

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



FILED

11-03-10
04:59 PM

In the Matter of the Application of California-American Water Company (U 210 W) for a Certificate of Public Convenience and Necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs in Connection Therewith in Rates

A. 04-09-019
(Filed September 20, 2004)

**NOTICE OF EX PARTE COMMUNICATION OF
MONTEREY COUNTY WATER RESOURCES AGENCY**

Dan L. Carroll
DOWNEY BRAND LLP
621 Capitol Mall, 18th Floor
Sacramento, California 95814
Telephone: (916) 520-5239
FAX: (916) 520-5639
E-mail: dcarroll@downeybrand.com
Attorneys for Monterey County Water
Resources Agency

November 3, 2010

Pursuant to Article 8 of the Commission's Rules of Practice and Procedure, the Monterey County Water Resources Agency ("MCWRA") submits this Notice of Ex Parte Communication in the above-captioned proceeding. The communication occurred on November 2, 2010, in an in-person meeting held at the office of the California Public Utilities Commission at 505 Van Ness Avenue in San Francisco, California. MCWRA requested the meeting. Present at the meeting were Stephen St. Marie, Chief-of-Staff for Commissioner John A. Bohn; Amy Yip-Kikugawa, Advisor to Commissioner Bohn; Curtis Weeks, General Manager of MCWRA; Stephen Collins, member of the Board of Directors of MCWRA; and Dan L. Carroll, outside counsel for MCWRA. The meeting began at 11:00 a.m. and ended at 11:55 a.m. No written materials were used.

After introductions, Mr. Collins expressed MCWRA's appreciation for Commissioner Bohn's Alternate Proposed Decision ("APD"). Mr. Collins noted, however, that portions of the APD require discussion by MCWRA. The Water Purchase Agreement ("WPA") is the driving document in the settlement. Mr. Collins expressed concerns whether significant revisions to the WPA that required the WPA to be considered again by the MCWRA Board of Supervisors would be approved.

Mr. Weeks discussed the public-private partnership that is set up through the WPA. One of the challenges to that is the apparent unwillingness of DRA to accept that MCWRA and the Marina Coast Water District ("MCWD") have their own processes and accountability, and that the public agencies are required to be and will be fiscally responsible. The public agencies cannot consent to reasonableness reviews. Mr. Collins noted the coalition of interests in Monterey supporting the WPA expected the MCWRA Board of Supervisors to oversee MCWRA involvement. Mr. Weeks pointed out the WPA has in place mechanisms under which the

Advisory Committee, which now has a Municipal Advisor in an advisory role, will consult on financial issues and if agreement cannot be reached, the issues will be submitted to an independent third party to determine. This gives the parties the ability to ensure costs incurred are reasonable. Mr. Weeks noted the public agencies are not set up to conduct a Commission-style review process, with the result that such a process would add costs that need not be added. In addition, the Commission continues to have reasonableness review over California-American Water Company (“CalAm”). Mr. Carroll noted that there are provisions in Sections 4.11 and 11.12 of the WPA that allow the parties to the WPA to monitor one another’s progress and that provide CalAm access to records concerning public agency costs that it can then provide to the Commission.

Mr. Weeks discussed the MCWD Fees Limit revisions in the APD. The issue is not so much the amount of the fees limit, which provisions of the WPA actually allow to be increased in certain circumstances. Mr. Carroll noted this is discussed in WPA Section 11.14. Mr. Weeks stated the issue is the requirement that the payment be made up front. The modification is one which MCWD is very likely unable to accept.

Mr. Weeks addressed the financing plan modification in the APD. The financing plan modification could threaten the ability to finance the project. Mr. Collins noted the interest rate cannot be predicted at this time. Mr. Weeks addressed the required debt coverage of 1.0. In public agency financing, lenders require a percentage to be set aside as a reserve to ensure debt repayment. A reserve of 10%, which is pledged from revenue, or a debt coverage of 1.1, is typical. It does not compound over the years. Inability to provide such a reserve could threaten financing or make it more expensive. Review of the financing plan by the Commission could add several months as well as expense to financing. The public agencies would consider

submitting the financing plan to an independent third party. Mr. Collins indicated that target numbers as opposed to binding numbers might work as well.

The capital cost cap was discussed. A revision to the cost cap that is not material might be acceptable, if the parties can return to the Commission for further authorization if that is truly necessary. A cost cap that is too low could impact the ability to obtain financing. Mr. Weeks noted part of the issue is that despite best efforts, the parties do not yet know what the costs will truly be. Given how the cost cap is calculated in the APD, if MCWD need not pay fees upfront, the cost cap would remain as it is in the WPA and would not be an issue.

Mr. Carroll noted that some who say they support the project but actually seem to oppose it do not accept that the public agencies are not going to waste money. It is notable the public agencies took the risk on recovering their development costs for an extended period of time before the Reimbursement Agreement was drafted and later approved by the Commission. Those costs that are defined in the Reimbursement Agreement are only from February 2009 onward. If the project is not approved, the costs before then are at risk for the public agencies.

Mr. Collins stated that MCWRA has a history of developing and bringing projects in on time and at or under budget. He also noted that all MCWRA costs are subject to careful public scrutiny, and that scrutiny occurs.

Mr. Weeks returned to the public-private partnership. Both the public agencies and the Commission must be willing to step outside their comfort zones to make it work. The mayors of peninsula cities have a place on the Advisory Committee now. There is accountability built into the project. DRA wants accountability, and that accountability is there. The public agencies believe the WPA provides the Commission with the assurances it wants.

The MCWRA representatives also discussed the Commission's process for approval and issuance of a final decision.

Parties may request a copy of this notice by contacting:

Shawn Prentiss
Downey Brand LLP
621 Capitol Mall, 18th Floor
Sacramento, California 95814
Telephone: (916) 444-1000
E-mail: sprentiss@downeybrand.com

DATED: November 3, 2010

Respectfully Submitted,
DOWNEY BRAND LLP

By: _____ /s/ _____

Dan L. Carroll
Attorneys for Monterey County Water
Resources Agency

Service List A. 04-09-019, as of November 3, 2010

venskus@lawsv.com; rmcglothlin@bhfs.com; mall@ci.monterey.ca.us;
georgeriley@hotmail.com; dave@laredolaw.net; mlm@cpuc.ca.gov;
mfogelman@friedumspring.com; sleeper@manatt.com; nelsonp34@hotmail.com;
Carroll, Dan; steller@rtmmlaw.com; andy@mpwmd.dst.ca.us; jgeever@surfrider.org;
connere@west.net; carrie.gleeson@amwater.com; robert.maclean@amwater.com;
tim.miller@amwater.com; tmontgomery@rbf.com; Gregory.Wilkinson@bbklaw.com;
jason.Ackerman@bbklaw.com; llowrey@nheh.com; ffarina@cox.net;
weeksc@co.monterey.ca.us; stecllns@aol.com; nisakson@mbay.net;
Glen.Stransky@LosLaurelesHOA.com; bobmac@qwest.net; davi@ci.monterey.ca.us;
jim@mcwd.org; manuelfierro02@yahoo.com; erickson@stamplaw.us;
bobh@mrwpca.com; catherine.bowie@amwater.com; john.klein@amwater.com;
darby@mpwmd.dst.ca.us; heidi@laredolaw.net; tgulesserian@adamsbroadwell.com;
ezigas@esassoc.com; dhansen@friedumspring.com; selkins@friedumspring.com;
lweiss@manatt.com; ldolqueist@manatt.com; cem@newsdata.com; michael@rri.org;
lmelton@rmcwater.com; scorbin@surfrider.org; swilliams@poseidon1.com;
joyce.ambrosius@noaa.gov; O'Brien, Kevin; abl@bkslawfirm.com;
dstephen@amwater.com; llk@cpuc.ca.gov; bca@cpuc.ca.gov; ang@cpuc.ca.gov;
cjt@cpuc.ca.gov; dsb@cpuc.ca.gov; jzr@cpuc.ca.gov; jws@cpuc.ca.gov;
mzx@cpuc.ca.gov; mml@cpuc.ca.gov; nks@cpuc.ca.gov; jpn@cpuc.ca.gov;
pva@cpuc.ca.gov; rkk@cpuc.ca.gov; rra@cpuc.ca.gov; steve@seacompany.org

BY U.S. MAIL

JERRY GALLEGO
MONTEREY COUNTY CIVIL GRAND JURY
15790 HORIZON WAY
PRUNEDALE, CA 93907

HON. ADMINISTRATIVE LAW JUDGE ANGELA K. MINKIN
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
505 VAN NESS AVENUE, ROOM 5017
SAN FRANCISCO, CA 94102-3214