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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 Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates.	A.12-04-019 (Filed April 23, 2012)

REPLY COMMENTS BY CITIZENS FOR PUBLIC WATER ON PROPOSED DECISION OF ALJ WEATHERFORD DECLARING PREEMPTION OF COUNTY ORDINANCE AND THE EXERCISE OF PARAMOUNT JURISDICTION, AND IN SUPPORT OF MARINA COAST WATER DISTRICT'S COMMENTS ON PROPOSED DECISION (PREEMPTION)

October 15, 2012

George T. Riley, Citizens for Public Water

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Citizens for Public Water supports Marina Coast Water District argument that the Proposed Decision is premature, and unnecessary at this time. It should be postponed indefinitely for the additional reasons described here.

1. There is no described urgency for the declaration of preemption. It is argued that the CPUC has such jurisdiction, and should declare it. But there is not a clear project reason, nor a schedule reason, nor a permit reason, for making such a declaration at this time. It is gratuitous in that it intends to state superiority, without a specific cause of action related to the basic CPUC responsibility—to issue a Certificate of Public Convenience and Necessity. Until that conflict becomes critical to the combined and coordinated efforts of this community to determine a way forward, this PD is premature.
2. The ordinance is not a challenge to CPUC jurisdiction. It is a statement of local public safety and public interest policy. By pursuing CPUC superiority, the PD ignores the role the ordinance has played in an historical perspective, and its relationship local ratepayer advocacy activities and to the pending public participation proposals.
3. The announced schedule has called for public participation proposals as of October 1, 2012. All of these proposals refer to public ownership in some context, somewhat derived from the very ordinance the PD intends to preempt. For local public jurisdictions, the ordinance has been a fact for years.

4. Cal Am has yet to respond to the several public participation proposals, due October 26, 2012. This is an evolving process. Until this process works its course, the PD serves no relevant purpose.
5. There is no conflict at this time between the ordinance and the potential CPCN. No definitive positions on partnering or ownership have been negotiated, much less concluded. Until these public partnering suggestions have had the opportunity to be discussed by the relevant public agencies and Cal Am, such a CPUC declaration of exemption is premature.
6. Besides the premature nature if this PD, it will interfere with local public agency discussions for partnerships. Cal Am is not the only agency addressing the water supply shortfall. And Cal Am should not engage in local dialogue armed with a sledge hammer granted by this PD, in that Cal Am can ignore a local governing authority. Cal Am must find ways to cooperate without a stilted power relationship established by this PD.
7. The fundamental challenge to this community is to find consensus. It is clearly moving in that direction, on several fronts, including Ground Water Recharge. Accelerating the Proposed Decision, being nothing more than a conceptual application of jurisdiction, will cloud and diminish the CPUC

in its obvious efforts to encourage a community consensus involving public agencies.

In conclusion, this Proposed Decision is premature. It should be postponed indefinitely, or until it becomes directly relevant and necessary to a pending decision for a CPCN.

Respectfully submitted,

_____/s/George T. Riley_____

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