Decision **ALTERNATE PROPOSED DECISION OF COMMISSIONER SANDOVAL** (Mailed 4/24/2012)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of California-American Water Company (U210W) for Authorization to Implement the Carmel River reroute and San Clemente Dam Removal Project and to Recover the Costs Associated with the Project in Rates.	Application 10-09-018 (Filed September 22, 2010)

(See Appendix 3 – Service List for Appearances)

DECISION AUTHORIZING CALIFORNIA-AMERICAN WATER COMPANY TO IMPLEMENT THE CARMEL RIVER REROUTE AND SAN CLEMENTE DAM REMOVAL PROJECT

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DECISION AUTHORIZING CALIFORNIA-AMERICAN WATER COMPANY TO IMPLEMENT THE CARMEL RIVER REROUTE AND SAN CLEMENTE DAM REMOVAL PROJECT

1. Summary

We approve today California-American Water Company's (Cal-Am) request to implement a joint ratepayer/public funded Carmel River Reroute and San Clemente Dam Removal Project (Project) expected to costs $83 million in partnership with the California State Coastal Conservancy (Conservancy) and the National Marine Fisheries Service. Of the $83 million project, Cal-Am will incur $49 million and the Conservancy will secure $34 million in public funds, $19.5 million of which has been committed or nearly committed as of May 25, 2011.[1]

The goal of the Project is to eliminate the San Clemente Dam's (Dam) seismic safety hazard, provide comprehensive restoration of the natural character and function of the valley bottom, and restore steelhead fish passage. This will be accomplished by permanently bypassing a portion of the Carmel River by cutting a channel between the Carmel River and San Clemente Creek, upstream of the Dam. The bypassed portion of the Carmel River will be used as a disposal site for the accumulated sediment and the Dam will be removed.[2]

We also authorize ratepayer recovery of Cal-Am's funding of the Project to be paid through a surcharge on customers' bills over the next 20 years. Cal-Am estimated the surcharge, which will vary each year will initially be

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[1] Exhibit 3, Chapman Rebuttal Testimony at 8.

[2] Exhibit 1, Schubert Direct Testimony at 11.

approximately $3.34 per month for the average customer using 70 billing units[3] of water per month at a three-person household.[4] The project is expected to begin in September of 2012 and be completed three years later. The Project is a result of joint collaboration of state legislature, federal, state, county, and special districts, and the California Public Utilities Commission (Commission or CPUC) commitment to increase public and earthquake safety, improve environmental protection, to protect watershed and water resources. This project achieves these goals in a manner consistent with the CPUC's obligation that water utilities such as Cal-Am provide safe, reliable service at just and reasonable rates. Signatories of this collaboration included House of Representative Sam Farr, State Senator Abel Maldonado, Assembly Member Bill Monning, former California Public Utilities Commissioner John Bohn, Monterey County Board of Supervisors, California Department of Natural Resources, Monterey Peninsula Water Management District, National Oceanic Atmospheric Association (NOAA) National Marine Fisheries Service, California Department of Fish and Game, California State Coastal Conservancy, Monterey County Resource Agency and Cal-Am. In this decision we also address Cal-Am's request for rate recovery of approximately $26 million for costs incurred over the last decade in pursuing a proposal to buttress, or thicken, the existing dam structure to satisfy the California Department of Water Resources Division of Safety of Dams (DSOD) seismic safety concerns regarding the Dam's ability to withstand probable maximum flooding and maximum credible earthquakes. We find that

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[3] A billing unit is 10 cubic feet.

[4] Exhibit 1, Stephenson Testimony at 22 and 23.

Cal-Am acted prudently in proposing this option to address the dam's seismic safety issues, protect ratepayers, and watershed and water resources.

2. Procedural Background

On September 22, 2010, California-American Water Company (Cal-Am) filed this application for authorization to implement the Carmel River Reroute and San Clemente Dam Removal Project (Project) and to recover from its customers the costs associated with the Project over a twenty-year period. Cal-Am asserts that the Project addresses longstanding seismic issues associated with the San Clemente Dam (Dam), provides significant environmental benefits, and due to an innovative public/private partnership, will not cost Cal-Am's customers any more than the least-cost option of dam buttressing Cal-Am analyzed for addressing seismic safety concerns.[5]

Cal-Am's partnership on the Project is with the California State Coastal Conservancy (Conservancy) and the National Marine Fisheries Service (NMFS). The Conservancy, established in 1976, is a State agency that protects, restores and enhances coastal natural resources and the public's access and enjoyment of the coast. It does its work largely by providing funding and technical assistance for projects carried out by local governments, other public agencies, and nonprofit organizations. The Conservancy is providing funding for this Project in order to have the environmentally superior option of San Clemente Dam (Dam) removal pursued by Cal-Am; to avoid gifting public funds to a corporation, the Conservancy has limited its funding to costs that exceed

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[5] Application at 1.

Cal-Am's alternative proposal to strengthen the Dam by adding steel-reinforced concrete to the existing structure (Dam buttressing). The NMFS is a federal agency and is participating in the Project due to its concerns that the Dam buttressing alternative's use of sluice gates with a new fish ladder could harm the steelhead fish in the Carmel River listed as a threatened species under the federal Endangered Species Act.[6]

Cal-Am requests rate recovery for $49 million in estimated Project construction costs. Cal-Am also seeks review and rate recovery of all costs recorded in the San Clemente Dam Memorandum Account through October 31, 2010, and the estimated costs from November 1, 2010 through December 31, 2011. Cal-Am proposes to fund this recovery through a Regulatory Asset and San Clemente Dam Balancing Account, with surcharges to begin on January 1, 2012, and continue over a 20-year period. Cal-Am requests to book all costs it incurs into the Balancing Account and to have the difference between estimated and final costs reviewed and trued-up when the Project is complete.

On October 29, 2010, the Division of Ratepayer Advocates (DRA) and the Monterey Peninsula Water Management District (MPWMD) separately protested Cal-Am's application.

On November 8, 2010, Cal-Am replied to the protests. On November 19, 2010, Cal-Am submitted a supplemental filing on costs tracked in the memorandum account and included a revised proposed procedural schedule to address DRA's staffing concerns. A prehearing conference (PHC) was held on

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[6] Exhibit 3, Rebuttal Testimony of Ambrosius at 3.

November 22, 2010 to discuss the proposed scope and schedule for the proceeding. An Assigned Commissioner and Administrative Law Judge's Ruling and Scoping Memo followed on December 23, 2010.

Public Participation Hearings were held in Monterey and Seaside California on February 7 and 8, 2011, and evidentiary hearings were held in San Francisco on June 8-13, 2011.[7] The record was submitted on July 20, 2011, with the filing of reply briefs.

3. History of the Project

The Dam is a 106-foot high concrete arch dam located approximately 18.5 miles from the Pacific Ocean on the Carmel River. It was constructed in 1921 and has been operated by Cal-Am since 1966. Historically, the Dam provided water for Cal-Am's customers by diverting the surface flow of the Carmel River at the Dam; however, due to sediment build-up and endangered species concerns, the San Clemente Reservoir last acted as a diversion point to supply water to customers during the 2002-2003 Water Year.[8] The dam

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[7] A late-filed motion to intervene was filed by the Planning Conservation League Foundation (PCLF) on May 25, 2011 and granted the same day. PCLF served rebuttal testimony on May 25th and participated in evidentiary hearings and briefing. On June 6, 2011, PCLF filed a NOI to seek intervenor compensation. By Administrative Law Judge (ALJ) ruling dated August 4, 2011, PCLF was found ineligible to seek intervenor compensation in this proceeding due to the untimeliness of its NOI filing.

[8] *See* March 28, 2011 data response provided by Cal-Am at Exhibit 23, Attachment 2-3.

continues to be used as a diversion for water from the Los Padros Dam as discussed in our San Clemente Dam Usefulness and Rule 1.1 Violation Concern discussions.

In 1980, Cal-Am was required by the Division of Safety of Dams (DSOD), an agency under the California Department of Water Resources, to evaluate the ability of the Dam to safely pass the Probable Maximum Flood and withstand the Maximum Credible Earthquake. Based on the evaluation, DSOD directed Cal-Am in 1992 to improve the Dam so that it would meet current seismic safety standards. Also in 1992, two species present in the Carmel River watershed, the South-Central California Coast steelhead and California red-legged frog, were listed as candidates for study pursuant to the Federal Endangered Species Act of 1973, as amended. The red-legged frog was designated as "threatened" in 1996, followed by the steelhead in 1997.[9] In developing its proposal to resolve the seismic safety issue, Cal-Am needed to address potential adverse effects to these species, particularly the listed steelhead, under both a state Environmental Impact Report (EIR) and a federal Environmental Impact Statement (EIS) permitting process.

As the Project proponent, Cal-Am proposed and supported Dam buttressing as its preferred project throughout two EIRs and one EIR/EIS. Cal-Am briefly explored dam removal as an option in the early 1990s, but in its 1995 Preliminary Feasibility Study for DSOD it did engineering studies only on

[9] Exhibit 23, Attachment 4-6 at 1, and Exhibit 4 at 47.

seven dam reinforcing options and a "no action" option. DSOD accepted this study when it initiated a California Environmental Quality Act review.[10]

A draft EIR was first issued by DSOD for review on December 23, 1998. In a letter dated February 12, 1999, the NMFS, filed comments stating that (1) in the Draft EIR the selection of alternatives was compromised by flawed or omitted analyses, and (2) a dam removal alternative would be far more beneficial than the preferred alternative of dam buttressing.[11] A year later, the NMFS wrote the United States (U.S.) Army Corps of Engineers, with a copy to Cal-Am, that the environmental documentation Cal-Am intended to provide to satisfy the Corps' obligations under federal environmental regulations, specifically the National Environmental Policy Act, was inadequate because "Cal-Am failed to fully develop a dam removal alternative."[12]

Due to extensive public and agency comments, the DSOD issued a second EIR, referred to as the Recirculated Draft EIR (RDEIR) in 2000. After receiving further critical comments, DSOD withdrew the RDEIR in 2002. With no pending EIR process, DSOD chose to direct Cal-Am in 2002 to undertake interim dam safety actions, which included (1) installing an emergency seismic monitoring system and developing an emergency action plan, and (2) lowering the level of the reservoir behind the Dam through annual water drawdowns. Cal-Am fully implemented these measures by June 2003 and continues them to the present.

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[10] Exhibit 4 at 14–15.

[11] Exhibit 23, Attachment 2-5 at 2.

[12] *Id.* at Attachment 2-6 at 4.

A combined EIR/EIS process, designed to meet both federal and state environmental review requirements, was initiated by DSOD in 2004 with the U.S. Army Corp of Engineers. During the scoping process, a new alternative, dam removal, was added. The San Clemente Dam Seismic Safety Project Draft EIR/EIS was released in 2006. It included the Carmel River Reroute and Dam Removal as Alternative 3. In December 2007, DSOD certified the Final EIR/EIS, and in February 2008, the DSOD confirmed that Alternative 3 would alleviate the dam safety deficiencies.

Since 2000, the Conservancy has funded studies to explore dam removal options. After the 2006 draft EIR/EIS included the reroute and removal option as an alternative, the Conservancy in 2007 funded over $700,000 in studies to further evaluate the feasibility of this alternative to achieve both safety and ecological objectives and to evaluate design changes.[13] It was not until 2008 that a dam removal option was developed that was technically and ecologically feasible.[14] After the reroute and removal project was confirmed as a feasible alternative to Dam buttressing in 2008, the Conservancy and NMFS engaged Cal-Am in a dialogue about implementing the project. Cal-Am abandoned these discussions in February 2009 due to concerns regarding the availability of state funding to assist with the project. However, the effort resumed in January 2010, and Cal-Am and various federal, state, and local officials signed the San Clemente Dam Removal Project Collaboration Statement. In collaboration

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[13] Exhibit 3, Chapman Rebuttal Testimony at 4.

[14] Exhibit 4 at 41.

with the Conservancy and NMFS, Cal-Am developed the Project contained in this application.

4. Authorization of the Project

The Project enjoys wide support at the federal, state, and local level because it is the environmentally superior option for addressing the seismic and flood safety concerns of the existing Dam, while simultaneously protecting people, property, the environment, watershed, and water resources.

The project management team is composed of Cal-Am, the Conservancy, and NMFS. The Conservancy has also assembled a Technical Review Team comprised of a variety of experts from, among others, NMFS, the Bureau of Reclamation, the U.S. Fish and Wildlife Service, the California Department of Fish and Game, the Monterey County Water Resources Agency, the Regional Water Quality Control Board, the Carmel River Steelhead Association, U.C. Berkeley, and private engineering firms. The Technical Review Team, paid for by the Conservancy, will provide guidance and assistance throughout the process.

The Conservancy is responsible for the required technical studies and design work and will meet regularly with its Technical Review Team. The Bureau of Reclamation will assist the project by conducting a Design, Cost Estimating and Construction review process. NMFS and the Conservancy will assist Cal-Am on permitting and community outreach. If actual construction costs are lower, the cost savings will be allocated between Cal-Am and the Conservancy.

The construction portion of the Project includes relocating approximately 370,000 cubic yards of sediment accumulated behind the Dam on the

San Clemente Creek arm of the reservoir to the Carmel River arm of the reservoir and removing the Dam. A portion of the Carmel River will be permanently bypassed by cutting a 450-foot long channel between the Carmel River and San Clemente Creek, approximately 2,500 feet upstream of the dam. The bypassed portion of the Carmel River will be used as a sediment disposal site for the accumulated sediment. The rock spoils from the channel construction will be used to construct a diversion dike at the upsteam end of the bypassed Carmel River channel.[15]

The Project is anticipated to start in 2012. After all permitting, compliance and preliminary engineering activities are final; the Project will take approximately three years for construction work to be completed.

When the Project is complete, the federal Bureau of Land Management (BLM) has given a preliminary commitment to accept donation of the land surrounding the Project for long term management in a manner that will provide the public with opportunities to recreate and enjoy the Carmel River corridor while restoring critical habitat for endangered species. This commitment includes a requirement that after the Project is completed, there be a two year monitoring of the significant design components of the Project (i.e. river diversion channel, diversion dam condition, stabilization of sediment basin in the Carmel River). Cal-Am and the Project management team are required to assist BLM in establishing an endowment which will provide BLM with funding for law enforcement and management presence in the area.[16]

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[15] Exhibit 8, Application at 15.

[16] *See* August 2, 2010 BLM letter to Cal-Am, Exhibit 7.

All parties to this proceeding agree that Cal-Am must address the seismic and flood safety issues of the current Dam and that the Project is the best alternative to do so. Based on the discussion above, we should authorize Cal-Am to implement the Project, in partnership with the Conservancy and NMFS. Further, given this broad-based support for the Project, there are relatively few disputed issues for us to resolve. We now turn to these issues, which largely concern ratepayer cost responsibilities for the Project.

5. Resolution of Disputed Issues

The primary issues to be decided in determining ratepayer responsibilities for the cost recovery requested by Cal-Am are: (1) whether the San Clemente Dam is a used and useful utility asset; (2) whether Cal-Am pursued its Dam buttressing alternative in a prudent manner that meets our standards for cost recovery of the San Clemente Dam Memorandum Account; and (3) what level of funding and under what terms should ratepayers provide cost recovery for the Project. In addition to these cost recovery issues, there is a dispute regarding some of the land appurtenant to the Project. We also resolve this land issue in today's decision. We address the issues in the order listed above.

5.1. San Clemente Dam Usefulness

Cal-Am asserts that the existing San Clemente Dam is a used and useful utility asset because (1) it is available as a source of water supply to customers due to existing water permits, (2) it can be used for water supply to customers in emergencies, and (3) it holds in place approximately 2.5 million cubic yards of accumulated sediment, thereby minimizing downstream impact to fishery and

frog habitat and to property owners.[17] Cal-Am also argues that the Dam buttressing it has pursued is a viable option, and that under this alternative it would create a used and useful asset upon which it would be authorized an opportunity to earn a reasonable rate of return.[18] The Conservancy confirms that buttressing is a viable option.[19]

DRA asserts that the Dam is not used and useful because (1) the Dam has not provided any water to Cal-Am's ratepayers since 2003 and (2) today is a sediment-laden, environmentally harmful peril to endangered species and the community that lives downstream. In addition to providing no operational value to Cal-Am, DRA argues the Dam must be removed (at a huge expense) to prevent further harm to the environment and reduce the risk to the area downstream of the facility.[20]

The Planning Conservation League Foundation (PCLF) asserts that the Dam should be considered used and useful because its retention of sediment reduces the threat of loss of life and property in downstream areas during flood events.

In assessing whether the Dam is used and useful today, we first look to Cal-Am's testimony. In response to a DRA data request, Cal-Am's engineering witness states that the utility "ceased using San Clemente Dam as a diversion point in the 2002-2003 water year" and "currently the San Clemente Dam does

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[17] *See* July 7, 2011 Opening Brief at 50-51.

[18] *Id.* at 54.

[19] Exhibit 3, Chapman Rebuttal Testimony at 14.

[20] *See* DRA's July 20, 2011 Reply Brief at 5.

not provide any services related to water supply."[21] However, the Dam is an authorized point of water rediversion under State Water Resources Control Board License 11866 for rediverting water at Los Padros Dam and is an authorized point of water rediversion under the joint Cal-Am – Monterey Peninsula Water Management District Aquifer Storage and Recovery Project under State Water Resources Board permit 20808A and draft permit 20808C.[22] Although a 2001 Conservation Agreement between Cal-Am and National Oceanic Atmospheric Association (NOAA) National Marine Fisheries Service requires Cal-Am to cease withdrawal of water from the San Clemente Dam the restriction is only applicable during non-emergency low-flow periods as defined in the Conservation Agreement.[23]

Further, the Dam has accumulated sediment, a natural process, since construction in 1921 and has continued to accumulate sediment since Cal-Am took ownership of the Dam in 1966 for public utility purposes at reasonable levels for a dam of its age.[24] The dam is currently maintaining in place approximately 2.5 million cubic yards of accumulated sediment that would negatively impact property and the environment if it were released uncontrolled into the downstream of the Carmel River. Cal-Am has also implemented and continues to implement dam safety actions in response of a DSOD directive as addressed in our prior History of Project discussion.

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[21] Exhibit 23, Attachment 4-2.

[22] Exhibit 4 at 34 and 35.

[23] *Id*.

[24] Exhibit 3, Svindland Rebuttal Testimony at 6.

The definition of a used and useful public utility asset is one that provides direct and ongoing benefits to customers. Cal-Am has maintained for public utility purposes valid permits to divert dam water and to use such water in emergency situations. Sediment also accumulated as an integral part of Cal-Am's public utility responsibility to provide water service to its customers not necessarily within the control of Cal-Am. For example, landslides associated with construction of the Dormandy Airstrip in 1972 and the Marble Cone Fire in 1977 and high flows resulting from winter storms between 1978 and 1983 accounted for reservoir loss of approximately 470 acre-feet of storage. Heavy rain storms experienced in the watershed in the spring of 1995 and 1999 resulted in extremely high flows and the loss of additional volume of storage.[25]

Cal-Am has monitored the sediment inflow at the Dam on a periodic basis. For example, it undertook a San Clemente Reservoir Dredging Feasibility Study in 1996 which included a field analysis of the sediment, review of dredging techniques, siltation stabilization alternatives, identification of sediment transport impacts and possible mitigation measures, and potential silt disposal alternatives.[26] It also undertook a bathymetric survey of the dam's storage capacity in 2002 and again in 2009. As addressed in our subsequent Cal-Am's Pursuit of Dam Buttressing Prudency discussion sediment mitigation measures are costly.

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[25] Exhibit 4, Schubert Rebuttal Testimony at 37.

[26] Exhibit 1, Schubert Direct Testimony at 7 and 8.

Therefore, we conclude that the San Clemente Dam provides ongoing benefits to ratepayers and is a used and useful asset for Cal-Am ratemaking purposes prior to decommissioning or retirement.

5.2. Cal-Am's Pursuit of Dam Buttressing Prudency

Here, we address the prudency of the Dam buttressing proposal that Cal-Am pursued as its preferred alternative in response to the DSOD's 1980 directive that Cal-Am evaluate the ability of San Clemente Dam to safely pass a probable maximum flood and withstand a maximum credible earthquake.[27] Two EIRs undertaken by the California DSOD,[28] designated EIR lead agency, were issued to resolve this DSOD directive.

However, DSOD withdrew its first EIR report due to extensive public and agency comments. Its second EIR report, referred to as the Recirculated Draft EIR issued in 2000 received additional public and agency comments. Following is an example of comments that were received:

In a April 3, 2000 letter to the U.S. Army Corps of Engineers, copied to Cal-Am, NMFS states that Cal-Am has chosen not to seriously consider a Dam removal option, even though several natural resource organizations have set this as a priority for funding and support, and that Cal-Am's proposed seismic retrofit project "does not provide flood storage, hydropower, or water storage."[29]

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[27] Exhibit 4, at Attachment 5.

[28] The first EIR was issued on December 23, 1998 and the second EIR referred to as the Recirculated Draft EIR was issued in 2000.

[29] Exhibit 23, Attachment 2-6 at 4-5.

Cal-Am had requested DSOD consider the option of dam removal in its first EIR. DSOD was not in favor of that option because of the danger of impact on the project schedule and downstream damage and that the overall environmental impacts and project costs would be substantial and more significant than buttressing.[30] Therefore, Cal-Am pursued buttressing and began incurring costs in that endeavor.

DSOD subsequently withdrew its Recirculated Draft EIR in 2002 due to further comments. DSOD then directed Cal-Am to take interim dam safety actions. A joint EIR/EIS process was initiated in 2004 designed to meet both federal and state environmental review requirements.

NMFS, in a June 30, 2006 letter to the U.S. Army Corps of Engineers addressing the Draft EIR/EIS, copied to Cal-Am, commented:

Our enclosed comments and detailed involvement since 2000 have provided the Corps the assistance necessary to develop and determine environmentally preferable alternatives. As stated in our April 5, 2006 letter, NMFS believes the use of sluice gates as proposed in the Proponent's Proposed Project and Alternative 1 is a fatal project flaw. The Draft EIR/EIS notes San Clemente Dam and Reservoir were never intended for flood control and the San Clemente Dam Seismic Safety Project has neither flood storage nor flood operations criteria. The Draft EIR/EIS also notes San Clemente Reservoir does not provide water storage for the California American Water Company system and the Proponent's Proposed Project will not improve current or future water storage. A dam and reservoir that provides neither flood storage nor water

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[30] Exhibit 31.

storage, commensurate with the long-term adverse environmental impacts associated with operating and maintaining the dam, make it clear to NMFS that Alternative 2 (dam removal) or Alternative 3 (Carmel River reroute and dam removal) are the environmentally preferable alternatives. Implementation of the Proponent's Proposed Project or Alternative 1 will likely jeopardize S-CCC DPS steelhead and destroy designated critical habitat of S-CCC DPS.[31]

However, from a purely ecological standpoint, the Reroute and Removal project is not ideal. This alternative involves significant ecological impacts including the permanent loss of one-half mile of the Carmel River and an overall steeping of the historical channel gradient from the dam site through the area of the reservoir. The steeper grade of the re-route rive will present greater challenges for fish passage than the historical channel grade.[32]

Subsequently, a joint DSOD EIR/U.S. Army Corp of Engineers Environmental Impact Statement (joint EIR/EIS), certified on December 31, 2007, concluded that two of the projects evaluated, a dam buttressing project and dam removal and river reroute project would have environmental impacts that are "not materially different."[33]

While several state and federal regulatory agencies sought to establish a dam removal alternative to buttressing no clearly feasible dam removal project had been identified. The most significant challenge to removing the dam was

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[31] *Id.*, Attachment 4-7 at 2 and 3.

[32] Exhibit 4, Chapman Rebuttal Testimony at 4.

[33] Exhibit 2 at 8.

finding a technically and economically feasible option for handling approximately 2.5 million cubic yards of sediment.[34]

The current Dam through its years of operation has trapped an estimated sediment volume of 1,555 acre feet (2.5 million yards), leaving a remaining reservoir storage capacity of only 100 acre-feet (a small pool near the Dam).[35] At a normal rate of sediment inflow, this 100 acre feet will be gone between 2013 to 2017.[36] To remove the accumulated sediment would be expensive, specifically dredging costs of $12 to $30 per cubic yard for the 2.5 million cubic yards of accumulated sediment,[37] and removing it would require 125,000 truckloads at 20 cubic yards per truckload.[38]

Irrespective of this sedimentation problem, the Bureau of Reclamation acknowledged in its May 2011 review of Cal-Am's San Clemente Dam Reservoir management practices that dam safety problems (ability to withstand probable maximum flooding and maximum credible earthquake) are largely independent of the reservoir sedimentation problem.[39]

In regards to the NMFS concern for the environmental protection of steelhead, the Conservancy consulted with fisheries experts from both the NMFS

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[34] Exhibit 3 at 2-3.

[35] This is a high estimate of remaining storage capacity. Cal-Am's consultant estimates the Dam had approximately 70 acre-feet of remaining storage in 2008. *See* Exhibit 1, Schubert Direct Testimony, Tab 3 at 6.

[36] *Id.* at 5.

[37] Cal-Am's Opening Brief at 51.

[38] DRA's July 7, 2011 Opening Brief at 40.

[39] Exhibit 23, Attachment 7-2 at 15.

and the California Department of Fish and Game (DFG) to develop a conceptual design for two fishways that would eliminate the need for sluicing sediment through the dam and thus address NMFS key concerns.[40] Thus the Conservancy concluded that implementation of a modified buttressing project is feasible. While this modification would add approximately $17 million to the $49 million for a total estimated $66 million cost of buttressing the dam, buttressing costs would be significantly less than the $83 million estimated cost of the reroute and removal project.

Based on the discussion above, we find that Cal-Am's pursuit of dam buttressing was prudent, reasonable and appropriate to enable it to comply with the DSOD's seismic safety requirements while seeking to resolve this issue at least cost to its ratepayers. Our finding here is the same finding as we found in our San Clemente Dam Usefulness discussion. The Dam is and has been a used and useful utility asset, and that the Dam buttressing Cal-Am pursued was undertaken to satisfy DSOD's directive to bring the dam up to current seismic safety standards. We next address these cost issues below.

5.3. Ratepayer Cost Responsibility

As detailed in the application, Cal-Am has entered an agreement with the Conservancy for a public/private collaboration to meet the estimated cost of $83 million for the project. Under this agreement, the Conservancy will undertake efforts to secure approximately $34 million from state, federal, and private foundation resources and Cal-Am will commit to funding the remaining

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[40] Exhibit 3, Chapman Rebuttal Testimony at 5.

$49 million in estimated costs. When the Project's construction is complete, the land will be donated to BLM to be maintained.

DRA supports the Project but does not support requiring current or future ratepayers to pay for the proposed costs because it asserts the costs have been exacerbated and in some cases caused by Cal-Am's mismanagement of the Dam. Its primary reasons for opposing ratepayer funding are: (1) Cal-Am, as the asset owner, did not account for its future obligation to remove the Dam at the end of its service life; (2) Cal-Am imprudently pursued an unviable project alternative, knowing it was unlikely to become the preferred alternative and which eventually resulted in an abandoned project; and (3) Cal-Am did not determine feasible alternatives for managing sedimentation during the Dam's useful life and did not effectively manage the sediment, resulting in a more technologically complicated and expensive Dam removal project.[41]

While DRA's primary recommendation is that as a result of the regulatory compact and past management decisions made by Cal-Am, no cost responsibility for the Project should be transferred to ratepayers, it presents an alternative recommendation should the Commission reject this position. As an alternative, DRA recommends: (1) there be an absolute cost cap of the $49 million on ratepayer responsibility for the Project's current and future liabilities, (2) the ratepayer cost responsibility be offset by the appropriate value of land sold or transferred as part of the Project, and (3) Cal-Am be precluded from earning an equity return on any Project cost responsibilities transferred to ratepayers.[42]

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[41] Exhibit 23 at 7-2 and DRA's Opening Brief at 29.

[42] *Id.* at 8-1 and 8-2.

Representatives of the Conservancy and NMFS appeared as witnesses for Cal-Am and supported the Project. PCLF supports ratepayer cost recovery for the proposed Project, with the recommendations that the Commission include a cost cap informed by the updated cost estimate prepared by the Technical Review Team, that shareholders' return on the investment be limited and some adjustment of costs in the memorandum account considered, that there be appropriate reporting requirements, and that Cal-Am be directed to study the physical options for managing the continued sediment accumulation in its upstream Los Padres Dam. PCLF supports ratepayer funding in order for the project to go forward to address public safety issues in a timely manner.

While we share many of DRA's concerns with Cal-Am's actions regarding the Dam, particularly over the last 10-15 years, we believe that ratepayers should pay the reasonable costs associated with decommissioning, or retiring, the Dam. We are comfortable with the Project design as proposed, the recently updated cost estimates, and the oversight of the Technical Team assembled by the Conservancy. We are also comfortable with the public/private collaboration to meet the $83 estimated cost of which Cal-Am Ratepayers are to be responsible for $49 million. Further, we find there is a strong public interest in having this Project completed in a timely manner. The concerns raised by DRA regarding Cal-Am's management of the Dam over the last 45 years should be carefully considered in our prudency review of the existing memorandum account, not in our commitment to enabling the Project to go forward.

Therefore, based on the record we find that a cost cap of $49 million for project costs incurred subsequent to December 31, 2012 is appropriate and that project actual costs should be recorded in a balancing account addressed in

Section 5.5 Rate Recovery Mechanisms of this decision. Should the project exceed the $49 million cost cap, Cal-Am may file a Tier 3 Advice Letter seeking authority to raise the cost cap.[43] In addition, Cal-Am should be allowed to include interim safety and compliance costs, and post construction mitigation costs in the balancing account incurred and to be incurred to satisfy DSOD directive to address Dam seismic safety issues. We now address the historical cost being tracked in the San Clemente Dam Memorandum Account.

5.4. San Clemente Dam Memorandum Account

The San Clemente Dam Memorandum Account (Memorandum Account) has its beginnings in Cal-Am's 1993 general rate case (GRC) proceeding, when the Commission approved the inclusion into rate base of $790,000 and directed all other costs be tracked in a memorandum account. Memorandum account treatment has continued to the present except for the 2002 GRC proceeding, which allowed the costs to be treated as construction work in progress. The Commission transferred these costs back to the memorandum account in the next GRC proceeding based on its findings that the specific project to address seismic safety issues was unclear, as was the Dam's current used and usefulness.[44]

The Commission uses memorandum accounts rather than balancing accounts when the Commission has yet to review or authorize the costs being

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[43] Tier 3 Advice Letters must be approved by Commission Resolution.

[44] Exhibit 1, Stephenson Testimony at 4 and Decision (D.) 06-11-050, issued December 1, 2006, *mimeo* at 40-46, Findings of Fact 24 and 25, Conclusion of Law 3, and Ordering Paragraph 19.

tracked and the ultimate recovery of costs being tracked is uncertain and will require a full reasonableness review. Cal-Am acknowledged the risks of recovery of this memorandum account in 2007 when it requested a higher carrying cost for the memorandum account based on the ultimate risk of recovery its investors faced:

The declaration explained that regulators may disallow some or all of the San Clemente Dam costs which creates greater risk for recovery of the dam investment than on Cal-Am's previously-approved rate base.[45]

Cal-Am seeks rate recovery here for $26,802,658 for its initial surcharge. Part of this is tracked in the memorandum account, part is estimated, and part is for on-going safety and compliance expenses. Specifically, $21,724,907 represents costs and interest in the memorandum account through October 31, 2010, $2,577,751 represents interest that is estimated to accrue between November 1, 2010 and December 31, 2012, and $2,500,000 represents estimated costs for interim dam safety and environmental measures from November 1, 2010 until the Dam is removed.[46]

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[45] *See* D.08-05-036 issued on May 30, 2008, mimeo at 5. We note here that, without Commission authorization, Cal-Am's management took a different position and reflected the memorandum account in its balance sheet as a regulatory asset in its 2010 10-K Security and Exchange Commission filing, asserting that "it expected the costs to be fully recovered from customers in future rates." *See* 10-K filing at 83 and 98 and Exhibit 23, Attachment 8-1. The San Clemente Dam memorandum account is different than Cal-Am's Coastal Water Project memorandum account in that the Commission has reviewed and approved recovery of Coastal Water Project pre-construction costs incurred through December 31, 2008 and authorized a current surcharge.

[46] Exhibit 8, Application at 12-13. It appears the $2,500,000 for interim dam safety and environmental measures from November 1, 2010 until the Dam is removed are also included in the estimated Project costs at Appendix 1.

Cal-Am requests full recovery for all historical costs in the memorandum account through October 31, 2010, and all estimated costs until the reroute and removal project is complete. Cal-Am selected the October 31, 2010 date because that was the date that cost shifted from San Clemente Dam related preconstruction costs to preliminary costs for the Reroute and Removal Project.[47] Cal-Am asserts that the costs being tracked in the memorandum account were not discretionary costs, and "Cal-Am could not have chosen to not incur them."[48]

In its November 19, 2010, supplemental filing, Cal-Am provided invoices for all costs incurred after 2002, supported by supplemental direct testimony, and in its rebuttal testimony provided invoices for all pre-2002 costs.[49] Of the $26,802,658[50] that seeks full recovery for historical costs tracked in the memorandum account as of October 31, 2010 and estimated costs to be incurred until the reroute and removal project is completed. DRA recommends the Commission approve only $100,654 for ratepayer recovery.

Testimony on the memorandum account's historical costs and costs estimated to be incurred until the reroute and removal project is completed were addressed in four primary cost categories. They were: (1) pre-2000 costs,

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[47] Exhibit 8 at 9.

[48] Cal-Am Opening Brief at 18. Cal-Am identifies historical costs as $6,662,700 for interim dam safety and annual environmental operating costs, plus interest, and the remaining $15,062, 207 as related to the EIRs.

[49] Exhibit 4 at Attachment 4.

[50] Due to the rounding of numbers the individual cost components being addressed will not add up to the total memorandum account balance.

(2) contractor costs, (3) compliance and maintenance costs, and (4) interest, labor, overhead, and corporate charges. We address each of these cost categories.

5.4.1. Pre-2002 Costs

Cal-Am distinguished the pre-2002 memorandum costs of $4,406,700 based on its position that DRA had reviewed and agreed to the reasonableness of these costs in Cal-Am's 2003 GRC proceeding, Application (A.) 02-04-022. In general, these costs consisted of engineering, legal, maintenance, communications and interest related to seismic safety issues addressed in our prior Dam Buttressing Prudency discussion.

DRA recommended that the entire pre-2002 memorandum costs be disallowed because Cal-Am has been unable to provide adequate support for the reasonableness of these costs and, contrary to Cal-Am's position, the Commission has not previously determined the reasonableness of the pre-2002 costs.

DRA did actively request documentation and copies of invoices from Cal-Am. However, DRA was not able to verify the reasonableness of these costs because Cal-Am did not provide any documentation for the pre-2002 costs prior to the issuance of DRA's May 5, 2011 testimony and report. Cal-Am did not initially provide pre-2002 costs supporting documentation or copies of invoices because it was under the impression that pre-2002 costs had been previously reviewed and approved in its 2003 GRC. Cal-Am subsequently included in its May 25, 2011 supplemental testimony, a thirty-four page list, by category, of every invoice and individual charge to the memorandum account and steps that

it took to ensure that such costs were reasonable and under control.[51] Each entry provided the name of the vendor and a description of the nature of the charge, taken from the invoices. Based on our prior Dam Buttressing prudency discussion which concluded that the pre-2002 activities were incurred to address seismic and flood stability and review of the actual invoices, we conclude that the $4,406,700 pre-2002 costs tracked in the memorandum account are reasonable and recoverable by Cal-Am.

5.4.2. Contractor Costs

Cal-Am tracked approximately $3,154,000 of contract costs in its memorandum account which were not put out for competitive bidding.

DRA recommended that these costs be disallowed because Cal-Am did not use a competitive bidding process to identify the most cost effective contractor prior to awarding a contract for seven contracts awarded to engineering and consulting firms. Cal-Am acknowledged that it did not use a competitive bidding process for all of its contracts. However, it did follow company policies and procedures to provide services in a cost-effective manner.

Cal-Am explained that competitive bidding is only one method it uses to award contracts. Another method used by Cal-Am for awarding contracts to engineering and consulting firms is a Qualification Based Selection (QBS) procurement process. QBS is a procurement process established by federal law that was originally intended as a process for public agencies to use for the selection of architectural and engineering services for public projects

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[51] Exhibit 4 at Attachment 4.

which has been adopted by private owners. This process is endorsed by the American Institute of Architects, the National Society of Professional Engineers, American Public Works Association, and the American Water Works Association.[52]

QBS is a process whereby consulting firms submit qualifications to a company, which evaluate and selects the most qualified firm, and then negotiates the project scope of work, schedule, budget, and consulting fee. Of the seven vendors DRA recommended disallowed for not taking steps in finding the most cost effective contractors through a lack of competitive bidding process four provided engineering, environmental, land surveying, or construction project management services, and two contractors provided legal services.[53]

DRA's audit confirmed that Cal-Am had received invoices and paid for the costs listed on the contracts.[54] Hence, the contract amounts are not in dispute. Although Cal-Am did not use the competitive bidding process for all of its contracts it did use the recognized QBS procurement process for awarding contracts. Given that Cal-Am used a recognized acceptable process for awarding these contracts, the dollar amounts are not in dispute and that there is no evidence that the contractors are related to Cal-Am triggering the Commission's affiliated transaction rules. We find that the $3,154,000 of non-competitive bidding contractor costs included in the memorandum account is reasonable and should be recoverable by Cal-Am.

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[52] Exhibit 4 at 4-5.

[53] Exhibit 4, Schubert Rebuttal Testimony at 6 and 7.

[54] Exhibit 23 at Chapter 3.

5.4.3. Compliance and Maintenance Costs

Cal-Am has tracked approximately $6,300,000 of post-2002 compliance and maintenance costs in its memorandum account. Of this amount, DRA recommended that only $100,000 should be allowed for cost recovery. DRA disallowed the remaining amount because those costs were incurred after September 30, 2003, the date DRA deemed the dam no longer used or useful.

We previously found in our San Clemente Dam Usefulness, Dam Buttressing, and Ratepayer Cost Responsibility discussions that the dam remains used and useful and that Cal-Am and its ratepayers are responsible for ongoing compliance and maintenance of the dam until the dam is retired or removed. The post-2002 compliance and maintenance costs tracked in the memorandum account are reasonable and recoverable by Cal-Am.

5.4.4. Interest, Labor, Overhead, and Corporate Costs

Cal-Am tracks internal costs for company labor and overhead, employee expenses, utility plant overhead, and services. In addition to these costs, Cal-Am calculates and includes an interest component for the use of funds being tracked in the memorandum account. Cal-Am has tracked approximately $8,000,000 of post-2002 historical interest, labor, overhead, and corporate charges in its memorandum account as of October 31, 2010 and has estimated an additional $2,600,000 in interest to incur between November 1, 2010 and December 31, 2012.

DRA reviewed the calculations and rates used in tracking interest, labor, overhead and corporate charges in the memorandum account. DRA does not take exception to the calculations and rates. However, it does recommend a pro-rata disallowance of these tracked costs based on the amount of its recommended memorandum account disallowances of pre-2002 costs, contractor

costs, and compliance and maintenance costs to Cal-Am's total memorandum account balance.

We have already found that the tracking of memorandum account costs for pre-2002 costs, contract costs, and compliance and maintenance costs are reasonable and should be recoverable. Further, DRA does not take exception to the calculations and rates used in this cost category. Therefore, we find that the interest, labor, overhead, and corporate charges tacked in the memorandum account are reasonably incurred.

The $21,724,907 costs tracked in the San Clemente Dam Memorandum Account as of October 31, 2010 and interest being accrued between November 1, 2010 and December 31, 2010 estimated at $2,577,751 is reasonable and should be recoverable in rates through the rate mechanism being adopted in this proceeding.

5.5. Rate Recovery Mechanisms

Cal-Am seeks to treat all Project costs as a regulatory asset and to begin recovering the estimated costs through a customer surcharge over a 20-year period. It requests a balancing account to track the timing of the Project expenditures and the amount recovered in rates and to have the balancing account accrue interest at the utility's authorized rate of return.

Cal-Am also requests the proposed balancing account include any financing costs it incurs because of delays or reductions in grant payments from the Conservancy and that it is allowed to file an advice letter to revise its estimated revenue if there is a significant change in the overall cost of the Project.

Cal-Am asserts that its balancing account proposal will ensure that its customers pay only for the actual costs of the Project, while also protecting the

utility in case the Project costs exceed its current estimate of $49 million. Six months after completion of the Project, Cal-Al proposes to submit an application for review of the final project costs and true up of the balancing account. If actual construction costs are lower than estimated, the cost savings will be allocated between Cal-Am and the Conservancy based on the source of the savings.[55] Cal-Am states it will also provide estimates of the remaining post-construction mitigation, compliance, monitoring and/or operation and maintenance costs in this final Project application.

Finally, Cal-Am requests that after the Commission's review of its final Project application, Cal-Am be authorized to discontinue the customer surcharge and instead include in customers' base rates the annual revenue requirement on the remaining balance of the regulatory asset and Cal-Am's share of the estimated post-construction costs.

DRA takes the position that current and future customers should be made completely immune to the financial impacts of the proposed Project based on past management decisions made by Cal-Am. Should the Commission disagree with its recommendation, DRA offers the following alternative recommendation:

1. Establish an absolute limit via a one-way balancing account of the Project's current and future liabilities that can be transferred to Cal-Am's ratepayers;

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[55] Savings resulting from design changes or value engineering would be reflected in less funding being contributed by the Conservancy. Savings attributable to favorable market conditions in the construction industry would lower both the Conservancy and Cal-Am's contributions, proportional to their overall dollar contribution to the Project. Exhibit 1, Chapman Testimony at 10.

2. Offset the costs of any liabilities transferred to ratepayers in the one-way balancing account with the appropriate value of lands to be donated or sold;
3. Preclude Cal-Am from earning an equity return on the balance of Project liabilities that are transferred to ratepayers via the one-way balancing account; and
4. Keep Cal-Am's recovery of the deferred Project expenses in the balancing account outside of base rates in order to avoid the potential for inadvertently allowing an equity return to accumulate on an account balance that is unrelated to any used and useful project or ongoing customer service.

Following the criteria set forth above, and using a 2007 real-estate appraisal report provided by Cal-Am, DRA subtracts from $49 million (1) the $19,049,346 appraisal of Phase 1 property in a 2007 McVay Appraisal Report[56] pertaining to 1,000 acres of Cal-Am land and (2) the $100,654 in recommended recovery from the San Clemente Dam memorandum account to reach its recommended maximum allowable ratepayer funded Project recovery of $29,850,654.

Finally, while DRA believes the Commission has ample support from decision precedent and standard practice to uphold the general policy that deferred expense balances accumulate interest at the 90-day commercial paper

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[56] Although a more recent appraisal was performed in May of 2010, DRA relied on the 2007 McVay appraisal which covered approximately 3,400 acres and reflected real estate values prior to the real estate recession which began in 2008 (Exhibit 4, Schubert Rebuttal Testimony at 55).

rate, if the Commission were to consider other factors in determining a reasonable interest rate or carrying charge on the Project-related deferred expense balance, DRA testifies that the absolute maximum allowable interest rate should be Cal-Am's weighted average cost of debt, as determined in the periodic cost of capital proceedings and including a weighting for Cal-Am's short-term debt.[57]

As addressed in our Ratepayer Cost Responsibility discussion, we find DRA's alternative proposal that the Commission establish a cost cap of $49 million for ratepayer cost responsibility appropriate. We also found that memorandum account cost recovery and carrying charges, offset by the tax benefit from the value of Cal-Am's land donation are a reasonable cost responsibility for ratepayer funding of the proposed Project. It is the amount requested by Cal-Am's public partners and will allow the Project to go forward on a timely basis and have construction meet the September 2012 start date requested by the DSOD. It will also provide an incentive for Cal-Am to manage the project costs effectively.

The Commission has addressed the issue of rate base recovery of costs from projects such as the project being addressed in this proceeding in numerous decisions.[58] In most of those cases where a utility was either denied a rate of

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[57] DRA's alternative recommendation is included in testimony in Exhibit 23 at Chapter 8.

[58] See for example D.11-05-018, D.97-11-074, D.96-01-011, D.95-12-063, D.92-08-036, D.88-12-108, and D.83-08-031.

return or granted a rate of return, the amortization period was set at a reduced length of time, generally in the range of four to five years.

We do not agree with DRA and PCLF that Cal-Am's shareholders should not earn an equity return on this Project over the next 20 years. We reach this conclusion because (1) the Project will provide a benefit to Cal-Am's customers by resolving the Dam's seismic safety issues, improve the environmental conditions on the Carmel River, and preserve land as open space, and (2) as addressed in our prior ratepayer cost responsibility discussion, ratepayers should pay the reasonable costs associated with this project. Cal-Am is funding its share of the project with a mixture of long-term debt and equity. As such, Cal-Am should be provided an opportunity to earn a reasonable return on its investment.

This case presents a unique set of circumstances in that Cal-Am's recovery period will be over a twenty year period, a substantially longer period of time than a typical four to five year period. We approve here a regulatory asset balancing account for Cal-Am's portion of the Project costs. We also find that Cal-Am should directly credit ratepayers through the regulatory asset account for the cash benefits of all tax savings resulting from this Project being able to be expensed in the period the actual construction costs are incurred. We adopt the following rate recovery mechanism:

a. The project will be a stand-alone ratemaking item until the first General Rate Case after the final review of all project costs.
b. Cal-Am will cease to track costs in the memorandum account on July 1, 2012.

c. All authorized and estimated costs will move to a regulatory asset account on July 1, 2012.
d. Cal-Am will recover the regulatory asset over a twenty-year period starting July 1, 2012. The book amortization will be based on a straight-line basis of the total costs over the remaining life.
e. A revenue requirement for the regulatory asset will be determined based on the reviewed approved memorandum account costs through October 31, 2010, and estimates of all costs after October 31, 2010, and will include the allowance for funds used during construction for all amounts tracked in the memorandum account.
f. Estimates of annual project costs will be included in the regulatory asset on an annual basis. The estimates will include permitting, compliance review and preliminary engineering costs, construction costs, interim dam and environmental safety measures, and post-construction mitigation measures.
g. The revenue requirement will include applicable costs for uncollectible amounts, franchise fees, ad valorem taxes and income taxes.
h. The revenue requirement will be collected through a surcharge authorized in this proceeding based on the projected average balance of the regulatory asset determined in this proceeding.
i. The average balance of the regulatory asset will be authorized to earn a return based on the currently authorized cost of capital.
j. For tax purposes the cost of the project will be deducted as authorized by the Internal Revenue Service.

k. The tax-effected difference between book amortization and the ability to take the tax deduction for the costs of the project will be included in the regulatory asset as a deferred tax.
l. Tax depreciation already taken through December 31, 2009 will remain a reduction to rate base of the Monterey District.
m. A balancing account will track the difference between the surcharge collections from customers and the actual revenue requirement of the regulatory asset based on the actual approved final costs.
n. Any additional carrying costs related to interim financing will be tracked in the balancing account.
o. The balancing account will draw interest at the authorized cost of capital. The balancing account will be closed at the time the regulatory asset moves into base rates.
p. Post-construction mitigation costs will be included in the regulatory asset surcharge until the revenue requirement on the regulatory asset is included in base rates, at which time the post-construction mitigation costs will also be estimated in base rates.
q. The revenue requirement on the regulatory asset will move into base rates at the time of the first General Rate Case after the final review of all project costs.

Cal-Am estimated that a surcharge of approximately $3.34 per month, or 8.79% would be required for the average customer using 70 billing units (at 10 cubic feet per billing unit) of water per month at a three-person household and a $50.10 surcharge, or 25.75%, for a large residential customer using 200 billing

units of water a month in the Monterey Main System, based on a revenue requirement of $10,000,000, which is approximately the revenue requirement of the Reroute and Removal Project in 2015.[59] It should be noted that the revenue requirement will vary each year thereby resulting in different required surcharges. Appendix 2 sets forth the initial balancing account amortization and customer surcharge.

5.6. Land Donation

Cal-Am proposes to donate 928 acres of land surrounding the Dam and reservoir to BLM and to credit ratepayers with the fair market value of the donated property.[60] Cal-Am describes this land as, apart from the dam facilities, being "pristine open space adjacent to the Los Padres National Forest.[61]" A colored map, Exhibit 18, shows the four parcels proposed by Cal-Am, as well as an adjacent 77.6 acres, Parcel 417-051-003-000, recommended by DRA to be included in the Proposed Project.

DRA requests the $27,490,000 appraised value contained in a 2007 Cal-Am appraisal instead of the more recent 2010 appraisal of land that it owns in the vicinity of the Proposed Project be used as an offset to any regulatory asset authorized in this proceeding.[62] The appraisal identifies this land as a Phase

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[59] Exhibit 1, Stephenson Testimony at 22 and 23.

[60] Cal-Am's specific proposal states that the tax benefit of the land donation should be "generally equal" to the fair market value of the donated property, determined on the date of donation, and that this value should be deducted from the regulatory asset, thereby reducing the costs to ratepayers. *See* Exhibit 8 at 19.

[61] *Id.* at 18.

[62] Exhibit 4, Schubert Rebuttal Testimony at 55 and 56.

One, containing 1,000 acres and 21 potential building sites, with an appraised value of $19,950,000 and Phase Two, as covering 2,400 acres and 26 potential building sites, with an appraised value of $7,540,000. Phase One is the five adjacent parcels shown on Exhibit 18 and Phase Two is land located approximately six miles upstream, near Cal-Am's Los Padres Dam; the appraisal report is Attachment 8-2 to confidential Exhibit 24.

MPWMD requests that a 6.9-acre portion of one of Cal-Am's proposed parcels, Parcel 417-051-004-000, be subdivided prior to any land transfer to BLM and this portion, which houses the current Sleepy Hollow Steelhead Rearing Facility (Sleepy Hollow Facility) operated by MPWMD, be either retained by Cal-Am, transferred to MPWMD, or use given to MPWMD under an irrevocable long-term lease for as long as the facility is operated. The Sleepy Hollow Facility has been operational since 1997 and rescues and rears steelheads that are stranded in the Lower Carmel River; the facility is part of the mitigation measures required under MPWMD's 1990 Water Allocation Program EIR. Since Cal-Am is the largest diverter on the Carmel River, the construction and operation of the Sleepy Hollow Facility is funded by moneys derived from MPWMD's User Fee, which is collected by Cal-Am from its ratepayers.

We first address MPWMD's request. Cal-Am, the Conservancy, and NMFS, the project management team negotiating the land donation with the BLM, have all stated on this record their support for retaining the operation of the Sleepy Hollow Facility. However, as each party testified, the specific means by which this will be accomplished is still under discussion with the BLM. Based on the testimony, we are confident that the Sleepy Hollow Facility will remain a viable operation as long as it is necessary. Therefore, we will direct that the issue

be discussed in each quarterly status report until resolved and we will not take any further action here.

Next, we turn to DRA's land proposal. While DRA testifies that the 2007 Phase 1 appraisal of $27,490,000 applicable to 1,000 acres should be used as an offset to the regulatory asset, DRA does not recommend the specific amount of land to be negotiated for transfer to BLM. Cal-Am testifies that it did not include in its application the 77.6 acre Parcel 417-051-003-000 included in the 2007 appraisal because a 1.5 million gallon concrete water storage tank located on the property and maintained by Cal-Am is being used to provide public utility service to its customers and is not a necessary part of the project. Further, this parcel is not a part of the Reroute and Removal Project Agreement and the BLM has not agreed to accept the additional 77.6 acres of land. Further, this parcel is not a part of the Reroute and Removal Project Agreement and the BLM has not agreed to accept the additional 77.6 acres of land.[63]

We concur with Cal-Am. No reasonable purpose has been presented to require Cal-Am to donate or transfer this parcel, being used for public utility purposes, into the project. To the extent that this parcel is no longer used or useful for public utility purposes and Cal-Am subsequently decides to sell that parcel it will be required to comply with D.06-05-041 guidelines applicable to any gains on sale of the parcel.

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[63] Exhibit 3 at 28.

5.7. Rule 1.1 Violation Concern

There is an assertion that Cal-Am may have violated Rule 1.1 of the Commission's Rules of Practice and Procedure and Sections 2107 and 2108 of the Public Utilities Code on the basis that Cal-Am misled the Commission in two earlier proceedings (its 2005 GRC proceeding A.05-02-012 and 2007 memorandum account proceeding A.07-02-023) based on the appearance that Cal-Am represented that the Dam was currently providing a point of water diversion for customers in the winter months and that the planned buttressing would enable the Dam to be used and useful. However, a review of those proceedings does not support the assertion of a Rule 1.1 or Section 2107 or 2108 violation.

The Rule 1.1 violation assertion appears to be based on a misunderstanding that there is only one type of diversion applicable to the dam. That is, extracting water from the dam for customer use.

In the GRC proceeding, Cal-Am asserted that the dam was used and useful because it provides a point of diversion in the winter months and that water could be diverted in emergency circumstances. Its witness testified that the use of the Dam for *this type of diversion* had changed around 2003. The diversion feature of the dam has been in use and is extensively used until two years ago during winter season for *extracting water from the dam*, taking it to the plant below the dam, treating the water, and sending it to customers. This is consistent with Cal-Am's testimony in this proceeding as addressed in our History of Project and San Clemente Dam Usefulness discussions.

In the 2007 memorandum account proceeding Cal-Am stated that the dam impounds a reservoir and serves as a surface water diversion. Surface water

diversion involves *diverting water to the dam*, it does not involve extracting water from the dam as discussed in the 2005 GRC proceeding. The dam is an authorized point of water rediversion under State Water Resources Control Board Licenses discussed in our prior San Clemente Dam Usefulness discussion and is available for emergency situations. This is also consistent with Cal-Am testimony addressed in our History of Project and San Clemente Dam Usefulness discussions.

A review of the prior proceedings with this proceeding finds no mention of Cal-Am testifying that dam buttressing would enable the Dam to be used and useful. As addressed in our History of the Project and San Clemente Dam Buttressing Prudency discussions, Cal-Am undertook buttressing activities upon a DSOD directive to satisfy current seismic safety standards so that the dam can safely pass a probable maximum flood and withstand a maximum credible earthquake. We find no basis for a Rule 1.1 violation based on Cal-Am's testimony. California American Water Company's dam diversion testimony is in compliance with Rule 1.1 of the Commission's Rules of Practice and Procedure and Sections 2107 and 2108 of the Public Utilities Code.

6. Periodic Reporting Requirements

In addition to reviewing the balancing account and regulatory asset accounts in each subsequent GRC, we also adopt a requirement for Cal-Am to file a quarterly Project status report with the Division of Water and Audits until the Project is complete and transferred to BLM, with copies to the service list of this proceeding. In this report Cal-Am should confirm that it is consistently following its own internal written guidelines for bidding processes, as found in Attachments 3-13 of Exhibit 24, and that it is following the prospective competitive bidding process testified to by Mr. Schubert and working with the

Conservancy and NMFS in drafting its requests for proposals and reviewing bids.[64]

7. Planning Conservation League Foundation's Intervenor Status

The PCLF filed its notice of intent (NOI) to claim compensation in this proceeding on June 6, 2011, five months beyond Public Utilities Code Section 1804.(a)(1) 30 day deadline after holding a PHC. The PHC in this proceeding was held on November 22, 2010. Therefore, any request for eligibility to claim intervenor compensation was to be filed no later than December 22, 2010. Subsequently on August 4, 2011, the assigned ALJ Ruling issued a ruling that found PCLF ineligible to seek intervenor compensation in the proceeding due to PCLF having filed its NOI to claim compensation five months beyond the statutory deadline for filing its intent.

Following is a time line summary of activities and dates applicable to PCLF's NOI request and activities in this proceeding:

EVENT	DATE
Prehearing Conference Held	November 11, 2010
NOI Statutory Due Date	December 22, 2010
PCLF Request for Party Status	May 24, 2011
PCLF Issues Proposed Testimony	May 25, 2011
PCLF File its NOI	June 6, 2011

[64] *See* DRA's recommendations in Transcript, Volume 6 at 503-4.

Evidentiary Hearings Held	June 8-13, 2011
PCLF Testifies	June13, 2011
DRA Protest to PCLF's NOI	June 21, 2011
PCLF's Reply to DRA Protest	July 5, 2011
PCLF's Opening Brief Filed	July 6, 2011
PCLF's Reply Brief Filed	July 19, 2011
PCLF's NOI is Denied	August 4, 2011

PCLF explained in its reply to DRA's protest that it did not timely file its NOI because until DRA filed its May 5, 2011 rebuttal testimony recommending a 99.85% disallowance of Cal-Am's $69.7 million project costs and $21.7 million disallowance of Cal-Am's San Clemente Dam Memorandum Account. It asserted that DRA's recommendation that shareholders should bear virtually all of the costs far exceeds any reasonable expectation the PCLF could have anticipated. DRA's disallowance recommendation was at odds with statements in its October 29, 2010 protest to the application stating that it would make recommendations to the Commission on whether Cal-Am's shareholders should bear *some of the project costs* related to the Project and whether Shareholders should bear *some responsibility* for San Clemente Dam Memorandum Account costs. Therefore, PCLF filed its NOI late.

Public Utilities Code Section 1804(a) (1) provides for in cases where the schedule would not reasonably allow parties to identify issues within the timeframe set forth in statues, or where new issues emerge subsequent to the

time set for filing, the commission may determine an appropriate procedure for accepting new or revised notices of intent.

This is a unique case in which parties left the PHC with the appearance that there may be an issue regarding shareholders incurring some of the costs associated with the project and the memorandum account. However, it was not until six months beyond the PHC that it became known to parties that DRA was recommending that Cal-Am shareholders shoulder most all of these costs. We observe that PCLF had filed its NOI upon becoming aware of DRA's recommendations, submitted testimony, testified, and provided comments and reply comments after the completion of evidentiary hearings before the August 4, 2011 formal ruling finding PCLF ineligible to seek intervenor compensation.

Given the unique circumstances surrounding PCLF's NOI and consistent with Public Utilities Code Section 1804(a) (1) we accept PCLF's June 6, 2011 NOI and find it eligible to claim compensation. However, PCLF should be aware that a finding of its eligibility in no way ensures that it will be awarded any compensation. This approval is unique to the circumstances in this proceeding and shall not be considered precedent setting in any other proceeding.

8. Comments on Alternate Proposed Decision

The alternate proposed decision of Commissioner Catherine J.K. Sandoval was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, 2012 by _____ and reply comments were filed on _____ by _____.

9. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Christine M. Walwyn is the assigned ALJ in this proceeding.

Findings of Fact

1. On September 22, 2010, Cal-Am filed this application for authorization to implement the Project.

2. The Project addresses longstanding seismic issues associated with the Dam provides significant environmental benefits, and, due to an innovative public/private partnership, will not cost Cal-Am's customers any more than the least-cost option Cal-Am analyzed for addressing the Dam's seismic safety concerns.

3. Cal-Am's partnership on the Project is with the Conservancy and the NMFS.

4. On October 29, 2010, DRA and the MPWMD separately protested the application. A late-filed motion to intervene was filed by the PCLF and granted the same day.

5. Public participation hearings were held in Monterey and Seaside on February 7 and 8, 2011, and evidentiary hearings were held in San Francisco on June 8-13, 2011.

6. The Dam was constructed in 1921 and has been owned by Cal-Am since 1966. In 1980, the Department of Water Resources, DSOD requested that Cal-Am evaluate the ability of San Clemente Dam to safely pass a probable maximum flood and withstand a maximum credible earthquake. In 1992, the DSOD directed Cal-Am to improve the Dam so that it could meet current seismic safety standards.

7. In 1992, two species present in the Carmel River watershed, the South-Central California Coast steelhead and the California red-legged frog, were listed as candidates for study pursuant to the Federal Endangered Species Act of 1973. The red-legged frog was designated as "threatened" in 1996, followed by the steelhead in 1997.

8. Cal-Am proposed and supported buttressing, or thickening, the Dam as its preferred alternative throughout two EIRs and one EIR/EIS, while simultaneously working to develop a feasible dam removal alternative.

9. A draft EIR was first issued for review on December 23, 1998 by the DSOD. In a letter dated February 12, 1999, the NMFS submitted comments stating that (1) in the draft EIR the selection of alternatives was compromised by flawed or omitted analyses, and (2) a dam removal alternative would be far more beneficial than the preferred alternative.

10. Due to extensive public and agency comments, the DSOD issued a second EIR, referred to as the RDEIR in 2000.

11. After receiving further critical comment, the DSOD withdrew the RDEIR in 2002. Cal-Am began meeting with NMFS, DSOD and others to develop a dam removal project. Cal-Am spent resources on geotechnical and survey work for dam removal and to develop a computer model to evaluate sediment transport on the Carmel River.

12. In 2002 the DSOD directed Cal-Am to undertake interim Dam safety actions, which included (1) installing an emergency seismic monitoring system and emergency action plan, and (2) lowering the level of the reservoir behind the Dam through annual water drawdowns.

13. A combined EIR/EIS process, designed to meet both federal and state environmental review requirements, was initiated by DSOD in 2004 with the

U.S. Army Corp of Engineers. During the scoping process, a new alternative, Dam removal, was added.

14. A Draft EIR/EIS was released in 2006 that included both the dam buttressing project and the Carmel River Reroute and San Clemente Dam Removal. In December 2007, the DSOD certified the Final EIR/EIS, and in February 2008, the DSOD confirmed that both dam buttressing or dam removal and river reroute would have environmental impacts that are not materially different and would alleviate the Dam safety deficiencies.

15. Since 2000, the Conservancy has funded studies to explore Dam removal options and after the 2006 Draft EIR/EIS included the reroute and removal option as an alternative, the Conservancy in 2007 funded over $700,000 in studies to further evaluate alternatives.

16. In an April 3, 2000 letter to the U.S. Army Corps of Engineers, copied to Cal-Am, NMFS states that Cal-Am has chosen not to seriously consider a Dam removal option, even though several natural resource organizations have set this as a priority for funding and support.

17. After the final EIR/EIS included the Carmel River Reroute and Dam removal as a feasible alternative under CEQA/NEPA, Cal-Am in 2008 engaged the Conservancy and NMFS in a dialogue about implementing the alternative because it was still unclear whether the Reroute and Dam Removal project was feasible from a technological, financial, regulatory, or risk standpoint; Cal-Am abandoned these discussions in February 2009 due to concerns regarding liability and the availability to state funding to assist with the this alternative to Dam buttressing because the Company concluded the project would not be feasible without public funding.

18. In January 2010, Cal-Am and various federal, state, and local officials signed a Collaboration Statement to pursue the Project set forth in this application. At that time, the signatories acknowledged that it still had to be determined whether reroute and removal would be the superior project with respect to costs and liabilities

19. In August 2010, the Bureau of Land Management made a preliminary commitment to take the land upon project completion.

20. The Project is anticipated to start construction in 2012 and be completed within approximately three years. When the Project is completed, the BLM has given a preliminary commitment to accept donation of the land surrounding the Project for long term management.

21. All parties to this proceeding agree that Cal-Am must address the seismic and flood safety issues of the current Dam and that the Project proposed in this application is the best alternative to do so.

22. Cal-Am was required by the DSOD, to evaluate the ability of the Dam to safely pass the Probable Maximum Flood and withstand the Maximum Credible Earthquake.

23. Cal-Am was directed by the DSOD to improve the Dam so that it would meet current seismic safety standards.

24. Cal-Am undertook buttressing activities upon a DSOD directive to satisfy current seismic safety standards so that the dam can safely pass a probable maximum flood and withstand a maximum credible earthquake.

25. The Dam is an authorized point of water rediversion under State Water Resources Control Board License 11866 for rediverting water at Los Padros Dam and is an authorized point of water rediversion under the joint

Cal-Am-MPWMD Aquifer Storage and Recovery Project under State Water Resources Board permit 20808A and draft permit 20808C.

26. Cal-Am had requested DSOD to consider the option of dam removal in its first EIR.

27. Cal-Am's dam safety problems are independent of the reservoir sedimentation problem.

28. Cal-Am ceased using the Dam as a diversion point to the filter plant during the 2002-2003 water year. The dam is currently used as an authorized point of rediversion for water diverted at Los Padres Dam and is an authorized point of diversion for water for aquifer storage and recovery. The 2001 Conservation Agreement between NMFS and Cal-Am requires Cal-Am to cease withdrawal of water at San Clemente Dam during low-flow periods. Cal-Am still has the right to draw water during high-flow periods and in emergencies.

29. The dam is maintaining in place approximately 2.5 million cubic yards of accumulated sediment that would negatively impact property and the environment if it were released uncontrolled into the downstream environs of the Carmel River.

30. The Dam provides benefit as an emergency water source because it is vital to protect from the movement of the sediment and is an option available in emergency situations.

31. The Bureau of Reclamation states that the most common practice by federal and state water resource agencies is to allow continual sedimentation in reservoirs. This is what Cal-Am has done.

32. The cost to remove the accumulated sediment at the Dam would be quite expensive, specifically dredging costs of $12 to $30 per cubic yard for the

2.5 million cubic yards of accumulated sediment, and removing it would require 125,000 truckloads at 20 cubic yards per truckload.

33. In addition to the $49 million for Project costs, Cal-Am seeks rate recovery for $26,802,658 for cost related to its San Clemente Dam memorandum account and its initial surcharge. DRA recommend that the Commission approve only $100,654, the amount of properly tracked expenses for repairs and compliance costs when the Dam was used and useful

34. In reviewing the costs Cal-Am requests be recovered through the San Clemente Dam memorandum or in the initial surcharge:

(a) Cal-Am provided substantiation for its pre-2002 costs of $4,406,700;

(b) Cal-Am provided adequate justification for seven post-2002 contracts totaling $3,153,628;

(c) Cal-Am included compliance and maintenance costs for the Dam and costs it incurred in pursuit of a solution to the dam's seismic safety issue; these tracked costs total $6,298,038;

(d) Cal-Am included $7,957,270 in interest, company labor and utility plant overhead, and corporate charges related to the above costs through October 31, 2010 and an additional $2,577,751 in estimated interest through December 31, 2012.

(e) Cal-Am demonstrated that it has processes and procedures in place to ensure that it engaged the best-qualified and most cost-effective vendors for $2,500,000 in estimated costs for interim Dam safety and environmental costs for the period November 1, 2010 to the time of Dam removal.

35. The Commission's approval of $49 million for ratepayer recovery of estimated Project costs will allow the Project to go forward on a timely basis and construction meet the September 2012 start date requested by the DSOD.

36. The Sleepy Hollow Steelhead Rearing Facility currently operated by the MPWMD will remain a viable operation as long as it is necessary.

37. A 1.5 million gallon concrete water storage tank located on Cal-Am's 77.6 acre Parcel 417-051-003-000 and maintained by Cal-Am is being used to provide public utility service to its customers.

38. The diverting of water from the dam, taking it to the filter plant below the dam, treating the water, and sending it to Cal-Am customers has not occurred since 2003.

39. Cal-Am can continue to divert water into the dam pursuant to licenses issued by the State Water Resources Control Board and is authorized to extract water from the dam in emergencies.

40. Public Utilities Code Section 1804(a) (1) provides for in cases where the schedule would not reasonably allow parties to identify issues within the timeframe set for in statues, or where new issues emerge subsequent to the time set for filing, the commission may determine appropriate procedure for accepting new or revised NOIs.

41. Appendix 2 sets forth the initial balancing account amortization and customer surcharge.

Conclusions of Law

1. We should authorize Cal-Am to implement the Project, in partnership with the Conservancy and NMFS.

2. The Dam has been and is used and useful asset for ratemaking purposes.

3. Cal-Am's pursuit of Dam buttressing as its preferred alternative through three EIRs while simultaneously working to develop a feasible dam removal process was prudent in light of information available to its management at the time and meets the Commission's "reasonable manager" standard.

4. A modified buttressing project is feasible.

5. We find that ratepayers should pay the reasonable costs associated with decommissioning, or retiring the Dam.

6. The Project design as proposed, the recently updated costs estimates attached to this decision at Appendix 1, and the Project oversight of the technical team assembled by the Conservancy are reasonable.

7. A cost cap of $49 million, offset by the actual tax benefit of Cal-Am's land donation when it occurs, plus interim safety and compliance costs and post-construction mitigation cost, earning Cal-Am's full rate of return, is a reasonable prospective cost responsibility from ratepayers to the Project. Cal-Am should be allowed to file a Tier 3 Advice Letter seeking authority to raise the cost cap. It is also reasonable for Cal-Am to recover the costs it has tracked in the San Clemente Dam memorandum account (memorandum account).

8. Cal-Am's shareholders should earn an equity return on the Project because the costs are for the removal of plant in service, and the amortization period is twenty years. The equity return will be based on the weighted average equity return determined by the Commission in the current Cost of Capital proceeding and adjusted in future cost-of-capital proceedings.

9. A reasonable incremental cost of debt for the Project is Cal-Am's weighted cost of debt.

10. Cal-Am's historical memorandum costs is appropriate for use because Cal-Am pursued its Dam buttressing proposal in a period of great uncertainty for utility planners and exercise reasonable managerial skill in identifying and assessing the risks of its proposal or properly analyze and assess alternative options.

11. Cal-Am should be allowed to recover its costs accumulated in its The San Clemente Dam memorandum account.

12. We should authorize rate recovery of the historical and prospective Project-related costs as concluded in our rate recovery mechanism discussion in the body of this decision.

13. Cal-Am's portion of any Project cost savings should be credited to ratepayers through the regulatory asset account.

14. Cal-Am's land parcels identified at Exhibit 18 as Parcels 417-051-004-000, 417-051-005-000, 417-051-011-000, and 417-051-010-000 should be considered as part of the Project and ratepayers should receive credit through the regulatory asset account for any monetary value received, either through sale or through a tax benefit from donation.

15. Cal-Am's 77.6 acre Parcel 417-051-003-001being used to provide public utility service to its customers should not be included as a component of the Project.

16. Cal-Am should discuss the status of the facility in each quarterly status report it files on the Project.

17. All entries and supporting documentation for the San Clemente Dam balancing account and regulatory asset account should be reviewed in each subsequent general rate case.

18. Cal-Am should file a quarterly status report on the Project with the Division of Water and Audits, with copies to the service list of this proceeding, until the Project is completed and transferred to BLM. In this report Cal-Am should provide an account of the Project's progress and confirm that it is consistently following its own internal written guidelines for bidding processes.

19. Exhibit 24 contains confidential information, as described in Cal-Am's July 7, 2010 motion. Pursuant to General Order 66-C, this exhibit should remain sealed until January 1, 2018.

20. There are two types of diversion that impacts the dam. The first is extracting water from the dam for customer use and the other is diverting water to the dam from other sources.

21. PCLF should be found eligible to be eligible for intervenor compensation in this proceeding. However, this eligibility does not ensure that it will be awarded any compensation.

O R D E R

IT IS ORDERED that:

1. California-American Water Company (Cal-Am) is authorized to implement the Carmel River Reroute and San Clemente Dam Removal Project, in partnership with the California State Coastal Conservancy and the National Marine Fisheries Services, under the terms and conditions set forth below in Ordering Paragraphs 2, 3, 4, and 5. Cal-Am's project cost cap is $ 49 million. However, upon need, Cal-Am may file a Tier 3 Advice Letter seeking authority to change its project cost cap. Cal-Am is also authorized to include interim safety and compliance costs, and post construction mitigation costs in a balancing account.

2. Beginning July 1, 2012, we authorize rate recovery for the Carmel River Reroute and San Clemente Dam Removal Project (Project) as follows:

   a. The project will be a stand-alone ratemaking item until the first General rate Case after the final review of all project costs.

b. California American (Cal-Am) Water Company will cease to track costs in the memorandum account on July 1, 2012.

c. All authorized and estimated costs will move to a regulatory asset account on July 1, 2012.

d. Cal-Am will recover the regulatory asset over a twenty-year period starting July 1, 2012. The book amortization will be based on a straight-line basis of the total costs over the remaining life.

e. A revenue requirement for the regulatory asset will be determined based on the reviewed approved memorandum account costs through October 31, 2010, and estimates of all costs after October 31, 2010, and will include the allowance for funds used during construction for all amounts tracked in the memorandum account.

f. Estimates of annual project costs will be included in the regulatory asset on an annual basis. The estimates will include permitting, compliance review and preliminary engineering costs, construction costs, interim dam and environmental safety measures, and post-construction mitigation measures.

g. The revenue requirement will include applicable costs for uncollectible amounts, franchise fees, ad valorem taxes and income taxes.

h. The revenue requirement will be collected through a surcharge authorized in this proceeding based on the projected average balance of the regulatory asset determined in this proceeding.

i. The average balance of the regulatory asset will be authorized to earn a return based on the currently authorized cost of capital.

j. For tax purposes the cost of the project will be deducted as authorized by the Internal Revenue Service.

k. The tax-effected difference between book amortization and the ability to take the tax deduction for the costs of the

project will be included in the regulatory asset as a deferred tax.

l. Tax depreciation already taken through December 31, 2009 will remain a reduction to rate base of the Monterey District.

m. A balancing account will track the difference between the surcharge collections from customers and the actual revenue requirement of the regulatory asset based on the actual approved final costs.

n. Any additional carrying costs related to interim financing will be tracked in the balancing account.

o. The balancing account will draw interest at the authorized cost of capital. The balancing account will be closed at the time the regulatory asset moves into base rates.

p. Post-construction mitigation costs will be included in the regulatory asset surcharge until the revenue requirement on the regulatory asset is included in base rates, at which time the post-construction mitigation costs will also be estimated in base rates.

q. The revenue requirement on the regulatory asset will move into base rates at the time of the first General Rate Case after the final review of all project costs.

r. The tax benefits derived from the transfer of the land including Parcels 417-051-004-000, 417-051-005-000, 417-051-010-000, and 417-051-011-000 will serve to reduce the regulatory asset.

3. California American (Cal-Am) Water Company shall file a quarterly status report on the Carmel River Reroute and San Clemente Dam Removal Project (Project) with the Division of Water and Audits, with copies to the service list of this proceeding, until the Project is completed and transferred to the Bureau of Land Management. In this report Cal-Am shall provide an account of the Project's progress and confirm that it is consistently following its own internal

written guidelines for bidding processes. It shall also discuss the status of the Sleepy Hollow Steelhead Rearing Facility.

4. Within 15 days of the issuance of this decision, California-American Water Company shall file by Tier 2 Advice Letter tariffs to establish the San Clemente Dam way balancing account and regulatory asset account, and to close the San Clemente Dam Memorandum account.

5. Exhibit 24 contains confidential information, as described in California-American Water Company's July 7, 2010 motion. Pursuant to General Order 66-C, this exhibit shall remain sealed until January 1, 2018.

6. California American Water Company's dam diversion testimony is in compliance with Rule 1.1 of the Commission's Rules of Practice and Procedure and Sections 2107 and 2108 of the Public Utilities Code.

7. Planning Conservation League Foundation is eligible to seek compensation in this proceeding. This eligibility is unique to this proceeding and shall not be considered precedent setting in any other proceeding.

8. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.

APPENDIX 1
July 2011 Updated Carmel River Reroute and San Clemente Dam Removal Project Estimate

BODR Table 6-1 - Opinion of Probable Construction Cost for CRRDR			Estimated Project Cost (URS July 2011)		
Description	**TOTAL**		**Description**	**TOTAL**	
Mobilization/ Equipment Mgmt. Contractor Indirects Traffic Control Construction Permits/ Plans	$ 735,410 $ 2,468,720 $ 34,500 $ 252,910	$ 3,491,540	Mobilization	$ 5,801,000	$ 5,801,000
Improve Dam Access Road Cachagua Grade Access Road Access to Dam Haul Road Disposal Site Preparation Site Dewatering Cutoff Walls Channel / Dike Construction	$ 22,400 $ 405,000 $ 582,750 $ 51,300 $ 2,272,870 $ 615,000 $ 7,513,398	$ 11,462,718	Site Preparation Reroute Channel Diversion Dike	$ 7,758,000 $ 4,710,000 $ 1,521,000	$ 13,989,000
Sediment Stabilization Sediment Removal	$ 5,350,000 $ 3,124,200	$ 8,474,200	Sediment Removal Stabilized Sediment Slope	$ 5,868,000 $ 3,412,000	$ 9,280,000
Existing Fish Ladder Demo	$ 307,600	$ 307,600			
Stream / Reservoir Restoration	$ 7,311,800	$ 7,311,800	Channel Improvements Habitat Restoration	$ 2,544,000 $ 5,187,000	$ 7,731,000
Dam Removal by Controlled Blasting Dam Notching - OCRD	$ 2,685,000 $ 106,860	$ 2,791,860	San Clemente Dam Removal Old Carmel River Dam Notching	$ 3,333,000 $ 776,000	$ 4,109,000
Utility/Facility Relocation Disposal Site Closure Haul/Access Road Restoration Restore Contractor Staging/Laydown Demobilization and Cleanup Ranney Intake System Pipeline	$ 9,680 $ 57,060 $ 29,000 $ 34,500 $ 91,260 $ 2,406,480	$ 2,627,980	Instrumentation	$ 49,000	$ 49,000
Unidentified Items Allowance for Diversion Dike Repair Land Use/ Easements	$ 3,033,002 $ 250,000 $ -	$ 3,283,002			
SUBTOTAL:	$ 39,750,700	$ 39,750,700	Subtotal:	$ 40,959,000	$ 40,959,000
Contingency (25%)	$ 9,937,675	$ 9,937,675	Design Contingency (20%) Construction Contingency (15%)	$ 8,192,000 $ 7,748,000	$ 15,940,000
Escalation to 2010 at 7.5% per annum	$ 12,039,338	$ 12,039,338	Escalation to Mid-Point of Construction (1.7%/year)	$ 2,507,000	$ 2,507,000
SUBTOTAL CONSTRUCTION COSTS:	$ 61,727,713	$ 61,727,713	Subtotal Construction Costs:	$ 59,406,000	$ 59,406,000
Environmental Permitting	$ 2,800,000	$ 2,800,000	Env. Permitting 2011-2012 Additional Permitting Costs	$ 1,005,000 $ 100,000	$ 1,105,000
Engineering Design	$ 3,086,386	$ 3,086,386	Preliminary Design 2008-2011 Preliminary Design 2011-2012	$ 588,000 $ 2,776,000	$ 3,364,000
Steelhead and CRLF Mitigation and Monitoring	$ 3,500,000	$ 3,500,000	Mitigation and Monitoring During Construction Post-Construction Monitoring & Maintenance Costs	$ 1,920,000 $ 2,062,000	$ 3,982,000
Construction Management & Construction-Phase Engineering	$ 6,172,771	$ 6,172,771	Final Design (D-B Contractor) Environmental Compliance Construction Management	$ 2,214,000 $ 1,987,000 $ 2,995,000	$ 7,196,000
Owner Administration and Legal (10%)	$ 6,172,771	$ 6,172,771	Owner Administration and Legal (10%)	$ 5,941,000	$ 5,941,000
			Offiste Mitigation Contingency	$ 2,000,000	$ 2,000,000
SUBTOTAL IMPLEMENTATION COSTS:	$ 21,731,928	$ 21,731,928	Subtotal Implementation Costs:	$ 23,588,000	$ 23,588,000
TOTAL COST (2009 $s)*:	$ 83,000,000	$ 83,000,000	TOTAL PROJECT COST:	$ 83,000,000	$ 83,000,000 rounded

(END OF APPENDIX 1)

APPENDIX 2

Balancing Account Amortization and Customer Surcharge

APPENDIX 3

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