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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

The Highway 68 Coalition, a social welfare
Organization, pursuant to Internal Revenue
Code Section 501 (c) 4,

Complainant,

Case 10-08-022
(Filed August 31, 2010)

vs.

California-American Water Company,
Monterey Division, (U210W),

Defendant

Reply Comments on Proposed Decision submitted by The Highway 68 Coalition

September 2, 2011

Dear Commissioners,

Cal-Am's August 30, 2011 Comments to the Proposed Decision argue against no net export and reporting requirements. Cal-Am's position is indicative of their behavior on the Monterey Peninsula in over pumping and killing the Carmel River and violating State Order 95-10. Cal-Am is attempting to exploit the water situation in the Toro Area like they did on the Monterey Peninsula. Cal-Am is trying to exploit the Advise Letters 617 and 545. There was no CEQA Assessment of these.

The El Toro Groundwater Basin is in known overdraft. Cal-Am states in their Comments to the Proposed Decision there is no evidence of this. The 2007 El Toro Groundwater Study commissioned by the County of Monterey is the latest evidence. Cal-Am has access to this document. At the Pre-Hearing and Evidentiary hearing on February 7, 2011, two staff members from the Monterey County Department of Environmental Health were in the audience, Richard LeWarne and Roger Van Horne. When Cal-Am answered a question from ALJ Maribeth Bushey by stating there is adequate water in the Ambler Water service area, Mike Weaver objected. Mike Weaver asked the ALJ that he be allowed to call forth the Monterey County Department of Environmental Health staff members that were present in the audience that day, and ask them to testify to the overdraft problems in the El Toro Groundwater Area. The ALJ denied this request to enter expert testimonial evidence.

Cal-Am's Comments on Proposed Decision C.10-08-022 obfuscate the facts.

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Cal-Am's Comment letter regarding the Proposed Decision included a memo dated October 20, 2006 sent to Curtis Weeks of the Monterey County Water Resources Agency. Steve Leonard of Cal-Am responds to a request by Mr. Weeks in this memo and states Cal-Am will provide:

- 1) The production records from the new Ambler Oaks Well and
- 2) The water consumption as recorded from our water meter records for the 9 lots in the Ambler Oaks subdivision.

The memo states this will be provided to your agency (MCWRA) on a quarterly basis. However, it apparently wasn't explained to Curtis Weeks of Monterey County Water Resources that there is no production from the new Ambler Oaks Well for The Oaks subdivision because it wasn't going to be used for that purpose. Further, it apparently wasn't explained to Curtis Weeks that any water consumption recorded from Cal-Am's water meter records for the Ambler Oaks subdivision would be water being consumed from Ambler Water wells located in Corral de Tierra NOT the "new well" inside The Oaks subdivision property. The two reports Cal-Am says it will provide are exclusive of water sources from one another. It is not explained there are two water source locations.

I contacted the Monterey County Water Resources Agency on August 31, 2011. I received a phone call from Tom Moss, who works for MCWRA, on September 1, 2011. According to Mr. Moss, regarding The Oaks subdivision, he can find no production records, or water consumption records filed on the Agency's computers. He said he would continue to look around the Agency, as perhaps they are in a box somewhere? There are nearly five years of these quarterly reporting records Cal-Am claims to have sent to MCWRA that aren't found.

The Highway 68 Coalition would like to see these quarterly reporting records that Cal-Am says they have been sending to MCWRA.

Perhaps the Commissioners for the CPUC would like to see these quarterly reporting records?

On November 3, 2006, 14-days after Steve Leonard of Cal-Am sent the memo to Curtis Weeks of MCWRA, an application for a Main Extension Contract from Cal-Am was signed by Ray Harrod, Jr., as Manager of The Oaks subdivision. (See Exhibit #1 to Reply to Comments, attached)

The November 3, 2006 Cal-Am Main Extension Contract also shows plans for a 20' wide water line utility

easement going through The Oaks subdivision to water storage tank facilities north-east of, and outside of The Oaks subdivision. This is in property known as Bollenbacher & Kelton, more recently called Ferrini Ranch. It is undergoing a subdivision application process with Monterey County. The Cal-Am Main Extension Contract calls for the Applicant, (being represented by Manager Ray Harrod, Jr.) "shall convey to Utility a non-exclusive easement from the owner of said adjacent property, at no cost to Utility" "Conveyance of the tanks site shall either be a grant of an easement or fee simple conveyance". This is an area not covered by the alleged annexation Advice Letter #617.

- 1) Please see Cal-Am Main Extension Contract called "Waterline Map, Exhibit A-2."
- 2) Please see Cal-Am Main Extension Contract, their Exhibit C, #6. "...shall provide service to the Oaks regardless of whether Utility has or has not obtained all required governmental approvals for such improvements."

Again, there was no environmental review of this.

Cal-Am is justifying their actions at The Oaks subdivision by stating they had Advice letter 617. Cal-Am's actions include:

- 1) Violating the County's B-8 Zoning, exporting water by running a water main outside the County's B-8 Zoning Boundary into MCWRA Zone 2C
- 2) Violating Conditions of project approval regarding water source for The Oaks subdivision
- 3) Violating Board of Supervisors Resolution 01-197
- 4) Misleading the CPUC on the request for annexation (Advice Letter 617)
- 5) Side-stepping and ignoring CEQA analysis
- 6) Mis-leading MCWRA, after the fact, by letting them think Cal-Am was complying with conditions of project approval with promises to quarterly report water well production on The Oaks, and reporting water usage of the houses to be built on the lots on The Oaks.

Cal-Am argues for exporting water outside of Zone 2C with an untested well at the proposed Encina Hills subdivision site, Cal-Am tries to justify their actions by stating they have Advice Letter 545. The Encina Hills subdivision applicant's representative, attorney Michael Cling, stated at the February 7, 2011 Pre-Hearing and Evidentiary hearing in Monterey, that the water plan was for the (untested) Encina Hills well to be the "back up" well. The main well for both projects will be the well located inside The Oaks

subdivision.

- 1) This would further compound the problem of the illegal connection.
- 2) This would further compound the problem of no environmental review of Advice letter 545.

The Highway 68 Coalition filed a formal complaint with the CPUC and was accepted August 31, 2010.

The CPUC has jurisdiction over water companies in Monterey County with over 199 service connections.

The Highway 68 Coalition prays for relief.

1) Cal-Am's actions have violated its agreement to the CPUC, violated CEQA, violated Monterey County B-8 Zoning, violated Monterey County Conditions of project approval, violated Monterey County Board of Supervisors Resolution Number 01-197, violated Monterey County Water Resources Agency Zone 2C.

2) Cal-Am owes damages on top of an order to cease and desist.

/s/ Mike Weaver
 Chair, The Highway 68 Coalition
 c/o 52 Corral de Tierra
 Salinas, CA 93908
 Phone: 8731-484-6659
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Exhibit 1: Attached, California-American Water Company Main Extension Contract of November 3, 2006. Utility, Cal-Am Water, Applicant, Ferrini Oaks, LLC

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c.c. Service List
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PROOF OF SERVICE

I, Michael R. Weaver, declare as follows:

I am Chair of the Highway 68 Coalition located in Monterey County, California. I am over the age of 18. My business address is Michael R. Weaver, 52 Corral de Tierra, Salinas, CA 93908. On September 2, 2011,

I served the within on the interested parties in the action as follows:

Highway 68 Coalition Comments on Proposed Decision, Case 10-08-022
(Filed August 31, 2010)

xxx (By PUC E-Mail Service) By transmitting such document electronically from my address at 52 Corral de Tierra, Salinas, CA 93908, to the electronic mail addresses on the attached Service List. I am readily familiar with the practice of transmitting documents by electronic mail, said practice being done in the ordinary course of Highway 68 Coalition business. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on September 2, 2011 at Corral de Tierra, California.

/s/

Michael R. Weaver
Chair, The Highway 68 Coalition

Note: if for some reason the document and four exhibit attachments do not electronically transmit properly, please contact me immediately:

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Service List

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