entities or ancillary systems, which are systems that are owned by entities whose primary function is not water provision (for example, manufactured home parks).[17]

Overall, for-profit water companies own only about 10 percent of U.S. community water systems.[18] The vast majority of the water systems owned by for-profit companies are small, with about 90 percent serving fewer than 3,300 people.[19]

Trends

Nationally, there has been an ongoing shift to public ownership of drinking water services. Between 2007 and 2014, the portion of the population with public water increased from 83 percent to 87 percent (see Table 1).

Over this period, the total number of people served by public systems increased by 10 percent, as public systems added 24 million people to their customer base. Meanwhile, the number of people served by privately owned systems fell by 18 percent, as private companies served 8 million fewer people in 2014 than in 2007 (see Table 1).[20]

One reason for the trend is that the number of private systems decreased 7 percent (see Table 2). There were nearly 1,700 fewer privately owned systems in 2014 than in 2007. The much larger number of public systems remained fairly stable over this period, increasing by just 99 systems.[21] Migration from rural to urban settings and different rates of population growth also could contribute to this trend.

Reports by the U.S. EPA identified earlier declines in private water systems. One EPA report noted a decrease

Table 1. People Served by Public, Private and Mixed Ownership of Community Water Systems, 2007 and 2014

Ownership Type	People Served (Portion of Total)		Increase or Decrease	% Increase (Decrease)
	2007	2014		
Public	237,634,535 (83.0%)	261,745,966 (87%)	24,111,431	10%
Private	44,459,100 (15.5%)	36,338,067 (12%)	-8,121,033	-18%
Public/Private	4,357,569 (1.5%)	4,511,784 (1%)	154,215	4%
Total	**286,451,204**	**302,595,817**	**16,144,613**	**6%**

Table 2. Number of Public, Private and Mixed-Ownership Community Water Systems, 2007 and 2014

Ownership Type	Number of Systems (Portion of Total)		Increase or Decrease	% Increase (Decrease)
	2007	2014		
Public	25,671 (49%)	25,770 (51%)	99	0%
Private	25,081 (48%)	23,395 (46%)	-1,686	-7%
Public/Private	1,358 (3%)	1,266 (3%)	-92	-7%
Total	**52,110**	**50,431**	**-1,679**	**-3%**

in private provision between 2006 and 2008 of about 11 percent.[22] Also, the EPA's 2006 Community Water System Survey found a 9 percent decrease in private ownership of water systems from 2000 to 2006, with the biggest drop, percentagewise, coming from larger systems.[23]

Municipalization — when local governments buy private systems — is a major reason for the decrease in the number of private systems. Local governments frequently purchase small private systems and combine them with their existing networks.

Accountable Service

Accountability is a major reason why many communities seek public ownership of their water and sewer services. Safe and affordable drinking water and sanitation services are essential, and governments have a basic responsibility to provide these services to protect public health and wellbeing. This entails safeguarding water supplies from pollution and other threats, providing sufficient amounts of safe water and charging water service fees that are affordable.[24]

When local governments operate water and sewer systems, elected officials make the major policy decisions that determine the cost, availability and quality of these services. They set rates and decide the type and timing of system improvements to address the needs of their constituents.[25] If residents object to their service, they can exercise their power at the ballot box by electing officials that are more responsive to their concerns.

Private water companies, in contrast, have no responsibility to promote public health and wellbeing.[26] They are accountable first and foremost to their owners and make their investment decisions based on profitability.[27] Because water service is a natural and often legal monopoly,[28] if a private water company charges high rates or provides bad service, customers cannot simply switch to another provider. Rather, they are stuck with the company unless they are able to move to another community, which is neither realistic nor desirable for most people.

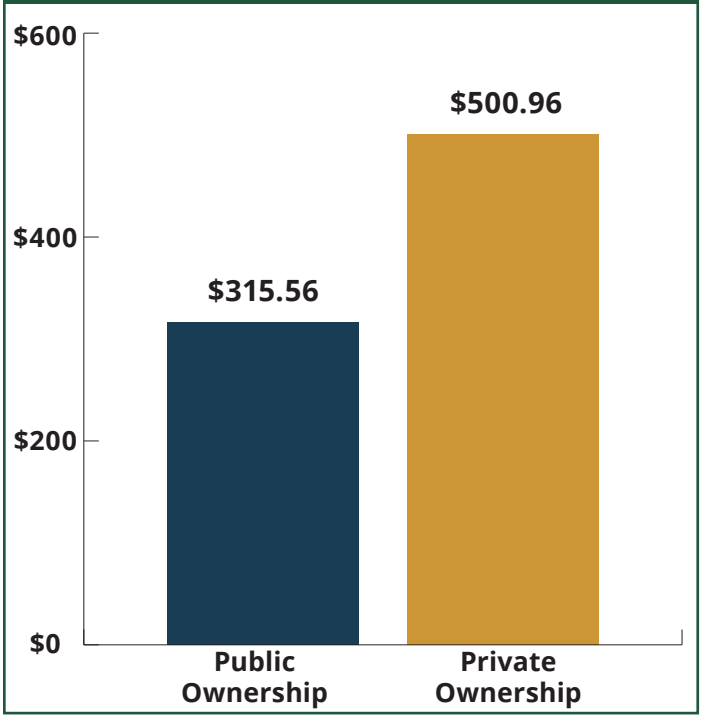
Affordable Service

In order to protect public health and wellbeing, local governments must ensure that water service is affordable for every household in a community. With federal support dwindling, water systems aging and the climate changing, achieving universal access to safe water is an increasingly difficult and crucial task for local governments.

Water itself is a priceless common resource, but there is a cost to treating and distributing water to household taps, as well as to collecting and treating the resulting wastewater. With local control over water and wastewater services, a governing body in the local community is able to decide how to allocate the burden of those costs among different users.[29] Local governments may subsidize water provision to ensure affordable service for their entire population.[30] They could also decide to keep household rates low while charging higher connection fees as a way to promote affordability and discourage sprawling development.[31]

Affordability and accountability go hand in hand. For example, residents can apply political pressure on public officials to keep water rates affordable[32] and to implement affordability programs to assist struggling households. With private ownership, residents have little recourse.

Figure 4: Annual Savings With Public Water
Average Annual Water Bills of Households Using 60,000 Gallons a Year From the 500 Largest Water Systems in the Country, 2015



Water Charges of the 500 Largest Water Systems

An analysis of the 500 largest water systems shows that publicly owned water utilities charge considerably lower rates than their private peers.

Food & Water Watch compiled the rates of the 500 largest community water systems and found that, on average, private, for-profit utilities charged typical households 59 percent more than local governments charged for drinking water service. A typical household, using 60,000 gallons a year, paid $316 for water service from a local government and $501 for service from a private company. That is, private ownership corresponds to about $185 extra each year for the average household (see Figure 4).

Water prices vary across the country, with utilities in the South charging less on average; however, uniformly, private companies had higher prices than government systems (see Figure 5 on page 8). The biggest disparity occurs in the Northeast, where the largest investor-owned utilities are based.

At the state level, the disparities are particularly dramatic in four of the five states with the largest number of private systems (see Figure 6 on page 9).

The survey found that:

- In California, private systems charged 17 percent more than public systems, or an extra $67 a year.
- In Illinois, private systems charged 95 percent more than public systems, or an extra $286 a year.
- In New Jersey, private systems charged 79 percent more than public systems, or an extra $230 a year.
- In New York, private systems charged more than twice as much as public systems, or an extra $260 a year.
- In Pennsylvania, private systems charged 84 percent more than public systems, or an extra $323 a year.

Other surveys of water rates and ownership have had similar findings. An analysis of water rates in California cities in 2003 found that private companies charged about 20 percent more on average.[33] A 2010 survey of the largest utilities in the Great Lakes region indicated that private water utilities charged typical households more than twice as much as municipal utilities did.[34] A survey of water rates in Delaware and surrounding states showed that, in 2011, investor-owned utilities charged 69 percent more than public utilities.[35]

U.S. EPA survey data also suggest that privately owned systems charged households higher rates than publicly owned systems, overall and across size categories.[36] Indeed, it is widely accepted that private ownership of water systems is associated with higher prices.[37]

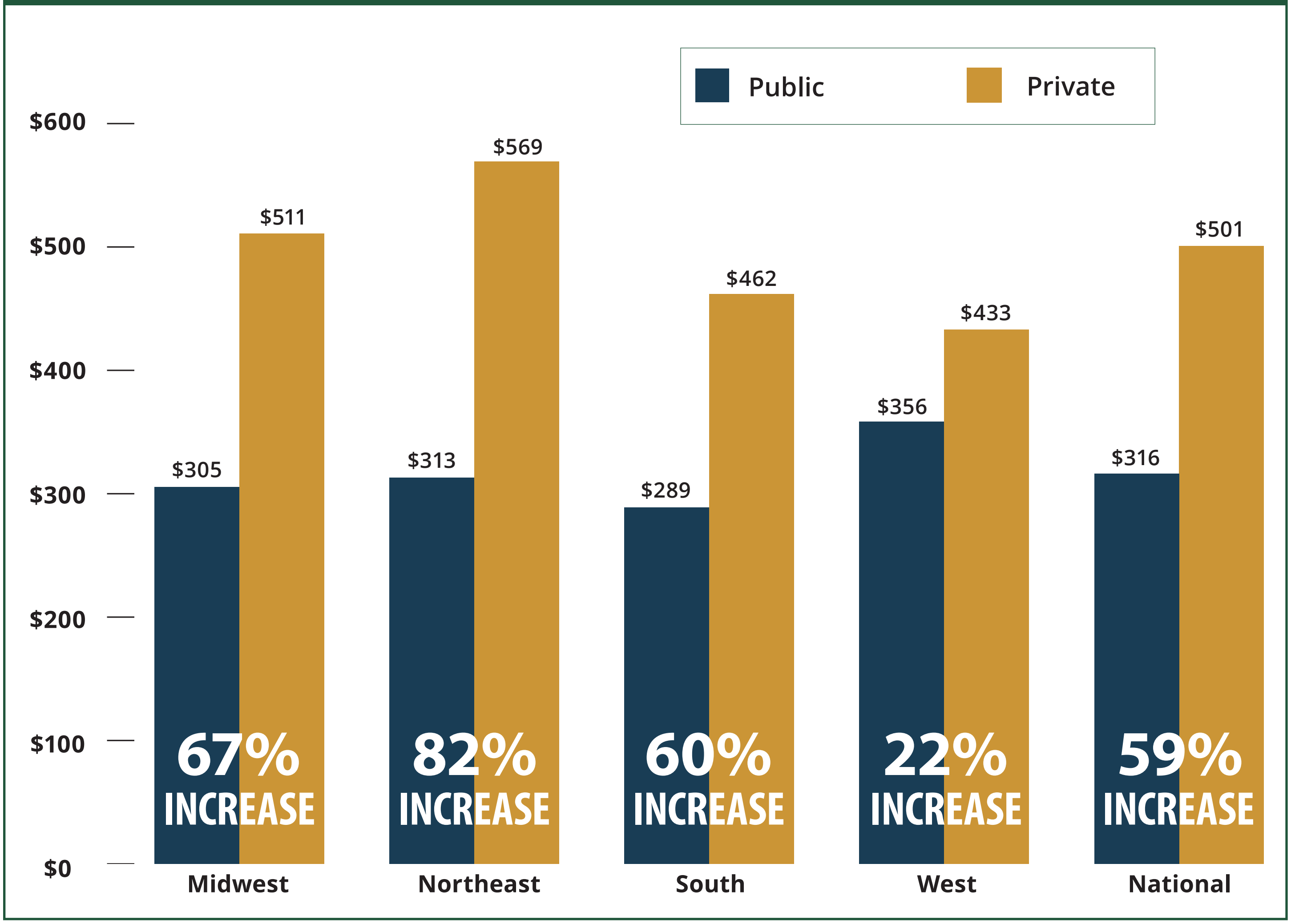
There are a variety of reasons why public water offers customer savings. Most importantly, public entities normally collect only the revenue necessary to improve and run their water systems. Privately owned utilities, however, generate profit by increasing rates. Other factors that make private water more costly for customers include: executive compensation, corporate overhead, subsidies, financing costs, rights of way, and differences in rate-making and financing practices.[38]

Equitable Service

Because they are directly accountable to their residents, publicly owned utilities generally are more concerned than private entities about issues of social equity.[40] Public ownership also is more equitable because it provides customers with clearer legal protections from discrimination, given that the Equal Protection Clause applies only to "state action."[41]

Private companies often steer clear of economically depressed and struggling areas that are less profitable. As

Figure 5: Average Annual Water Bill 2015
For Households Using 60,000 Gallons a Year Based on the 500 Largest Community Water Systems



NOTE: See Appendix for methodology and details.

a result, they generally avoid small and rural communities where household income is low or where water quality problems are significant. They typically target a small system only if it is near their existing infrastructure network and they can take advantage of economies of scale.[42]

Environmentally Responsible Service

A public entity also can be more responsive to its customers — its voters — when it comes to environmental concerns and goals.[43]

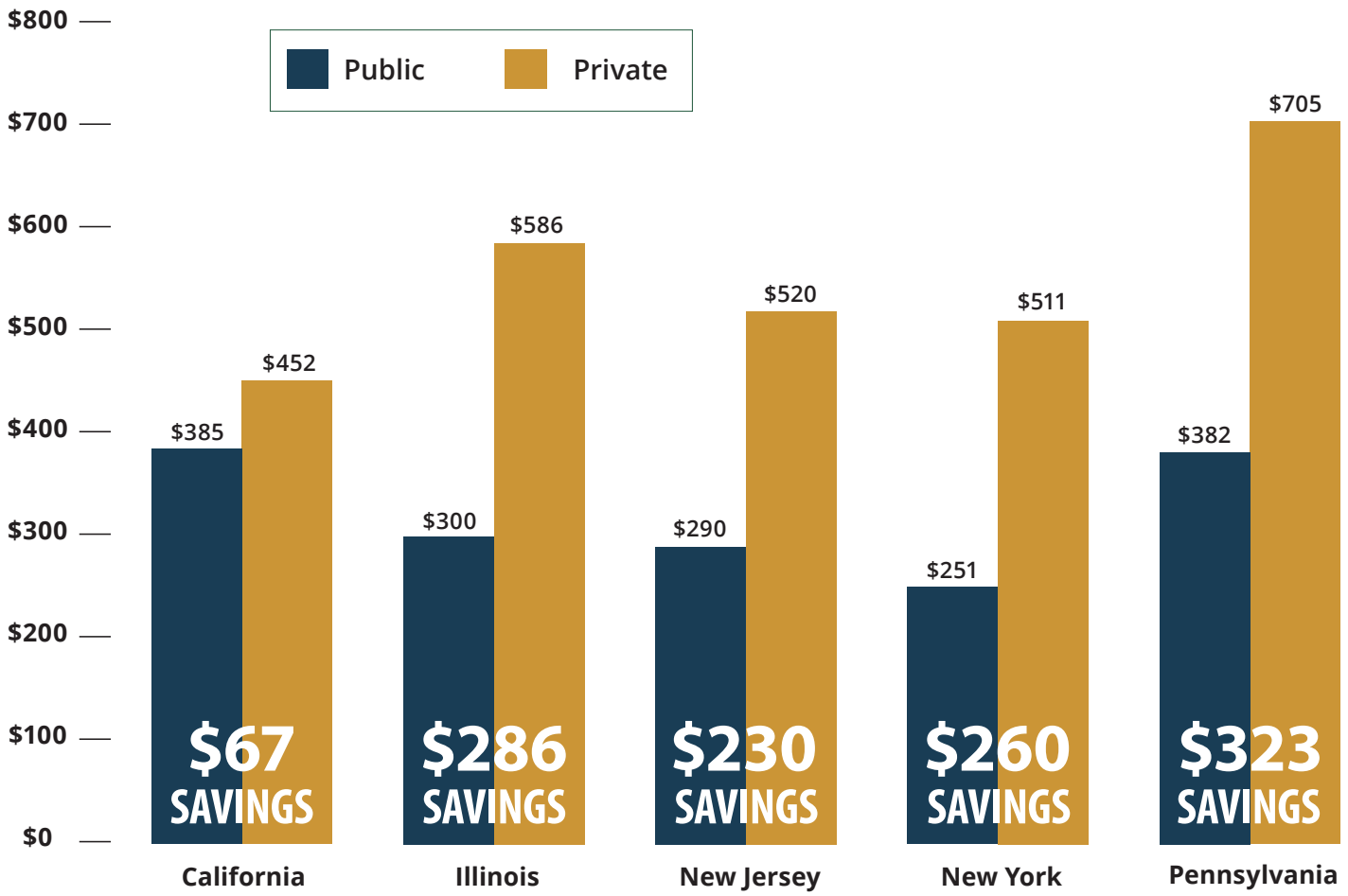
Watershed Protection

Water utilities must work to safeguard their watershed and water supplies from drilling, fracking and coal mining, pipeline spills and oil train accidents, irresponsible logging practices and other disruptive impacts.[44] Because they are a natural buffer from pollution, forests and open lands protect water supplies, improve water quality and reduce drinking water treatment costs in manifest ways.[45] Public sector utilities that have strong citizen engagement tend to have stronger watershed protections.[46]

Some private companies have sold land protecting water supplies to developers.[47] In the 1980s, United Water transferred about 600 acres of land, originally acquired to protect the water supply in Bergen County, New Jersey, to its real estate development subsidiary, which planned to resell the land to developers for substantial profits.[48]

Local governments also have paid the costs of private mismanagement. The city of Willits, California bought its water utility and watershed lands from a private firm in 1984, only to find that the company had failed to make required investments in the water system when it logged the valuable old timber from the land. The city's water

Figure 6: Public Savings Vary by State
Average Annual Water Bills in 2015 for Households Using 60,000 Gallons/Year



system was failing, had many water quality problems and needed a new treatment plant, in large part because of the private company's financial neglect and logging activities.[49]

Water Conservation

Research from California shows that, compared to private water utility companies, publicly owned water utilities more actively encourage and promote water conservation.[50] Private water systems in California have typically waited for the state to mandate conservation before taking action during droughts.[51]

Local Planning and Smart Growth

Public ownership of water and sewer systems allows local governments to direct and plan economic growth and development.[52] A local governing body decides on capital improvements and extensions to new areas.[53] It can coordinate the extension of water and sewer lines to reduce costs or to serve areas with contaminated private wells or that lack adequate fire service.[54]

Public ownership of water systems is necessary to promote smart growth. Sprawling development can harm the water supply because it changes the natural landscape. When rain hits hard pavement, less of it filters naturally into the ground to recharge the underground aquifers that supply water to wells and often connect to rivers, lakes and streams. Instead, the rainwater can be diverted into storm drains and discharged into surface waters.[55] Overall, this can strain local drinking water sources that rely on groundwater, and it can lead to sewer overflows when stormwater overwhelms wastewater collection systems.[56]

Private water companies make money on costly sprawling systems, and real estate developers frequently partner with them to serve new satellite developments.[57] Munic-

ipal systems can also have policies that protect residents from paying to extend service outside the municipal limits to new developments, while private companies often force their customers to subsidize new development.[58]

More broadly, local public control of water utilities is often necessary for successful planning that protects natural resources in that region.[59] Private ownership of water utilities can complicate and interfere with planning activities. There is no built-in incentive to cooperate with neighboring municipalities and government agencies in protecting water resources, managing watersheds, or working on affordability, equity and sustainability.[60]

Effective Service

Local government water and sewer departments typically work together to reduce costs and share resources. Cities may use wastewater trucks to remove snow or conduct other government tasks, and water department employees may help with emergency preparations for intense storms. Private contractors and utilities, in contrast, have no incentive to share equipment and worker hours.[61]

In addition to pooling resources, water and sewer utilities often coordinate with other city departments around transportation projects, urban planning efforts and fire safety, all to more effectively and efficiently protect public

Top Ten Most and Least Expensive Water Systems

Top Ten Most Expensive Water Providers as of January 2015

Rank	Entity	State	Service Population	Ownership	Annual Bill
1	Flint[a]	MI	124,943	Public	$910.05
2	Padre Dam Municipal Water District	CA	96,589	Public	$826.94
3	American Water – West	PA	93,368	Private	$792.84
4	American Water – Pittsburgh	PA	516,411	Private	$792.84
5	American Water – Lake Scranton	PA	134,570	Private	$792.84
6	American Water – Norristown	PA	94,724	Private	$792.84
7	Aqua America – Main	PA	784,939	Private	$782.38
8	Goleta Water District	CA	87,000	Public	$736.62
9	American Water – Monterey	CA	94,700	Private	$716.18
10	American Water - Kanawha Valley	WV	217,959	Private	$710.63

Top Ten Least Expensive Water Providers as of January 2015

Rank	Entity	State	Service Population	Ownership	Annual Bill
491	Toho Water Authority	FL	110,102	Public	$123.96
492	Memphis	TN	671,450	Public	$120.71
493	Medford Water Commission	OR	90,932	Public	$117.84
494	Hagerstown	MD	88,000	Public	$116.48
495	Miami-Dade	FL	2,100,000	Public	$116.46
496	Jefferson Parish – District 1	LA	308,362	Public	$104.40
497	Jefferson Parish – District 2	LA	209,972	Public	$104.40
498	Hempstead	NY	110,000	Public	$101.74
499	Clovis	CA	102,499	Public	$100.80
500	Phoenix	AZ	1,500,000	Public	$84.24

a When the survey was conducted in January 2015, Flint, Michigan had the most expensive water service in the country, but during August 2015, a judge ruled that certain rate increases were unlawful and ordered the city to reduce its rates by 35 percent and to end a service fee.[39]

Note: Annual bills were calculated for households using 60,000 gallons of water a year.

health, safety and welfare.[62] For example, cities can time water main repairs before road repairs to avoid having to repave roads again after digging up water lines.

In recent years, cities such as Kyle, Texas and Fort Worth, Indiana have sought local public control of water systems to improve water quality and supplies. Expensive, low-quality water and bad service can scare away new businesses and hurt economic development,[63] while insufficient water supplies and pressure can put public safety at risk.[64]

Ways Forward

Publicly owned water systems provide the most affordable and equitable service. Government utilities are directly accountable to the people they serve, and they have a fundamental responsibility to promote and protect public health and safety. They are generally more responsive to their community's specific needs and environmental goals, and can best coordinate among different government divisions to achieve gains in public health and welfare.

Public water utilities can further improve their services by:

- Enhancing public input through open and transparent procedures that encourage stakeholder involvement;
- Boosting in-house expertise through targeted hiring, reducing contracting and investing in job training for current staff;
- Implementing water affordability programs that provide credits to low-income households, adjusting their water bills to a level that they can afford to pay;
- Working to ensure source water protection locally and regionally;
- Maximizing services and reducing costs through greater coordination among their departments; and
- Sharing resources and expertise through public-public partnerships with other public sector, labor and non-profit entities.

Our local water systems should not have to go it alone. The federal government has a responsibility to ensure that our local public water and sewer systems receive the support they need. Communities across the country need a dedicated source of federal funding for our water systems to improve water quality, protect the environment, create good jobs and ensure safe, reliable water for generations to come.

With a renewed federal investment in our water resources, robust, responsive and responsible public utilities can best meet the needs of communities and ensure safe and affordable water for all.

Average Annual Household Water Bills, as of January 2015

Based on the 500 Largest Community Water Systems in the United States and Assuming 60,000 Gallons a Year per Household

Region and State	System Ownership		Increase Under Private	
	Public	Private	Amount	Percent
Midwest	**$305.48**	**$511.05**	**$205.57**	**67%**
Illinois	$300.31	$586.33	$286.02	95%
Indiana	$267.04	$407.67	$140.63	53%
Iowa	$270.87	$468.75	$197.88	73%
Kansas	$364.50			
Michigan	$324.10			
Minnesota	$236.49			
Missouri	$357.76	$422.41	$64.65	18%
Nebraska	$224.32			
North Dakota	$255.00			
Ohio	$302.81	$519.52	$216.71	72%
South Dakota	$320.34			
Wisconsin	$246.45			
Northeast	**$313.12**	**$569.35**	**$256.23**	**82%**
Connecticut	$343.02	$459.27	$116.25	34%
Maine	$246.12			
Massachusetts	$297.28			
New Hampshire	$358.59			
New Jersey	$290.01	$519.92	$229.91	79%
New York	$251.05	$510.56	$259.51	103%
Pennsylvania	$382.31	$705.00	$322.69	84%
Rhode Island	$371.78			
South	**$288.89**	**$461.71**	**$172.82**	**60%**
Alabama	$284.87			
Arkansas	$265.70			
Delaware	$375.42	$542.85	$167.43	45%
District of Columbia	$420.12			
Florida	$292.44			
Georgia	$306.27			
Kentucky	$365.06	$478.71	$113.65	31%
Louisiana	$187.39	$277.85	$90.45	48%
Maryland	$228.73			
Mississippi	$257.47			
North Carolina	$287.71			

Average Annual Household Water Bills, as of January 2015 *(continued)*				
Region and State	System Ownership		Increase Under Private	
	Public	Private	Amount	Percent
South	**$288.89**	**$461.71**	**$172.82**	**60%**
Oklahoma	$296.94			
South Carolina	$203.16			
Tennessee	$303.65	$316.57	$12.92	4%
Texas	$290.04			
Virginia	$317.89	$297.48	-$20.41	-6%
West Virginia		$710.63		
West	**$356.25**	**$433.06**	**$76.81**	**22%**
Alaska	$606.48			
Arizona	$247.45	$285.23	$37.78	15%
California	$385.50	$452.25	$66.75	17%
Colorado	$301.41			
Hawaii	$343.08			
Idaho		$254.78		
Montana	$273.26			
Nevada	$428.22			
New Mexico	$261.94			
Oregon	$298.15			
Utah	$231.50			
Washington	$380.45			
Grand Total	**$315.56**	**$500.96**	**$185.40**	**59%**

Note: None of the 500 largest community water systems was located in Vermont or Wyoming.

Appendix B: Rate Survey Methodology

The survey compared the residential water prices of investor-owned utilities and local government-owned utilities.

Identifying the Largest Systems. Using the U.S. EPA's Safe Drinking Water Federal Information System, frozen in October 2013, the 500 largest community water systems were identified as the systems serving the largest number of people.

Exclusions. Systems were excluded if they were primarily bulk water sellers (systems serving large populations but fewer than 100 customers), if they were Federal or Native American-owned systems and if they were not located in U.S. states and the District of Columbia. Three systems were private, non-profit entities, and, although their rates were collected, they were excluded from the rate analysis.

Data Collection. During January 2015, system water rates were compiled from utility websites and local government ordinances, if available. In three cases, the rates were not found online, and they were found by calling the utility's customer service line. All source documents are on file with Food & Water Watch.

Household Bill Calculations. Annual water bills were calculated assuming that a typical household uses about 60,000 gallons or 80.2083 hundred cubic feet a year of indoor water. For systems with water budgets, all water use was assumed to be indoor usage. Seasonal rates were weighted to arrive at an annual average. Rates were calculated for the main service division or inside jurisdiction. The annual bill includes special water-related fees and surcharges, and public fire protection charges if those fees were charged to all households (excluding private fire service protection lines and hydrants).

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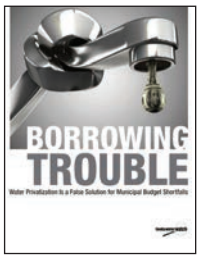
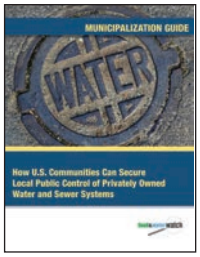
More Food & Water Watch Research on Water



Borrowing Trouble: Water Privatization Is a False Solution for Municipal Budget Shortfalls

The 2008 global financial crisis left many governments around the world with serious fiscal challenges, and a number of public officials across the globe sought to lease or sell public water and sewer systems to fund ongoing government functions or to pay down liabilities. The government's primary objective in these privatization arrangements is to obtain a sizable upfront payment from the company or consortium that takes over the water or sewer system, often as a desperate response to a fiscal crisis. But this money is not free; rather, it should be thought of as a loan. Residents and local businesses will have to repay it, with interest, through their water bills.



Water Municipalization Guide

Many communities across the country want local public control of their water and sewer services. Municipalization — the purchase of a privately owned system by a local government — is a fairly common occurrence, but for communities unfamiliar with it, the process could appear daunting. This guide provides an overview of the process and a number of logistical considerations involved in government purchases of privately owned water and sewer systems. Although the general procedure is similar, the specifics will vary by situation, partly because every state has its own legal and regulatory framework.

Aqua America: A Corporate Profile

Aqua America focuses on buying water systems and hiking water prices. It typically purchases small water and sewer systems in areas near its existing network. In addition to owning systems, the company operates a handful of local government-owned systems, but it uses those deals as a way to build its reputation and to get a foot in the door on a possible acquisition of the systems. After taking over and building out its systems, the company seeks to increase water rates. The ability to hike consumer bills is the key to its earnings.

American Water: a Corporate Profile

American Water Works Company is the largest publicly traded U.S. water utility company, serving approximately 14 million people in more than 30 states and two Canadian provinces. American Water has come under fire from communities across the country for charging high rates, providing poor service, endangering public safety and lacking public accountability. From Birmingham, Alabama, in the 1950s to Felton, California, in 2008, communities across the country have wrested local control of their water systems from American Water.

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Exhibit C

RAFTELIS

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

Monterey

Peninsula Water Management District

Cost of Service Analysis Assuming Ownership of California-American Water (CAL-Am) Monterey Water System

June 16, 2023

Presentation Purpose and Objective

Purpose	Update the assessment of financial feasibility of public ownership of the Monterey Water System
Objective	Compare the cost of continued private ownership with the cost of MPWMD ownership and operation of the system

Cost of Service Assumptions

1. Average 4.0% operating cost escalation per year under both ownership scenarios
2. System acquisition costs financed over 30 years at 4.0% interest
3. Cash funding of District's annual CAPEX
4. Minimum operating cash target at least 90 days of O&M expense
5. DS Coverage ratio of at least 1.5x

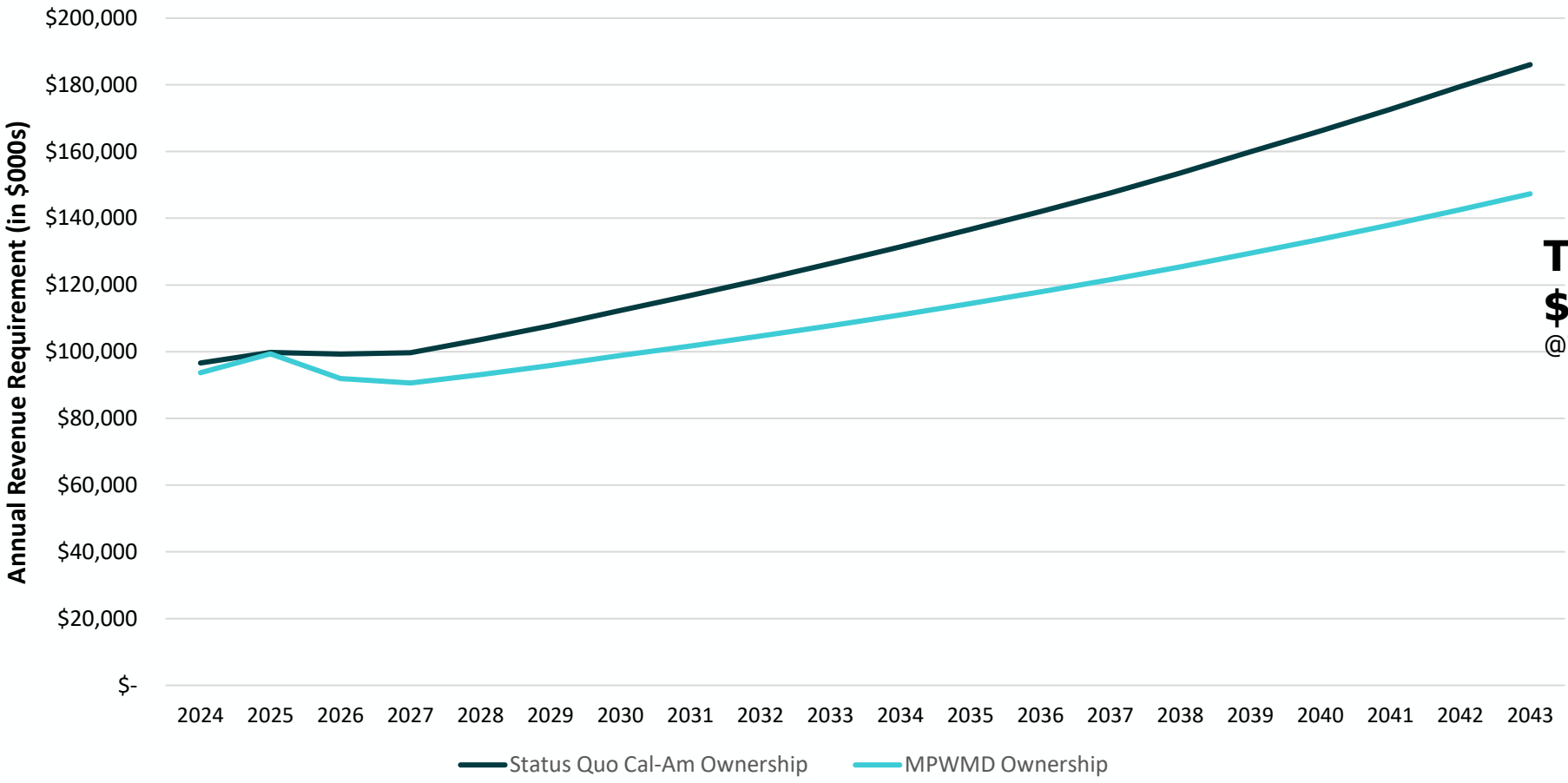
Line	Description	1 FY 2024	2 FY 2025	3 FY 2026
1	**Revenues**			
2	Water Sales Revenues	$93,294	$98,906	$91,513
3	Interest Revenue	201	201	204
4	Other Revenues	236	237	224
5	**Total Revenues**	$93,731	$99,344	$91,942
6	**Revenue Requirements**			
7	Operating Expenses	$40,206	$40,826	$41,335
8	Debt Service (Acquisition & Transition Cost)	29,047	29,047	29,047
9	Capital Expenditures (Pay-as-You-Go)[1]	24,477	29,316	21,431
10	Working Capital Additions	-	155	127
11	**Total Revenue Requirements**	93,731	99,344	91,942
12	Beginning Cash Balance	$10,052	$10,052	$10,206
13	Revenues Over (Under) Expenditures	-	155	127
14	Ending Cash Balance	10,052	10,206	10,334
15	Ending Cash Balance (Days of O&M)	91	91	91
16	Debt Service Coverage (All-In)	1.84	2.01	1.74

	Financing Assumptions:	
17	Acquisition Cost (in $ thousands)	$ 448,810
18	Transition Cost	9,500
19	Initial 90 Day Cash Reserve (Debt Funded)	10,052
20	Total Financing	$ 468,362
21	Debt Service Reserve (1-yr DS)	28,954
22	Financing Including Debt Service Reserve	497,316
23	Interest Rate	4.0%
24	Term (yrs)	30
25	Issuance Cost	1.0%

[1]CAPEX excludes Cal-Am's corporate capitalized labor.

Cost of Service Evaluation Results

Comparison of Projected Annual Revenue Requirements

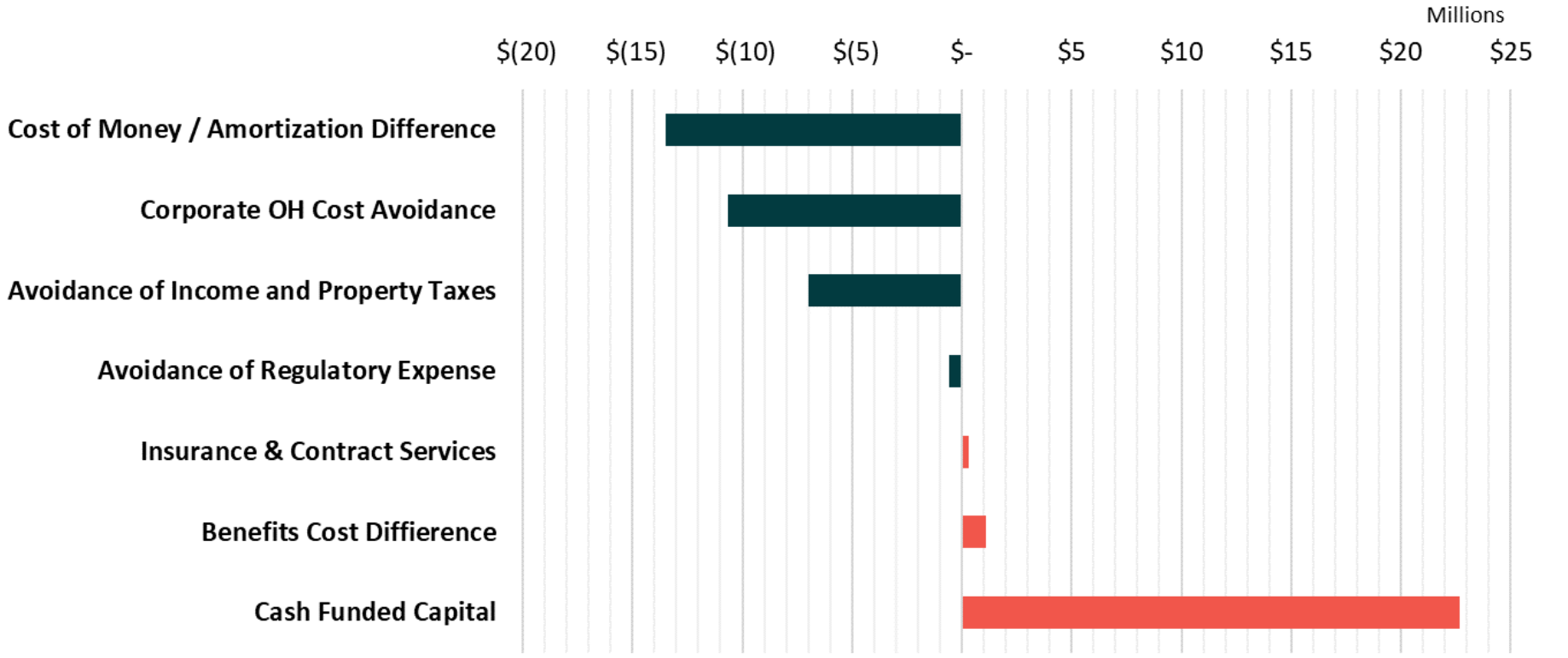


Total NPV Savings:
$195 million over 20 yrs
@7% discount rate

Primary Cost of Service Differences

Cal-Am vs. District Ownership and Operations

Estimated 2026 Cost Differences



	Cash Funded Capital	Benefits Cost Diffierence	Insurance & Contract Services	Avoidance of Regulatory Expense	Avoidance of Income and Property Taxes	Corporate OH Cost Avoidance	Cost of Money / Amortization Difference
2026 Cost Difference (in $000s)	$22,678	$1,118	$304	$(601)	$(6,958)	$(10,663)	$(13,488)

Estimated 2026 Net Cost Savings of $7.5M

Conclusion:

The acquisition of the Monterey Water System by MPWMD is economically feasible

Economic feasibility was assessed by comparing the estimated revenue requirements of the water system under MPWMD ownership versus Cal-Am ownership, which indicates significant revenue requirement savings could be achieved under the MPWMD ownership scenarios.

Preliminary Water Rate Projections

Purpose: Evaluate potential water rates and customer water bills under public ownership

Water Rate Analysis Limitations

- Limited data was available to precisely calculate rates under District ownership. But reasonable assumptions were made.
  - Without water use by account data, we cannot calculate **customer peaking factors** by tier for single-family or other customer classes
    - Peaking factor = (max monthly use) / (average monthly use)
    - Instead, we used typical peaking factors based on judgment and experience
  - Without daily and hourly system water production data, we cannot precisely calculate **system peaking factors**
    - These factors are used to allocate costs to average costs and peaking costs
    - Instead, we used average system factors of several similarly sized California water systems

Revenue Requirements are Projected to Be Lower Under District Ownership

Year	Revenue Requirements[1] Cal-Am	District	$ Difference	% Difference
FY 2024	$96,619,135	$93,293,932	$3,325,203	-3.4%
FY 2026	$99,236,511	$91,513,336	$7,723,175	-7.8%

[1]Revenue requirements exclude MPWMD surcharge.

Also, note that the difference in FY 2024 is lower because of relatively high capital expense in this year. District scenario assumes cash funding CAPEX.

- Assuming Cal-Am's proposed water rate structure, water rates and customer bills would be lower under District ownership.
- However, due to Proposition 218 requirements, the District rate structure must be based on cost-of-service.

Cal-Am Proposed 2024 Water Rate Structure

	Description	Units	Rates	Cal-Am Charge
1	Water Service Charge	5/8 x 3/4"		$45.49
2	Water Usage Charge:		(per CGL)	Charge
3	Tier 1	30.00	$0.7724	$23.17
4	Tier 2	4.83	$1.5448	$7.46
5	Tier 3	0.00	$2.3171	$0.00
6	Tier 4	0.00	$3.2183	$0.00
7	Total Usage Charge (100 Gal)			$30.63
8	Surcharges:		(per CGL)	Surcharge
9	CEBA	34.83	$0.0982	$3.42
10	CAP	Flat	$1.5900	$1.59
11	WRAM / MCBA	34.83	$0.1904	$6.63
12	MPWMD User Charge	76.12	8.33%	$6.34
13	MPWMD Purchased Water	34.83	$0.4492	$15.65
14	Subtotal Surcharges			$33.62
	Subtotal Customer Bill			**$109.75**
15	Taxes and Fees:		(% of Bill)	Charge
16	Commission Surcharge		0.80%	$0.88
17	Utility User Tax		0.00%	$0.00
18	Franchise Fee		2.00%	$2.19
19	Subtotal Taxes & Fees			$3.07
20	**Total Customer Bill**			**$112.82**

Based on 3,483 gallons per month and a 5/8" meter size.

From Cal-Am 2022 GRC Updated Application Exhibits, Ch10.

- If the District adopted Cal-Am's rate structure, the typical bill would likely be lower

Estimated 3.4% lower under District ownership

Not applicable under District Ownership

Estimated 6.0% lower under District ownership

Cal-Am is Proposing Major Changes to Water Rates in its 2024 General Rate Case

- Proposing to increase the fixed charge to recover 50% of revenue
- Proposing to increase the fixed charge on all customers, except single family
  - Subsidizing single family
- Customer class subsidization not allowed under Proposition 218
  - Each customer (class) must pay their fair share

Cal-Am Proposing to Shift Costs from Residential to Commercial Customers

Line No.	Description	Class	Present Rates	Proposed Rates	Difference Incr (Decr)	Percent Incr (Decr)
	TEST YEAR 2024					
1.	**Metered Water Customers**					
2.	Residential	SRES	$48,263,591	$48,159,886	($103,705)	-0.21%
3.	Multiresidential	MRES	8,525,634	9,495,070	969,436	11.37%
4.	Multiresidential (Mstr Mtr)	MREM	0	0	0	0.00%
5.	Commercial	COMM	25,544,250	31,518,853	5,974,603	23.39%
6.	Industrial	INDR	136,691	170,871	34,180	25.01%
7.	Public Authority	OPUA	4,978,122	7,223,092	2,244,970	45.10%
8.	Sales for Resale	SLFR	69,872	54,559	(15,313)	-21.92%
9.	Other	OTHR	2,832	5,619	2,787	98.41%
10.	Golf Courses	GOLF	0	0	0	0.00%
11.	Construction	CSTR	363,539	367,674	4,135	1.14%
12.	Irrigation Gravity	IRRG	0	0	0	0.00%
13.	Irrigation Pressure	IRRP	0	0	0	0.00%
14.	Private Fire	RFPS	826,229	1,137,814	311,585	37.71%
15.	Private Fire Mandated	RFPM	0	0	0	0.00%
16.	Public Fire	PFPS	780,881	789,668	8,787	1.13%
17.	Hotel	HOTL	0	0	0	0.00%
18.	Reserved		0	0	0	0.00%
19.	Total Metered Revenues		89,491,641	98,923,106	9,431,465	10.54%

Source: Updated Application (Exhibit A, Ch 3, Tbl 3.16)

Rate Setting Considerations That Affect Rate Design and Customer Bills

- **Fixed charge vs volumetric rates** - Lower fixed charge creates lower bills for low water users (improved price signal)
- **Water purchase costs** – can recover the expensive water from upper tiers
- **Peaking costs** (max day & max hour) – upper tiers peak more and thus have a higher volumetric peaking rate
- **Conservation costs** – can be allocated to the upper tiers as conservation programs are typically targeted toward high water users
- **Non-rate revenue** (e.g. property tax, revenue from leasing land for cell towers) – can be used to lower rates to any class/tier at the board's discretion and is often used for Low Income Rate Assistance programs

Cal-Am 2024 Proposed Fixed Charges vs. Illustration of Possible District Fixed Charges

Meter Size	Est District Fixed Charge (A)	Cal Am Fixed Charge (Excl Surchrgs)[1] (B)	Cal Am Fixed Charges (Inc Surchrgs) (D)	Difference (E)
5/8"	**$41.92**	$45.49	**$51.70**	**($9.77)**
3/4"	**$59.18**	$71.19	**$80.01**	**($20.82)**
1"	**$93.70**	$125.09	**$139.38**	**($45.67)**
1 1/2"	**$180.00**	$295.45	**$327.03**	**($147.03)**
2"	**$283.56**	$485.82	**$536.73**	**($253.17)**
3"	**$758.21**	$910.91	**$1,004.98**	**($246.76)**
4"	**$1,301.90**	$1,551.62	**$1,710.73**	**($408.83)**
6"	**$2,769.00**	$3,202.86	**$3,529.60**	**($760.60)**
8"	**$4,840.20**	$5,124.53	**$5,646.36**	**($806.17)**

[1] Source: Page 273 of 327 of the pdf in Pourtaherian Workpapers - "CAW Response MPWMD 04 Q001 -Supplmental Attahcment 2"

Fixed charges shown above are per month.

- Cal-Am proposes to recover 50% of costs with fixed charge
- District fixed charge assumed to recover 30% of costs

Cal-Am 2024 Proposed Volumetric Rates vs. Illustration of Possible District Volumetric Rates

Customer Class	Est District Rates ($/hcf) (A)	Cal Am Rates[1,2] (Inc. Surchrgs) ($/hcf) (E)	Difference (F)
Single Family Residential			
Tier 1	**$13.50**	**$13.80**	**($0.30)**
Tier 2	**$23.21**	**$20.16**	**$3.04**
Tier 3	**$30.35**	**$26.53**	**$3.82**
Tier 4	**$34.98**	**$33.95**	**$1.03**
Multifamily			
Tier 1	**$13.26**	**$15.14**	**($1.88)**
Tier 2	**$22.77**	**$22.85**	**($0.08)**
Tier 3	**$38.05**	**$42.12**	**($4.07)**
Tier 4	**$43.05**	**$55.60**	**($12.56)**
Non-Residential			
Division 1	**$14.93**	**$26.44**	**($11.51)**
Division 2	**$37.66**	**$29.12**	**$8.54**
Division 3	**$29.15**	**$31.79**	**($2.64)**
Division 4	**$34.80**	**$58.56**	**($23.75)**

[1]Source: Page 98-103 of the Updated Exhibits - Central Division

[2]Surcharges were assumed to remain the same as 2023 rates

- Cal-Am's proposed rates shift costs to commercial customers and lowers the residential rates
- District rates do not include this rate subsidy
- Cal-Am proposal recovers 50% of costs in the fixed charges, which lowers the volumetric rates
- District rates assume 30% of revenue from the fixed charge and a higher percentage (70%) of revenue from volumetric rates

Residential Monthly Bill Comparison (2024)

Single-Family Residential

Water Use (hcf)	Est District Water Bill ($/Mo)	Cal Am Bill (inc. Surchrgs)[1] ($/Mo)	Difference $	Difference %
4	$95.92	$104.15	($8.23)	-7.9%
5	$119.13	$123.63	($4.50)	-3.6%
7	$165.54	$162.58	**$2.96**	1.8%

[1]From pgs 98-103 of Updated Applicaton Exhibits -Central Division

- Comparison assumes customer with 5/8” meter.
- Average customer uses 500 cubic feet / month

Multi-Family Residential

Water use (hcf)	Est District Water Bill ($/Mo)	Cal Am Bill (inc. Surchrgs)[1] ($/Mo)	Difference $	Difference %
18	$356.68	$373.57	($16.89)	-4.5%
22	$478.32	$500.76	($22.43)	-4.5%
30	$796.72	$869.96	($73.24)	-8.4%

[1]From pgs 98-103 of Updated Applicaton Exhibits -Central Division

- Average customer uses 2,200 cubic feet / month

Commercial Monthly Bill Comparison (2024)

Commercial Division 1

Water use (hcf)	Est District Water Bill ($/Mo)	Cal Am Bill (inc. Surchrgs)[1] ($/Mo)	Difference $	Difference %
15	$265.87	$474.40	($208.53)	-44.0%
27	$445.02	$792.15	($347.13)	-43.8%
50	$788.41	$1,401.18	($612.77)	-43.7%

[1]From pgs 98-103 of Updated Applicaton Exhibits -Central Division

- Average customer uses 2,700 cubic feet / month

Water Rate Study Conclusions

1. The water rate structure under District Ownership will differ from Cal-Am's rate structure
   - This is due to California Proposition 218 which requires municipal rates to be based on cost-of-service with no cross-class rate subsidies
2. Water rates and average customer bills for residential and commercial are anticipated to be lower under District Ownership than Cal-Am ownership
   - The average residential bill could be $4.50 per month or 3-4% lower under District Ownership in 2024 and approx. $9.00 per month or 7-8% lower in 2026.
3. Savings for customers under District Ownership will likely vary depending upon customer type and usage levels

Conclusions are based on limited information that was available. Actual future District rates will likely differ from the illustrations shown in this presentation.

Exhibit D

Exhibit D

Cal-Am Corporate Taxes vs. California Corporate Taxes Received

(Dollars in Millions)

Fiscal Year	2018	2019	2020	2021	2022
Corporate Taxes	11,246.000	13,774.000	13,870.000	20,720.000	46,395.000
Change in Corporate Taxes		2,528.000	96.000	6,850.000	25,675.000
Cal-Am 2024 Test Year Taxes	1.718	1.718	1.718	1.718	1.718
Cal-Am as % of Corporate Taxes	0.0153%	0.0125%	0.0124%	0.0083%	0.0037%

Exhibit E

Exhibit E

Cal-Am Corporate Taxes vs. US Federal Corporate Taxes Received

(Dollars in Millions)

Fiscal Year	2018	2019	2020	2021	2022
Corporate Taxes	218,000.000	216,000.000	264,000.000	268,000.000	383,000.000
Change in Corporate Taxes		(2,000.000)	48,000.000	4,000.000	115,000.000
Cal-Am 2024 Test Year Taxes	3.461	3.461	3.461	3.461	3.461
Cal-Am as % of Corporate Taxes	0.0016%	0.0016%	0.0013%	0.0013%	0.0009%

Exhibit F

Exhibit F

Number of Leaks per System

Main Leaks

	Monterey	San Diego	Los Angeles	Sacramento	Ventura	
2014	80	5	93	19	11	Note 1.
2015	198	8	98	30	11	
2016	157	3	144	28	15	
2017	197	-	199	32	5	Note 2.
2018	164	13	171	27	14	
2019	125	11	283	46	4	
2020	144	10	271	75	9	
2021	101	7	190	67	6	
Total	1,166	57	1,449	324	75	
Customers	39,802	22,125	28,362	64,427	21,228	Note 4.
Leaks/Customer	0.0293	0.0026	0.0511	0.0050	0.0035	

Service Leaks

	Monterey	San Diego	Los Angeles	Sacramento	Ventura	
2014	244	58	250	162	94	Note 1.
2015	417	76	261	201	82	
2016	300	49	64	155	90	
2017	340	65	125	159	76	Note 2.
2018	413	65	155	190	84	
2019	258	80	139	265	54	
2020	277	57	154	343	99	
2021	274	43	140	266	61	
Total	2,523	493	1,288	1,741	640	
Customers	39,802	22,125	28,362	64,427	21,228	Note 4.
Leaks/Customer	0.0634	0.0223	0.0454	0.0270	0.0301	
Total All Leaks	3,689	550	2,737	2,065	715	
Leaks/Customer	0.0927	0.0249	0.0965	0.0321	0.0337	

Notes: (1) 2022 General Rate Case filing MDR II.E.6
(2) 2019 General Rate Case filing MDR II.E.6
(3) Larkfield and East Pasadena excluded.
(4) Customers value from 2024 Test Year in A.22-07-001,
Direct Testimony of David Mitchell, Attachment 2, Tables 3-13

Exhibit G

Exhibit G

Cost and Time Spent on Cal-Am Leaks

Cost (Dollars)

	Monterey	San Diego	Los Angeles	Sacramento	Ventura	
2014	$ 3,101,112	$ 210,139	$ 1,161,634	$ 1,026,053	$ 522,843	Note 1.
2015	$ 3,251,385	$ 282,942	$ 912,627	$ 1,118,130	$ 554,642	
2016	$ 3,627,434	$ 184,525	$ 1,073,703	$ 1,215,359	$ 499,721	
2017	$ 2,259,993	$ 160,671	$ 1,449,794	$ 1,077,619	$ 467,885	Note 2.
2018	$ 3,563,732	$ 439,238	$ 1,774,586	$ 622,662	$ 156,654	
2019	$ 4,322,471	$ 408,607	$ 2,066,754	$ 999,950	$ 119,166	
2020	$ 4,425,781	$ 291,533	$ 1,902,505	$ (92,917)	$ 243,614	
2021	$ 3,987,849	$ 617,053	$ 1,312,101	$ 300,949	$ 97,005	
Total	$ 28,539,757	$ 2,594,708	$ 11,653,704	$ 6,267,805	$ 2,661,530	
Customers	39,802	22,125	28,362	64,427	21,228	Note 4.
Cost/Customer	$ 717	$ 117	$ 411	$ 97	$ 125	

Time (Hours)

	Monterey	San Diego	Los Angeles	Sacramento	Ventura	
2014	33,850	2,386	10,881	14,939	3,642	Note 1.
2015	36,453	2,282	10,564	15,592	3,782	
2016	37,544	4,537	12,069	25,326	8,483	
2017	36,596	4,466	10,217	22,610	6,413	Note 2.
2018	44,374	6,202	17,100	25,969	6,246	
2019	47,676	6,907	14,236	29,862	4,581	
2020	50,310	6,485	12,779	33,607	4,368	
2021	40,625	8,415	7,004	31,491	3,967	
Total	327,428	41,680	94,850	199,396	41,482	
Customers	39,802	22,125	28,362	64,427	21,228	Note 4.
Hours/Customer	8.2264	1.8838	3.3443	3.0949	1.9541	

Efficiency (Dollars per Hour)

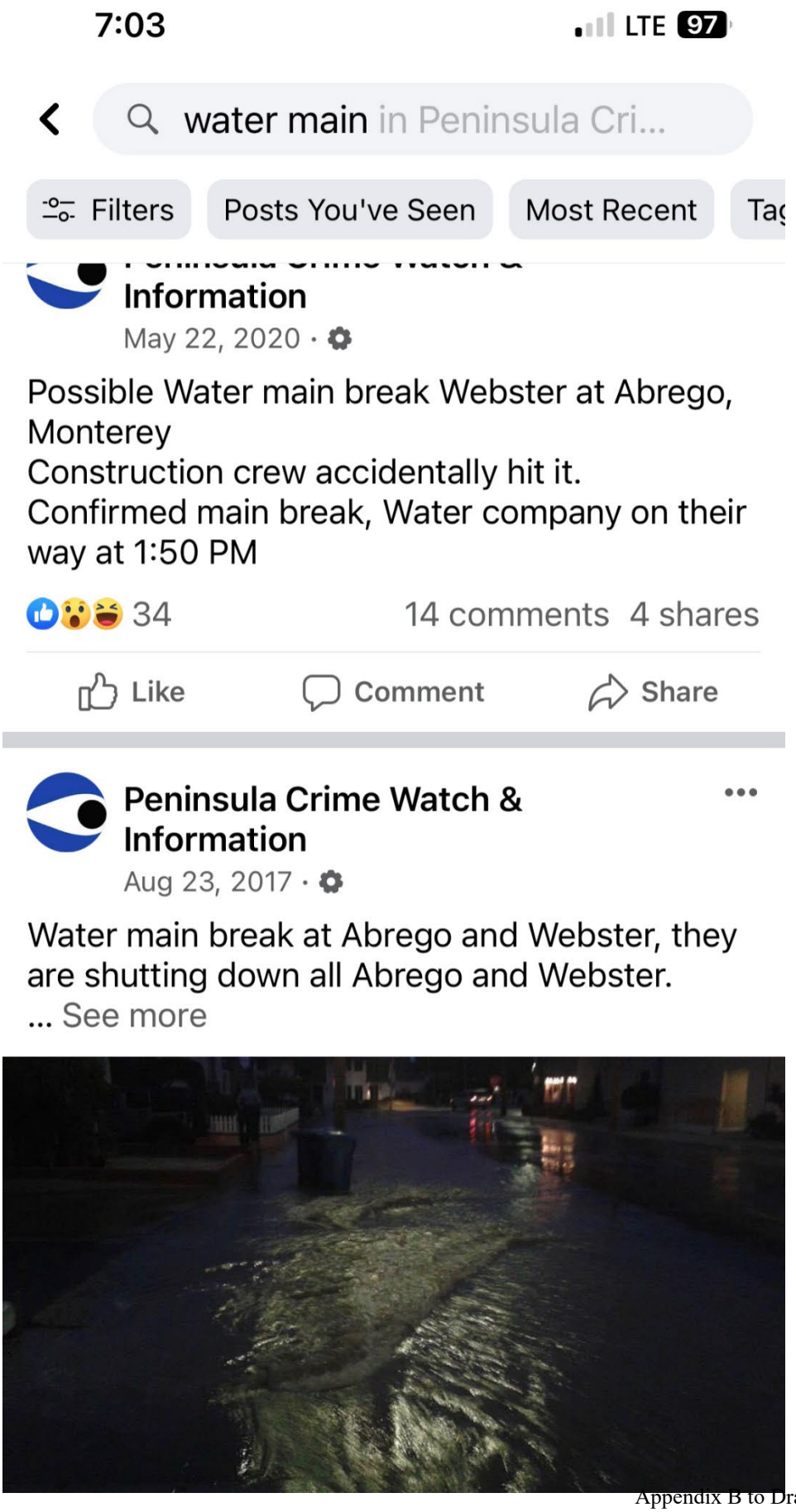
	Monterey	San Diego	Los Angeles	Sacramento	Ventura
Avg $ per Hour	$ 87.16	$ 62.25	$ 122.86	$ 31.43	$ 64.16

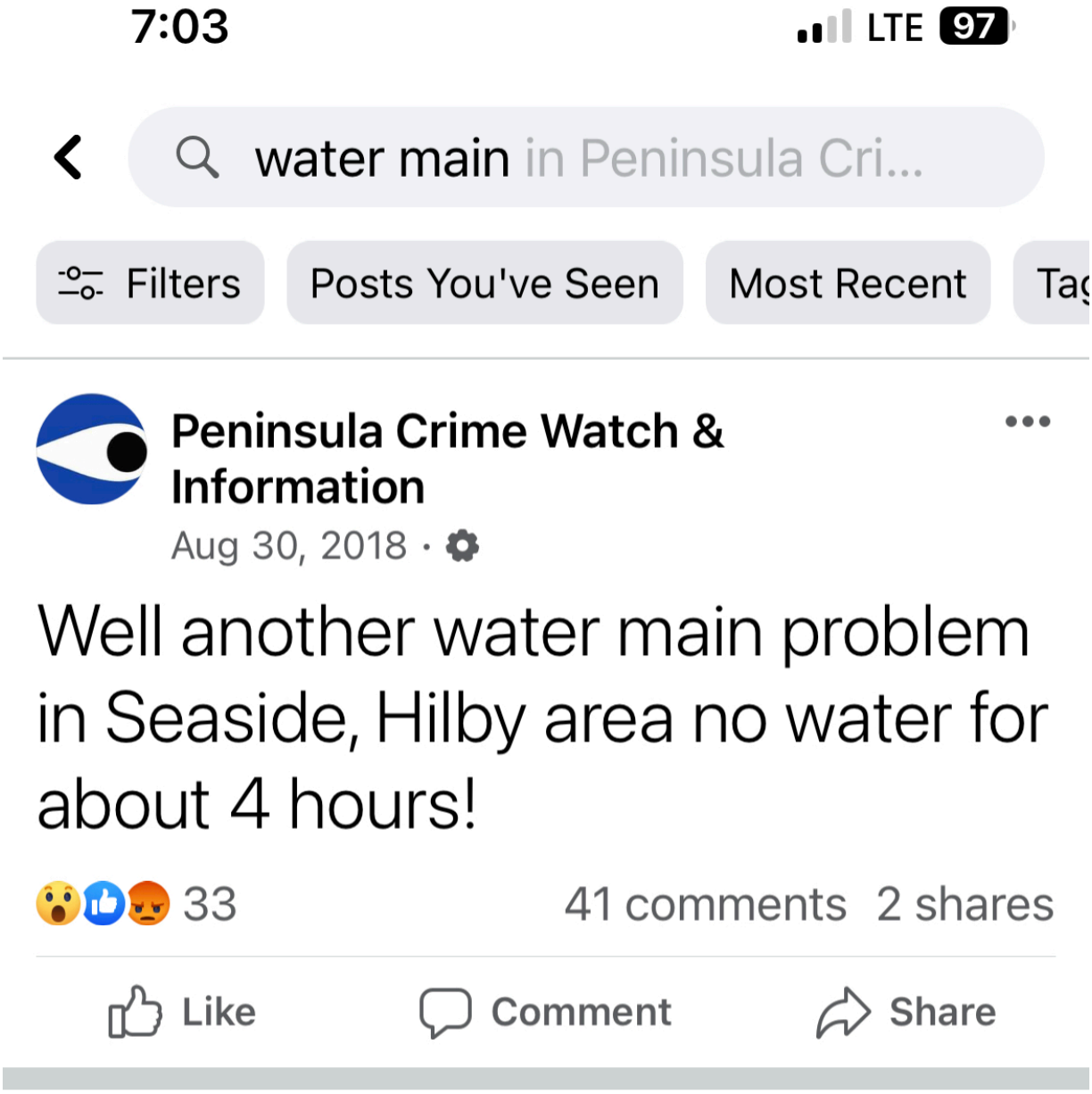
Notes:
(1) 2022 General Rate Case filing MDR II.E.8
(2) 2019 General Rate Case filing MDR II.E.8
(3) Larkfield and East Pasadena excluded.
(4) Customers value from 2024 Test Year in A.22-07-001,
Direct Testimony of David Mitchell, Attachment 2, Tables 3-13

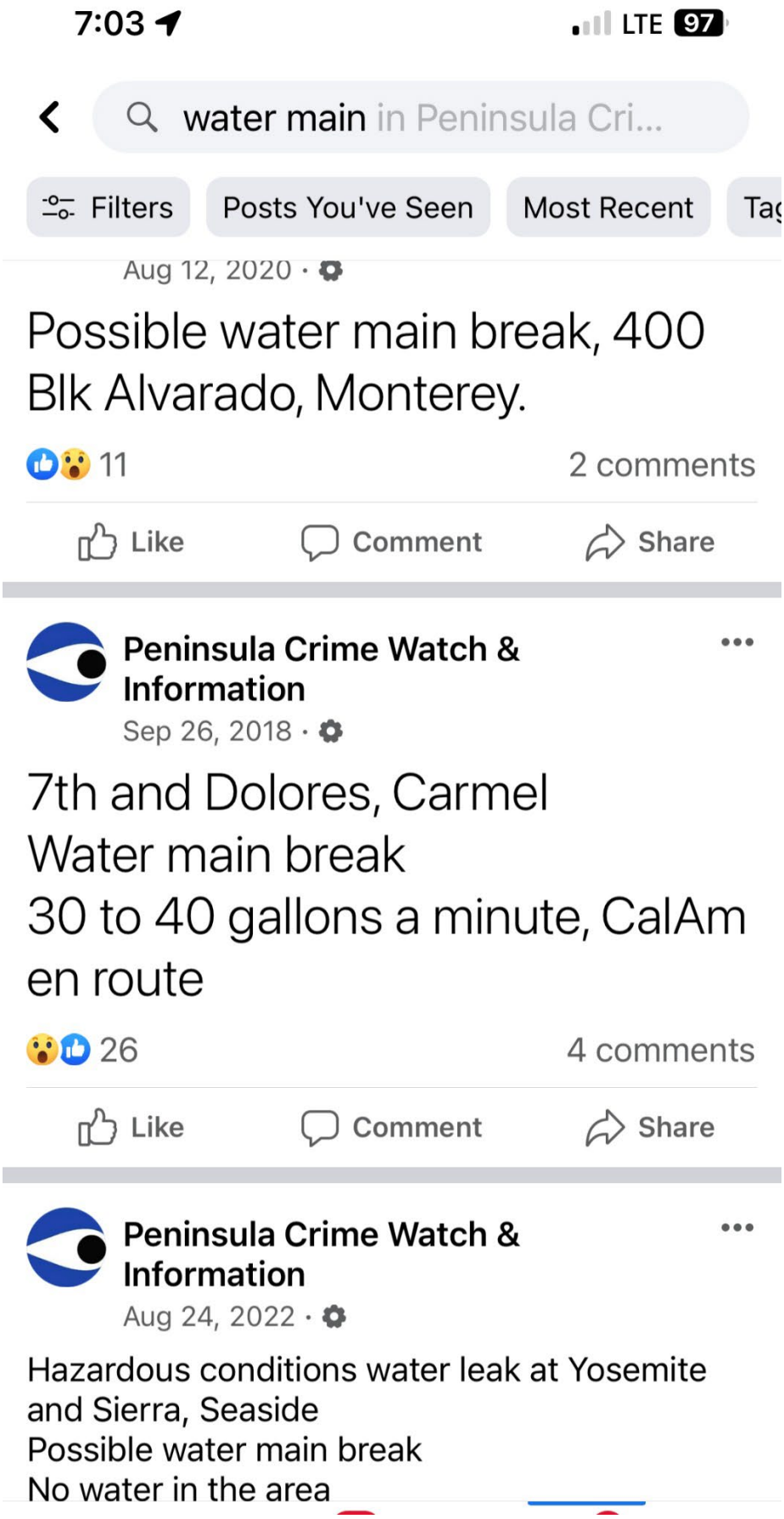
Exhibit H

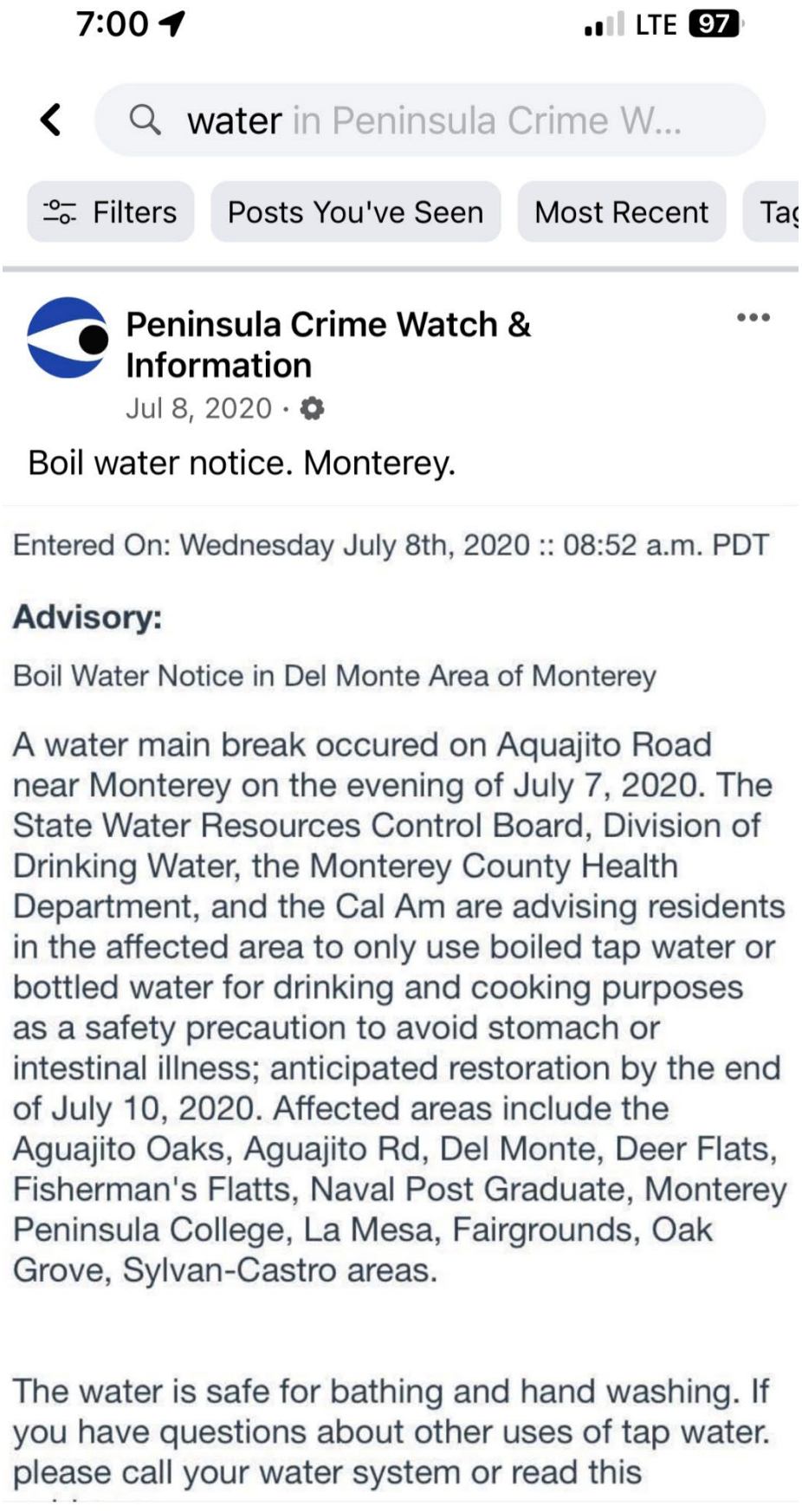
Exhibit H

Leak Discussion on Peninsula Crime Watch & Information

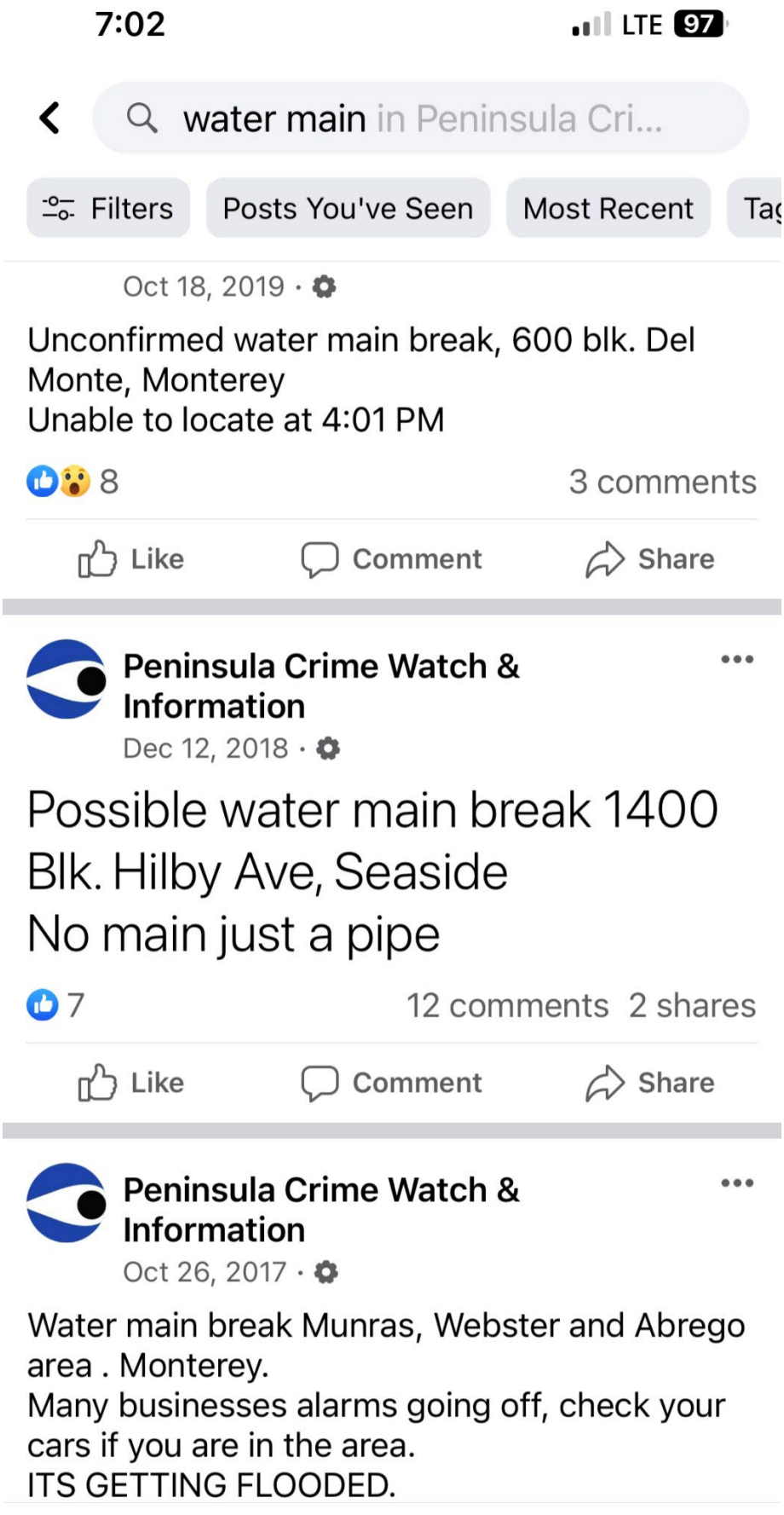



7:03
LTE 97
water main in Peninsula Cri...
Filters
Posts You've Seen
Most Recent
Tag
Peninsula Crime Watch & Information
Aug 30, 2018 ·
Well another water main problem in Seaside, Hilby area no water for about 4 hours!
33
41 comments 2 shares
Like
Comment
Share

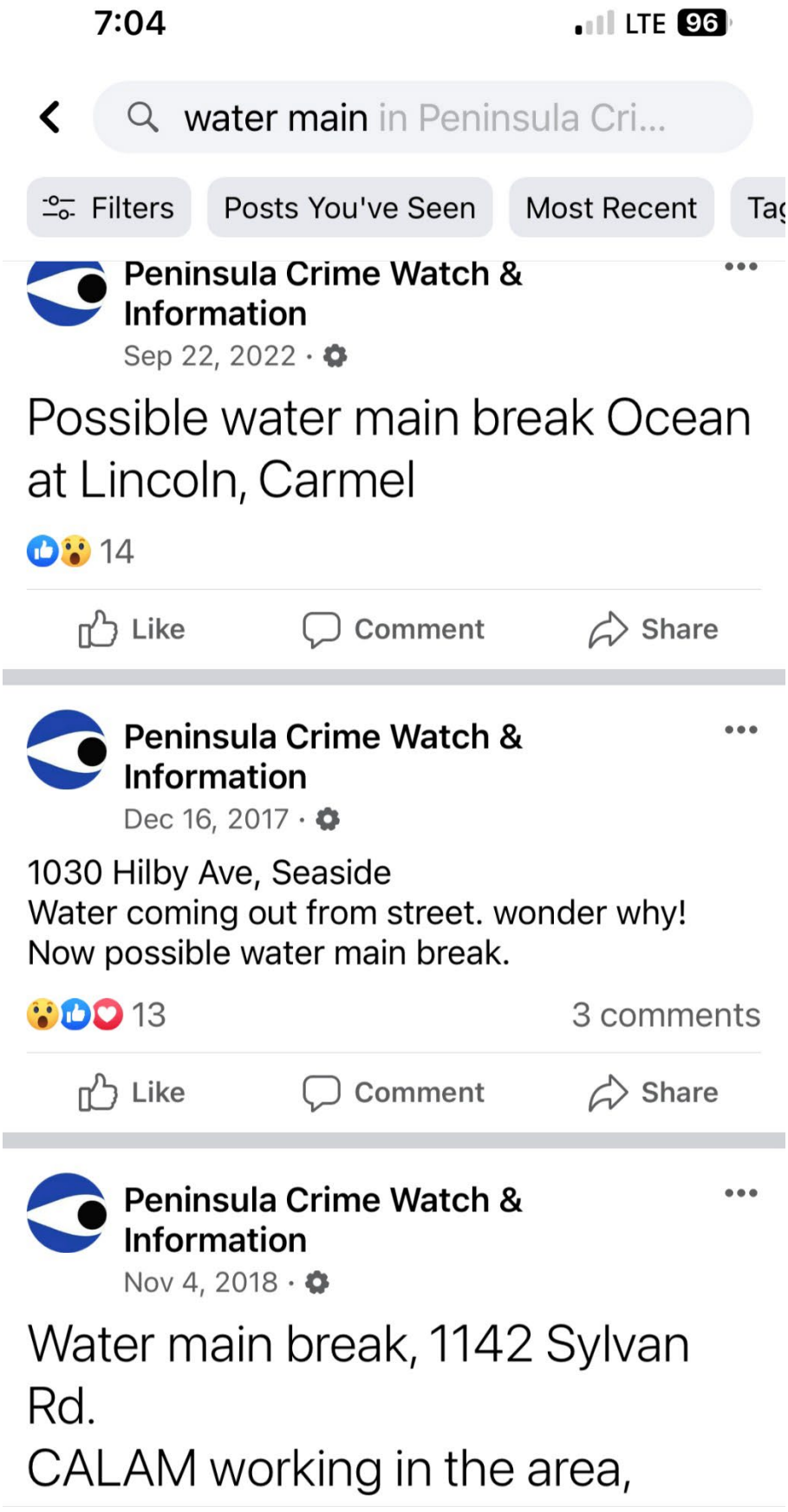

7:03
LTE 97
water main in Peninsula Cri...
Filters
Posts You've Seen
Most Recent
Aug 12, 2020 ·
Possible water main break, 400 Blk Alvarado, Monterey.
11
2 comments
Like
Comment
Share
Peninsula Crime Watch & Information
Sep 26, 2018 ·
7th and Dolores, Carmel
Water main break
30 to 40 gallons a minute, CalAm en route
26
4 comments
Like
Comment
Share
Peninsula Crime Watch & Information
Aug 24, 2022 ·
Hazardous conditions water leak at Yosemite and Sierra, Seaside
Possible water main break
No water in the area

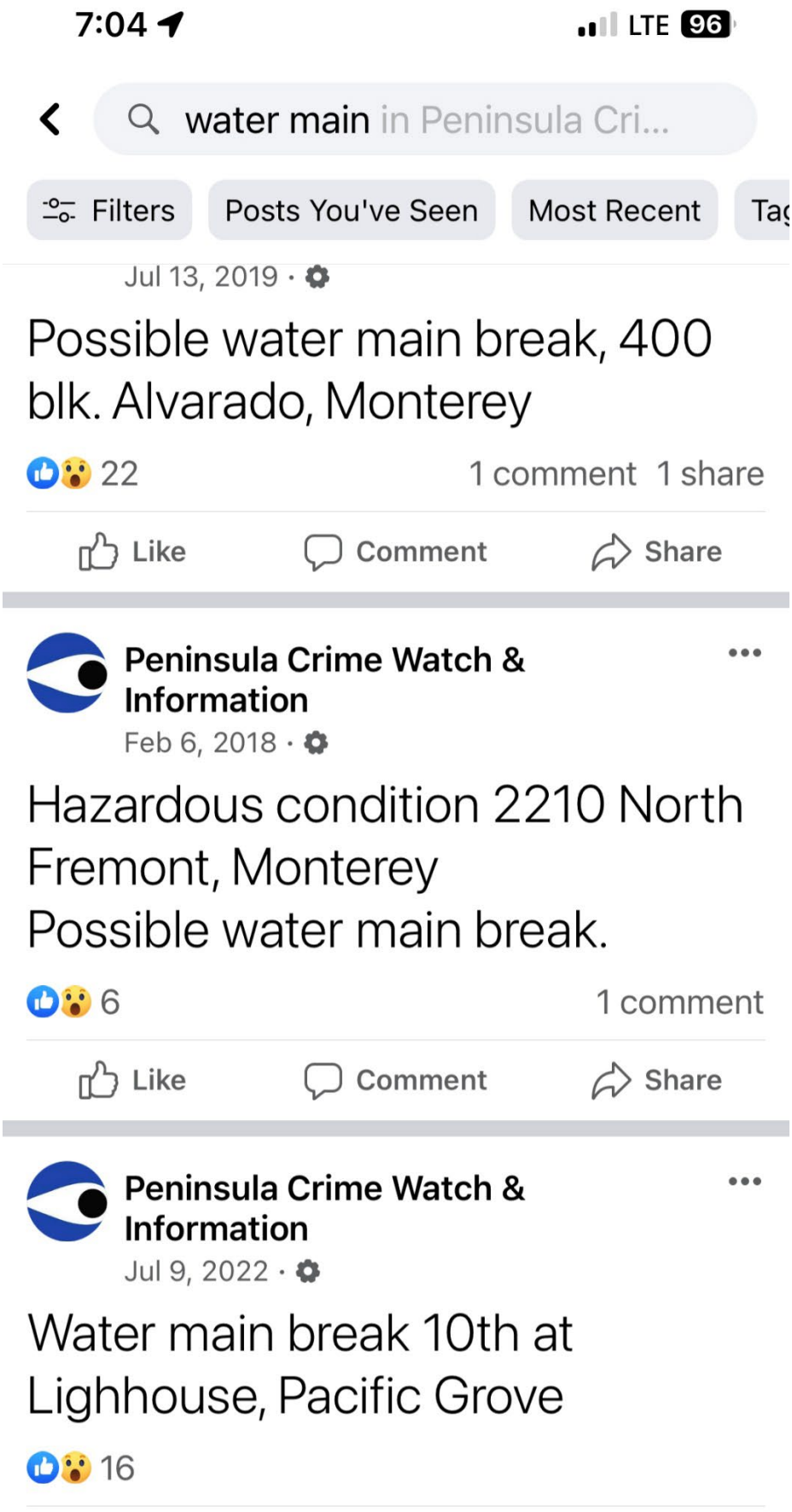

7:00
LTE 97
water in Peninsula Crime W...
Filters
Posts You've Seen
Most Recent
Tag
Peninsula Crime Watch & Information
Jul 8, 2020 ·
Boil water notice. Monterey.
Entered On: Wednesday July 8th, 2020 :: 08:52 a.m. PDT
Advisory:
Boil Water Notice in Del Monte Area of Monterey
A water main break occured on Aquajito Road near Monterey on the evening of July 7, 2020. The State Water Resources Control Board, Division of Drinking Water, the Monterey County Health Department, and the Cal Am are advising residents in the affected area to only use boiled tap water or bottled water for drinking and cooking purposes as a safety precaution to avoid stomach or intestinal illness; anticipated restoration by the end of July 10, 2020. Affected areas include the Aguajito Oaks, Aguajito Rd, Del Monte, Deer Flats, Fisherman's Flatts, Naval Post Graduate, Monterey Peninsula College, La Mesa, Fairgrounds, Oak Grove, Sylvan-Castro areas.
The water is safe for bathing and hand washing. If you have questions about other uses of tap water. please call your water system or read this

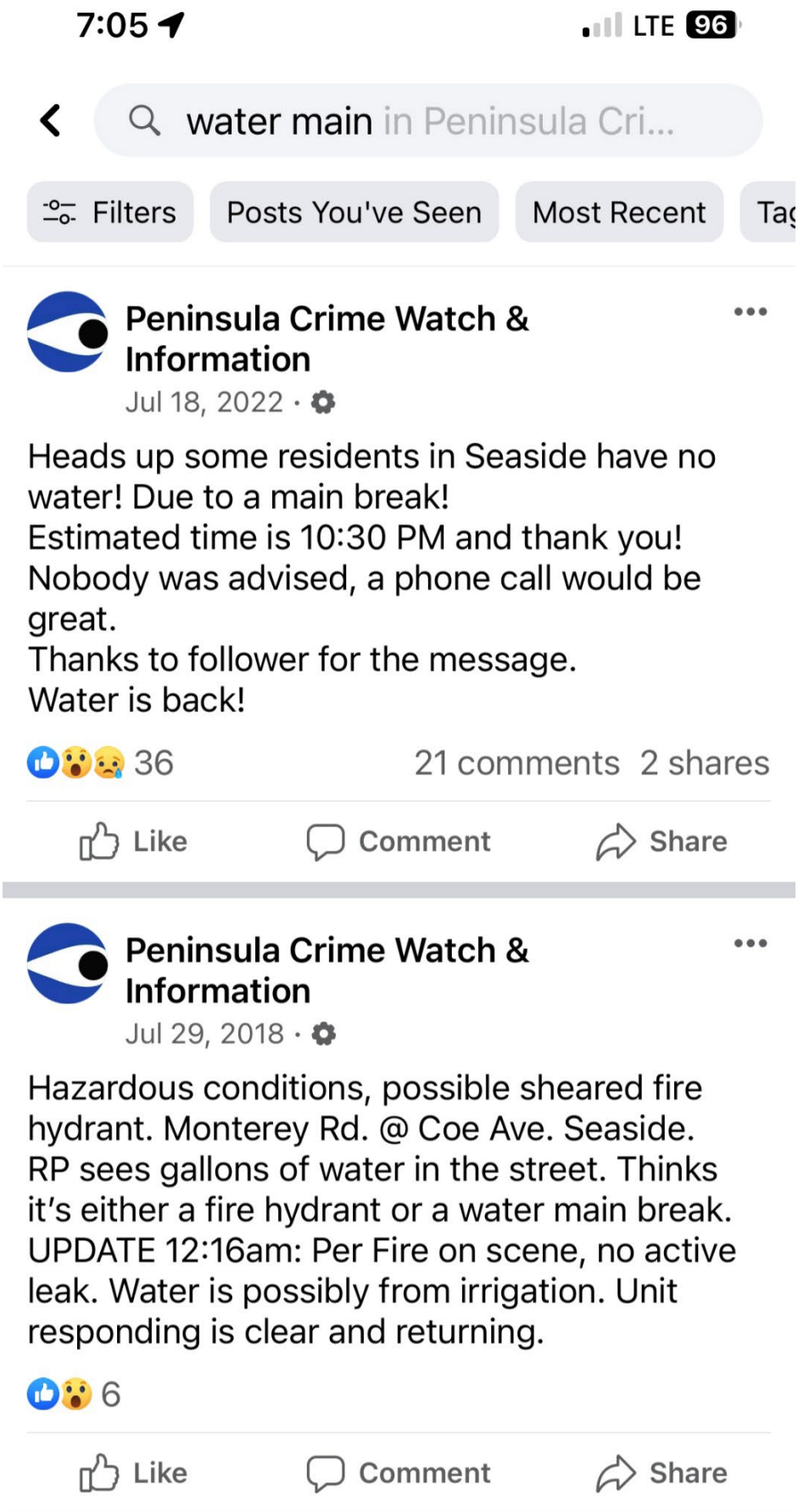

7:01
LTE 97
water main in Peninsula Cri...
Filters
Posts You've Seen
Most Recent
Tag
Apr 21, 2022 ·
Possible water main break 2000 Blk, Yosemite, Seaside
29
3 comments 1 share
Like
Comment
Share
Peninsula Crime Watch & Information
Jul 7, 2020 ·
Aguajito and Fremont, Monterey Water leak, possible main break
10
3 comments
Like
Comment
Share
Peninsula Crime Watch & Information
Oct 10, 2019 ·
Pearl and Abrego will be shut down for hazardous conditions for a water leak.
Update: water main break. Crews still on scene at 10pm
27
12 comments 4 shares

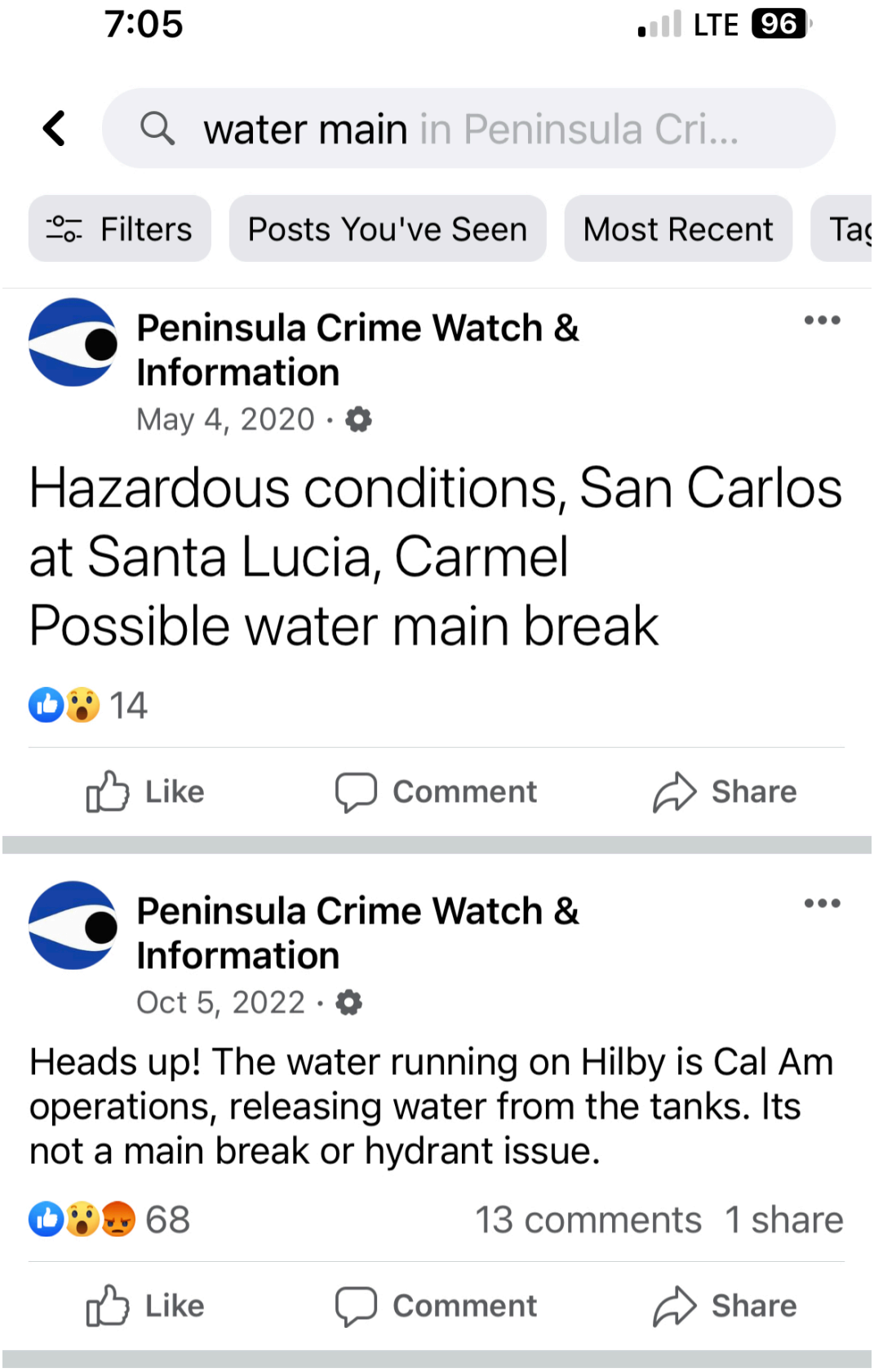

7:02
LTE 97
water main in Peninsula Cri...
Filters
Posts You've Seen
Most Recent
Tag
Oct 18, 2019 ·
Unconfirmed water main break, 600 blk. Del Monte, Monterey
Unable to locate at 4:01 PM
8
3 comments
Like
Comment
Share
Peninsula Crime Watch & Information
Dec 12, 2018 ·
Possible water main break 1400 Blk. Hilby Ave, Seaside
No main just a pipe
7
12 comments 2 shares
Like
Comment
Share
Peninsula Crime Watch & Information
Oct 26, 2017 ·
Water main break Munras, Webster and Abrego area . Monterey.
Many businesses alarms going off, check your cars if you are in the area.
ITS GETTING FLOODED.

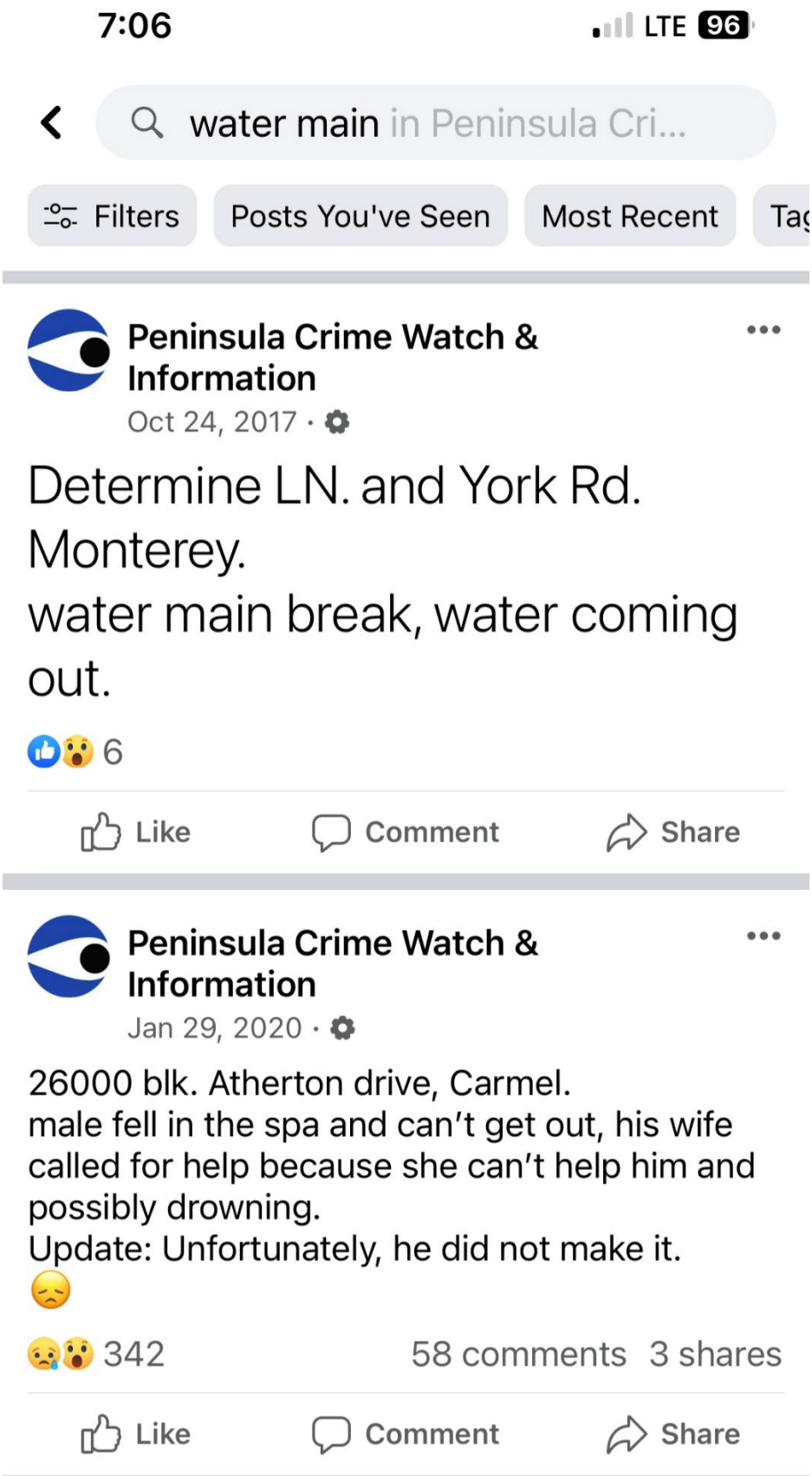

7:02
LTE 97
water main in Peninsula Cri...
Filters
Posts You've Seen
Most Recent
Nov 4, 2022 ·
Possible water main main break, west Carmel Valley rd at Laureles grades
23
1 share
Like
Comment
Share
Peninsula Crime Watch & Information
May 22, 2020 ·
Possible Water main break Webster at Abrego, Monterey
Construction crew accidentally hit it.
Confirmed main break, Water company on their way at 1:50 PM
34
14 comments 4 shares
Like
Comment
Share
Peninsula Crime Watch & Information
Nov 19, 2022 ·
Water main break Laureles Grades at La Rancheria

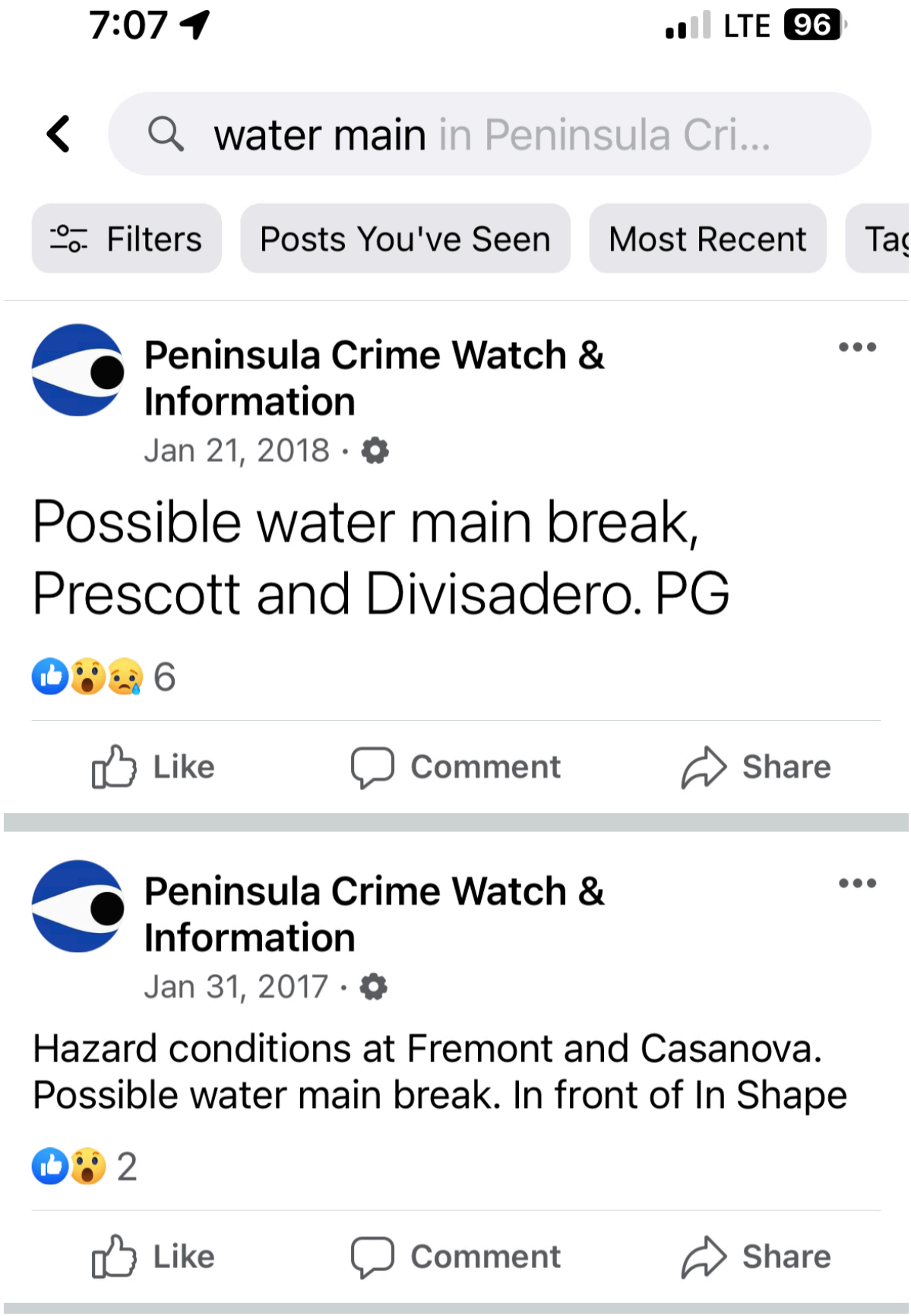

7:04
LTE 96
water main in Peninsula Cri...
Filters
Posts You've Seen
Most Recent
Tag
Peninsula Crime Watch & Information
Sep 22, 2022 ·
Possible water main break Ocean at Lincoln, Carmel
14
Like
Comment
Share
Peninsula Crime Watch & Information
Dec 16, 2017 ·
1030 Hilby Ave, Seaside
Water coming out from street. wonder why!
Now possible water main break.
13
3 comments
Like
Comment
Share
Peninsula Crime Watch & Information
Nov 4, 2018 ·
Water main break, 1142 Sylvan Rd.
CALAM working in the area,

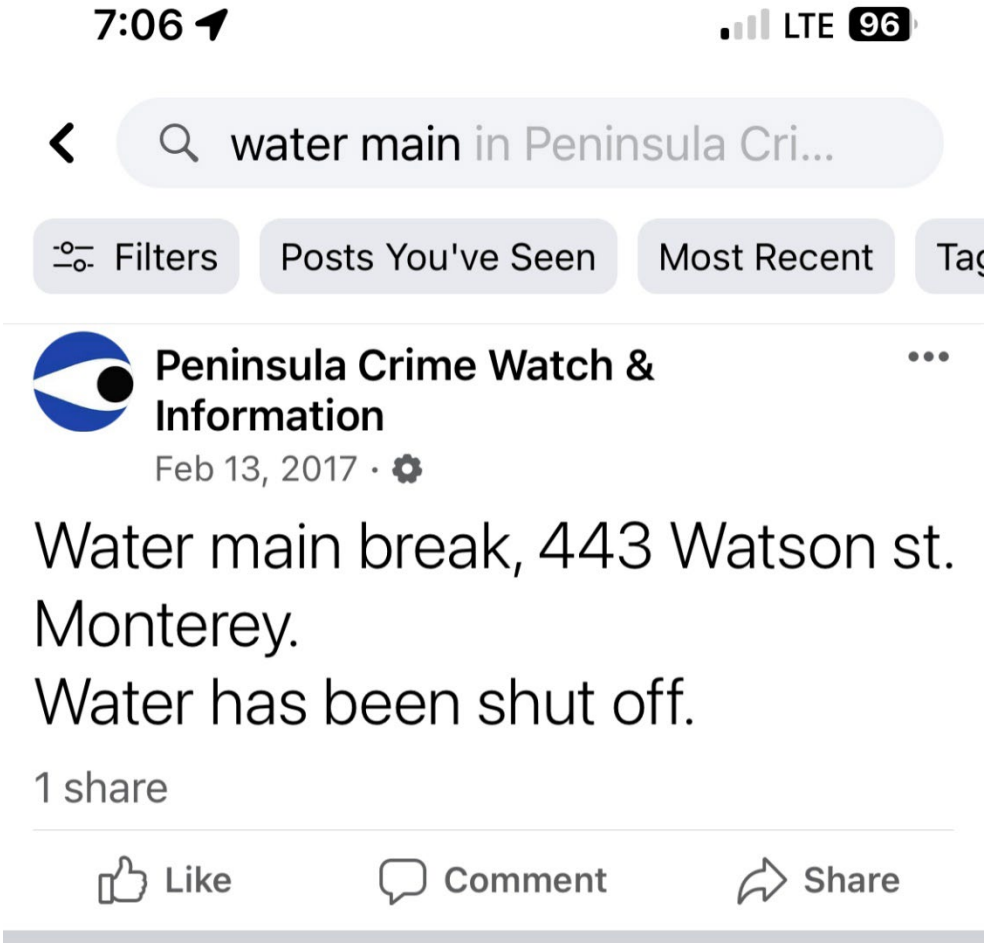

7:04
LTE 96
water main in Peninsula Cri...
Filters
Posts You've Seen
Most Recent
Jul 13, 2019 ·
Possible water main break, 400 blk. Alvarado, Monterey
22
1 comment 1 share
Like
Comment
Share
Peninsula Crime Watch & Information
Feb 6, 2018 ·
Hazardous condition 2210 North Fremont, Monterey
Possible water main break.
6
1 comment
Like
Comment
Share
Peninsula Crime Watch & Information
Jul 9, 2022 ·
Water main break 10th at Lighhouse, Pacific Grove
16

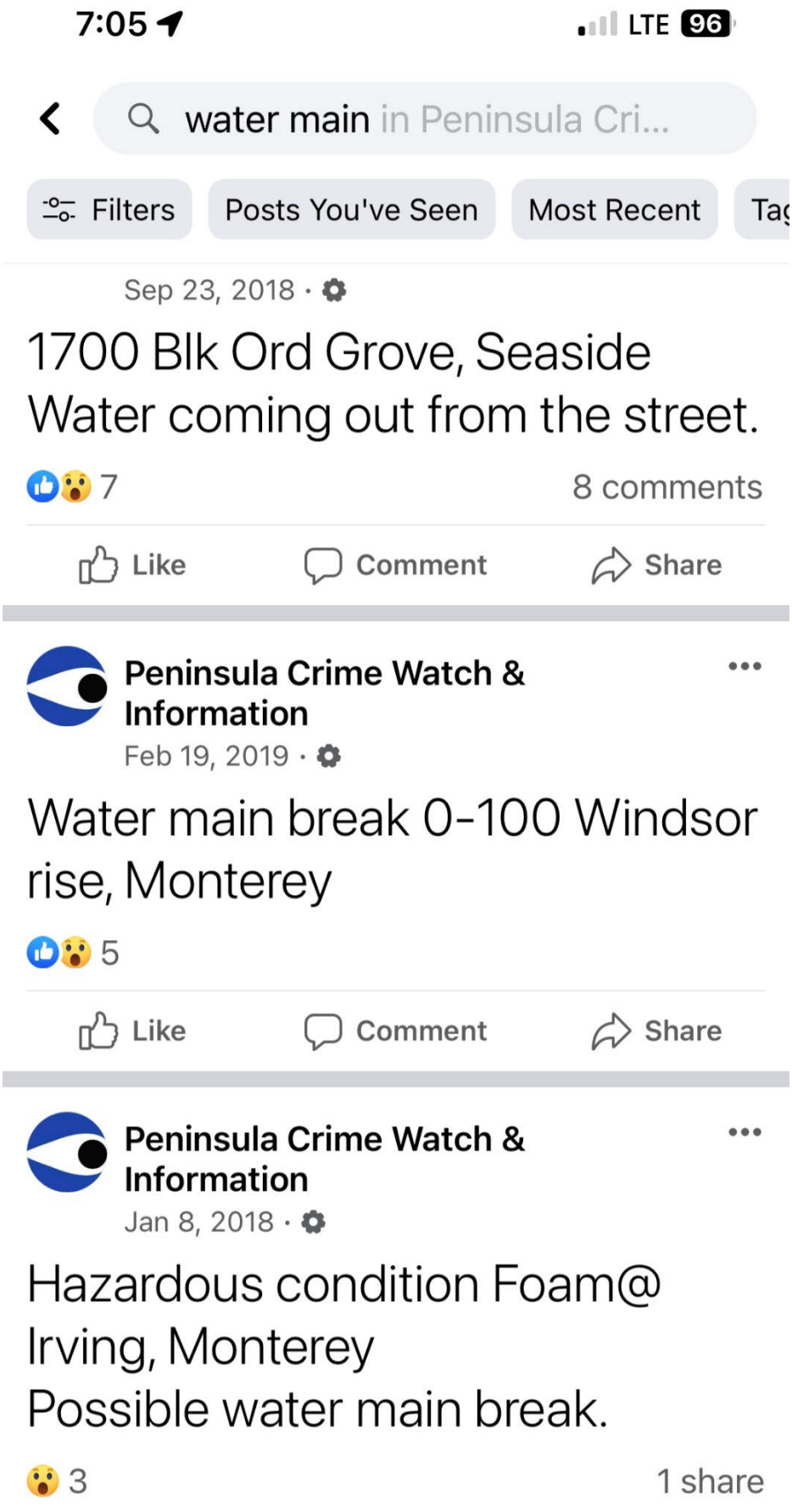

7:05
LTE 96
water main in Peninsula Cri...
Filters
Posts You've Seen
Most Recent
Tag
Peninsula Crime Watch & Information
Jul 18, 2022 ·
Heads up some residents in Seaside have no water! Due to a main break!
Estimated time is 10:30 PM and thank you!
Nobody was advised, a phone call would be great.
Thanks to follower for the message.
Water is back!
36
21 comments 2 shares
Like
Comment
Share
Peninsula Crime Watch & Information
Jul 29, 2018 ·
Hazardous conditions, possible sheared fire hydrant. Monterey Rd. @ Coe Ave. Seaside.
RP sees gallons of water in the street. Thinks it's either a fire hydrant or a water main break.
UPDATE 12:16am: Per Fire on scene, no active leak. Water is possibly from irrigation. Unit responding is clear and returning.
6
Like
Comment
Share

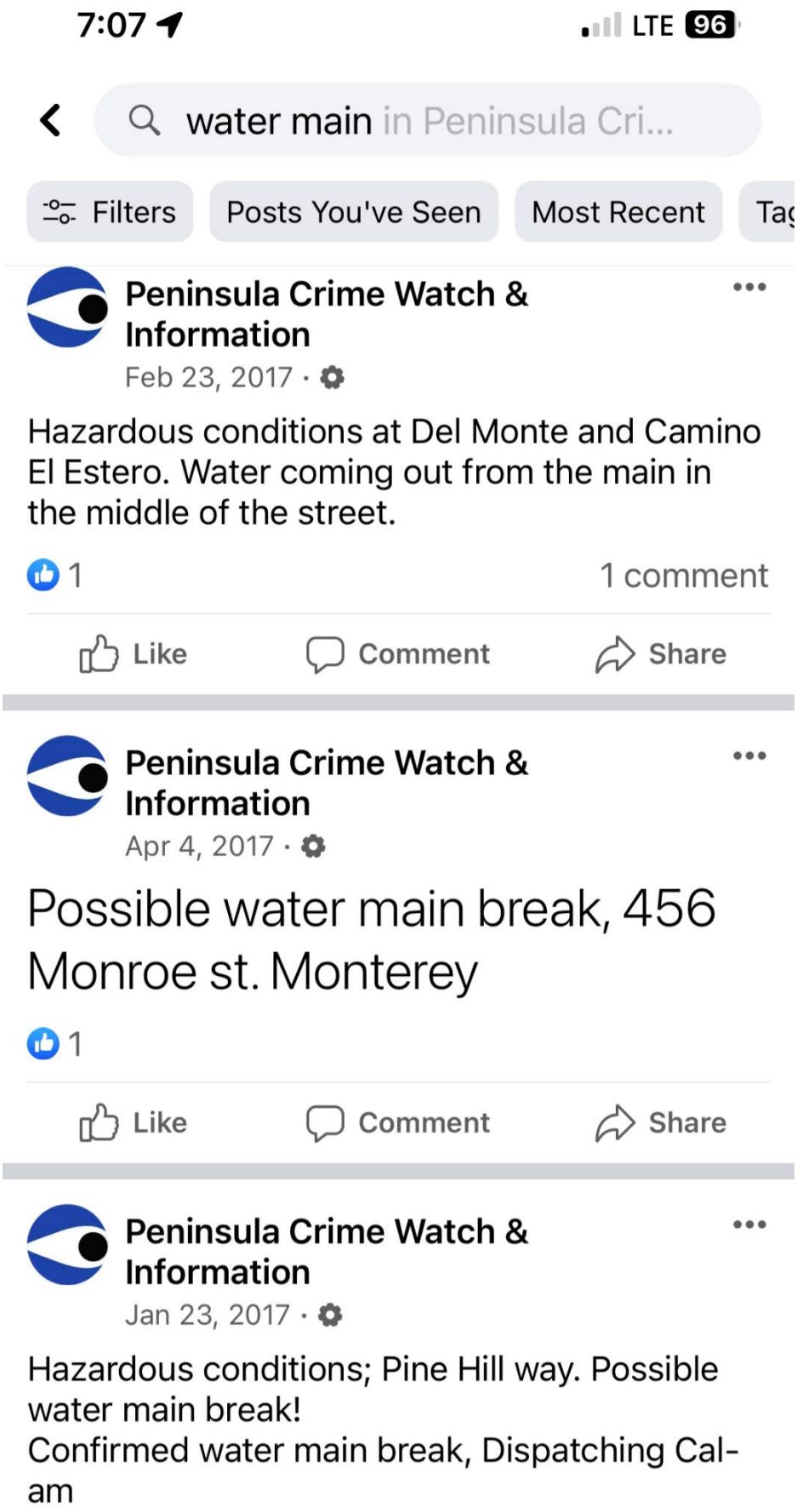

7:05
LTE 96
water main in Peninsula Cri...
Filters
Posts You've Seen
Most Recent
Tag
Peninsula Crime Watch & Information
May 4, 2020 ·
Hazardous conditions, San Carlos at Santa Lucia, Carmel
Possible water main break
14
Like
Comment
Share
Peninsula Crime Watch & Information
Oct 5, 2022 ·
Heads up! The water running on Hilby is Cal Am operations, releasing water from the tanks. Its not a main break or hydrant issue.
68
13 comments 1 share
Like
Comment
Share


7:06
LTE 96
water main in Peninsula Cri...
Filters
Posts You've Seen
Most Recent
Tag
Peninsula Crime Watch & Information
Oct 24, 2017 ·
Determine LN. and York Rd. Monterey.
water main break, water coming out.
6
Like
Comment
Share
Peninsula Crime Watch & Information
Jan 29, 2020 ·
26000 blk. Atherton drive, Carmel.
male fell in the spa and can't get out, his wife called for help because she can't help him and possibly drowning.
Update: Unfortunately, he did not make it.
342
58 comments 3 shares
Like
Comment
Share

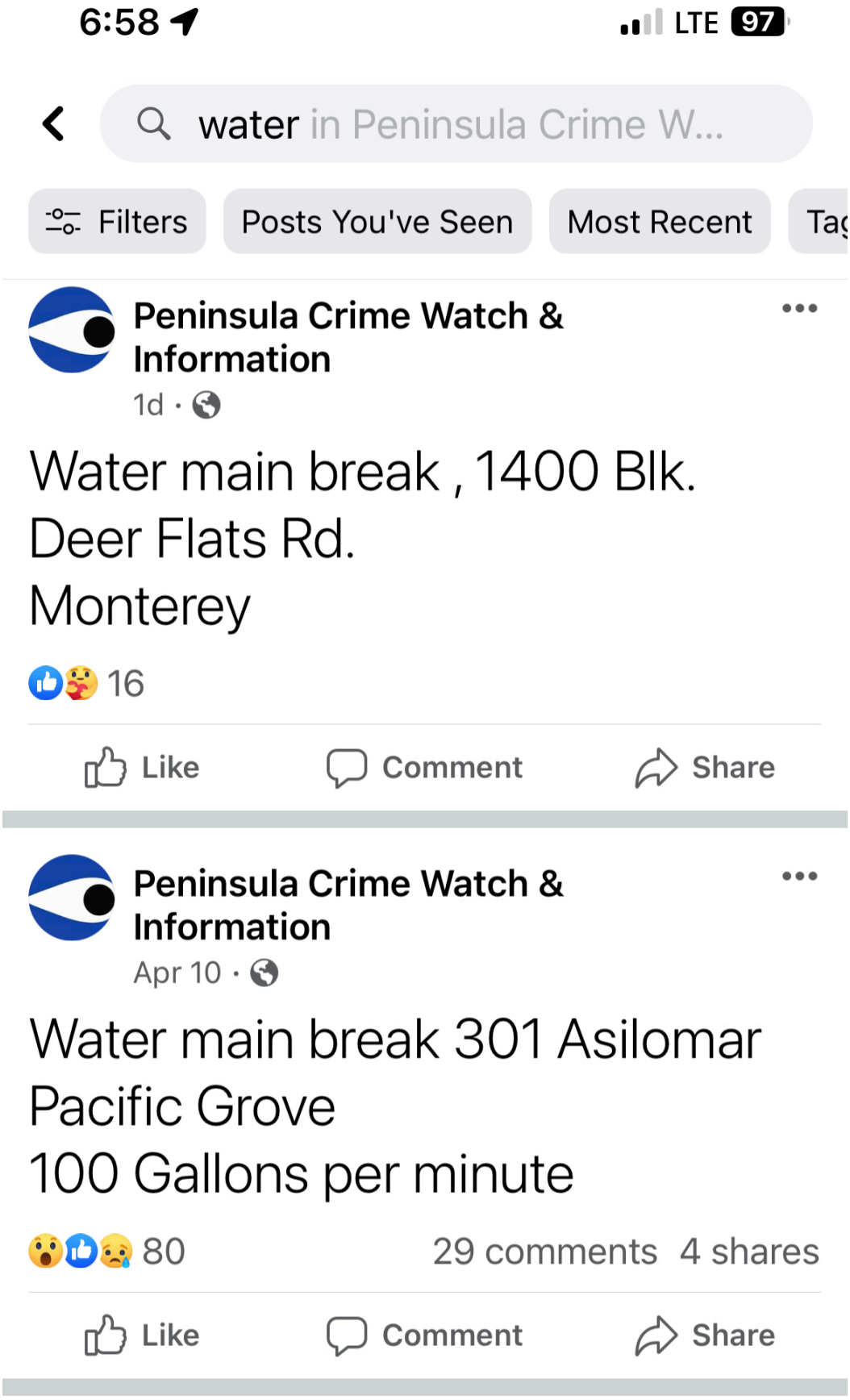

7:07
LTE 96
water main in Peninsula Cri...
Filters
Posts You've Seen
Most Recent
Tag
Peninsula Crime Watch & Information
Jan 21, 2018 ·
Possible water main break, Prescott and Divisadero. PG
6
Like
Comment
Share
Peninsula Crime Watch & Information
Jan 31, 2017 ·
Hazard conditions at Fremont and Casanova. Possible water main break. In front of In Shape
2
Like
Comment
Share


7:06
LTE 96
water main in Peninsula Cri...
Filters
Posts You've Seen
Most Recent
Tag
Peninsula Crime Watch & Information
Feb 13, 2017 ·
Water main break, 443 Watson st. Monterey.
Water has been shut off.
1 share
Like
Comment
Share


7:05
LTE 96
water main in Peninsula Cri...
Filters
Posts You've Seen
Most Recent
Tag
Sep 23, 2018 ·
1700 Blk Ord Grove, Seaside
Water coming out from the street.
7
8 comments
Like
Comment
Share
Peninsula Crime Watch & Information
Feb 19, 2019 ·
Water main break 0-100 Windsor rise, Monterey
5
Like
Comment
Share
Peninsula Crime Watch & Information
Jan 8, 2018 ·
Hazardous condition Foam@ Irving, Monterey
Possible water main break.
3
1 share


7:07
LTE 96
water main in Peninsula Cri...
Filters
Posts You've Seen
Most Recent
Tag
Peninsula Crime Watch & Information
Feb 23, 2017 ·
Hazardous conditions at Del Monte and Camino El Estero. Water coming out from the main in the middle of the street.
1
1 comment
Like
Comment
Share
Peninsula Crime Watch & Information
Apr 4, 2017 ·
Possible water main break, 456 Monroe st. Monterey
1
Like
Comment
Share
Peninsula Crime Watch & Information
Jan 23, 2017 ·
Hazardous conditions; Pine Hill way. Possible water main break!
Confirmed water main break, Dispatching Cal-am


7:07
LTE 96
water main in Peninsula Cri...
Filters
Posts You've Seen
Most Recent
Peninsula Crime Watch & Information
Jun 24, 2017 ·
400 Block Watson water main break, Monterey
Like
Comment
Share
Peninsula Crime Watch & Information
Oct 30, 2020 ·
Water rescue Marina State Beach, female yelling for help
Update: she is out of the water at 5:06 PM
25
5 comments
Like
Comment
Share
Peninsula Crime Watch & Information
Feb 13, 2019 ·
847 Congress Ave, Pacific Grove Tree down , wires down possible water main break


6:58
LTE 97
water in Peninsula Crime W...
Filters
Posts You've Seen
Most Recent
Tag
Peninsula Crime Watch & Information
1d ·
Water main break , 1400 Blk.
Deer Flats Rd.
Monterey
16
Like
Comment
Share
Peninsula Crime Watch & Information
Apr 10 ·
Water main break 301 Asilomar
Pacific Grove
100 Gallons per minute
80
29 comments 4 shares
Like
Comment
Share

6:59 LTE 97

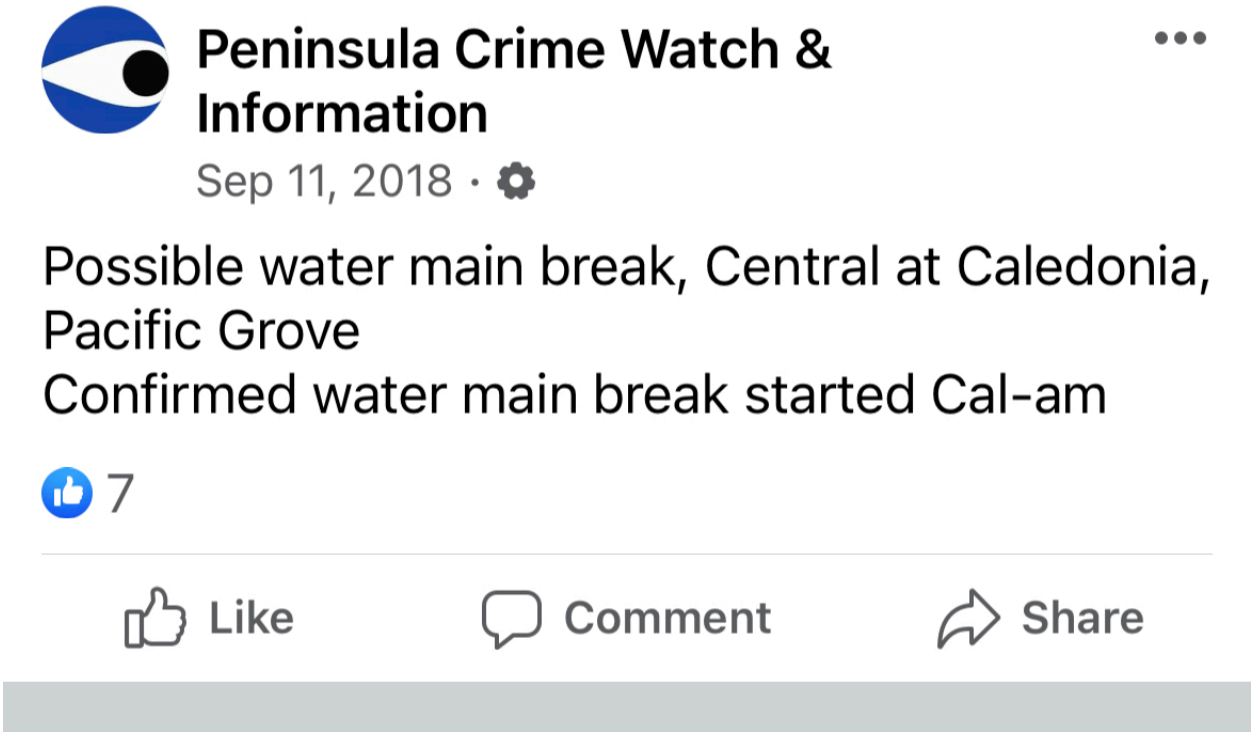
water in Peninsula Crime W...

Filters | Posts You've Seen | Most Recent | Tag

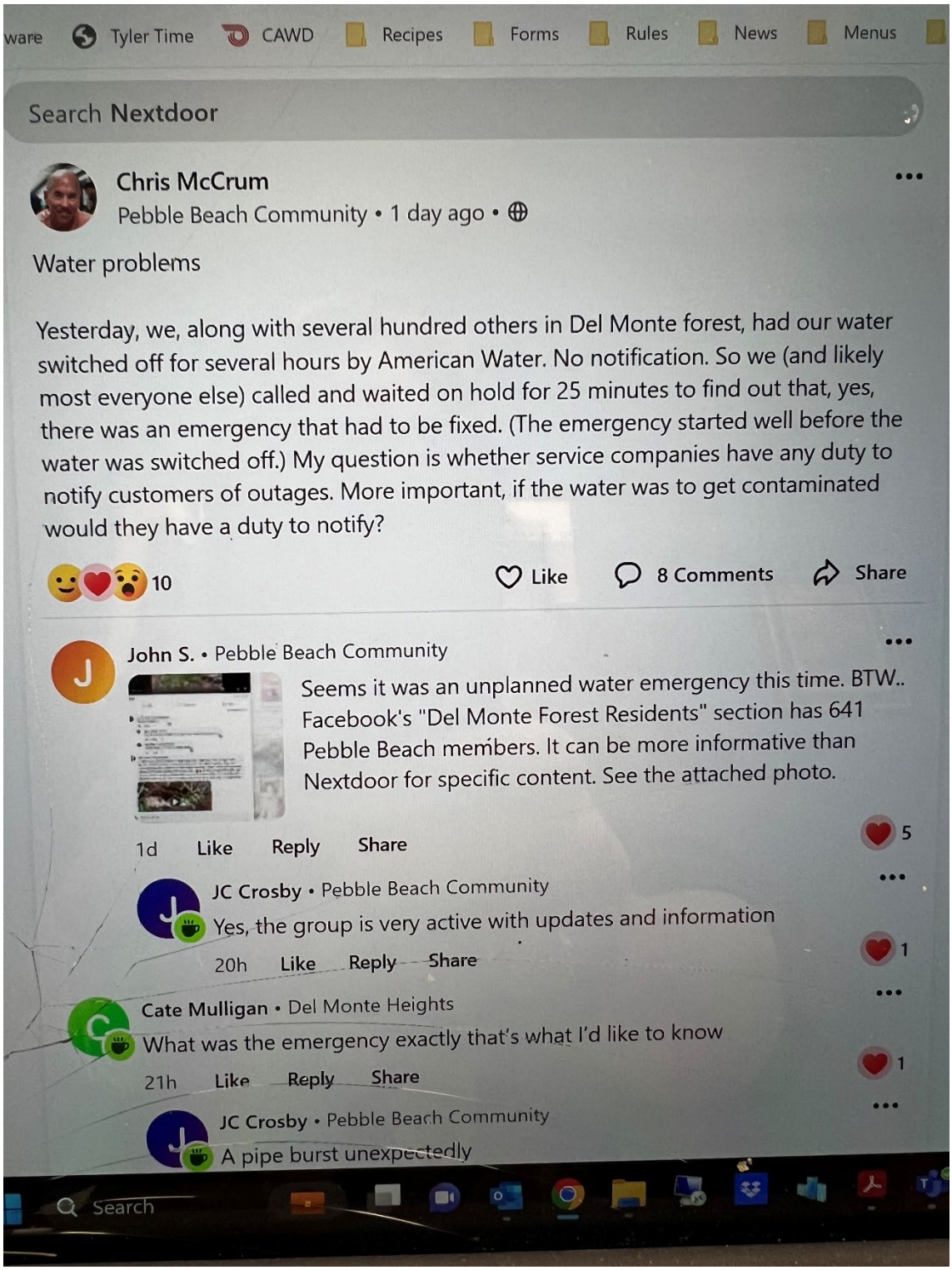
Peninsula Crime Watch & Information

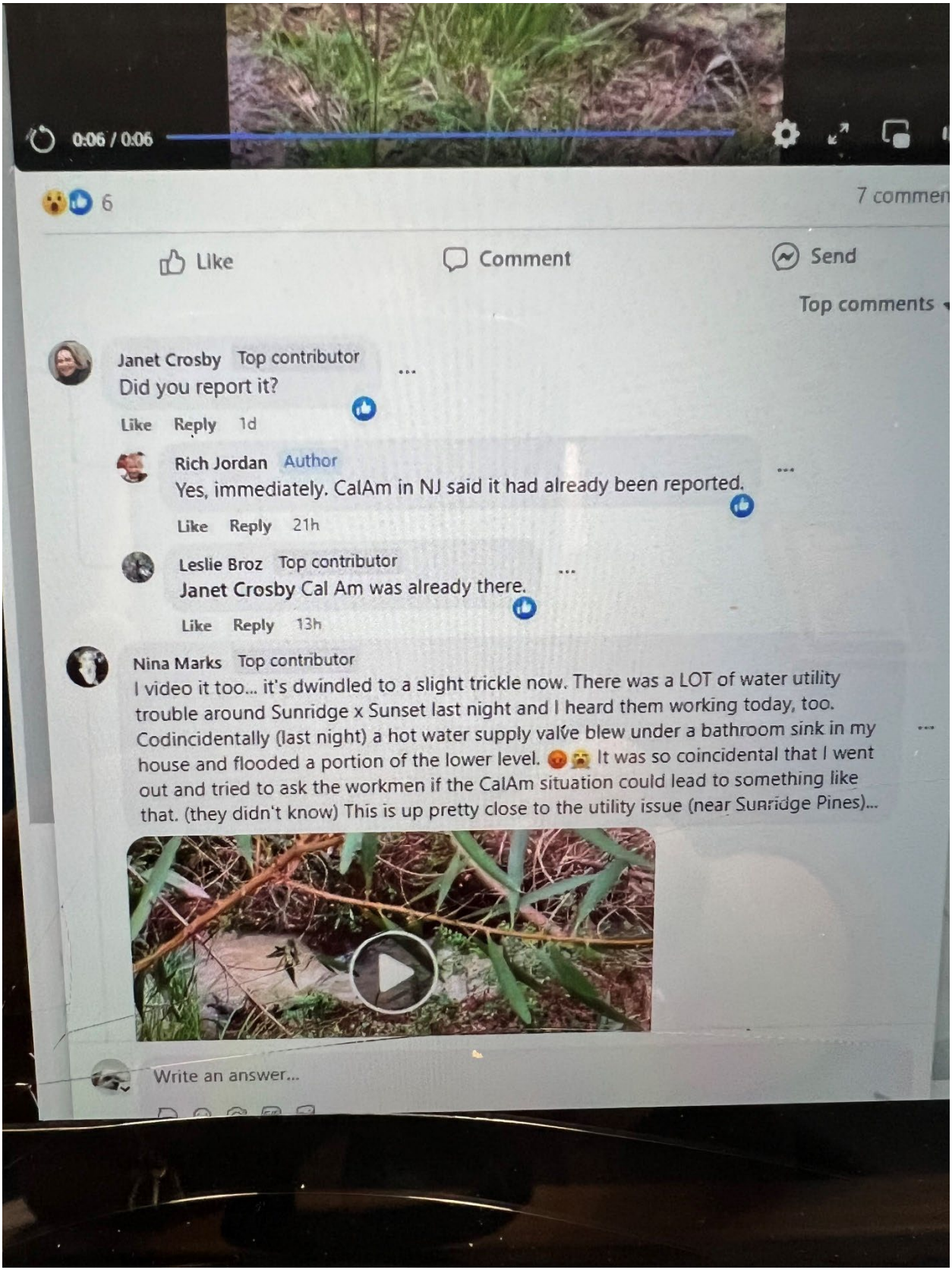
Aug 19, 2022 ·

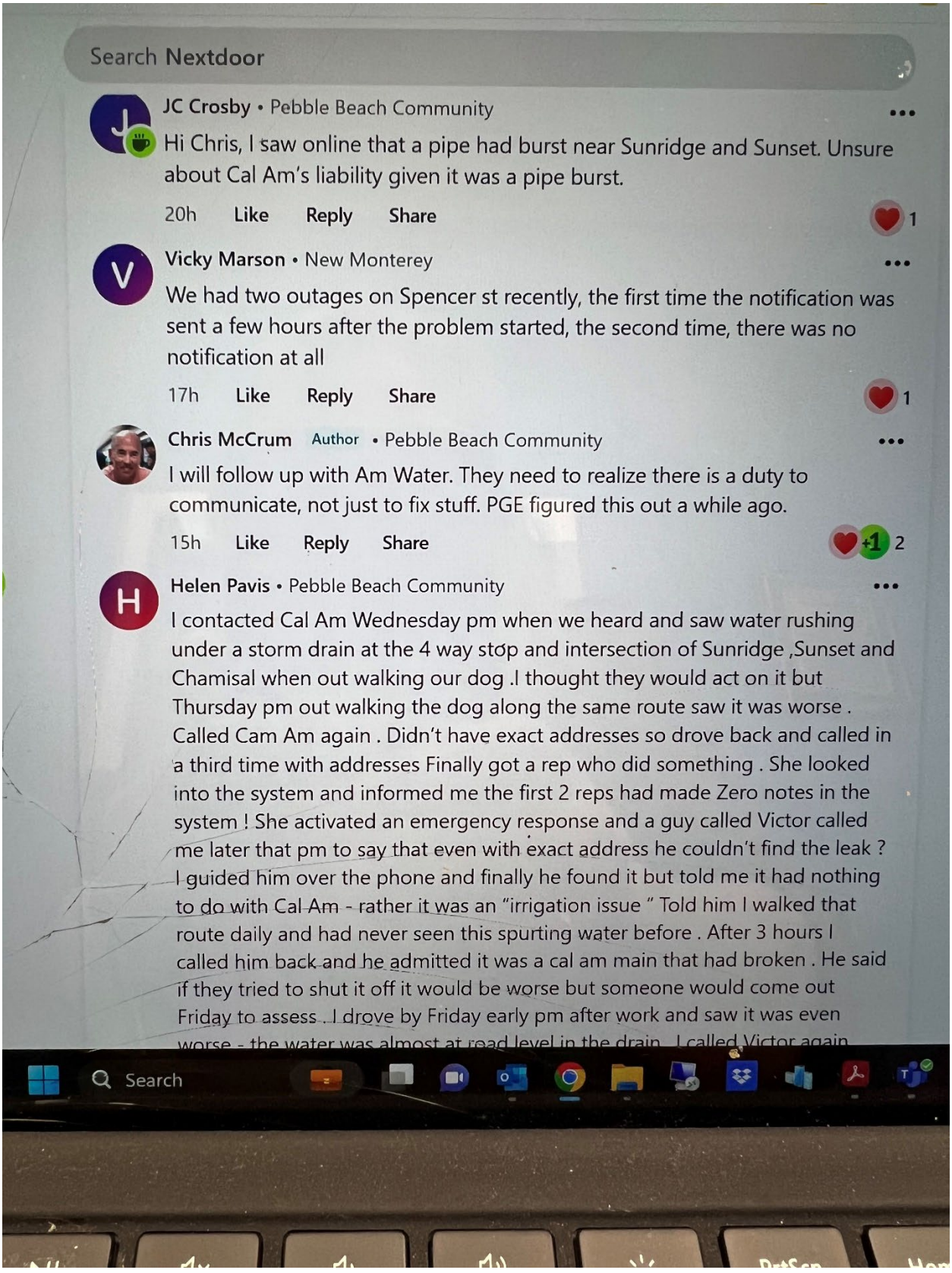
Water main break Broadway at Noche Buena, Seaside

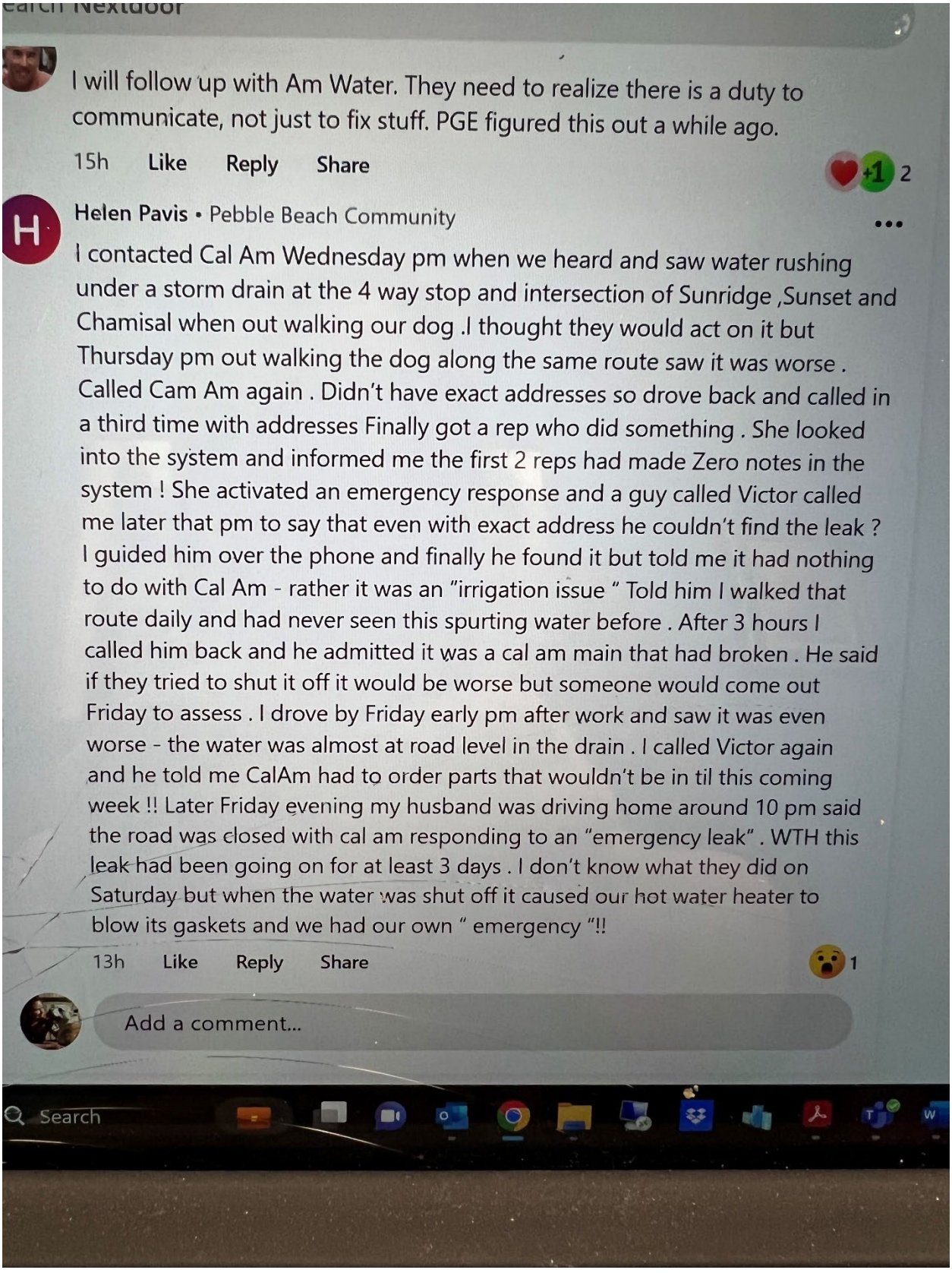

Peninsula Crime Watch & Information
Sep 11, 2018 ·
Possible water main break, Central at Caledonia, Pacific Grove
Confirmed water main break started Cal-am
7
Like
Comment
Share

Leak Discussion on the "Nextdoor" Website
June 23-25, 2023




0:06 / 0:06
6
7 commen
Like
Comment
Send
Top comments
Janet Crosby Top contributor
Did you report it?
Like Reply 1d
Rich Jordan Author
Yes, immediately. CalAm in NJ said it had already been reported.
Like Reply 21h
Leslie Broz Top contributor
Janet Crosby Cal Am was already there.
Like Reply 13h
Nina Marks Top contributor
I video it too... it's dwindled to a slight trickle now. There was a LOT of water utility trouble around Sunridge x Sunset last night and I heard them working today, too. Codincidentally (last night) a hot water supply valve blew under a bathroom sink in my house and flooded a portion of the lower level. It was so coincidental that I went out and tried to ask the workmen if the CalAm situation could lead to something like that. (they didn't know) This is up pretty close to the utility issue (near Sunridge Pines)...
Write an answer...


Search Nextdoor
JC Crosby • Pebble Beach Community
Hi Chris, I saw online that a pipe had burst near Sunridge and Sunset. Unsure about Cal Am's liability given it was a pipe burst.
20h Like Reply Share
1
Vicky Marson • New Monterey
We had two outages on Spencer st recently, the first time the notification was sent a few hours after the problem started, the second time, there was no notification at all
17h Like Reply Share
1
Chris McCrum Author • Pebble Beach Community
I will follow up with Am Water. They need to realize there is a duty to communicate, not just to fix stuff. PGE figured this out a while ago.
15h Like Reply Share
2
Helen Pavis • Pebble Beach Community
I contacted Cal Am Wednesday pm when we heard and saw water rushing under a storm drain at the 4 way stop and intersection of Sunridge ,Sunset and Chamisal when out walking our dog .I thought they would act on it but Thursday pm out walking the dog along the same route saw it was worse . Called Cam Am again . Didn't have exact addresses so drove back and called in a third time with addresses Finally got a rep who did something . She looked into the system and informed me the first 2 reps had made Zero notes in the system ! She activated an emergency response and a guy called Victor called me later that pm to say that even with exact address he couldn't find the leak ? I guided him over the phone and finally he found it but told me it had nothing to do with Cal Am - rather it was an "irrigation issue " Told him I walked that route daily and had never seen this spurting water before . After 3 hours I called him back and he admitted it was a cal am main that had broken . He said if they tried to shut it off it would be worse but someone would come out Friday to assess . I drove by Friday early pm after work and saw it was even worse - the water was almost at road level in the drain . I called Victor again
Search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15h Like Reply Share
2
Helen Pavis • Pebble Beach Community
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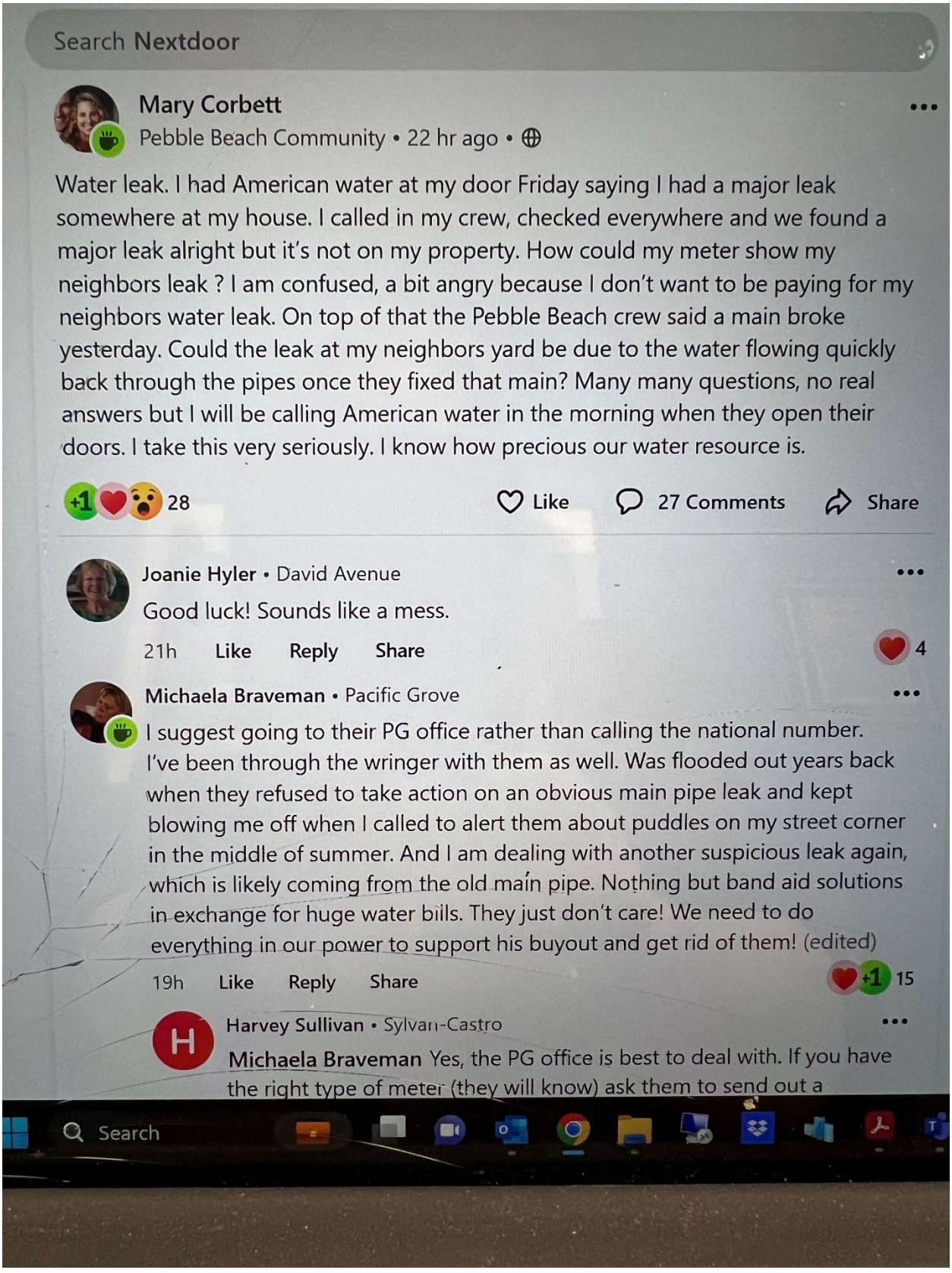
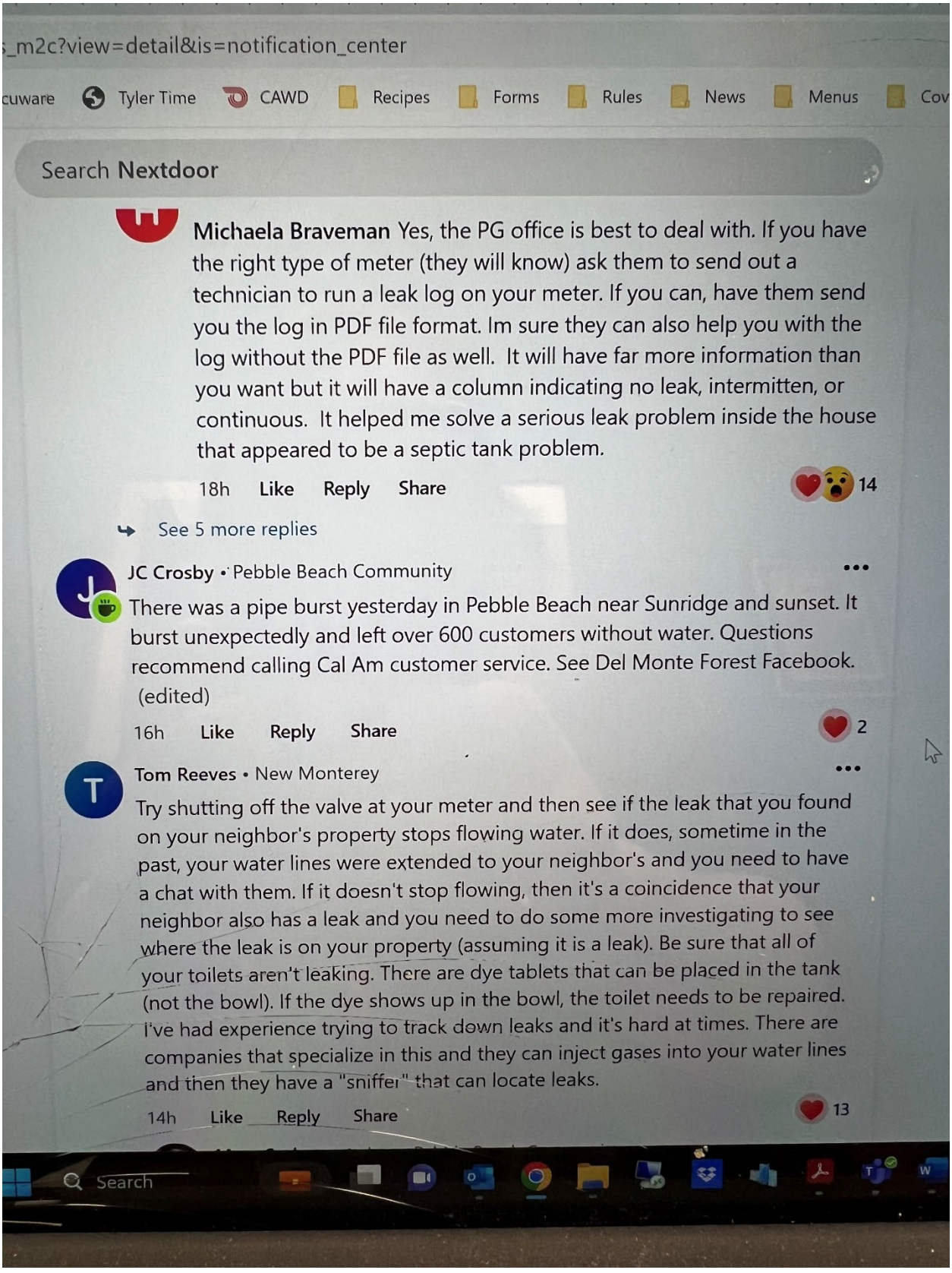
13h Like Reply Share
1
Add a comment...
Search


Search Nextdoor
Mary Corbett
Pebble Beach Community • 22 hr ago •
Water leak. I had American water at my door Friday saying I had a major leak somewhere at my house. I called in my crew, checked everywhere and we found a major leak alright but it's not on my property. How could my meter show my neighbors leak ? I am confused, a bit angry because I don't want to be paying for my neighbors water leak. On top of that the Pebble Beach crew said a main broke yesterday. Could the leak at my neighbors yard be due to the water flowing quickly back through the pipes once they fixed that main? Many many questions, no real answers but I will be calling American water in the morning when they open their doors. I take this very seriously. I know how precious our water resource is.
28
Like
27 Comments
Share
Joanie Hyler • David Avenue
Good luck! Sounds like a mess.
21h Like Reply Share
4
Michaela Braveman • Pacific Grove
I suggest going to their PG office rather than calling the national number. I've been through the wringer with them as well. Was flooded out years back when they refused to take action on an obvious main pipe leak and kept blowing me off when I called to alert them about puddles on my street corner in the middle of summer. And I am dealing with another suspicious leak again, which is likely coming from the old main pipe. Nothing but band aid solutions in exchange for huge water bills. They just don't care! We need to do everything in our power to support his buyout and get rid of them! (edited)
19h Like Reply Share
15
Harvey Sullivan • Sylvan-Castro
Michaela Braveman Yes, the PG office is best to deal with. If you have the right type of meter (they will know) ask them to send out a
Search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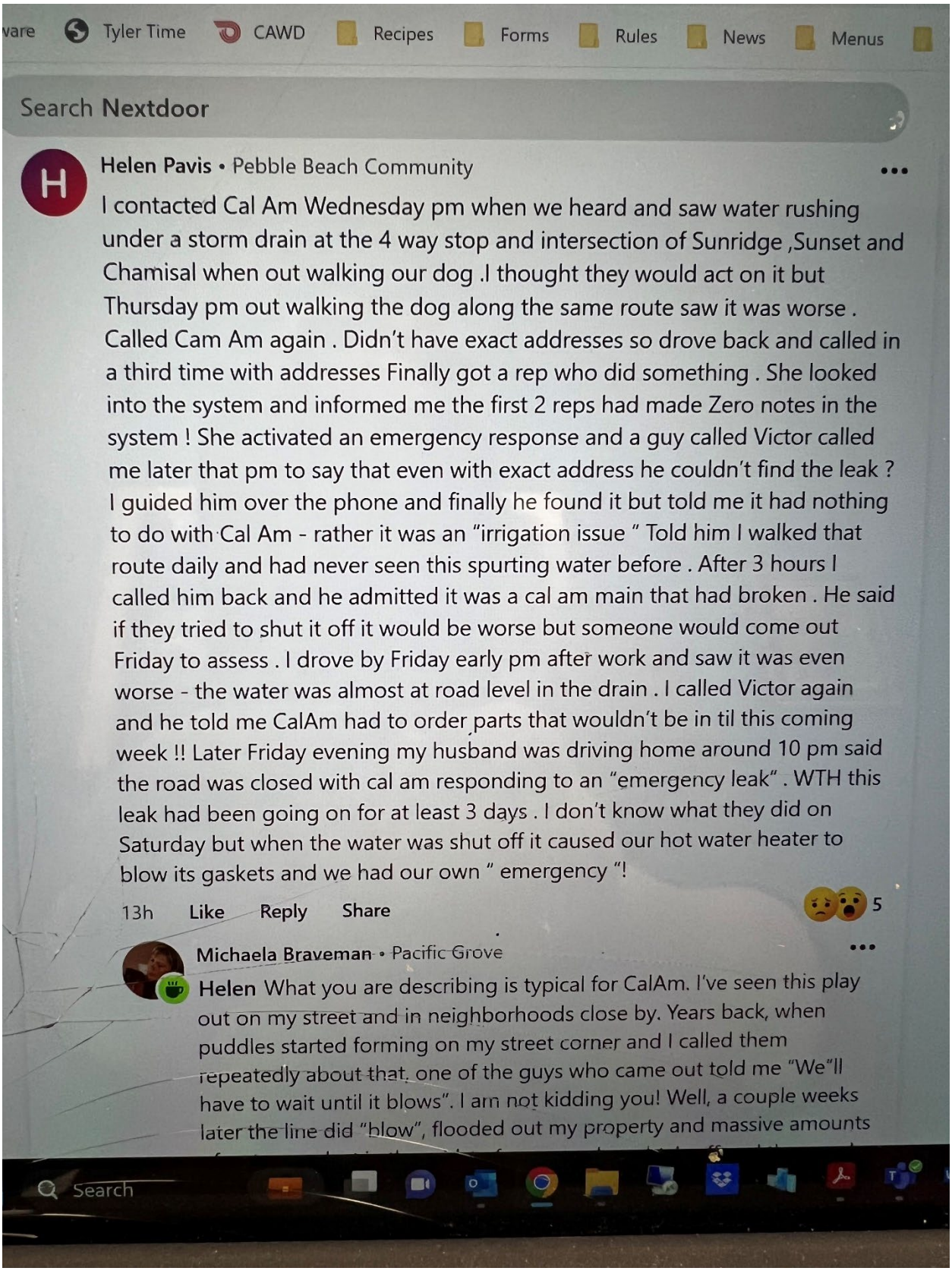
Michaela Braveman Yes, the PG office is best to deal with. If you have the right type of meter (they will know) ask them to send out a technician to run a leak log on your meter. If you can, have them send you the log in PDF file format. Im sure they can also help you with the log without the PDF file as well. It will have far more information than you want but it will have a column indicating no leak, intermitten, or continuous. It helped me solve a serious leak problem inside the house that appeared to be a septic tank problem.
18h Like Reply Share
14
See 5 more replies
JC Crosby • Pebble Beach Community
There was a pipe burst yesterday in Pebble Beach near Sunridge and sunset. It burst unexpectedly and left over 600 customers without water. Questions recommend calling Cal Am customer service. See Del Monte Forest Facebook. (edited)
16h Like Reply Share
2
Tom Reeves • New Monterey
Try shutting off the valve at your meter and then see if the leak that you found on your neighbor's property stops flowing water. If it does, sometime in the past, your water lines were extended to your neighbor's and you need to have a chat with them. If it doesn't stop flowing, then it's a coincidence that your neighbor also has a leak and you need to do some more investigating to see where the leak is on your property (assuming it is a leak). Be sure that all of your toilets aren't leaking. There are dye tablets that can be placed in the tank (not the bowl). If the dye shows up in the bowl, the toilet needs to be repaired. I've had experience trying to track down leaks and it's hard at times. There are companies that specialize in this and they can inject gases into your water lines and then they have a "sniffer" that can locate leaks.
14h Like Reply Share
13
Search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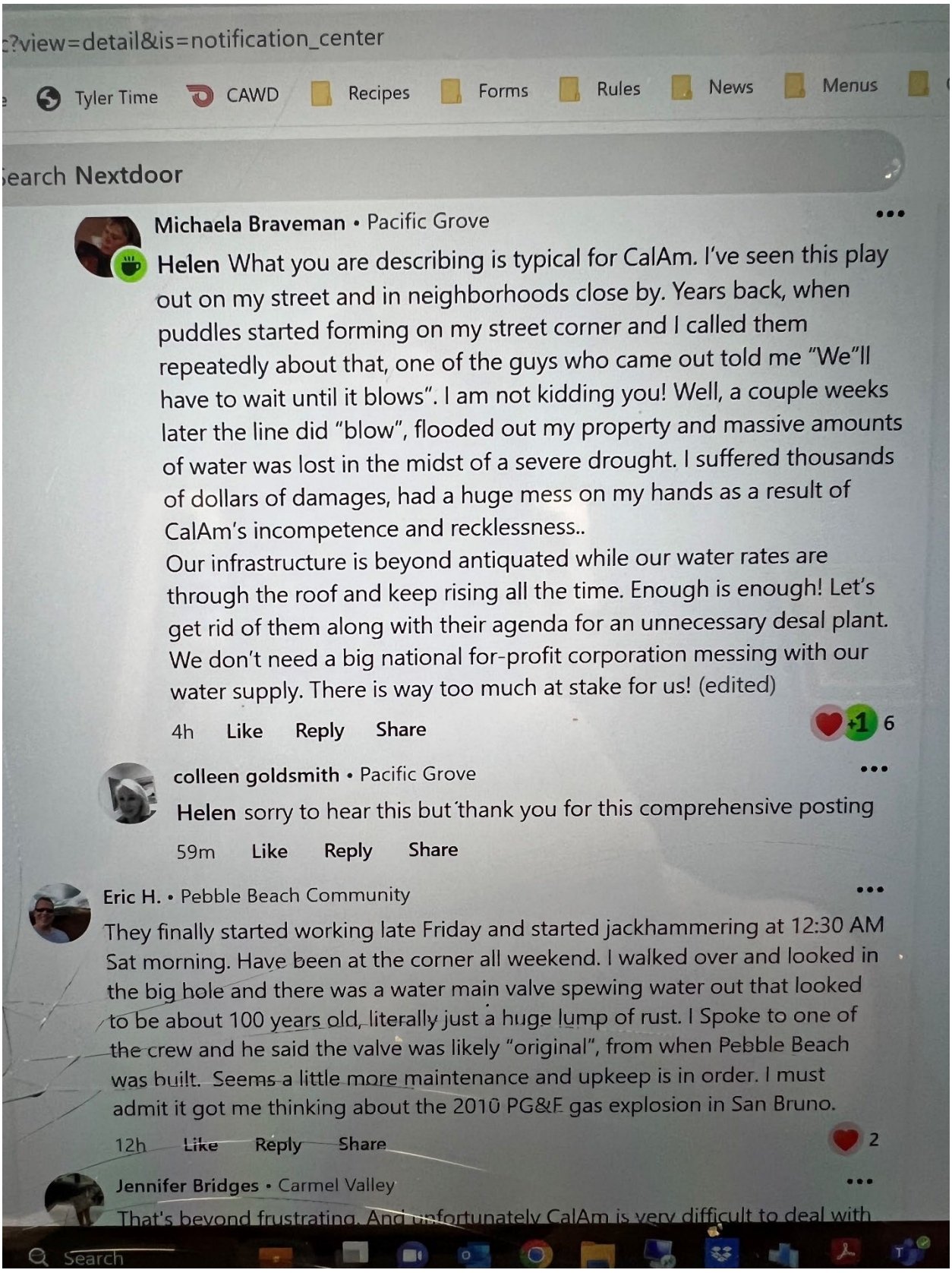
Helen Pavis • Pebble Beach Community
I contacted Cal Am Wednesday pm when we heard and saw water rushing under a storm drain at the 4 way stop and intersection of Sunridge ,Sunset and Chamisal when out walking our dog .I thought they would act on it but Thursday pm out walking the dog along the same route saw it was worse . Called Cam Am again . Didn't have exact addresses so drove back and called in a third time with addresses Finally got a rep who did something . She looked into the system and informed me the first 2 reps had made Zero notes in the system ! She activated an emergency response and a guy called Victor called me later that pm to say that even with exact address he couldn't find the leak ? I guided him over the phone and finally he found it but told me it had nothing to do with Cal Am - rather it was an "irrigation issue " Told him I walked that route daily and had never seen this spurting water before . After 3 hours I called him back and he admitted it was a cal am main that had broken . He said if they tried to shut it off it would be worse but someone would come out Friday to assess . I drove by Friday early pm after work and saw it was even worse - the water was almost at road level in the drain . I called Victor again and he told me CalAm had to order parts that wouldn't be in til this coming week !! Later Friday evening my husband was driving home around 10 pm said the road was closed with cal am responding to an "emergency leak" . WTH this leak had been going on for at least 3 days . I don't know what they did on Saturday but when the water was shut off it caused our hot water heater to blow its gaskets and we had our own " emergency "!
13h Like Reply Share
5
Michaela Braveman • Pacific Grove
Helen What you are describing is typical for CalAm. I've seen this play out on my street and in neighborhoods close by. Years back, when puddles started forming on my street corner and I called them repeatedly about that, one of the guys who came out told me "We"ll have to wait until it blows". I am not kidding you! Well, a couple weeks later the line did "blow", flooded out my property and massive amounts
Search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Michaela Braveman • Pacific Grove
Helen What you are describing is typical for CalAm. I've seen this play out on my street and in neighborhoods close by. Years back, when puddles started forming on my street corner and I called them repeatedly about that, one of the guys who came out told me "We"ll have to wait until it blows". I am not kidding you! Well, a couple weeks later the line did "blow", flooded out my property and massive amounts of water was lost in the midst of a severe drought. I suffered thousands of dollars of damages, had a huge mess on my hands as a result of CalAm's incompetence and recklessness..
Our infrastructure is beyond antiquated while our water rates are through the roof and keep rising all the time. Enough is enough! Let's get rid of them along with their agenda for an unnecessary desal plant. We don't need a big national for-profit corporation messing with our water supply. There is way too much at stake for us! (edited)
4h Like Reply Share
+1 6
colleen goldsmith • Pacific Grove
Helen sorry to hear this but thank you for this comprehensive posting
59m Like Reply Share
Eric H. • Pebble Beach Community
They finally started working late Friday and started jackhammering at 12:30 AM Sat morning. Have been at the corner all weekend. I walked over and looked in the big hole and there was a water main valve spewing water out that looked to be about 100 years old, literally just a huge lump of rust. I Spoke to one of the crew and he said the valve was likely "original", from when Pebble Beach was built. Seems a little more maintenance and upkeep is in order. I must admit it got me thinking about the 2010 PG&E gas explosion in San Bruno.
12h Like Reply Share
2
Jennifer Bridges • Carmel Valley
That's beyond frustrating. And unfortunately CalAm is very difficult to deal with
Search

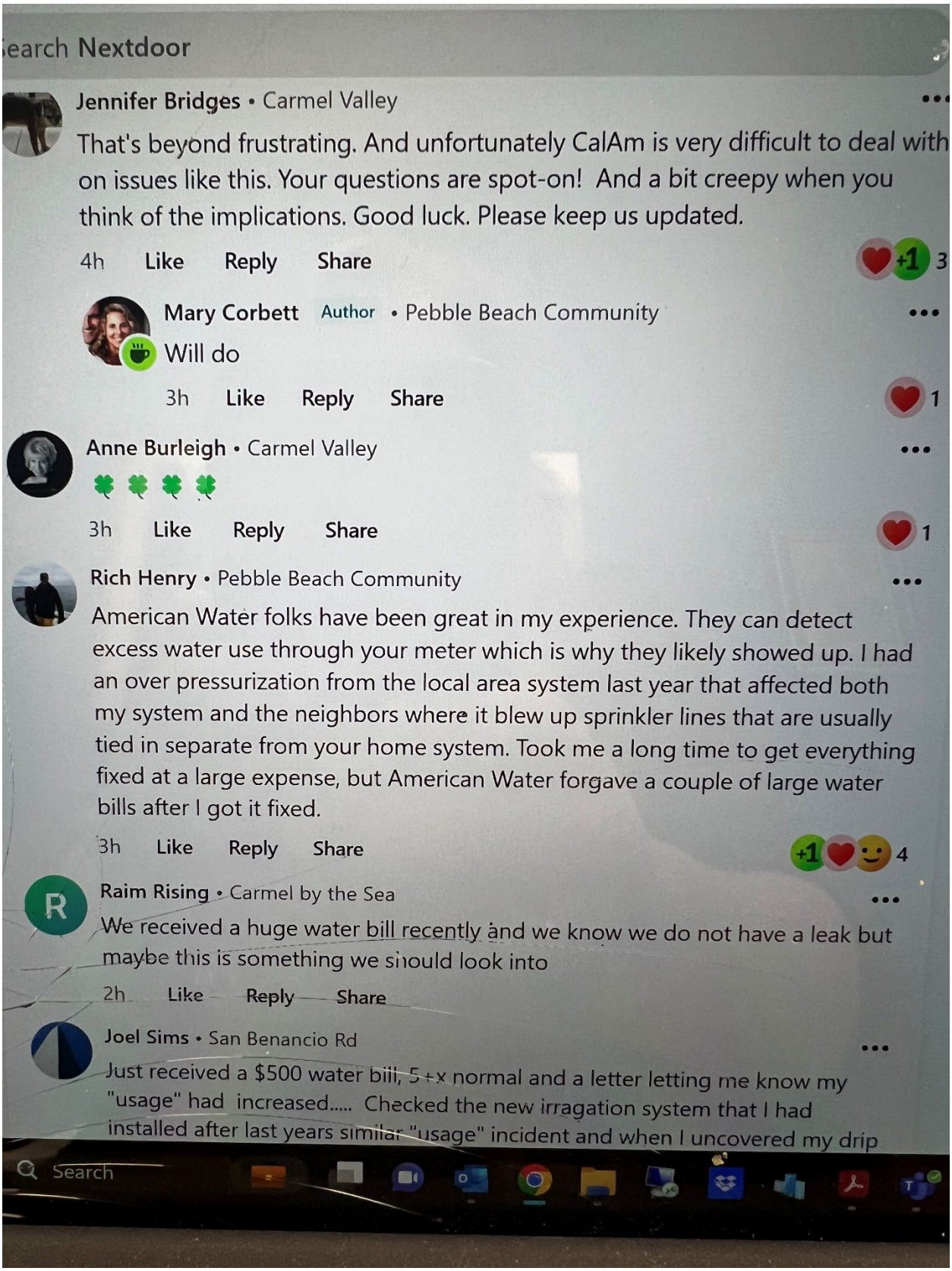
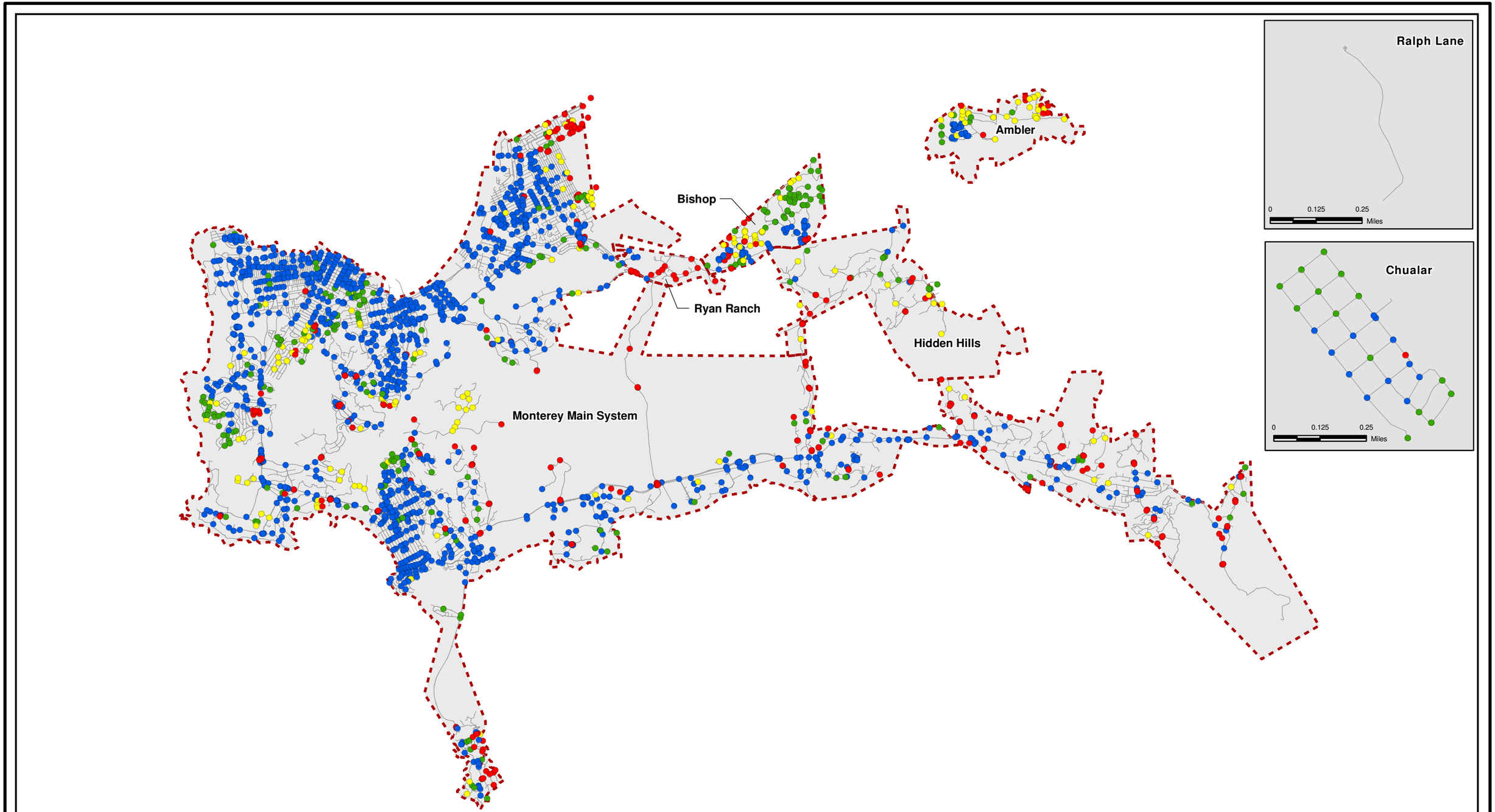

earch Nextdoor
Jennifer Bridges • Carmel Valley
That's beyond frustrating. And unfortunately CalAm is very difficult to deal with on issues like this. Your questions are spot-on! And a bit creepy when you think of the implications. Good luck. Please keep us updated.
4h Like Reply Share
3
Mary Corbett Author • Pebble Beach Community
Will do
3h Like Reply Share
1
Anne Burleigh • Carmel Valley
3h Like Reply Share
1
Rich Henry • Pebble Beach Community
American Water folks have been great in my experience. They can detect excess water use through your meter which is why they likely showed up. I had an over pressurization from the local area system last year that affected both my system and the neighbors where it blew up sprinkler lines that are usually tied in separate from your home system. Took me a long time to get everything fixed at a large expense, but American Water forgave a couple of large water bills after I got it fixed.
3h Like Reply Share
4
Raim Rising • Carmel by the Sea
We received a huge water bill recently and we know we do not have a leak but maybe this is something we should look into
2h Like Reply Share
Joel Sims • San Benancio Rd
Just received a $500 water bill, 5+x normal and a letter letting me know my "usage" had increased..... Checked the new irragation system that I had installed after last years similar "usage" incident and when I uncovered my drip
Search

Exhibit I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Ryan Ranch
Hidden Hills
Monterey Main System
Fire Flow
0 to 500 GPM
501 to 1000 GPM
1001 to 1500 GPM
1501 to 3500 GPM
WaterMains
Monterey Service Area
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Map Document: (P:\235064\GIS\Projects\Plates\Working\Exhibit6.7_FireFlowCapacity.mxd)
11/5/2007 – 11:24:17 AM
California American Water
MONTEREY DIVISION
COMPREHENSIVE PLANNING STUDY
EXHIBIT 6-7 - EXISTING FIRE FLOW CAPACITY
Designed RJL
Drawn RJL
Checked RJL
Approved ES
Date 11/05/2007

Project A-13
IP-0540-093, 94, 97

Fire Protection Upgrade Program

Design and Permitting:	Annual	Plan for Year	2007 – 2012
Construction:	Annual	Annual Cost:	$478,000
		Total Cost:	$2,869,000

Need for Project:

There are several gradient zones in the Main Monterey system and satellite systems that do not have adequate fire protection as pumping and/or storage capacity. The current recommended residential fire flow requirement for the Main Monterey and satellite systems (based on CAW's polling of eight Monterey County Fire Districts) is 1,000 gallons per minute for 2 hours, which is consistent with the requirements of the 1998 California Fire Code. The commercial fire protection requirements are specific to the individual cities and unincorporated areas of the County, but have been targeted at a minimum of 1,500 gpm (based upon CAW's discussions with the Fire Districts).

Background:

CAW requires this upgrade to ensure that adequate fire protection can be provided during maximum day demand usage throughout the service areas. The following table provides a summary of the gradients that currently exhibit fire protection deficiencies (storage and/or pumping capacity) based on the recommended fire protection criteria:

Summary of Existing Fire Protection Deficiencies

No.	Service Area/Gradient	Required Fire Protection	Ex. Storage in Gradient	Firm Capacity of Pumps in Gradient	Current Fire Protection Deficit for Max. Day [1]	Approx. Number of Customers in Gradient
1	Airway - Lower (Monterey)	1,000 gpm for 2 hrs (120,000 Gal.)	100,000 Gal.	392 gpm	Storage: 87,000 Gal. or Pumping: 730 gpm	229
2	Upper Paseo Privado (Ambler System)	1,000 gpm for 2 hrs (120,000 Gal.)	22,000 Gal.	200 gpm	Storage: 110,000 Gal. or Pumping: 920 gpm	Not Available
3	Airway - Upper (Monterey)	1,000 gpm for 2 hrs (120,000 Gal.)	100,000 Gal.	64 gpm	Storage: 38,000 Gal. or Pumping: 320 gpm	286
4	Mt. Devon (Monterey)	1,000 gpm for 2 hrs (120,000 Gal.)	50,000 Gal.	78 gpm	Storage: 79,000 Gal. or Pumping: 660 gpm	57
5	York Road (Bishop System)	1,000 gpm for 2 hrs (120,000 Gal.)	100,000 Gal.	135 gpm	Storage: 40,000 Gal. or Pumping: 300 gpm	Not Available
6	Tierra Grande - Middle (Monterey)	1,000 gpm for 2 hrs (120,000 Gal.)	100,000 Gal.	328 gpm	Storage: 54,000 Gal. or Pumping: 450 gpm	64
7	Boyd (Monterey)	1,000 gpm for 2 hrs (120,000 Gal.)	4,000 Gal.	10 gpm	Storage: 119,000 Gal. or Pumping: 1,000 gpm	12
8	Vista Hermosa (Monterey)	1,000 gpm for 2 hrs (120,000 Gal.)	21,000 Gal.	125 gpm	Storage: 104,000 Gal. or Pumping: 865 gpm	23
9	Robles - Upper (Monterey)	1,000 gpm for 2 hrs (120,000 Gal.)	150,000 Gal.	174 gpm	Storage: 18,000 Gal. or Pumping: 155 gpm	178
10	Crest Canyon (Monterey)	1,000 gpm for 2 hrs (120,000 Gal.)	100,000 Gal.	97 gpm	Storage: 35,000 Gal. or Pumping: 295 gpm	50
11	Rancho Fiesta Upper (Monterey)	1,000 gpm for 2 hrs (120,000 Gal.)	70,000 Gal.	21 gpm	Storage: 67,000 Gal. or Pumping: 560 gpm	16
12	Mercurio (Monterey)	1,000 gpm for 2 hrs (120,000 Gal.)	88,000 Gal.	43 gpm	Storage: 45,000 Gal. or Pumping: 375 gpm	17

(1) The deficit is represented two ways – pumping capacity deficit or storage deficit. Refer to recommendations for additional explanation.. The storage deficit calculations takes into account needed storage for equalization and useable storage volume

(2) 1,500 gpm fire protection for 2 hours per local Fire Chief in Chualar

Recommended Solution:

Development and implementation of an annual upgrade program to address existing fire protection deficiencies throughout the system. The preliminary recommendations to address the above noted fire protection deficiencies are summarized in the table below:

Summary of Recommended Fire Protection Upgrades

No.	Service Area/Gradient	Current Fire Protection Deficit	Preliminary Recommendation	Alternative(s)	Preliminary Cost Estimate
13a	Airway - Lower (Monterey)	Storage: 87,000 Gal. Pumping: 730 gpm	Provide a new 730 gpm booster pump at the Via Contenta booster station.	Provide a combination of additional pumping and storage capacity in this gradient. Limited land availability at existing tank site.	$63,500
13b	Upper Paseo Privado (Ambler System)	Storage: 110,000 Gal. Pumping: 920 gpm	Provide a new 920 gpm fire pump and 2,850 ft. of 8-inch main (replace ex. 4-inch) from the booster station to the Upper Paseo Privado storage tank.	Provide a combination of additional pumping and storage capacity in this gradient.	$415,000
13c	Airway - Upper (Monterey)	Storage: 38,000 Gal. Pumping: 320 gpm	Provide a new 320 gpm booster pump at the Airway - Lower booster station.	Provide a combination of additional pumping and storage capacity in this gradient. Limited land availability at existing tank site.	$63,500
13d	Mt. Devon (Monterey)	Storage: 79,000 Gal. Pumping: 660 gpm	Provide a new 660 gpm booster pump at the Cypress booster station. May require the replacement of 1,800 ft. of 4-inch main with 8-inch main.	Provide a combination of additional pumping and storage capacity in this gradient. Limited land availability at existing tank site.	$217,500
13e	York Road (Bishop System)	Storage: 40,000 Gal. Pumping: 300 gpm	Provide a new 300 gpm booster pump at the Spectacular Bid booster station.	Provide an additional 40,000 Gal. of storage in gradient.	$63,500
13f	Tierra Grande - Middle (Monterey)	Storage: 54,000 Gal. Pumping: 450 gpm	Provide a new 450 gpm booster pump at the Lower Tierra Grande booster station.	Provide a combination of additional pumping and storage capacity in this gradient.	$76,000
13g	Boyd (Monterey)	Storage: 119,000 Gal. Pumping: 1,000 gpm	Provide a new 1,000 gpm fire pump and replace 1,800 ft. of 6-inch main with 8-inch main from the Upper Robles Tank to the Boyd booster station.	Provide a combination of additional pumping and storage capacity in this gradient. Land acquisition would be required.	$242,500

Summary of Recommended Fire Protection Upgrades (Continued)

No.	Service Area/Gradient	Current Fire Protection Deficit	Preliminary Recommendation	Alternative(s)	Preliminary Cost Estimate
13h	Vista Hermosa (Monterey)	Storage: 104,000 Gal. Pumping: 865 gpm	Provide a new 865 gpm booster pump at the Eddy Road booster station. May require the replacement of 850 ft. of 6-inch main with 8-inch main (on the booster station suction).	Provide a combination of additional pumping and storage capacity in this gradient.	$182,250
13i	Robles - Upper (Monterey)	Storage: 18,000 Gal. Pumping: 155 gpm	Provide a new 160 gpm booster pump at the Lower Robles booster station.	Provide an additional 18,000 Gal. of storage in gradient.	$70,500
13j	Crest Canyon (Monterey)	Storage: 35,000 Gal. Pumping: 295 gpm	Provide a new 295 gpm booster pump at the Lower Walden booster station.	Provide a combination of additional pumping and storage capacity in this gradient.	$90,000
13k	Rancho Fiesta Upper (Monterey)	Storage: 67,000 Gal. Pumping: 560 gpm	Provide a new 560 gpm booster pump at the Upper Rancho Fiesta booster station.	Provide a combination of additional pumping and storage capacity in this gradient.	$95,000
13l	Mercurio (Monterey)	Storage: 45,000 Gal. Pumping: 375 gpm	Provide a new 375 gpm booster pump at the Mercurio booster station. May require land/easement acquisition.	Provide a combination of additional pumping and storage capacity in this gradient. Land acquisition would be required.	$58,500

Output and Benefits:

Upgrading the booster pumps and/or storage tanks will provide improved system reliability for satisfying peak demands and fire flows. Higher available fire protection will also be provided during maximum demands periods.

Options:

There are some potential options (alternatives) that may be considered during the development of the individual projects, which include:

- Providing a combination of additional storage and pumping capacity, additional storage and additional pumping capacity.
- Review project specific fire protection requirements with the local fire district to determine if local reductions are feasible.
- Do Nothing. This option will result in limited fire protection capabilities some areas of the system.

Budget Discussion:

The annual budget is based upon upgrading fire protection in the identified zone in a period of the next ten years. Preliminary cost estimates for the various recommended improvements are based upon construction of similar pump station projects in Monterey, but require additional development for the specific site conditions. The annual budget has been preliminarily established at $478,000 per year. The total project cost over the six-year period would be $2,869,000. Refer to Appendix A for a breakdown of the cost estimate and backup data.

Risks:

No risks have been identified for this project.

Purpose Codes and Drivers:

The primary driver for this project is the need to increase fire protection capabilities. This is a Priority B project.

Purpose Code	Description
WS RQ – FP01	Fire Protection

Exhibit J

State of California—Health and Human Services Agency
California Department of Public Health

Northern California Drinking Water Field Operations Branch
Monterey District

RON CHAPMAN, MD, MSPH
Director & State Health Officer

EDMUND G. BROWN JR.
Governor

January 25, 2013
System No. 2710004

Mr. Eric Sabolsice, Director of Operations
California American Water – Monterey Water System
511 Forest Lodge Road, Suite 100
Pacific Grove, CA 93950

Dear Mr. Sabolsice:

RE: WATER SYSTEM INSPECTION – CAL AM MONTEREY WATER SYSTEM

The California Department of Public Health (Department) conducted an inspection of the California American Water (Cal Am) Monterey water system during October and November of 2011. The inspection was conducted on October 17th and 18th and on November 1st and 2nd of 2011. Querube Moltrup, Ryan Klemencic, Lora Lyons, and Shaminder Kler of the Department collaborated to inspect the water system's facilities. Mr. Travis Peterson, Water Quality and Environmental Compliance Manager for Cal Am, organized teams of Cal Am operators and supervisors to accompany Department staff during the inspection. The inspection consisted of a physical examination of the water system facilities including, sources, finished water storage tanks, pump stations, and treatment plants.

Deficiencies observed by the Department during the 2011 inspection of the Cal Am Monterey water system are listed below under four sections: Sources, Treatment Facilities, Storage Tanks, and Pump Stations. Compliance with water quality monitoring at sources and plants was also evaluated as part of the inspection.

A. SOURCES

The deficiencies listed below were noted and pointed out to Cal Am staff during the inspection. Please submit to the Department a plan and schedule for correcting any outstanding deficiencies noted below by **March 1, 2013**. All items under "Priority Deficiencies" must be corrected by **September 1, 2013**. All other deficiencies must be corrected by **December 31, 2013**.

The following are Priority Deficiencies, which must be corrected by September 1, 2013.

1. Cypress Well 02 (priority):

   a) Opening on well pump base for sounding device is not properly sealed. This opening must be provided with a watertight seal or cap.

   b) The end of the pump-to-waste discharge line is inaccessible and not protected. The end of pump-to-waste discharge pipe must be inspected by the water system, and the status of the pipe reported to the Department. In addition, the pump-to-waste discharge pipe shall be provided with an approved backflow protection device (e.g., double check valve, RP, or air gap) based on the findings of the inspection. The pump-to-waste discharge pipe shall not be directly connected to a surface water

source, the sanitary sewer, or the storm drain. If the pipe discharges to surface water, the sanitary sewer, or the storm drain, an air gap at least twice the diameter of the pipe must be provided. The end of the pump-to-waste discharge pipe must be adequately screened.

2. Schulte Well 02 (priority):

   a) Needs a finer mesh screen installed on the well's casing vent.

   b) Water used for pump lubrication leaks on and around well pump base.

   c) The well's blow-off line (pump-to-waste discharge line) needs a screen installed at discharge end.

3. Pearce Well (priority):

   a) The compression bolts for the well cap were missing at the time of the inspection. Install bolts on well cap and ensure well cap has a watertight seal.

   b) Missing screen on pump-to-waste discharge outlet. Install an adequate screen on pump-to-waste discharge line outlet.

   c) The well site is prone to flooding. The surface of the well's concrete base is at ground level. The ground around the concrete base must be sloped away from the well in all directions. The concrete base shall be modified such that the surface of the base is at least 4 inches above the ground.

   d) The well site is not secured. The well site must be secured to prevent unauthorized access.

4. Rancho Canada Well 02 (priority):

   a) Install a screen on pump-to-waste discharge outlet.

   b) The casing vent opening is not downturned. The vent opening must be downturned and at least 36 inches above the concrete slab.

   c) At the time of the inspection, the pump head was covered in rust. The pump pedestal had rust residue on it, the floor inside the well housing was wet, and water was ponding adjacent to the pump pedestal. The well motor appeared to be leaking. The pump head and pedestal must be cleaned and protected from corrosion. The system must determine the source of the water found inside the well house and take corrective actions to stop the leak.

5. Robles Well 03 (priority):

   a) Not adequate drainage around wellhead. Standing water was observed around the well at the time of the inspection. The well is approximately 30 feet from the river and may be subject to flooding. The ground adjacent to the concrete pad must be sloped away from the well in all directions.

   b) Broken screen on the pump-to-waste discharge pipe needs to be replaced.

   c) A finer mesh screen must be installed on the well's casing vent opening.

   d) At the time of the inspection there were uncapped cables (or hoses) laying on the well pedestal and concrete pad that appeared to be entering the well and the air release valve. Please identify these cables or hoses and ensure that all openings (except vents) into the well and into the well discharge pipe are capped or sealed with a watertight seal. Remove unnecessary cables/tubes or hoses and seal or cap openings.

Please note that Robles Well 03 has a history of bacterial contamination and must not be used to supply drinking water to the public without written approval from the Department. To request approval to operate Robles Well 03, Cal Am must conduct two cycle tests for bacteriological quality and submit the results to the Department. As a condition of use, Cal Am will be required to conduct an assessment of the source by sampling the well within 48 hours following any major rain/storm event during the winter months. This assessment monitoring is in addition to the quarterly raw water monitoring required for ground water sources that are chlorinated.

6. Panetta Well #1 (priority):

Missing screen on the air-release valve vent. Install a fine mesh screen on the air-release valve vent. The air-release valve vent must be in a vertical downward position. The vent opening must be a minimum of thirty-six inches (36") in height above the finished surface of the well lot.

7. Panetta Well #2 (priority):

a) Apparent cracks in caulking around motor base were observed during the inspection. The anchor bolts between the pump motor base and the concrete pedestal were missing. A seal must be provided around the pump motor base to ensure it provides a watertight connection with the concrete pedestal. The anchor bolts must be installed at the pump motor base.

b) The air-release valve vent is not screened, it is opened upward, and it is close to the ground level. The air-release valve vent must be in a vertical downward position. The vent opening must be a minimum of thirty-six inches (36") in height above the finished surface of the well lot and must be covered with a fine mesh screen or similar device to exclude small insects from the well interior.

c) The raw water sample tap should be relocated to the well's discharge pipe on the upstream side of the pump check valve. A petcock valve fitted with a three-eighths inch (3/8") copper line formed in a semi-circle the ending of which points vertically downward is recommended.

Note on Panetta Wells #1 and #2: Cal Am has notified the Department that the Panetta Wells were not operated in 2012 and that the system will not be able to access the wells for monitoring or operation due to legal restrictions on access to the right-of-way and easements.

Please note that any approved drinking water source that cannot be operated for an extended length of time or multiple monitoring periods must be changed to standby status. A source can only be designated as active if it can be monitored as required by Title 22. Given the issues affecting the operation and monitoring of the Pannetta Wells, these sources must be designated as standby sources until the legal issues are resolved.

Please submit a request in writing to the Department to change the classification of these sources from active to standby. The request must also include the following information:

- A statement indicating when the wells were last used to supply drinking water to the public
- A brief discussion on the water system's ability to meet maximum day demand with the remaining active sources

The Department will confirm the change in classification in writing and provide a monitoring schedule for standby sources. Please submit the request by **March 1, 2013** to avoid monitoring and reporting violations.

8. Garzas Well #3 (priority):

a) Install a screen on the pump-to-waste discharge outlet.

b) Install a fine mesh screen on the well's casing vent.

c) Install missing bolts between the pump motor base and concrete pedestal.

d) The system must install a backflow protection device on the eye wash supply line.

9. Garzas Well #4 (priority):

a) Install a fine mesh screen on the well's casing vent

b) Install a screen on the pump-to-waste discharge outlet.

10. Los Laureles Well #5 (priority):

a) The well discharge pipe and the large sand trap are badly corroded. The system must repair (e.g., coat or paint) or replace the corroded sections of the discharge pipe and sand trap.

b) The discharge end of the pump-to-waste pipe could not be located. The water system must locate the end of the pipe and ensure that the pump-to-waste discharge end is adequately screened, protected from flooding, and has a backflow prevention device. The pipe cannot be directly connected to the river, storm drain or the sanitary sewer. An adequate air gap must be provided.

c) The cover plate on the gravel chute is loose and does not provide a watertight seal. It must be properly sealed. Other openings on the well's discharge pipe must be either capped or disconnected.

11. Various Wells - Uncapped Hoses or Tubing Entering Well Casing (priority):

At the time of the inspection, the Robles Well 3, Panetta Well 1, Panetta Well 2, Garzas Well 3, and Los Laureles Well 6 had uncapped/unsealed black hoses or tubing entering the well casing. Please explain the purpose of the hoses/tubing, and determine if these hoses can provide a possible path for contaminants to enter the well. In addition, please indicate if these hoses/tubing can be removed without compromising normal system operations.

12. Begonia Well 02 (priority):

a) The threaded sampling tap must be replaced with an unthreaded downturned sampling tap.

b) At the time of the inspection, the vent for the air/vacuum valve was resting right on the ground, and the screen was broken. The vent for the air/vacuum valve must be located 3 feet above the ground surface, and the vent opening must face downward and must be screened with a fine mesh screen.

c) At the time of the inspection, the pump base was covered in rust showing signs of advance corrosion. The concrete pedestal was also covered in rust, which may indicate leaking. The rubber gasket under the pump base appeared to be worn out and may need to be replaced. The well head does not appear to be providing a watertight sanitary seal. The pump motor must be removed and the rubber gasket must be inspected by a professional to determine if there is a watertight seal. The top of the well casing should be inspected for corrosion. If the casing is corroded, it must be repaired.

13. Luzern Well 02 (priority):

At the time of the inspection, the vent for the air release valve on the discharge pipe had a broken screen. The screen must be replaced with a fine mesh screen. The vent opening must be at least 3 feet above the ground surface and must face downward.

14. Ord Grove Well 02 (priority):

a) Multiple deficiencies were identified at the time of the inspection. There were cracks on the cement pedestal, corrosion on the pump motor base and all over the well head. The concrete pedestal and the floor area surrounding the well were covered in rust color material. It appeared as if the pit is prone to flooding. The water system must prevent water from entering the well pit. The pit must be provided with a working drain or pump to ensure there is no flooding inside the well pit.

b) The surface seal is covered in rust and the Department was unable to determine the condition of the seal between the rubber gasket and the pump base. The well head and the pump base must be inspected by a well rehabilitation professional to determine if the surface seal is providing a watertight seal and assess the condition of the parts that are covered with corrosion.

c) Bolts were missing from the pump base plate.

d) The well casing vent was capped, and the casing vent pipe was severely corroded and appeared about to break. The casing vent pipe must be replaced, and the casing vent must be open. The opening must be at least 3 feet above the ground surface, downturned and screened with a fine mesh screen.

15. Paralta Well (priority):

a) This well is located inside a pit. At the time of the inspection, there was a leak at the base of the pump motor, and there was approximately two inches of water inside the well pit. There was standing water on the surface of the concrete pedestal and at the base of the pump motor. The water system must stop all leaks from the pump base and take corrective actions to ensure the well pit does not flood.

b) The pump motor base is severely corroded and may no longer provide a watertight seal due to the damage. There are signs of corrosion and rust on the entire well head and discharge pipe. The base of the well pump motor must be replaced. The well's surface seal must be evaluated by a well rehabilitation professional to determine if the seal is watertight.

c) The casing vent was capped. The casing vent pipe was covered with a white material that resembled hard water deposits. The casing vent pipe must be replaced, and the casing vent must be open. The opening must be at least 3 feet above the ground surface, downturned and screened with a fine mesh screen.

d) Cal Am must ensure that the monitoring well located next to the Paralta domestic supply well is provided with a watertight seal that prevents surface runoff and contaminants from entering the well.

16. Santa Margarita Well 01 (priority):

a) The two small vents for the air/vacuum valve on the well's discharge pipe must be modified with a downturned opening. The vents must be screened.

b) A vent pipe installed directly on the pump motor's base must be modified with a downturned opening.

c) At the time of the inspection, the well was leaking at the base of the pump motor. The leak must be repaired.

17. Manor Well 02 (priority):

a) The well casing vent must be provided with a finer mesh screen.

b) The cloth serving as the screen on the air/vacuum valve vent is plugged and must be replaced with an adequate fine mesh screen.

c) Corrosion was observed on the well discharge pipe, and on the casing vent pipe. The well head piping must be protected from further corrosion.

d) Blow-off discharge line opening could not be inspected due to heavy brush. Please inspect the opening and ensure adequate protection from backflow or cross-connection is provided.

18. All Wells (priority):

Cal Am must develop a protocol for disinfection of wells that complies with the California Waterworks Standards. The protocol must include any required discharge conditions from any local or State agency permits. This protocol must be included in the system's operations plan as a Standard Operating Procedure (SOP) for well disinfection that will be followed for all groundwater sources.

Other Deficiencies noted below must be corrected by December 31, 2013.

19. Playa Well #3:

During the inspection, the screen on the pump-to-waste pipeline was blown off and sitting on the ground. Provide a better way of securing the screen to the pipe.

20. Darwin Well – Standby:

The raw water sample tap is threaded. The sample tap must be replaced with a non-threated down-turned sample tap.

21. Military Well – Standby:

a) During the inspection, one of the well cap's access plugs was completely open and unsealed, allowing a direct path for possible contaminants to enter the well. In addition, the access plug directly next to the unsealed one needs to be resealed. All access plugs and openings into the well must be provided with a watertight seal.

b) The raw water sample tap is threaded. The sample tap must be replaced with a non-threated down-turned sample tap.

c) The screened opening on the vent located on the well discharge pipe faces upward. This vent opening must be reconfigured to face down and the opening must be screened with a 20 mesh screen. The vent opening must be at least three (3) feet above the concrete slab.

d) Portions of the above-ground discharge pipeline are beginning to corrode. Pipeline must be protected against corrosion.

22. San Carlos Well 02 - GWUDI - Not in Service (not permitted):

a) Opening for sounding device is not properly sealed or capped.

b) The air-release valve opening needs a finer mesh screen.

c) The discharge end of the well's blow-off line (pump-to-waste discharge line) is inaccessible and lacks adequate backflow protection.

This well is currently not approved as a drinking water source. The permit for the well has not been issued because the application is incomplete and has not been accepted for filling. In a letter dated October 15, 2002, the Department requested submittal of a technical evaluation that identified the hydraulic and/or hydrologic triggers that would signify surface water influence is imminent at the well, and a monitoring plan that would be implemented to ensure that untreated groundwater under the influence of surface water would not be discharged into the distribution system at any time. The technical evaluation and plan have not been submitted to the Department to date.

23. Los Laureles Well #6:

    a) The discharge end of the pump-to-waste line could not be located. The water system must locate the pump-to-waste discharge end and ensure it is adequately screened, protected from flooding, and has a backflow prevention device. The pipe cannot be directly connected to the river, storm drain or the sanitary sewer. An adequate air gap must be provided.

    b) Fire hose or pipe connector on well discharge pipe must be capped.

24. Berwick Well 08: Improve drainage around well to ensure surface runoff moves away from well.

B. TREATMENT

The following treatment facilities were inspected by the Department:

Treatment Facilities	PS Code	Type of Treatment	Comments
Begonia Iron Removal Plant	2710004-053	Iron and Manganese Removal, Disinfection, Corrosion Control	Equipment in good condition
Plumas Well 04 – CL2 Treated	2710004-055	Disinfection	Equipment in good condition
Los Laureles Well 06 CL2	2710004-058	Disinfection	Equipment in good condition
Los Laureles Well 05 CL2	2710004-059	Disinfection	Equipment in good condition
Seaside Ozone Treatment Plant	2710004-061	Taste and Odor (H_2S), Disinfection	Corrosion Control Treatment Discontinued
Robles Well 03 CL2	2710004-062	Disinfection	Equipment in good condition
Scarlett Well 08 – CL2 STANDBY	2710004-063	Disinfection	Not in used
Panetta Well 02 CL2	2710004-064	Disinfection	Panetta Wells 1 & 2 and chlorination equipment not in use
Garzas Well 03 CL2	2710004-065	Disinfection	Equipment in good condition
Garzas Well 04 CL2	2710004-066	Disinfection	Equipment in good condition
Playa Well 03 CL2	2710004-067	Disinfection	Equipment in good condition
Luzern GAC Treatment Plant, and Luzern Post Blend Treated	2710004-056/ 2710004-079	Taste and Odor Removal, Disinfection, Arsenic Reduction by Blending w/ Distribution System Water	Equipment in good condition
Sand City Brackish Water RO Plant	2710004-081	Surface Water Treatment, Desalination (for GWUDI brackish water wells), pH Adjustment, Corrosion Control, Blending with Distribution System	Equipment in good condition
Santa Margarita ASR Well 01 - CL2 Treated	2710004-084	Disinfection	Equipment in good condition

The well head chlorination facilities for Darwin and Military wells were not inspected. These wells are currently on standby status, and the treatment facilities are not in use. The Carmel Valley Filter Plant (Surface Water Treatment Plant) was not inspected. This facility has not been used since July 2009 and continues to be off-line.

1. **Groundwater Disinfection Treatment – Well-Head Injection for Direct Feed Wells**

   Continuous chlorination is provided to all active groundwater wells with direct feed to the distribution system. Chlorine residual is monitored continuously using an online analyzer. Operators indicated that the online analyzers are verified and calibrated based on residual tests conducted daily with a hand-held analyzer. Verification with a hand held analyzer is recommended; however, calibration of the online analyzers must be performed following the manufacturer's procedure and should be done using standard solutions provided by the manufacturer.

2. **Begonia Iron Removal Plant – Iron and Manganese Removal, Disinfection, Corrosion Control**

   This represents a physical evaluation of the treatment facilities only. Please submit documents and information requested below to the Department not later than **March 1, 2013**. Compliance with permit conditions will be discussed under separate cover.

   The system's cross-connection control program coordinator must examine the connection that delivers water from the distribution system to the plant for backwashing the filters to ensure the current configuration properly protects the distribution system from backflow of back-wash water from the filters into the distribution system. The current configuration for the connection between the back-wash supply line from the distribution system and the plant appears to be adequate; however, this must be confirmed by a certified cross-connection control specialist. Cal Am must submit a report to the Department from the cross-connection control program coordinator evaluating the potential cross-cross connection.

   During the inspection, two filters were being rehabilitated with installation of new interior coating and repair of the under drain. Cal am must submit to the Department the specifications for the interior coating used for the filters and provide documentation of NSF Standard 61 certification. In addition, Cal Am must provide information on the new media installed in the filters with documentation of NSF Standard 61 certification. The water system must ensure that filters are adequately disinfected after repairs and rehabilitation work is completed, and a total coliform sample must be collected prior to placing filters back in service after repairs or rehabilitation. Cal Am must revise the operations plan for this facility with proper disinfection procedures for the filters, including sampling for total coliform, prior to placing filters in service following maintenance and/or repair work that may introduce bacteria into the filters.

   The treatment plant's operations plan was not available at the plant during the inspection. Cal Am must ensure that a copy of the operations plan (including the revisions required above) is located at the plant.

3. **Seaside Ozone Water Treatment Plant – Hydrogen Sulfide Removal and Disinfection**

   The treated effluent from the Seaside ozone treatment plant discharges into the Ord Grove storage tank. During the inspection, there was a reddish-brown foam floating on the water surface inside the storage tank. The reddish-brown material appeared to be iron foam resulting from the ozone injection and chlorination treatment. The water system must remove the reddish-brown foam from the tank by periodically overflowing the Ord Grove reservoir. This procedure and frequency must be included in the treatment plant's operation plan. The system must monitor the water leaving the Ord Grove reservoir once per month for color, odor, turbidity, and iron to determine the quality of the water. The sampler must ensure that the sample collected is of water leaving the reservoir and entering the distribution system. Results must be submitted to the Department by the tenth day of the following month with the monthly plant operations report. This monitoring must begin during **March 2013**.

4. Sand City Brackish Water Treatment Plant – Desalination, Surface Water Treatment

a. The plant experiences frequently shutdowns due to low Log Removal Value (LRV). The water system has indicated that the reason for the low LRV shutdowns is changes in the influent water conductivity level. When influent conductivity goes from higher to lower, it takes the membranes time to flush out the higher permeate conductivity remaining in the membrane. In addition, the flush tank capacity is only 1,200 gallons. The flush flow is approximately 300 gpm and the flush duration is 2 minutes. The Department strongly recommends increasing the flush tank capacity and the duration of the flush to correct the frequent plant shutdown problem.

b. Once during August 2012 and once during September 2012, the TDS log removal provided by the RO membranes, based on grab samples analyzed by the laboratory, did not meet the minimum 2.0 removal required by the permit. The Department reviewed and analyzed the data submitted by the water system during that period and finds that conductivity values measured by the online instruments at the plant, which are used to calculate the TDS log removal (LRV), deviate significantly from measurements conducted by the laboratory. The difference between the two measuring techniques must be small to make the two methods comparable. To ensure the online instruments are providing accurate and reliable data, the system must implement the following procedures starting in **March 2013**:

   i. Cal Am shall increase calibration of all online monitoring instruments to once every two weeks.

   ii. During weekly verification procedures, the operator must note the deviation on the online conductivity analyzers.

   iii. Online instruments must be verified and calibrated following the manufacturer's procedure.

c. The plant experiences very frequent high turbidity spikes attributed to air from the wells. The Department has requested that Cal Am conduct a study to collect data and analyze water quality trends to assist in determining if the turbidity spikes are related to problems with the RO membranes. Cal Am must submit to the Department a proposed schedule and procedure for conducting the study. This information must be submitted to the Department by **March 1, 2013**.

d. A sample collected on September 12, 2012 from the Sand City Plant effluent at a point after blending with distribution system water had a detection for the VOC Dichloromethane at a concentration of 0.6 ug/L. Cal Am must monitor the plant effluent before blend and the distribution system water prior to blending to determine where this contaminant is coming from. Sampling shall be completed by **March 30, 2013**.

e. During the inspection, the lid on the roof of the finished water tank was open exposing the finished water to contaminants from rain, birds and insects. The lid was closed by the operator on the day of the inspection. Cal Am must ensure that the top/roof of the calcite contactors and the finished water tank are inspected routinely.

f. The wastewater transfer station located near the Bay Street wells makes these sources vulnerable to contaminants from this facility. It is recommended that Cal Am contact the wastewater transfer station managers and ask to be notified of any spills or discharges from this facility.

C. STORAGE TANKS

The majority of the finished water storage tanks do not have ladders for roof access. The Department was unable to access and adequately inspect any of the tank roof features.

a. Cal Am Monterey must submit to the Department a schedule for tank inspections that ensures regular visual inspections of roofs, vent screens, free water surface, and tank interiors. A copy of the proposed inspection schedule must be submitted to the Department by **April 10, 2013.**

b. Cal Am Monterey must install ladders to all of its storage tanks or develop another method that allows access to the roof, vent, and hatch (e.g., ladder truck) for routine inspections by **May 31, 2013**.

c. Cal Am Monterey must ensure that all vents and other openings are screened with a fine mesh screen to prevent entry of birds, insects, rodents, or other small animals into the storage tanks.

d. The deficiencies listed in the table below were noted at specific tank sites and pointed out to Cal Am staff during the inspection. Please submit to the Department a plan and schedule for correcting any outstanding deficiencies noted below by **March 1, 2013**. All items under "Priority Deficiencies" must be corrected by **September 1, 2013**. All other deficiencies must be corrected by **December 31, 2013**.

The following are Priority Deficiencies, which must be corrected by September 1, 2013.

Tank Name	Deficiencies	Required Corrective Actions
Darwin (priority)	Surface drainage towards the tank is possible. There is no ladder to access the roof, but the roof could be seen from the ground. The roof hatch is corroded, and the roof appears to be in poor condition.	Prevent surface drainage towards the tank by routing surface runoff away from tank. The tank roof must be inspected thoroughly by a professional to determine if the roof must be replaced. Repair roof hatch or replace.
Boyd (priority)	Excessive corrosion inside the tank. Missing screen on vent and overflow. Operator unsure if pipe connected to tank effluent piping.	The tank interior must be inspected and evaluated by a professional to determine corrective action. At a minimum, tank interior must be cleaned and recoated. Install fine mesh screen on vent. Ensure overflow discharge outlet is adequately screened and protected from backflow and cross-connections. Piping connected to tank effluent pipe must be identified.
	Abandoned redwood tank on site is physically connected to the distribution system	Abandoned redwood tank must be physically disconnected from the distribution system.
Country Club Heights (priority)	Inadequate air gap and screen for tank overflow pipe outlet. Screen on overflow has wide holes and the air gap is less than twice the diameter of the pipe. Overflow screen was dirty. Tree branches over the tank.	Tank overflow outlet must be screened with a fine mesh screen and provided with an adequate air gap. Air gap must be twice the diameter of the pipe. Overflow screen must be cleaned. Tree branches located over the tank should be removed.
Del Mesa (priority)	The combined overflow and drain pipe daylights at slope adjacent to the tank. The discharge end does not have a screen and the overflow pipe requires an air gap protection.	Install fine mesh screen on discharge end of overflow pipe and ensure backflow protection by installing an adequate air gap of at least twice the pipe diameter.

Tank Name	Deficiencies	Required Corrective Actions
Huckleberry Hill #2 (priority)	Combined overflow and drain pipe directly connected to storm drain. Discharge end of overflow pipe does not have adequate screen or air gap. Corrosion on inlet/outlet pipe. The fence does not surround the site completely. Not protected against unauthorized access.	Install fine mesh screen on discharge end of overflow pipe. The overflow and drain pipes cannot be directly connected to the storm drain. Install adequate air gap of at least twice the pipe diameter at the discharge end of overflow and drain pipes. The corrosion on the inlet/outlet pipe must be evaluated and repaired as necessary. The tank site must be protected against unauthorized access.
Lower Airways (priority)	The air gap for the overflow pipe is less than twice the pipe diameter. Missing screen on tank overflow pipe outlet.	The discharge end of the overflow pipe must have an air gap of at least twice the pipe diameter. Install a fine mesh screen on the overflow pipe outlet. Trim back tree branches hanging over the tank.
Lower Los Tulares (priority)	The overflow pipe outlet did not have a screen and needs to be protected with an air gap.	The discharge end of the overflow pipe must have an air gap of at least twice the pipe diameter. Install a fine mesh screen on the overflow pipe outlet. Trim back tree branches hanging over the tank.
Middle Canyon, Pebble Beach #1, Pebble Beach #2, Pebble Beach #3 (priority)	The overflow pipe outlet did not have a screen and needs to be protected with an air gap. Tank site is not completely fenced.	The discharge end of the overflow pipe must have an air gap of at least twice the pipe diameter. Install a fine mesh screen on the overflow pipe outlet. The site should be protected from unauthorized access. Trim tree branches hanging over the tank.
Quail Meadows, Ranchitos #1 (priority)	Inadequate air gap and screen for tank overflow pipe outlet.	Install fine mesh screen on discharge end of overflow pipe and ensure backflow protection by installing an adequate air gap of at least twice the pipe diameter
Rio Vista #2 (priority)	Inadequate air gap and screen for tank overflow pipe outlet.	Install fine mesh screen on discharge end of overflow pipe and ensure backflow protection by installing an adequate air gap of at least twice the pipe diameter. Trim the tree branches hanging over the storage tank
Upper Airways, Upper Lost Tulares (priority)	Inadequate air gap and screen for tank overflow pipe outlet.	Install fine mesh screen on discharge end of overflow pipe and ensure backflow protection by installing an adequate air gap of at least twice the pipe diameter.
Upper Middle Canyon (priority)	Inadequate screen on overflow pipe outlet	Install fine mesh screen on discharge end of overflow pipe.
Upper Rio Vista (Carmel Views) (priority)	The overflow pipe outlet did not have a screen and needs to be protected with an air gap. Tank site is not completely fenced.	The discharge end of the overflow pipe must have an air gap of at least twice the pipe diameter. Install a fine mesh screen on the overflow pipe outlet. The site should be protected from unauthorized access. Trim tree branches hanging over the tank.
Upper Robles (priority)	Inadequate air gap and screen for tank overflow pipe outlet.	The discharge end of the overflow pipe must have an air gap of at least twice the pipe diameter. Install a fine mesh screen on the overflow pipe outlet.
Segunda #1 (priority)	Flapper valve on overflow pipe outlet has a gap and does not close tightly. Air release valve on inlet/outlet pipe needs a screen	Repair flapper valve on overflow pipe outlet to ensure it closes tightly. Install fine mesh screen on air release valve vent located on inlet/outlet pipe.
Segunda #1 and #2 (priority)	Tank drain pipe may discharge to a storm drain.	Locate the drain pipe discharge point. If tank drain pipe is directly connected to the storm drain, system must provide an adequate air gap.

Tank Name	Deficiencies	Required Corrective Actions
Crest Reservoir (priority)	Vents need a finer mesh screen. The discharge location for the overflow and drain pipes is unknown. Surface drainage to tank is possible (subsurface reservoir).	Install fine mesh screens on roof vents. Locate outlet for overflow and drain pipes. The overflow pipe outlet must be screened to prevent entrance of insects, rodents, and other small animals into the tank. The overflow and drain pipes cannot be directly connected to a storm drain or sanitary sewer and must be free of cross-connections. Provide adequate air gap if necessary. Ensure surface runoff moves away from the roof vents and the roof hatch.
Forest Lakes #2 (priority)	Duck bill valve on overflow pipe outlet had a gap and did not close tightly.	Repair or replace duck bill valve on overflow pipe outlet to ensure the valve closes tightly.
Ord Grove (priority)	The flapper valve installed on overflow pipe outlet does not close after it opens. The counter-weight and hinge system is not working properly allowing the valve to stay fully open. When closed, the valve does not close tightly leaving a gap between the valve and the pipe outlet. In addition, the screen installed in the center of the flapper valve is not adequate. Reddish-brown floating material observed on water surface inside the storage tank.	Correct problem with flapper valve on the overflow pipe and replace the screen with a fine mesh screen. The reddish-brown material floating on the surface of the water appears to be iron foam resulting from the ozone injection followed by disinfection treatment. The water system must remove the foam by periodic intentional overflowing of the reservoir. This procedure must be added to the treatment plant's operation plan. The Ord Grove Well 02 and Paralta Well must be monitored quarterly for iron to determine compliance with the MCL. If the wells exceed the MCL, the system will be required to install treatment to remove the iron.
Withers #2 (priority)	The tank has two (2) overflow pipes. Both overflow pipes need a fine mesh screen and adequate air gap. Discharge end of one of the overflow pipes is severely corroded. Pieces of pipe have fallen off due to the corrosion and it has holes near the outlet. Inlet/outlet pipe has severe corrosion. Outlet pipe is in poor condition.	Overflow pipe outlets must be provided with fine mesh screens and adequate air gap of at least twice the pipe diameter. Corrosion damage on overflow pipe and on the outlet pipe must be repaired.
Eddy Rd. (Vista Hermosa) (priority)	Overflow pipe outlet does not have a screen.	Install fine mesh screen on discharge end of overflow pipe and ensure backflow protection by installing an adequate air gap of at least twice the pipe diameter.
Middle Tierra Grande (priority)	Tank has minor leaks. Overflow pipe outlet needs a screen.	Install fine mesh screen on discharge end of overflow pipe. Repair leaks.
Rancho Fiesta (Underground) (priority)	The roof hatch for this underground tank is not watertight.	Install watertight lid on roof hatch

Tank Name	Deficiencies	Required Corrective Actions
Upper Rancho Fiesta (Concrete – Underground) (priority)	Vent does not meet standards. Plastic tarp over wooden roof. Roof needs to be replaced. Site is not secured	The existing vent must be replaced with a vent that complies with Section 64585 (a) (2) of Title 22. The vent shall be constructed and designed to prevent the entry of rainwater or runoff, and birds, insects, rodents, or other small animals. The reservoir roof must be replaced. Pursuant to Section 64585 (b) (3) (A) of Title 22, the reservoir must have a rigid structural roof made of impervious material that prevents movement of water or other liquids into or out of the reservoir. Until such time that the roof for the Upper Rancho Fiesta tank is replaced, the system must monitor the effluent of the storage tank for chlorine residual and total coliform monthly. Monitoring results must be submitted to the Department monthly by the tenth day of the month following sample collection.
Upper Tierra Grande (priority)	Vent does not meet standards	The existing vent must be replaced with a vent that complies with Section 64585 (a) (2) of Title 22. The vent shall be constructed and designed to prevent the entry of rainwater or runoff, and birds, insects, rodents, or other small animals. Confirm that overflow pipe is provided with adequate air gap.
Carmel Woods Tanks 1 and 2 (priority)	Carmel Woods No. 1 is an older concrete tank. The tank has some leaks. The tanks do not have visible overflow outlets. There is a sump at the tank site, and two pipes discharge into it. If these are the overflow outlets for the tanks, the overflows need to be screened.	The water system must verify the location of the overflow outlets for these tanks. Overflows must be screened and must be separated from storm drain or sewer by an air gap.
Cypress Tank (priority)	Cannot access overflow outlet	The water system must verify the location of the overflow outlet for this tank. The overflow must be screened and must be separated from the storm drain or sewer by an air gap.
Lower Walden Tank (priority)	Corrosion on inlet-outlet pipe. Overflow outlet location is not known.	Protect inlet-outlet pipe from corrosion. Locate overflow outlet and install screen.
Crest Canyon Tank and High Meadows Tank (priority)	Could not locate overflow outlet, or could not verify screen on overflow.	Locate overflow outlet and verify it has a screen. Overflow cannot be connected to storm drain or sewer. Install air gap if needed.

Other Deficiencies noted below must be corrected by December 31, 2013.

Tank Name	Deficiencies	Required Corrective Actions
Fairways #1, #2, and #3.	The overflow pipe for each tank goes underground. Operator suspects that the overflow pipes for the three tanks may join together underground and discharge at one single location. The overflow outlet could not be located to ensure it is screened. Could not determine if overflow outlet has adequate air gap at the point of discharge. It may be directly connected to storm drain or sanitary sewer.	Locate outlet for overflow pipe. Submit written description and photos of overflow outlet condition and location. Overflow pipe outlet must be screened to prevent entrance of insects, rodents, and other small animals into the tank. Overflow device cannot be directly connected to a storm drain or sanitary sewer and must be free of cross-connections.
Hilby MGT #1	The overflow pipe is severely corroded just above the ground level.	Replace or repair the corroded portion of the overflow line.
Lower Toyon	Valves are not locked to prevent unauthorized use/access.	Secure valves.
Upper Toyon	Overflow pipe goes underground and operator was unable to locate outlet to ensure it is screened.	Locate outlet for overflow pipe. Submit written description and photos of overflow outlet condition and location. Overflow pipe outlet must be screened with a fine mesh screen. Overflow device cannot be directly connected to a storm drain or sanitary sewer and must be free of cross-connections.
Huckleberry Hill Hydro pneumatic Pressure Tank	Pressure release valve is not screened. One of the side tubes is broken.	Install screen on pressure release valve. Repair the broken glass tubing on the tank.
Ranchito #2	Tank not in service. Only used when Ranchitos #1 offline. (Operator will provide additional details when it was last used).	Provide information on the status of this storage tank. Provide the procedure that is followed before placing this tank in service.
Rio Vista #1	Tree branches over the tank	Trim the tree branches hanging over the storage tank.
Withers Tanks 1, 2, 3, and 4.	Possible surface drainage towards tanks	Water system must ensure surface runoff moves away from tanks.
Carmel Valley Filter Plant Clear Wells 1 and 2	Unable to determine discharge location of overflow and drain pipes.	Locate outlet for overflow and drain pipes. The overflow pipe outlet must be screened to prevent entrance of insects, rodents, and other small animals into the tank. The overflow and drain pipes cannot be directly connected to a storm drain, pond, or sanitary sewer and must be free of cross-connections. Provide adequate air gap if necessary. The air gap must be twice the pipe diameter.
Mt. Devon Tank	Overflow outlet has duckbill check valve but the opening could not be inspected to ensure it is closed.	Clean needles off of tank roof. Verify overflow outlet is protected by closed valve or install screen.

D. PUMP STATIONS

The deficiencies listed in the table below were noted and pointed out to Cal Am staff during the inspection. Please submit to the Department a plan and schedule for correcting any outstanding deficiencies noted below by **March 1, 2013**. All items under "Priority Deficiencies" must be corrected by **September 1, 2013**. All other deficiencies must be corrected by **December 31, 2013**.

The following are Priority Deficiencies, which must be corrected by September 1, 2013.

Pump Station Name	Deficiencies	Required Corrective Actions
#21 Lower Monte Vista (priority)	During the inspection the operator reported "dirty water" problems when pumps are used. Animal feces found in one of the pump sheds.	Investigate cause of "dirty water problem" and take necessary corrective actions. Collect total coliform and *E. coli* samples from line downstream from Lower Monte Vista Pumping Station and from the effluent of the Upper Toyon tank. Clean sheds and secure them to prevent entry by animals.
#47 Highland (priority)	Missing screens on the air relief valve vents.	Install screens on air relief valve vents.
#53 Rio Vista (priority)	Three (3) air-release valve vents in the pumping station need new screens	Install fine mesh screens on the vents.
#16 Via Contenta (priority)	Site was not clean. Vents for air-release valves open upward and do not have screens. Uncapped openings on pipes.	Air-release valve vents must be in a vertical downward position and must be screened. Other openings need to be screened or capped as necessary.
#55 Via Las Encinas (priority)	Drain pipe is blocked. This is a flood hazard in the vault.	Unplug drain pipe.
#64 Upper Middle Canyon; #65 Ridgeway; #67 Boronda Road; #84 Del Monte Ranch (priority)	Missing screens	Air release valves and other openings need to be screened or capped as necessary.
#58 Segunda (priority)	Support for pump #2 is loose. Missing screens on air release valve vents for all three booster pumps. Vent openings were not downturned. Uncapped pipes on the ground near the base of the pumps.	Repair support for pump #2. Install fine mesh screens on vents and ensure vents have downturned openings. Cap or seal pipes sticking out of the ground near pumps.
#1A Eardley (priority)	Air/vacuum valves need screens on vents.	Install fine mesh screens on vents and ensure vents have downturned openings.
#12A Withers (priority)	Air/vacuum valve had a plastic line connected to the vent. The air vent plastic line discharged to a sump and did not have adequate air gap	Provide adequate screen and air gap to air vent plastic line.

Other Deficiencies noted below must be corrected by December 31, 2013.

Pump Station Name	Deficiencies	Required Corrective Actions
#26A Boyd	Pump cabinets were not clean inside. One had what appeared to be insulation material scattered inside around the pump. Drain not visible.	Clean pump cabinets (boxes).
#50 Los Tulares; #51 Lower Los Tulares; #52 Upper Los Tulares; #54 Encina	Corrosion on older pump	Evaluate the corrosion on the older pumps and correct if necessary.
#14 Cypress Pump Station	Air release valve needs downturned vent and screen. Fire line hookup needs a cap	Install downturned vent and screen. Install cap at fire line hookup.
#45 High Meadows	Pump No.2 – base has corrosion and leaks	Correct leak on Pump No. 2 and protect base from corrosion.
#41A Lower Walden	Air release valve vent needs downturned opening and a screen	Install downturned opening and screen on air release valve vent.
Rancho Mar Monte Pressure Tank and Pump Station	The pump station piping is corroded and looks very old. Pipes leak. The inside of the pump house is dirty. Need end caps on fire hose connectors. The pressure tank drain pipe needs a cap and a pipe on the roof of the tank needs a cap.	The piping at this pumping plant needs to be replaced. The pump housing needs to be cleaned. Install missing caps.
#30 Munras	Drain lines were plugged at the time of the inspection	Clean drain lines
#32 Lower Toyon	Un-capped dual pipe connection point located behind pump house.	Installed caps on pipe openings.
#3 Carmel Way	Advanced corrosion on the older pump. Pump support appears to be breaking down. Leaking near older pump (there was water on the floor at the time of the inspection)	Evaluate the corrosion on the older pump and the condition of the pump support. Take corrective action to prevent further deterioration of the pump (recoat or paint, replace if necessary) and the pump support. Fix leak at the pump station.
#23B Huckleberry Hill	Corrosion on the pumps and discharge pipe and on electrical boxes	Evaluate corrosion and propose corrective actions if necessary
#4A Crespi	Corrosion on pump discharge pipe (inside the vault)	Evaluate corrosion and propose corrective actions if necessary

E. WATER QUALITY MONITORING

The water system is generally in compliance with water quality monitoring requirements for Title 22 constituents, except for some radiological chemicals and some constituents with secondary MCLs. The water

delivered to the distribution system from all sources and treatment plants has met all primary drinking water standards.

Attached is a Water Quality Monitoring Schedule for all sources and treatment facilities. The water system must monitor in accordance with this schedule (Attachment A).

Attachment B is a list of sources and treatment plants that require increased monitoring frequencies for specific Title 22 constituents due to MCL exceedance, treatment process monitoring, or source vulnerability.

Attachment C is a report of sources and treatment facilities with past due monitoring. The water system must ensure that monitoring for these sites is completed by **March 1, 2013.**

F. OVERALL APPRAISAL OF WATER SYSTEM FACILITIES

The Cal Am Monterey water system is operated by dedicated staff. The system is in compliance with the operator certification requirements for both the distribution system and treatment facilities. The water system has an excellent water quality monitoring program, and the water delivered to the distribution system has met all primary drinking water standards. However, many of the system facilities have overdue significant maintenance and upkeep that needs to be addressed.

Note: The following Sanitary Survey items will be addressed under separate cover:

a. Source and storage capacity
b. Compliance with permit provisions
c. Distribution system design and maintenance
d. Cross Connection Control Program
e. Compliance with distribution system monitoring plans and sampling requirements
f. System Management and operation

If you have any questions regarding this matter, please contact Querube Moltrup of my staff at (831) 655-6936 or me at (831) 655-6934.

Sincerely,

Jan Sweigert

Jan R. Sweigert, P.E.
District Engineer, Monterey District Office
DRINKING WATER FIELD OPERATIONS BRANCH

jrs/qm

Attachments: A- Water Quality Monitoring Schedules
B- Increased Monitoring Frequencies
C- Delinquent Monitoring Report

cc: Monterey County Environmental Health Department (no attachments)

California Public Utilities Commission (no attachments)

Travis Peterson, Water Quality and Environmental Compliance Manager
California American Water - Monterey

Exhibit K

Exhibit K

Customer Complaints and Escalated Inquiries 2016-2018

		Complaints by Category (see Note 1)										
		Billing	Collections	Conservation	Distribution	Leaks	Pressure	Rates	Water Quality	Total	Customers (see Note 2)	Billing
Monterey	2016	360	81	83	344	846	27	3	8	1,752	39,552	0.009
	2017	451	99	87	610	668	-	16	3	1,934	39,564	0.011
	2018	365	69	33	586	708	67	4	3	1,835	39,668	0.009
	Total	1,176	249	203	1,540	2,222	94	23	14	5,521	118,784	0.030
San Diego	2016	47	20	1	123	195	5	-	1	392	21,268	0.002
	2017	69	25	6	244	158	-	7	2	511	21,486	0.003
	2018	102	20	9	203	218	10	-	-	562	21,659	0.005
	Total	218	65	16	570	571	15	7	3	1,465	64,413	0.010
LA - Baldwin Hills	2016	25	6	2	68	110	6	-	4	221	6,242	0.004
	2017	41	7	7	150	74	-	-	-	279	6,243	0.007
	2018	35	11	8	112	107	11	-	-	284	6,250	0.006
	Total	101	24	17	330	291	17	-	4	784	18,735	0.016
LA - Duarte	2016	30	8	1	57	118	4	-	1	219	7,463	0.004
	2017	40	5	3	125	127	-	-	-	300	7,477	0.005
	2018	40	10	4	107	136	11	-	2	310	7,506	0.005
	Total	110	23	8	289	381	15	-	3	829	22,446	0.015
LA - San Marino	2016	45	9	1	75	229	9	-	1	369	14,327	0.003
	2017	76	11	4	146	197	-	1	1	436	14,365	0.005
	2018	85	12	8	140	181	16	1	-	443	14,387	0.006
	Total	206	32	13	361	607	25	2	2	1,248	43,079	0.014
Ventura	2016	107	28	6	130	243	9	3	-	526	21,129	0.005
	2017	149	22	8	204	182	-	-	1	566	21,154	0.007
	2018	95	22	5	176	238	17	-	3	556	21,164	0.004
	Total	351	72	19	510	663	26	3	4	1,648	63,447	0.017
Northern - Sacramento	2016	110	88	19	394	705	33	4	5	1,358	59,266	0.002
	2017	261	85	24	652	580	-	1	2	1,605	59,691	0.004
	2018	315	82	22	577	591	37	1	3	1,628	60,067	0.005
	Total	686	255	65	1,623	1,876	70	6	10	4,591	179,024	0.011

Notes: (1) Source: 2019 GRC, MDR II.H.1
(2) Source: 2022 GRC, Direct Testimony of David Mitchell, 7/1/22, Attachment 2, Tables 3-13

Complaints by Category Per Customer

Collections	Conservation	Distribution	Leaks	Pressure	Rates	Water Quality	Total
0.002	0.002	0.009	0.021	0.001	0.000	0.000	0.044
0.003	0.002	0.015	0.017	-	0.000	0.000	0.049
0.002	0.001	0.015	0.018	0.002	0.000	0.000	0.046
0.006	0.005	0.039	0.056	0.002	0.001	0.000	0.139
0.001	0.000	0.006	0.009	0.000	-	0.000	0.018
0.001	0.000	0.011	0.007	-	0.000	0.000	0.024
0.001	0.000	0.009	0.010	0.000	-	-	0.026
0.003	0.001	0.027	0.027	0.001	0.000	0.000	0.068
0.001	0.000	0.011	0.018	0.001	-	0.001	0.035
0.001	0.001	0.024	0.012	-	-	-	0.045
0.002	0.001	0.018	0.017	0.002	-	-	0.045
0.004	0.003	0.053	0.047	0.003	-	0.001	0.126
0.001	0.000	0.008	0.016	0.001	-	0.000	0.029
0.001	0.000	0.017	0.017	-	-	-	0.040
0.001	0.001	0.014	0.018	0.001	-	0.000	0.041
0.003	0.001	0.039	0.051	0.002	-	0.000	0.111
0.001	0.000	0.005	0.016	0.001	-	0.000	0.026
0.001	0.000	0.010	0.014	-	0.000	0.000	0.030
0.001	0.001	0.010	0.013	0.001	0.000	-	0.031
0.002	0.001	0.025	0.042	0.002	0.000	0.000	0.087
0.001	0.000	0.006	0.012	0.000	0.000	-	0.025
0.001	0.000	0.010	0.009	-	-	0.000	0.027
0.001	0.000	0.008	0.011	0.001	-	0.000	0.026
0.003	0.001	0.024	0.031	0.001	0.000	0.000	0.078
0.001	0.000	0.007	0.012	0.001	0.000	0.000	0.023
0.001	0.000	0.011	0.010	-	0.000	0.000	0.027
0.001	0.000	0.010	0.010	0.001	0.000	0.000	0.027
0.004	0.001	0.027	0.031	0.001	0.000	0.000	0.077

Exhibit L

Exhibit L

Customer Service Center, Local Office, and CPUC Complaints
Q3 2019 - Q1 2021

	Complaints by Quarter (see Note 1)								2020 Customers (see Note 2)	Complaints per Customer
	Q3 2019	Q4 2019	Q1 2020	Q2 2020	Q3 2020	Q4 2020	Q1 2021	Total		Total
Monterey	603	484	899	484	1,245	1,005	252	4,972	39,734	0.125
San Diego	191	183	267	128	313	245	49	1,376	21,778	0.063
LA - Baldwin Hills	101	83	123	64	177	130	70	748	6,261	0.119
LA - Duarte	99	117	119	94	177	175	42	823	7,496	0.110
LA - San Marino	158	139	274	241	350	259	57	1,478	14,433	0.102
Ventura	167	135	296	161	459	351	252	1,821	21,171	0.086
Sacramento (see Note 3)	651	542	905	450	2,312	1,477	252	6,589	60,296	0.109

Notes: (1) Cal-Am "Quarterly Report on Customer Service Center Call Statistics", filed with CPUC, Q3 2019 through Q1 2021, (since discontinued)
(2) Source: 2022 GRC, Direct Testimony of David Mitchell, 7/1/22, Attachment 2, Tables 3-13
(3) Includes Dunnigan and Geyserville, excludes Larkfield and Meadowbrook

Exhibit M

Exhibit M
Frequency of Cal-Am Rate Changes

MDR II.A.8

CALIFORNIA-AMERICAN WATER COMPANY

TABLE OF RATE CHANGES SINCE LAST GRC DECISION

Rate Change Ref.	Effective Date of Change	% Change Res. Customer	% Change Revenue Require.	Total $ Change	Notes	Decision/ Resolution #	Advice Letter #	Cumulative Changes
MONTEREY COUNTY DISTRICT - MONTEREY MAIN								
A	24-Jan-19	(0.17%)	N/A	N/A	1)	**M-4839**	**AL 1224**	
B	11-May-19	8.18%	1.32%	$796,804	2)	**D.18-12-021**	**AL 1236-A**	796,804
C	7-Jun-19	9.57%	12.31%	$7,508,830	3)	**D.18-12-021**	**AL 1238-A**	8,305,633
D	1-Aug-19	(0.93%)	N/A	($2,194,861)	4)	**D.18-12-021**	**AL 1246**	6,110,772
E	22-Sep-19	(23.31%)	N/A	($2,553,242)	5)	**D.07-05-062**	**AL 1256**	3,557,530
F	17-Oct-19	(0.70%)	N/A	($2,164,400)	6)	**D.18-12-021**	**AL 1259**	1,393,130
G	1-Jan-20	(0.44%)	N/A	($221,502)	7)	**D.18-12-021**	**AL 1247-B**	1,171,628
H	1-Jan-20	1.84%	2.07%	$1,421,001	8)	**D.18-12-021**	**AL 1271**	2,592,629
I	14-Jun-20	1.75%	N/A	$441,448	9)	**D.19-12-048**	**AL 1295**	3,034,077
J	6-Aug-20	2.34%	N/A	$98,288	10)	**D.19-12-049**	**AL 1302**	3,132,365
K	10-Aug-20	11.32%	N/A	$6,050,949	11)	**D.16-09-021**	**AL 1298-A**	9,183,314
L	1-Oct-20	0.19%	N/A	N/A	12)	**M-4841**	**AL 1305**	3,132,365
M	21-Oct-20	(0.68%)	N/A	($405,474)	13)	**D.16-09-021**	**AL 1311**	2,726,892
N	1-Nov-20	(0.26%)	N/A	($156,816)	14)	**D.18-12-021**	**AL 1312**	2,570,076
O	22-Nov-20	0.75%	N/A	$107,232	15)	**D.20-02-060**	**AL 1313**	2,677,307
P	22-Nov-20	1.48%	N/A	$215,020	16)	**D.20-02-058**	**AL 1314**	2,892,327
Q	23-Nov-20	(3.38%)	N/A	N/A	17)	**D.18-12-021**	**AL 1316**	2,892,327
R	1-Jan-21	(1.87%)	1.20%	$839,119	18)	**D.07-05-062**	**AL 1318-A**	3,731,446
S	15-Feb-21	3.59%	N/A	$10,095	19)	**D.20-08-040**	**AL 1321**	3,741,540
T	18-Mar-21	(0.37%)	N/A	($2,054,718)	20)	**D.18-12-021**	**AL 1322**	1,686,822
U	1-Jul-21	9.57%	N/A	$5,644,269	21)	**D.16-09-021**	**AL 1336**	7,331,091
V	1-Nov-21	0.02%	N/A	($202,972)	22)	**D.18-12-021**	**AL 1340**	7,128,119

1) Decrease to the PUC user fee. This is a pass through charge that has no impact to CAW's revenue requirement.
2) 2019 Step Rates includes ACAM - increase to revenue requirement
3) Monterey Pipeline & Pump Station - increase to revenue requirement
4) TCJA ADIT surcredit
5) Interim rate true up in connection with D.18-12-021
6) Updated TCJA ADIT surcredit
7) TCJA ADIT Plant Surcredit 2018
8) 2020 Step Rates includes ACAM - increase to revenue requirement
9) Intervenor Compensation - Surfrider
10) Intervenor Compensation - SVWC
11) Purchased Water Offset - For the purpose of this presentation, CAW assumed offsets as a change in the bill, not a change in the base revenue requirement. Increase to bill.
12) Increase to the PUC user fee. This is a pass through charge that has no impact to CAW's revenue requirement.
13) Purchased Water Offset - For the purpose of this presentation, CAW assumed offsets as a change in the bill, not a change in the base revenue requirement. Decrease to bill.
14) 2019 TCJA ADIT Surcredit
15) Intervenor Compensation - Landwatch
16) Intervenor Compensation - PCLF

MDR II.A.8

CALIFORNIA-AMERICAN WATER COMPANY

TABLE OF RATE CHANGES SINCE LAST GRC DECISION

Rate Change Ref.	Effective Date of Change	% Change Res. Customer	% Change Revenue Require.	Total $ Change	Notes	Decision/ Resolution #	Advice Letter #	Cumulative Changes

17) Stop Conservation Surcharge

18) 2021 Interim Rate includes ACAM - decrease to bill

19) Intervenor Compensation - PWN

20) Conservation true up credit. This over-collection was netted against the CEBA.

21) Purchased Water Offset - For the purpose of this presentation, CAW assumed offsets as a change in the bill, not a change in the base revenue requirement. Increase to bill.

22) 2020 TCJA ADIT Surcredit

MDR II.A.8

CALIFORNIA-AMERICAN WATER COMPANY

TABLE OF RATE CHANGES SINCE LAST GRC DECISION

Rate Change Ref.	Effective Date of Change	% Change Res. Customer	% Change Revenue Require.	Total $ Change	Notes	Decision/ Resolution #	Advice Letter #	Cumulative Changes
			MONTEREY COUNTY DISTRICT					
A	28-Nov-16	0.53%	0.58%	$315,830	1)	D.16-06-016	AL 1128-B	315,830
B	28-Sep-16	0.18%	N/A	$2,204,926	2)	D.15-04-007	AL 1133	2,520,756
C	2-Feb-17	(0.21%)	(1.70%)	($932,855)	3)	D.15-04-007	AL 1142-B	1,587,901
D	1-Jan-17	0.27%	N/A	N/A	4)	M-4830	AL 1143	1,587,901
E	15-Mar-17	31.60%	0.07%	$39,319	5)	D.15-04-007	AL 1144-A	1,627,219
F	29-Jan-17	10.93%	N/A	$31,766,715	6)	D.16-12-003	AL 1146	33,393,934
G	2-Feb-17	0.26%	0.00%	$0	7)	D.16-12-003	AL 1149	33,393,934
H	20-Mar-17	6.02%	N/A	$0	8)	D.17-01-013	AL 1152	33,393,934
I	1-Apr-17	N/A	N/A	($200,000)	9)	D.16-12-003	AL 1155	33,193,934
J	1-Jun-17	4.71%	N/A	$220,016	10)	D.09-07-021	AL 1162	33,413,950
K	3-Apr-17	N/A	N/A	$15,876,509	11)	D.09-07-021	AL 1163	49,290,459
L	25-Aug-17	0.21%	0.27%	$144,803	12)	D.15-04-007	AL 1172	49,435,262
M	21-Aug-17	(0.57%)	N/A	($818,700)	13)	D.17-01-013	AL 1174-B	48,616,562
N	30-Sep-17	(0.32%)	N/A	($1,554,863)	14)	D.17-01-013	AL 1176-A	47,061,699
O	1-Jan-18	2.20%	2.20%	$32,549	15)	D.07-05-062	AL 1184-B	47,094,248
P	1-Jan-18	(0.04%)	N/A	N/A	16)	M-4832	AL 1186	47,094,248
Q	19-Mar-18	N/A	N/A	N/A	17)	D.15-04-007	AL 1190-A	47,094,248
R	31-Mar-18	N/A	N/A	$184,986	18)	D.09-07-021	AL 1197	47,279,234
S	31-Mar-18	N/A	N/A	$5,251,243	19)	D.09-07-021	AL 1199	52,530,477

1) Ambler tank capital project.

2) NOAA recovery moved to the Consolidated Expense Balancing Account.

3) 2017 Step Rates - decrease to revenue requirement.

4) Increase to the PUC user fee. This is a pass through charge that has no impact to CAW's revenue requirement.

5) Ryan Ranch - Bishop intertie capital project.

MDR II.A.8

CALIFORNIA-AMERICAN WATER COMPANY

TABLE OF RATE CHANGES SINCE LAST GRC DECISION

Rate Change Ref.	Effective Date of Change	% Change Res. Customer	% Change Revenue Require.	Total $ Change	Notes	Decision/ Resolution #	Advice Letter #	Cumulative Changes

6) 5 year meter surcharge in order to recover the pre-2014 WRAM/MCBA balance.

7) Modification of conservation and rationing rules and rate design.

8) MPWMD User Fee. This is a pass through charge that has no impact to CAW's revenue requirement.

9) This was the estimated expense of the Temporary Low Income discount paid by shareholders.

10) 2016 Ambler WRAM/MCBA - This WRAM was implemented with the expiration of the 2015 WRAM/MCBA.

11) 2016 Monterey WRAM/MCBA - This WRAM will be implemented with the expiration of the 2015 WRAM/MCBA.

12) Chualar tank (Fire Flow Improvement) capital project.

13) Carmel River Mitigation Program BA recovery moved to the Consolidated Expense Balancing Account.

14) Monterey Peninsula Water Management Conservation District recovery moved to the CEBA.

15) Interim rates in connection with Cal-Am's 2016 General Rate Case ("GRC") in A.16-07-002

16) Decrease to the PUC user fee. This is a pass through charge that has no impact to CAW's revenue requirement.

17) Correction and refund affected construction customers based on their past billed usage.

18) 2017 Ambler WRAM/MCBA - This WRAM has not been implemented per AL 1197

19) 2017 Monterey WRAM/MCBA - This WRAM has not been implemented per AL 1199

Exhibit N

RUTAN
RUTAN & TUCKER, LLP

Douglas J. Dennington
Direct Dial: (714) 641-3419
E-mail: ddennington@rutan.com

April 3, 2023

VIA CERTIFIED MAIL AND E-MAIL

Mr. Kevin Tilden, President
California American Water
655 W. Broadway, Suite 1410
San Diego, CA 92110
President.Tilden@amwater.com

Ms. Sarah Leeper, Vice President
and General Counsel
California American Water
555 Montgomery Street, Suite 816
San Francisco, CA 94111
sarah.leeper@amwater.com

Re: MPWMD Purchase Offer for Monterey Water System and Transmittal of Appraisal Report in lieu of Summary Statement of Appraisal (Gov. Code § 7267.2)

Dear Mr. Tilden and Ms. Leeper:

As you know, Rutan & Tucker LLP represents the Monterey Peninsula Water Management District ("MPWMD"). MPWMD desires to acquire the tangible and incidental intangible property and property rights and assets owned or held by California-American Water Company ("Cal Am") with respect to a large portion of Cal Am's Central Division, more particularly described below and referred to herein as Cal Am's **"Monterey Water System,"** in accordance with Measure J (adopted by the Monterey County electorate on November 6, 2018). The purpose of MPWMD's proposed acquisition is to convert the privately owned and held **Monterey Water System** to public ownership, operation and control (the "Proposed Public Use"). MPWMD has now obtained an appraisal of the **Monterey Water System,** dated March 10, 2023, which was conducted by John M. Mastracchio, ASA, CFA, P.E., William Stannard, P.E., and Steven MacDonald, CVA, of Raftelis Financial Consultants, Inc. ("Raftelis"). The appraisal is based, in part, on the real estate and water rights appraisals performed by Chris Carneghi, MAI, and Steven Herzog, MAI, AI-GRS, respectively. MPWMD's Board of Directors has considered the appraisal of the **Monterey Water System** and has established that the appraised value, as reflected in the Raftelis appraisal, reflects "just compensation" for MPWMD's proposed acquisition of the **Monterey Water System.** MPWMD's Board of Directors has further authorized me to present this offer of just compensation to you, on behalf of Cal Am. MPWMD is offering the full amount reflected in Raftelis' March 10, 2023 appraisal ("Raftelis Appraisal") as the fair market value for the **Monterey Water System**. A true and correct copy of the Raftelis Appraisal is enclosed herewith for your review and consideration.

DESCRIPTION OF MONTEREY WATER SYSTEM

As used in this letter, the term **"Monterey Water System"** means the following: (1) all real property interests and assets (whether held in fee, leasehold, easement, license, or otherwise), including without limitation land, improvements pertaining to the realty, construction work in

progress, equipment and fixtures, and water rights, all incidental intangible property interests and assets (including without limitation: easements; licenses; water rights; franchise rights; contracts; customer and billing information; water quality records; inspection, maintenance, and repair logs and reports; planning, design, and engineering data and reports; plans and specifications; and other books and records), and all personal property assets (including without limitation computer equipment, office furnishings, vehicles, supplies, and other inventory) comprising the retail water system owned and operated by Cal Am and any of Cal Am's affiliated entities within MPWMD's boundaries in Monterey County, California, which boundaries encompass what are generally known and referred to as the Monterey Main, Bishop, Hidden Hills, and Ryan Ranch portions of Cal Am's Central Division; and (2) all of Cal Am's real, intangible, and personal property interests and assets located outside Cal Am's retail service area (and MPWMD's boundaries) that currently are utilized by Cal Am to provide retail water service to the areas described in clauses (1)-(2) above, including without limitation all of Cal Am's real, intangible, and personal property interests and assets relating to the delivery of advance purified water from Monterey One Water's Advanced Water Purification Facilities (located adjacent to its Regional Treatment Plant approximately two miles north of the City of Marina) to Cal Am's retail service area (and MPWMD's northerly boundary).

As used in this letter, the term "**Monterey Water System**" excludes Cal Am's real, intangible, and personal property assets relating to its Ambler, Ralph Lane, Chualar, Toro, and Garrapata service areas (referred to as the "**Central Satellites**"), all of which are located outside MPWMD's boundaries, as well as Cal Am's real, intangible, and personal property interests relating to its wastewater service areas in Monterey County, California (referred to herein as the "**Monterey Wastewater Systems**"). The **Monterey Water System** proposed to be acquired in connection with this offer also excludes any working cash held by Cal Am with respect to the **Monterey Water System**.

To the extent any property or asset of Cal Am is used by Cal Am in connection with both the **Monterey Water System** (as defined above, and as the same may hereafter be modified), on the one hand, and one or more of the **Central Satellites** and **Monterey Wastewater Systems**, on the other hand, such property and assets are intended to be part of the "**Monterey Water System**" as that term is used herein. Thus, for example, if a Cal Am vehicle is used in conjunction with the inspection, servicing, maintenance, or repair of both the **Monterey Water System** and one or more of the **Central Satellites** and **Monterey Wastewater Systems** that vehicle is part of the **Monterey Water System** within the meaning of this letter. The **Monterey Water System** includes without limitation the following:

1. Real Property Ownership Interests.

MPWMD has identified the properties described in **Exhibit A** to this letter as being owned by Cal Am that are part of the **Monterey Water System** and are included within this purchase offer.

2. Facilities.

2.1 Wells. The wells included within the **Monterey Water System** are identified in Tables 2-3, 2-4, 2-5 and 2-6 of the Raftelis Appraisal.

2.2 Storage Facilities. The water storage facilities included within the **Monterey Water System** encompass approximately 80 storage facilities included within the Monterey Main system, the 6 water storage facilities included within the Hidden Hills system, the 7 water storage facilities included within the Bishop system, and the single water storage facility included within the Ryan Ranch system, further described in Section 2.2.9 and Table 2-10 of the Raftelis Appraisal.

2.3 Booster Pumps. The **Monterey Water System** includes approximately 58 booster pump stations in the Monterey Main System, the "Hilby Pump Station" added in 2018, the Carmel Valley Pump Station completed in approximately July 2022, and Forest Lake Tanks Station recently completed, all of which are further described in Section 2.2.8 of the Raftelis Appraisal.

2.4 Water Treatment Systems. The water treatment facilities included within the **Monterey Water System** are identified in Table 2-7 of the Raftelis Appraisal.

2.5 Sand City Desalination Plant. The **Monterey Water System** includes Cal Am's lease agreement for the Sand City Desalination Plant and any facilities appurtenant thereto, including without limitation any brackish water feed wells, or other components constructed and owned by Cal Am in support of the Sand City Desalination Plant operations.

2.6 Water Transmission and Distribution Pipelines. The water transmission and distribution pipelines for Cal Am's "Central System," which includes transmission and distribution pipelines within both the **Monterey Water System** and **Central Satellites,** are identified and described in Sections 2.2.7 and 2.2.10, and Table 2-9, of the Raftelis Appraisal. Due to the fact that public documents do not include a breakdown of the water transmission and distribution pipelines in each system, and Cal Am's refusal to voluntarily provide documentation that would assist in that breakdown, the appraisers have identified the specific pipelines included in the public documentation for both systems. Only those transmission and distribution lines located within the **Monterey Water System** are the subject of this purchase offer.

2.7 Additions, Deletions, Alterations to Cal Am's Facilities. MPWMD acknowledges that the facilities encompassed within the **Monterey Water System** are not static and change over time. MPWMD believes the descriptions of Cal-Am's facilities identified hereinabove, and in Section 2.2 of the Raftelis Appraisal, are accurate and complete as of the date this letter is being delivered, but to the extent this letter inadvertently fails to expressly describe one or more of Cal Am's facilities or Cal Am adds to, improves, or alters its facilities after the date

of this letter and before a final purchase is consummated, MPWMD hereby notifies Cal Am that it desires to purchase all of Cal Am's facilities within the **Monterey Water System** and if any such new, improved, or altered facility or facilities has not already been taken into consideration by MPWMD's appraisers, MPWMD and its appraisal consultants are prepared to modify the appraisal and/or make an appropriate equitable adjustment to this purchase offer to account for such changes.

3. Easements, Franchise Rights, and Similar Interests. All of Cal Am's easements, licenses, rights-of-entry, franchise rights, and other similar property interests in and with respect to the **Monterey Water System**.

4. Water Rights. All groundwater, appropriative, riparian and pre-1914 water rights, if any, of Cal Am in and with respect to its **Monterey Water System**.

5. Books and Records. All of Cal Am's books and records (herein, collectively, "Records") relating to its **Monterey Water System**, including without limitation (1) all Records containing customer account information, including without limitation all customer billing records, payment records, delinquent payment history information, security deposit information, and the like; (2) all Records containing planning, design, and engineering information related to the **Monterey Water System**, including without limitation plans and specifications, as-built drawings, CAD files, inspection, maintenance, and repair and replacement logs and reports; and (3) to the extent not addressed in clauses (1) and (2) of this subparagraph (5), all Records relating to the items listed in subparagraphs (1)-(4) above, inclusive. As used herein, the term "Records" includes all writings prepared, owned, used, or retained by Cal Am or any of its affiliated entities regardless of physical form or characteristics. As used herein, the term "writing" means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

6. Prepaid Fees and Charges and Refundable Deposits. To the extent Cal Am possesses or holds any prepaid fees and charges or any refundable deposits from property owners, customers, or ratepayers as of the date the **Monterey Water System** (collectively, "Prepaid Funds") as of the date of closing, MPWMD intends to either (1) acquire such Prepaid Funds as part of this acquisition or, alternatively, (2) deduct the amount of such Prepaid Funds from the just compensation amount to be paid.

PURCHASE OFFER

In accordance with California Government Code section 7267.2, MPWMD hereby offers to pay to Cal Am for the **Monterey Water System** the sum of **FOUR HUNDRED FORTY**

EIGHT MILLION EIGHT HUNDRED EIGHT THOUSAND DOLLARS ($448,808,000), comprised of (1) **THREE HUNDRED NINETEEN MILLION SIX HUNDRED FIFTY-THREE THOUSAND DOLLARS ($319,653,000),** for the "base" water utility enterprise assets, plus (2) **ONE HUNDRED TWENTY-NINE MILLION ONE HUNDRED FIFTY-FIVE THOUSAND DOLLARS ($129,155,000)** for various asset additions more specifically described and identified in Table ES-1 of the Raftelis Appraisal, which include balancing accounts and other adjustments including without limitation customer accounts receivables and unbilled revenues, construction work-in-progress, real estate not used in the provision of utility service, various memorandum and other adjustments, all of which to be "trued up" as of close of escrow. This is the full amount determined by MPWMD to reflect just compensation and is not less than the amount of the appraisal obtained by MPWMD. This amount is for all property and enterprise interests in the **Monterey Water System**; if there are multiple parties entitled to share in the payment of such amounts, allocation of the just compensation amount between or among Cal Am and other parties having an interest in the **Monterey Water System** will be Cal Am's responsibility.

Payment will be made when the title to the **Monterey Water System** vests in MPWMD free and clear of all recorded and unrecorded liens, encumbrances, assessments, judgments, and taxes, except:

1. Taxes for the year in which any real property assets are purchased, which shall be cleared and paid in the manner required by Section 5086 of the Revenue and Taxation Code, if unpaid at the time escrow for the purchase closes;

2. Covenants, conditions, restrictions, and reservations of record that do not interfere with MPWMD's proposed use of the real property assets and facilities acquired by MPWMD, as reasonably determined by MPWMD;

3. Easements or rights-of-way over the land for public or quasi-public utility or public street purposes, if any; and

4. Any other interests in the **Monterey Water System** or exceptions to title appearing on a preliminary title report or litigation guarantee, which are accepted by MPWMD in writing through escrow.

MPWMD will pay all usual fees, charges, and costs, which arise out of the escrow.

In addition, pursuant to Code of Civil Procedure Section 1263.025, MPWMD will reimburse Cal Am up to the amount of $5,000.00 for the cost incurred by Cal Am to secure an independent appraisal of the **Monterey Water System**. If Cal Am wishes to take advantage of this reimbursement, please forward to the undersigned a copy of a paid invoice from an appraiser retained by Cal Am for this purpose.

In accordance with California Government Code section 7267.2, this offer is contingent upon MPWMD's Board of Directors' ratification of the offer by execution of a purchase and sale agreement. If this offer is acceptable to Cal Am, please notify me in writing. Upon Cal Am's acceptance, MPWMD will prepare and forward to you a formal purchase and sale agreement (herein, a "Purchase Agreement") customary for such acquisitions. Upon MPWMD's receipt of a Purchase Agreement consistent with the terms and conditions set forth in this letter, the matter will be presented to MPWMD's Board of Directors for approval. It should be understood that this letter is not intended to contain all of the terms and conditions to be included in a Purchase Agreement and that no final agreement will be formed until a formal written Purchase Agreement has been approved and executed by both parties.

If for any reason Cal Am is not satisfied with this offer of just compensation and it has relevant information regarding the value of the **Monterey Water System** it wishes to have MPWMD consider, MPWMD will be happy to do so. If you have such information, please contact me at 714-641-3419. MPWMD is prepared to engage in meaningful discussions and negotiations with Cal Am regarding this purchase offer. MPWMD requests that Cal Am respond to this Offer and Appraisal Transmittal by April 30, 2023. In the event Cal Am rejects or fails to respond and/or if subsequent discussions and negotiations fail to result in an executed Purchase Agreement, however, MPWMD reserves the right to determine whether to acquire the **Monterey Water System** through exercise of MPWMD's power of eminent domain. Before that decision is made MPWMD is required by law to schedule a hearing to determine whether condemnation is justified in accordance with provisions of California's Eminent Domain Law (Code of Civil Procedure Section1235.010 *et seq.*) and MPWMD is required to provide Cal Am with a minimum of 15 days prior notice of that hearing. If such a hearing is held and if MPWMD's Board of Directors does determine at the conclusion of the hearing to acquire the **Monterey Water System** by eminent domain, Cal Am will have the right to have the amount of just compensation to be paid by MPWMD for the **Monterey Water System** fixed by a court of law or a jury.

APPRAISAL TRANSMITTAL IN LIEU OF SUMMARY STATEMENTS

In accordance with California Government Code section 7267.2(c), MPWMD encloses herewith a true, correct and complete copy of the Raftelis Appraisal, in lieu of exchanging the written statement of, and summary of the basis for, the amount MPWMD established as just compensation. The enclosed Raftelis Appraisal also includes the real estate summary appraisal statement prepared by Mr. Carneghi (attached as Appendix E) and the water rights appraisal prepared by Mr. Herzog (attached as Appendix F), which are considered and addressed in the Raftelis Appraisal. As set forth in the Raftelis Appraisal, the fair market value of the **Monterey Water System** was determined to be **THREE HUNDRED NINETEEN MILLION SIX HUNDRED FIFTY-THREE THOUSAND DOLLARS ($319,653,000)** for the "base" water utility enterprise assets, plus **ONE HUNDRED TWENTY-NINE-MILLION ONE HUNDRED FIFTY-FIVE THOUSAND DOLLARS ($129,155,000)** for various asset additions described hereinabove and in more detail in the Raftelis Appraisal. The **Monterey Water System** was

determined not to be a part of any larger parcel and, thus, no severance damages were determined to exist.

If Cal Am has any questions regarding this purchase offer, or wishes to request any additional information, please contact me at your convenience. I previously provided MPWMD's acquisition procedures to you with my October 3, 2022 and September 15, 2020 letters to you. Please also let me know if Cal Am has any questions concerning those procedures. As stated above, MPWMD requests that Cal Am respond to this letter by April 30, 2023.

Sincerely,

RUTAN & TUCKER, LLP

Douglas J. Dennington

DJD:pj
Enclosures

cc: George Soneff, Esq.
David Stoldt, MPWMD General Manager
David Laredo, MPWMD General Counsel

Exhibit A

Table 1

SUBJECT PARCELS IDENTIFICATION TABLE

Appraisal of Proposed Fee Acquisitions
From - California American Water Monterey District (Cal-Am Water System)
By - Monterey Peninsula Water Management District
Date of Value: December 15, 2022

No.	Assessors Parcel Number (APN)	Parcel Size Sq. Ft.	Parcel Size Acres *(1)*	Street or Location	City / Mailing Address	In City?	Current Use
1	001181002000	55,490	1.27	1650 David Ave	Monterey	Yes	Corporate Yard
2	001213021000	23,514	0.54	620 Devisadero St	Monterey	Yes	Withers Tanks
3	001423031000	13,754	0.32	6 Shady Ln	Monterey	Yes	Lower Toyon Tank
4	001761036000	71,436	1.64	599 Viejo Rd	Monterey	Yes	Viejo Tank
5	001931024000	2,500	0.06	52 Linda Vista Dr	Monterey	Yes	Lower Monte Vista Tank
6	006528001000	2,861	0.07	Sinex Ave	Pacific Grove	Yes	Eardley Roundabout
7	006694005000	9,877	0.23	2nd St	Pacific Grove	Yes	Corporate Yard
8	006694006000	390,000	8.95	Hillcrest Ave	Pacific Grove	Yes	Corporate Yard
9	007491015000	664,725	15.26	2949 Bird Rock Rd	Pebble Beach	No	3 Tanks
10	008111016000	12,521	0.29	4041 Sunset Ln	Pebble Beach	No	Huckleberry Hill Tanks
11	008111017000	9,817	0.23	4039 Sunset Ln	Pebble Beach	No	Huckleberry Hill Tanks
12	008111022000	32,234	0.74	4045 Sunset Lane #4059	Pebble Beach	No	Huckleberry Hill Tanks
13	008161003000	22,106	0.51	17 Mile Dr	Pebble Beach	No	Unknown
14	008171011000	8,966	0.21	Ronda Rd	Pebble Beach	No	Pebble Beach Tanks
15	008293008000	5,328	0.12	Portola Rd	Pebble Beach	No	Unknown
16	009142010000	8,896	0.20	24739 Upper Trail	Carmel	No	Carmel Woods Tank
17	010233004000	3,150	0.07	2nd Ave	Carmel	Yes	Unknown
18	011051018000	814	0.02	1635 Military Ave	Seaside	Yes	Well
19	011061004000	44,870	1.03	1987 Park Ct	Seaside	Yes	Well, Tank, Treatment
20	011071018000	9,106	0.21	Luzern St	Seaside	Yes	Luzern #2 Well & PS
21	011091017000	39,627	0.91	1237 Playa Ave	Seaside	Yes	Playa #3 Well
22	011355004000	7,906	0.18	598 Harcourt Ave	Seaside	Yes	Vacant Lot
23	011493028000	7,622	0.17	2104 Paralta Ave	Seaside	Yes	Paralta #1 Well
24	012193016000	6,172	0.14	1257 Palm Ave	Seaside	Yes	Vacant Lot
25	012324032000	49,231	1.13	1561 Hilby Ave	Seaside	Yes	Hilby Tank & Pump Station
26	012432004000	21,757	0.50	1453 Plumas Lane	Seaside	Yes	Plumas #4 Well
27	012532013000	3,019	0.07	Via Verde	Del Rey Oaks	Yes	Land Locked
28	012681005000	10,802	0.25	1245 Yosemite	Seaside	Yes	Upper Hilby Tank
29	012681006000	10,306	0.24	1235 Yosemite St	Seaside	Yes	Upper Hilby Tank
30	012681007000	9,246	0.21	1225 Yosemite St	Seaside	Yes	Upper Hilby Tank
31	012831013000	2,865	0.07	1833 Luxton St	Seaside	Yes	Vacant Lot
32	012834001000	8,930	0.21	1898 Waring St	Seaside	Yes	LaSalle #2 Well
33	012843005000	3,690	0.08	1860 Harding St	Seaside	Yes	Vacant Lot
34	012843013000	7,381	0.17	1849 Darwin St	Seaside	Yes	Darwin #1 Well
35	012843016000	1,843	0.04	1865 Darwin St	Seaside	Yes	Vacant Lot
36	014111010000	9,931	0.23	Skyline Dr	Monterey	Yes	Upper Toyon Tank
37	015031013000	13,539	0.31	25231 Pine Hills Dr	Carmel	No	Rio Vista Tank
38	015031087000	21,470	0.49	24735 Outlook Dr	Carmel	No	Carmel Views Tank
39	015162038000	9,147	0.21	5258 Carmel Valley Rd	Carmel	No	Rancho Canada #1 Well
40	015251030000	174,240	4.00	26530 Rancho Sn Carlos Rd	Carmel	No	San Carlos #2 Well
41	015441001000	22,867	0.52	498 Del Mesa Dr	Carmel	No	Del Mesa Tank
42	015441005000	13,832	0.32	100 Del Mesa Dr	Carmel	No	Pump Station
43	015481001000	29,240	0.67	24750 High Meadow Dr	Carmel	No	High Meadows Tank
44	101031004000	778	0.02	1199 Aguajito Rd	Monterey	No	Castro Plant 7A
45	103011011000	9,866	0.23	500 Aguajito Rd	Carmel	No	Aguajito Tank
46	103071005000	12,434	0.29	625 Monhollan Rd	Carmel	No	Fairways Tanks

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By - Monterey Peninsula Water Management District
Date of Value: December 15, 2022

No.	Assessors Parcel Number (APN)	Parcel Size Sq. Ft.	Parcel Size Acres *(1)*	Street or Location	City / Mailing Address	In City?	Current Use
47	103102008000	9,299	0.21	Loma Alta Rd/Aguajito Rd	Carmel	No	Unknown
48	103121014000	3,048	0.07	3741 Raymond Way	Carmel	No	Mar Monte Tank
49	103181002000	12,411	0.28	Landlocked by Jacks Park	Monterey	No	Unknown
50	169111008000	164,823	3.78	4 Scarlett Rd #A	Carmel Valley	No	Scarlett #8 Well
51	169131023000	327,108	7.51	28005 Dorris Dr	Carmel	No	Berwick #7 Well
52	169141016000	117,536	2.70	9210 Carmel Valley Rd	Carmel	No	Iron Removal Plant
53	169141023000	42,207	0.97	S. of Carmel Valley Road	Carmel	No	Iron Removal Plant
54	169181021000	18,358	0.42	27539 Via Sereno	Carmel	No	Schulte #2 Well
55	169221012000	2,400	0.06	7240 Carmel Valley Rd	Carmel	No	Cypress #1 Well
56	169262002000	2,595	0.06	25863 Tierra Grande Dr	Carmel	No	Pump Station
57	169271007000	22,964	0.53	25723 Tierra Grande Dr	Carmel	No	Lower Tierra Grande Tank
58	169342011000	15,231	0.35	25451 Tierra Grande Dr	Carmel	No	Middle Tierra Grande Tank
59	169381007000	28,648	0.66	25329 Tierra Grande Dr	Carmel	No	Upper Tierra Grande Tank
60	173071047000	7,102	0.16	Laguna Seca Golf Ranch	Monterey	No	Bishop WTP
61	173071051000	1,859	0.04	Laguna Seca Golf Ranch	Monterey	No	Bishop Well
62	173071052000	931	0.02	Near Pasadero Sub.	Monterey	No	Unknown
63	173071054000	7,001	0.16	9385 York Rd	Monterey	No	York Rd Tank
64	173101053000	25,608	0.59	23729 Spectacular Bid Ln	Monterey	No	Spectacular Bid Tank
65	187021024000	9,583	0.22	13471 Middle Canyon Rd ***(2)***	Carmel Valley	No	Upper Middle Canyon Tank
66	187111017000	28,897	0.66	71 Oak View	Carmel Valley	No	Ranchitos Tank
67	187221001000	39,695	0.91	64 Middle Canyon Rd	Carmel Valley	No	Middle Canyon Tank
68	187221011000	7,885	0.18	50 Middle Canyon Rd	Carmel Valley	No	Middle Canyon Tank & PS
69	187231005000	2,271	0.05	11 Rancho Rd	Carmel Valley	No	Pump Station
70	187301002000	4,125	0.09	308 Country Clb Heights Ln	Carmel Valley	No	Country Club Heights Tank
71	187331004000	3,814	0.09	6 Loma Ln	Carmel Valley	No	Tank Lot
72	187351004000	474	0.01	358 Ridge Way	Carmel Valley	No	RidgeWay Plant No. 65 (well)
73	187442013000	2,550	0.06	5 Via Contenta	Carmel Valley	No	Pump Station
74	187601009000	10,500	0.24	396 El Caminito Rd	Carmel Valley	No	Upper Airway Tank
75	187611014000	8,736	0.20	191 Chaparral Rd	Carmel Valley	No	Lower Airway Tank
76	187611015000	11,479	0.26	58 Chaparral Rd	Carmel Valley	No	Lower Airway Tank
77	189091015000	5,530	0.13	35 W Garzas Rd	Carmel Valley	No	Garzas #3 Well
78	189141001000	629	0.01	94 Boronda Rd	Carmel Valley	No	Well
79	189191007000	4,934	0.11	96 Panetta Rd	Carmel Valley	No	Well
80	189191010000	664	0.02	90 Panetta Rd	Carmel Valley	No	Panetta Well No. 2
81	189211005000	3,337	0.08	46 W Carmel Valley Rd	Carmel Valley	No	Vacant Lot
82	189311033000	10,782	0.25	5 De Los Helechos	Carmel Valley	No	Robles Del Rio #3 Well
83	189352006000	10,490	0.24	57 Piedras Blancas	Carmel Valley	No	Lower Robles Tank
84	189401004000	5,929	0.14	46 Camino De Travesia	Carmel Valley	No	Upper Robles Tank
85	189401005000	6,223	0.14	48 Camino De Travesia	Carmel Valley	No	Upper Robles Tank
86	189561029000	18,805	0.43	94 W Garzas Rd	Carmel Valley	No	Garzas #4 Well
87	197081032000	1,149,984	26.40	W. of E. Carmel Valley Rd	Carmel Valley	No	Carmel River/Open Space
88	197081033000	4,153,445	95.35	W. of E. Carmel Valley Rd	Carmel Valley	No	Tularcitos Creek/Open Space
89	241112003000	930	0.02	179 Fern Canyon Rd	Carmel	No	Unknown
90	241261012000	43,782	1.01	247 Lower Walden Rd	Carmel	No	Lower Walden Tank & PS
91	259031011000	13,321	0.31	15 Upper Ragsdale Dr	Monterey	Yes	Ryan Ranch #2 Well (NA)
92	259031012000	8,069	0.19	15 Upper Ragsdale Dr #1/2	Monterey	Yes	Ryan Ranch #11 Well (NA)

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By - Monterey Peninsula Water Management District
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No.	Assessors Parcel Number (APN)	Parcel Size Sq. Ft.	Parcel Size Acres *(1)*	Street or Location	City / Mailing Address	In City?	Current Use
93	259041013000	23,817	0.55	5 Upper Ragsdale Dr	Monterey	Yes	Ryan Ranch #9 (NA)
94	259091012000	37,141	0.85	Enlace Road	Monterey	No	Segunda Tanks
95	259093014000	32,234	0.74	Enlace Road	Monterey	No	Segunda Tanks
96	416111002000	15,428	0.35	25219 Casiano Dr	Salinas	No	Hidden Hills WTP/Bay Ridge Well
97	417051003000	3,380,242	77.60	San Clemente Drive	Carmel Valley	No	Carmel River / Open Space
98	417051004000	17,829,277	409.30	45 Sleepy Hollow	Carmel Valley	No	Watershed Open Space
99	417051005000	12,665,506	290.76	San Clemente Road	Carmel Valley	No	Carmel River / Open Space
100	417051010000	1,932,849	44.37	S. of Carmel River	Carmel Valley	No	Watershed Open Space
101	417051011000	7,814,279	179.39	W. of Carmel River	Carmel Valley	No	Watershed Open Space
102	417091005000	8,771,677	201.37	W. of Cachagua Road	Carmel Valley	No	Camel River/Watershed Open Space
103	418191003000	15,645,010	359.16	S. of Carmel River	Carmel Valley	No	Watershed Open Space
104	418191005000	13,939,200	320.00	W. of Carmel River	Carmel Valley	No	Camel River/Watershed Open Space
105	418191034000	7,509,744	172.40	S. of Nason Road	Carmel Valley	No	Camel River/Watershed Open Space
106	418191035000	27,878,400	640.00	S. of Nason Road	Carmel Valley	No	Danish Creek, Camel River/Watershed
107	418191043000	20,908,800	480.00	S. of Nason Road	Carmel Valley	No	Camel River / Watershed Open Space
108	418191053000	3,484,800	80.00	S. of Nason Road	Carmel Valley	No	Watershed Open Space
109	418191080000	6,926,040	159.00	Nason Road	Carmel Valley	No	Watershed Open Space
Totals		**157,070,141**	**3,605.83**				

(1) Parcel Size based on Assessor Records

(2) Possessary Interest

Sources: MPWMD, Monterey County Assessor Records, Data Tree, County of Monterey Resource Management Agency

22-78 Chris Carneghi, MAI December 2022