

WATER/RSK/BMD/JB5/AJT/jlj

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

DIVISION OF WATER AND AUDITS

RESOLUTION W-4930

Water and Sewer Advisory Branch

September 27, 2012

**R E S O L U T I O N**

**(RES. W-4930), CALIFORNIA-AMERICAN WATER COMPANY  
(CAL-AM) SEEKING AUTHORIZATION TO ESTABLISH A  
MEMORANDUM ACCOUNT TO TRACK COSTS INCURRED TO  
RESPOND TO, MITIGATE, OR CONTROL CONTAMINATION IN  
THE MAIN SAN GABRIEL GROUNDWATER BASIN.**

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**SUMMARY**

By Advice Letter (AL) 952, filed on June 15, 2012, Cal-Am, a Class A water utility, seeks Commission authorization to establish a Main San Gabriel Groundwater Basin Contamination Memorandum Account (Contamination Memo Account) for its San Marino service area in the Los Angeles County District. The purpose of the Contamination Memorandum Account is to track costs incurred by Cal-Am to respond to, mitigate or control water contamination in the Main San Gabriel Groundwater Basin impacting Cal-Am's San Marino service area. These costs include, but are not limited to, costs for additional sampling (i.e., not already covered in rates), pumping modifications, engineering consultant fees, permitting costs, treatment facilities related costs, government agency coordination costs, and legal fees. This Resolution authorizes Cal-Am to establish the Contamination Memo Account as discussed below.

**BACKGROUND**

Cal-Am serves approximately 14,070 customers in the San Marino service area. Water is supplied from Cal-Am's 12 active wells, including the Rosemead and Grand Wells. Cal-Am purchases, additional water from the Metropolitan Water District of Southern California (MWD), as needed.

Many of the San Marino service area wells are located within two Superfund Sites, including the El Monte Operable Unit (EMOU).<sup>1</sup> The EMOU is up gradient of the Rosemead and Grand

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<sup>1</sup> The EMOU was first established in 1984. It is currently operating under an Interim Record of Decision (IROD). The goal of the IROD is to contain contamination and not allow contamination above the Maximum Contaminant Level to migrate. The United States Environmental Protection Agency is currently implementing selected remedial containment systems.

Wells. Contaminated groundwater flows from the EMOU to these wells. As part of the project permitting for a new proposed well, the Richardson Well, Cal-Am and the United States Environmental Protection Agency (USEPA) Region 9 have been discussing existing and proposed Cal-Am wells down gradient of EMOU and the impacts these wells may have on one another. While discussions were ongoing regarding the proposed Richardson Well, on March 15 and March 22, 2012, the Main San Gabriel Watermaster took regularly scheduled water samples from the Rosemead and Grand Wells. The samples from the Rosemead Well were above the Maximum Contaminant Level (MCL) for Trichloroethylene (TCE).

Cal-Am also communicates with the San Gabriel Basin Water Quality Authority (WQA). The WQA was established by the State Legislature in Senate Bill 1679 dated February 11, 1993, to develop, finance and implement groundwater treatment programs in the San Gabriel Basin. The WQA has also been involved in the implementation of the ongoing EMOU Interim Record of Decision. As discussed above (in fn 1), EMOU is currently implementing the Interim Record of Decision, which has the stated purpose to contain existing contamination and prevent additional impacts to water purveyors. Cal-Am has requested information from WQA, including how much funding the potentially responsible parties have provided for the EMOU and how much funding is available from other sources.

In discussions with Cal-Am, the Department of Public Health (DPH) notified Cal-Am that if the Rosemead Well continues to have average TCE levels above the MCL, DPH would not approve blending of water from the Rosemead Well. Also DPH indicated that it would not approve the blending of water from the Grand Well since this well also has a history of TCE contamination. Once a well has had a TCE detection above the MCL, compliance with the MCL is determined by the average of six monthly samples, and subsequent to the first six months, a six-month running average.

The initial plan to mitigate the contamination of the Rosemead Well is to first pipe the contaminated Rosemead Well water so it can be blended with water from the Grand Well. Both wells pump to the Rosemead Reservoir, but the wells would need to be connected to a common pipe to ensure proper blending. Once connected, the wells will run concurrently to fill the reservoir and will be monitored in order to gather further water quality information. Samples will be collected from each well individually and from the blended water leaving the reservoir.

If it appears at any time that the Rosemead Well's projected 6-month TCE average will be above the MCL, the Rosemead Well will be shut down. If this happens, Cal-Am's current options are as follows:

- 1) Shut down the Rosemead Well and purchase more water from MWD;
- 2) Add treatment to the Rosemead Well;
- 3) Modify the EMOU Interim Record of Decision to improve the contamination containment; or
- 4) Request that EMOU provide treated water to Cal-Am's San Marino system.

The options noted above are not weighted in any particular order and will require additional study and discussion with the EPA. Starting from September 21, 2011, to the date AL 952 was filed, Cal-Am indicates that it has incurred \$28,465 in costs related to groundwater contamination in the San Marino service area of the San Gabriel Basin.

### **NOTICE AND PROTESTS**

AL 952 was served on June 15, 2012, in accordance with General Order 96-B (GO 96-B), on adjacent utilities and persons on the GO 96-B service list. No customer notice is required as this AL itself does not request higher rates or charges and is not seeking to impose a more restrictive term or condition. (General Order 96-B, General Rule 4.2.)

On July 12, 2012, the Commission's Division of Ratepayer Advocates (DRA) submitted a late-filed protest to AL 952. In its protest, DRA concurs that the costs could not have been reasonably foreseen when the last General Rate Case (GRC) was filed in July 2011 and will occur before the effective date of next GRC in January 2016 as Cal-Am only became aware of the contamination of its well following the result of scheduled water samples in March 2012. DRA also notes that Cal-Am is requesting tracking of \$28,465 in contamination charges related to ground water contamination in the San Gabriel Basin beginning September 12, 2011, when Cal-Am began to incur costs related to this issue.

DRA does not object to Cal-Am's request to establish the Contamination Memo Account to track the appropriate costs discussed above. However, DRA opposes Cal-Am's request to track costs in the Contamination Memo Account incurred prior to the Commission's approval of Cal Am's AL 952. We will accept DRA's late-filed protest and discuss this issue below.

Cal-Am submitted a late-filed response to DRA's protest on July 30, 2012, indicating that Cal-Am agrees with DRA's recommendation that the Contamination Memo Account, requested to be established in AL 952, become effective upon Commission authorization and that the Contamination Memo Account should only track costs incurred prospectively from that effective date of the memorandum account.

### **DISCUSSION**

Cal Am requests authorization to establish the Contamination Memo Account for its San Marino service area in the Los Angeles County District. This request complies with the five criteria we have used in the past in authorizing the establishment of a new memorandum account: 1) the costs are caused by events of an exceptional nature that are not under Cal-Am's control; 2) the costs could not have been reasonably foreseen when the last GRC was filed in July 2011, as Cal-Am became aware of the contamination of its wells in March 2012; 3) the costs will occur before January 2016, which is the effective date of the utility's next GRCn ; 4) the costs are potentially substantial in that Cal-Am has in the past incurred legal fees in excess of \$600,000 to respond to water contamination in other districts and treatment system costs could exceed \$1 million, in addition to sampling, permitting, and any plant modifications costs other than treatment; and 5) the costs have potential ratepayer benefit as maintaining Rosemead and Grand Wells as sources

of supply ensures that Cal-Am can maintain system pressure and meet customer demands in accordance with General Order 103-A and DPH requirements. In addition, pumped groundwater is generally less expensive and more reliable than purchased water. If it is cost-effective to maintain the Rosemead Well in service as opposed to purchasing additional water from MWD, then ratepayers would derive a benefit from the actions being tracked in the Contamination Memo Account.

Under these facts, Cal-Am meets the criteria to establish the Contamination Memo Account. As such, we authorize Cal-Am to establish the Contamination Memo Account in order that it may track costs it incurs to mitigate or control water contamination in the Main San Gabriel Groundwater Basin impacting Cal-Am's San Marino service area for potential future recovery without encountering retroactive ratemaking issues. Costs that may be tracked in the Contamination Memo Account include but are not limited to additional sampling, pumping modifications, engineering consultant fees, permitting costs, treatment facilities related costs, government agency coordination costs, and legal fees.

In its response to DRA's protest, Cal Am now agrees that only appropriate costs incurred after a Commission authorization of the Contamination Memo Account can be tracked in this account, and potentially recovered, consistent with the Commission's policies prohibiting retroactive ratemaking.

Finally, should Cal-Am obtain proceeds from responsible parties or government agencies for funding of these costs, Cal-Am should track both the costs and proceeds in the Contamination Memo Account. Cal-Am shall account for contamination proceeds as required by Commission decisions, including D.10-10-018.

If Cal-Am seeks recovery in rates of net costs tracked in the Contamination Memo Account in the future, it has the burden of proof to show that: (1) it acted prudently when it incurred these costs; (2) the level of booked costs is reasonable; (3) the costs incurred are not covered by other authorized rates; and (4) it is appropriate for ratepayers, as a matter of policy, to pay for these categories of costs in addition to otherwise authorized rates.<sup>2</sup>

## **COMMENTS**

Public Utilities Code Section 311(g) (3) provides for no public review or comment for an uncontested matter pertaining solely to a water corporation. Based on Cal Am's response to DRA's protest, there is no contested matter addressed in this Resolution, and this resolution pertains solely to Cal-Am, a water corporation. Accordingly, this draft resolution was not mailed for comment.

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<sup>2</sup> See Resolution W-4824, Ordering Paragraph #5.

**FINDINGS AND CONCLUSIONS**

1. By Advice Letter 952, filed on June 15, 2012, California American Water Company (Cal-Am), a Class A water utility, seeks Commission authorization to establish the Main San Gabriel Groundwater Contamination Memorandum Account (Contamination Memo Account) for its San Marino service area in the Los Angeles County District.
2. The purpose of the Contamination Memo Account is to track costs incurred by Cal-Am to respond to, mitigate or control water contamination in the main San Gabriel Groundwater Basin impacting Cal-Am's San Marino service area.
3. Costs include, but are not limited to, additional sampling (not otherwise covered in rates), pumping modifications, engineering consultant fees, permitting costs, treatment facilities, government agency coordination costs, and legal fees.
4. Cal-Am serves approximately 14,070 customers in the San Marino service area.
5. Water is supplied from Cal-Am's 12 active wells, including the Rosemead and Grand Wells.
6. Additional water is purchased from the Metropolitan Water District of Southern California (MWD).
7. The San Gabriel Basin Water Quality Authority (WQA) was established by the State Legislature in Senate Bill 1679, dated February 11, 1993, to develop, finance, and implement groundwater treatment programs in the San Gabriel Basin.
8. Cal-Am has requested information from WQA, including how much funding the potentially responsible parties have provided for the El Monte Operable Unit and how much funding is available from other sources.
9. Cal-Am was notified by the California Department of Public Health (DPH) that if the Rosemead Well continues to have average Trichloroethylene (TCE) levels above the Maximum Contamination Level, DPH will not approve blending of water from the Rosemead Well.
10. Cal-Am indicates that it has incurred \$28,465 in costs related to ground water contamination in the San Marino service area of the San Gabriel Basin.
11. On July 12, 2012, the Commission's Division of Ratepayer Advocates (DRA) submitted a late-filed protest to Advice Letter 952.
12. DRA concurs that the costs could not have been reasonably foreseen when the last general rate case was filed in July 2011 and will occur before the effective date of next general rate case in January 2016.

13. DRA does not object to Cal-Am's request to establish the Contamination Memo Account to track the appropriate costs.
14. DRA opposes Cal-Am's request that the Contamination Memo Account be made effective prior to Cal Am's filing Advice Letter 952.
15. Cal-Am submitted a late-filed response to DRA's protest on July 30, 2012, indicating that Cal-Am agrees with DRA's recommendation that the Contamination Memo Account become effective upon Commission authorization.
16. Cal-Am agrees that the Contamination Memo Account should only track costs incurred prospectively from that effective date.
17. The costs to be tracked in the Contamination Memo Account are not under Cal-Am's control.
18. The costs to be tracked in the Contamination Memo Account could not have been reasonably foreseen when the last general rate case was filed in July 2011 and will occur before the effective date of the next general rate case in January 2016, as Cal-Am became aware of the contamination of its wells in March 2012.
19. The costs to be tracked in the Contamination Memo Account are potentially substantial in that the treatment system costs could exceed \$1 million, in addition to sampling, permitting, and any plant modification costs other than treatment.
20. The costs to be tracked in the Contamination Memo Account have potential ratepayer benefits as maintaining the Rosemead and Grand Wells as sources of supply ensures that Cal-Am can maintain system pressure and meet customer demands in accordance with General Order 103-A and DPH requirements.
21. Should Cal-Am obtain funds from responsible parties or government agency funding for these costs, Cal-Am should track both the costs and proceeds in the Contamination Memo Account as required by Commission decisions, including Decision 10-10-018.
22. Cal-Am should file a supplement to Advice Letter 952 within five days of the effective date of this Resolution incorporating the changes reflected in the attached Tariff Sheet 6798-W. This tariff sheet 1) makes the effective date for the Contamination Memo Account the date the account is authorized by the Commission, which is the date of the adoption of this Resolution, 2) adds a credit entry to the accounting procedure to recognize receipt of proceeds from responsible parties or government agencies to offset recorded costs, 3) directs Cal-Am to account for contamination proceeds as required by Commission decisions, including Decision 10-10-018.
23. Cal-Am's request meets criteria the Commission has used in authorizing the establishment of memorandum accounts.

**THEREFORE IT IS ORDERED THAT:**

1. California American Water Company's Advice Letter 952 requesting Commission authorization to establish the Main San Gabriel Groundwater Contamination Memorandum Account for its San Marino service area in the Los Angeles County District is approved as set forth in this Resolution. The effective date of the Main San Gabriel Groundwater Contamination Memorandum Account is the effective date of this Resolution. California American Water Company shall add a credit entry to its preliminary statement for the Main San Gabriel Groundwater Contamination Memorandum Account to recognize receipt of proceeds from responsible parties or government agencies to offset recorded costs. Cal-Am shall account for contamination proceeds as required by Commission decisions, including Decision 10-10-018.
2. California American Water Company shall file a supplement to Advice Letter 952 within five days of the effective date of this Resolution incorporating the changes reflected in the attached Tariff Sheet 6798-W.
3. If in the future California American Water Company seeks recovery in rates of net costs tracked in the Main San Gabriel Groundwater Contamination Memorandum Account, it shall show that: (a) it acted prudently when it incurred these costs; (b) the level of booked costs is reasonable; (c) the costs incurred are not covered by other authorized rates; and (d) it is appropriate for ratepayers, as a matter of policy, to pay for these categories of costs in addition to otherwise authorized rates.
4. This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at the Public Utilities Commission of the State of California on September 27, 2012; the following Commissioners voting favorably thereon:

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PAUL CLANON  
Executive Director

CALIFORNIA-AMERICAN WATER COMPANY  
1033 B Avenue, Suite 200  
CORONADO, CA 92118

Original C.P.U.C. Sheet No. 6798-W  
Cancelling C.P.U.C. Sheet No. NEW

PRELIMINARY STATEMENT  
(Continued)

Main San Gabriel Groundwater Basin Contamination Memorandum Account (“MSGGBCMA”) (N)

- 1.) PURPOSE: The purposes of the Main San Gabriel Groundwater Basin Contamination Memorandum Account (“MSGGBCMA”) is to track all costs incurred by California American Water to respond to, mitigate, or control contamination in the Main San Gabriel Groundwater Basin, including but not limited to, additional sampling, pumping modifications, engineering consultant fees, permitting costs, treatment facilities, government agency coordination, and legal fees.
- 2.) APPLICABILITY: San Marino Service Area of the Los Angeles County District
- 3.) ACCOUNTING PROCEDURE: California American Water shall track all MSGGBCMA related costs paid by California American Water including, but not limited to, the cost of additional sampling, pumping modifications, engineering consultant fees, permitting costs, treatment facilities, government agency coordination, and legal fees related to contamination in the Main San Gabriel Groundwater Basin.

California American Water shall maintain the MSGGBCMA by making entries as follows:

- a.) A debit entry will be created each month to record costs.
- b.) A credit entry will be created to reflect any proceeds received from responsible parties or government agencies to offset recorded costs. Cal-Am will account for contamination proceeds as required by Commission decisions, including D.10-10-018.
- c.) A debit entry equal to interest on the balance in the account at the beginning of the month and half the balance after the above entry (a.), at a rate equal to one-twelfth of the rate on three month Commercial Paper, as reported in the Federal Reserve Statistical Release, H.15 or its successor.
- 4.) RATE RECOVERY: California American Water may seek rate recovery of the MSGGBCMA in its next general rate case or through a Tier 3 advice letter filing.
- 5.) EFFECTIVE DATE: The MSGGBCMA is effective September 27, 2012. (N)

(Continued)

(To be inserted by utility)

Issued by

(To be inserted by Cal. P.U.C.)

Advice Letter No. 952-A D.P. STEPHENSON Date Filed \_\_\_\_\_  
 Name  
 Decision No. \_\_\_\_\_ DIRECTOR - Rates & Regulation Effective \_\_\_\_\_  
 Title  
 Resolution No. \_\_\_\_\_