

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



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In the Matter of the Application of) Application No. 10-01-012
California-American Water Company)
(U 210 W) for an Order Authorizing)
Collection and Remittance of the)
Monterey Peninsula Water)
Management District User Fee)
_____)

**PROTEST OF THE MONTEREY PENINSULA WATER MANAGEMENT
DISTRICT TO THE AMENDED APPLICATION OF CALIFORNIA-AMERICAN
WATER COMPANY (U 210 W) FOR AN ORDER AUTHORIZING: THE
COLLECTION OF A SURCHARGE TO FUND THE CARMEL RIVER
MITIGATION PROGRAM, THE COLLECTION OF A SURCHARGE TO FUND
THE CARMEL RIVER PHASE 1 AQUIFER STORAGE AND RECOVERY
FACILITIES; AND TO ESTABLISH A MEMORANDUM ACCOUNT FOR
PHASE 2 AQUIFER STORAGE AND RECOVERY FACILITIES**

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WATER MANAGEMENT DISTRICT**

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

In the Matter of the Application of) California-American Water Company) (U 210 W) for an Order Authorizing) Collection and Remittance of the) Monterey Peninsula Water) Management District User Fee) <hr style="width: 100%; border: 0.5px solid black;"/>	Application No. 10-01-012
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PROTEST OF THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT TO THE AMENDED APPLICATION OF CALIFORNIA-AMERICAN WATER COMPANY (U 210 W) FOR AN ORDER AUTHORIZING: THE COLLECTION OF A SURCHARGE TO FUND THE CARMEL RIVER MITIGATION PROGRAM, THE COLLECTION OF A SURCHARGE TO FUND THE CARMEL RIVER PHASE 1 AQUIFER STORAGE AND RECOVERY FACILITIES; AND TO ESTABLISH A MEMORANDUM ACCOUNT FOR PHASE 2 AQUIFER STORAGE AND RECOVERY FACILITIES

I. INTRODUCTION

Pursuant to Rule 2.6(a) of the California Public Utilities Commission’s Rules of Practice and Procedure (Rule), the Monterey Peninsula Water Management District (MPWMD or District) hereby protests the Amended Application (A.) 10-01-012 filed by California American Water Company (CAW or Cal-Am) on August 22, 2011. The Water Management District’s Protest is timely filed both pursuant to the procedural schedule set forth in the Amended Application as well as Rule 2.6.¹ This pleading is timely filed.

¹ Amended Application, p. 18. Notice of the filing of the Amended Application appeared in the Commission’s Daily Calendar published August 30, 2011; accordingly, pursuant to Rule 2.6, the last day to protest the amended application is September 29, 2011.

While, as set forth below, MPWMD supports the over-all goals of the Amended Application, MPWMD must participate as protestant in this proceeding.² By its continued participation, MPWMD does not waive (1) any of the jurisdictional, legal or procedural objections already set forth in its pending application for rehearing of D. 11-03-035 or (2) its right to advance new objections during the course of this proceeding.

II. ISSUES

MPWMD does not contest the necessity of the Carmel River Mitigation Program (Mitigation Program) or funding for the District's Phase 1, Aquifer Storage and Recovery Facilities (ASR). In support of CAW's Amended Application, MPWMD submitted testimony by staff regarding the need for, and purpose of, the Mitigation Program and ASR. MPWMD plans to perform the Mitigation Program if funded as proposed by CAW in its Amended Application.

The District strenuously contests, however, submitting the scope and costs of a program the District has been pursuing without interference or complaint for 21 years, to review by another agency of the government - the Commission. MPWMD has, at all times, acted pursuant to statutory authority and that statutory authority does not provide for Commission review of MPWMD's actions. MPWMD's arguments set forth in its application for rehearing, on file in this proceeding, are incorporated herein by reference.

Without limitation, MPWMD expressly protests CAW's proposal to independently construct and own Phase 2 of the ASR facilities.³ MPWMD and CAW have worked cooperatively for almost ten years to construct and implement the ASR

² Rule 1.4(a)(2) provides that a person may become a party to a proceeding by filing a protest or response to an application or petition.

³ Amended Application, p. 3.

Program. MPWMD has been instrumental in completing much of the feasibility analysis, design work, and permitting.⁴ Further, MPWMD holds water rights suitable for use for the Phase 2 ASR Project.

MPWMD has sought rehearing of D. 11-03-035⁵ and awaits a Commission decision on its unopposed application for rehearing. Accordingly, while MPWMD continues to work cooperatively with CAW (as it has throughout the course of this docket), it will preserve its legal objections to the underlying decision.

III. CATEGORIZATION AND PROPOSED SCHEDULE

Pursuant to Rule 2.6(d), MPWMD agrees with CAW that the proper categorization for this proceeding is ratesetting. MPWMD also agrees evidentiary hearings are necessary. MPWMD has reviewed CAW's procedural schedule for this proceeding, and has no comments.

IV. CONCLUSION

MPWMD agrees the Mitigation Program is necessary and agrees to implement it if funded as proposed by CAW in its Amended Application. However, MPWMD protests the Amended Application as it does not address the District's statutory authority to impose its User Fee for collection and remittance by CAW. MPWMD further protests CAW's proposal to independently construct and own Phase 2 of the ASR facilities. For the reasons stated herein, MPWMD shall participate as a protestant in the full scope of the proceeding.

⁴ Testimony of Joe Oliver, January 5, 2010, pp. 12 – 13.

⁵ MPWMD filed a timely application for rehearing of D. 11-03-035.

Dated: September 29, 2011

Respectfully submitted,

/s/ David Laredo

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**MONTEREY PENINSULA WATER
MANAGEMENT DISTRICT**

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