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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

**Highway 68 Coalition,
Complainant**

v.

**California-American Water Company (U210W)
Defendant.**

**Proceeding No. C10-08-022
(Filed August 31, 2010)**

MOTION OF HARPER CANYON REALTY LLC FOR LEAVE TO INTERVENE

**Michael D. Cling, Esq. (SBN 65467)
313 S. Main Street, Suite D
Salinas CA 93901
Telephone: (831) 771-2040
Facsimile: (831) 771-2050
mdc@michaelcling.com**

**Sheri L. Damon, Esq. (SBN 166427)
DAMON LAW OFFICES
618 Swanton Road
Davenport CA 95017
Telephone (831) 345-3610
Facsimile: (831) 337-5212
sldamon@covad.net**

**Attorneys for
HARPER CANYON REALTY LLC**

November 29, 2010

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Pursuant to Rule 11.1 of the California Public Utilities Commission's ("CPUC") Rules of Practice and Procedure, HARPER CANYON REALTY LLC ("HARPER CANYON") hereby moves for leave to intervene as a party in this proceeding.

HARPER CANYON is a California limited liability corporation who owns real property known as Encina Hills which was annexed into the Cal Am Ambler Park service area on or about August 21, 2000 by Advice Letter 545. It is HARPER CANYON'S understanding that Complainant in this proceeding seeks, among other things, to rescind the annexation of the Harper Canyon/Encina Hills¹ to the Cal Am Ambler Park service area to the extreme detriment of HARPER CANYON.

As HARPER CANYON understands Plaintiff's complaint, it involves a potential violation of an Order issued on or about September 3, 1998 in proceeding 97-07-058 which was the acquisition of the Ambler Park water Utility by California-American Water. Of pertinent relevance to this proceeding is that Mike Weaver on behalf of the Highway 68 Coalition requested a hearing in Proceeding 97-07-058² and appeared during that proceeding. The Highway 68 Coalition requested four main items: 1) that they be allowed to form a mutual water company to acquire and operate the Ambler Park Water Utility; 2) that the Commission not allow Cal Am to apply the graduated rate structure currently used by the Cal Am Monterey Division; 3) that the Commission limit the number of service connections to the current level of 387; 4) that the Commission require environmental review of the proposed transfer; and that a hearing be held. The PUC held hearings and issued an Order which specifically denied all of the Highway 68 Coalitions' requests.³ The PUC specifically declined to limit future annexation to the Ambler Park

¹ The area annexed to the Ambler Park Service Area is referred to as the "Ambler Addition" on CPUC Sheet No 3039-W

² Decision filed on 9/3/98, Page 4

³ Decision A97-07-058, Page 14 Paragraph 2

service area or issue a moratorium on the number of connections to the Ambler Park water company, instead finding that the appropriate process for expansion of the service area was by advice letter. In the year 2000, California American submitted an Advice Letter 545 requesting that its tariff maps be updated to show the Ambler Addition to the Ambler Water Company service area. The Advice letter was reviewed, noticed and circulated in accordance with PUC policies and procedures. Advice letter 545 was approved on or about August 21, 2000. The time to challenge the advice letter is long past. More importantly, HARPER CANYON has relied upon that Advice Letter in pursuing its development for the Encina Hills property.

Also of relevance in the underlying acquisition proceedings was the issue about interties to any other Cal Am system. Specifically, page 12 of the Decision discusses the issue of interconnection between Cal Am's service areas in the Monterey region with the Ambler service area. In particular, the Highway 68 Coalition now contends that Cal Am has violated Condition 9 that Cal Am not intertie Ambler's water system to any other water system of Cal Am. However, that Condition was added at the request of Richard L. Hughett specifically with respect to the Cal Am current Monterey division service area.⁴ Mr. Hughett also specifically requested limitations on the number of connections, and a limitation on the service area of Ambler water system. The Commission confirmed that it was not Cal Am's intent to interconnect its system to its other then-existing Monterey District systems and added a condition to the order approving the sale that Cal Am not interconnect to any of its other Cal Am owned systems and rejected all of Mr. Hughett's other suggestions to limit either the number of service connections or expansion of the service area. Complainant in the instant action belatedly would like to relitigate this issue.

The Encina Hills property currently consists of 15 legal lots of record with a pending application before Monterey County to divide one of the existing 15 lots into 17 lots with one remainder lot. A substantial portion of the remainder parcel (154 acres) will be transferred to Monterey County for park purposes. The application process has been a long process. The HARPER CANYON subdivision application before Monterey County was deemed complete in November 2002. HARPER CANYON in making its application to Monterey County relied upon Advice Letter 545 relative to water service and has spent several hundred thousand dollars in pursuit of the application. The application before the County was first heard in June 2010 and the final decision was delayed for staff to compile additional information relative to water service to the Encina Hills property. It is noteworthy that Complainant in the instant action also is challenging the subdivision application in the County proceedings on a panoply of issues. HARPER CANYON has been advised that Monterey County staff want to make sure the Monterey County Planning Commission has accurate facts surrounding the water service to the Encina Hills property and a prompt and timely decision by the Public Utilities Commission in this action will aid in clarifying that factual basis for Monterey County. The longer it takes before reaching a final decision on the application, the more harm and holding costs incurred by HARPER CANYON. Accordingly, HARPER CANYON seeks to intervene in this matter to protect its interests and to the extent possible keep the plaintiff from improperly conscripting the PUC process and delaying the County process.

⁴ Comments of Richard L. Hughett, submitted in A97-07-058, page 1 line 20-24.

II. Service of Communications

All correspondence, pleadings, orders and notices in this proceeding should be directed to the following:

Sheri L. Damon (SBN 166427)
DAMON LAW OFFICES
618 Swanton Road
Davenport CA 95017
Tel: (831) 345-3610
Fax: (831) 337-5212
Email: sldamon@covad.net

With a copy of all such correspondence, pleadings, orders and notices to:

Michael D. Cling, Esq. (SBN 65467)
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Telephone: (831) 771-2040
Facsimile: (831) 771-2050
Email: mdc@michaelcling.com

III. CONCLUSION

Cal Am has correctly followed Commission procedure relative to the expansion of the Ambler Park water service area to the Encina Hills property. Plaintiff is trying to relitigate those items already determined by the Commission and are thus res judicata or beyond the statute of limitations to challenge. The longer these proceedings are pending, the longer the real party in interest are damaged by uncertainty and delay. For the reasons stated hereinabove, the HARPER CANYON REALTY LLC respectfully requests the Commission grant the HARPER CANYON REALTY LLC Motion for Leave to Intervene and allow the HARPER CANYON participation in these proceedings.

Dated: November 29, 2010

Respectfully submitted,
DAMON LAW OFFICES



Sheri L. Damon, Esq.
Attorney for
Harper Canyon Realty LLC

PROOF OF SERVICE

I, Sheri L. Damon, declare as follows:

I am employed in the County of Santa Cruz, California. I am over the age of 18 and not a party to this action. My business address is Damon Law Offices, 618 Swanton Road, Davenport, CA 95017. On November 29, 2010, I served the within on the interested parties in this action as follows:

MOTION OF HARPER CANYON REALTY LLC FOR LEAVE TO INTERVENE

xxxx (BY PUC E-MAIL SERVICE) By transmitting such document electronically from Damon Law Offices+, Davenport, California to the electronic mail addresses on the attached Service List. I am readily familiar with the practice of Damon Law Office for transmitting documents by electronic mail, said practice being that in the ordinary course of business, such electronic mail is transmitted immediately after such document has been tendered for filing. Said practice also complies with Rule 1.10(b) of the Public Utilities Commission of the State of California and all protocols described therein. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on November 29, 2010 at Davenport, California.



Sheri L. Damon

SERVICE LIST

beverly.hori@amwater.com
michaelrweaver@mac.com
mab@cpuc.ca.gov
Tim.miller@amwater.com
