

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



**FILED**

04-19-10  
04:59 PM

In the Matter of the Application of California-American Water Company (U 210 W) for a Certificate of Public Convenience and Necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs in Connection Therewith in Rates

A. 04-09-019  
(Filed September 20, 2004)

**NOTICE OF EX PARTE COMMUNICATION OF  
MONTEREY COUNTY WATER RESOURCES AGENCY**

Dan L. Carroll  
DOWNEY BRAND LLP  
621 Capitol Mall, 18th Floor  
Sacramento, California 95814  
Telephone: (916) 520-5239  
FAX: (916) 520-5639  
E-mail: dcarroll@downeybrand.com  
Attorneys for Monterey County Water  
Resources Agency

April 16, 2010

Pursuant to Article 8 of the Commission's Rules of Practice and Procedure, the Monterey County Water Resources Agency ("MCWRA") submits this Notice of Ex Parte Communication in the above-captioned proceeding. The communication occurred on April 14, 2010, in an in-person meeting held at the office of the California Public Utilities Commission at 505 Van Ness Avenue in San Francisco, California. MCWRA requested the meeting as an equal time meeting under Rule 8.2(c)(2) of the Commission's Rules of Practice and Procedure, in response to the scheduling of a meeting of the Division of Ratepayer Advocates ("DRA") with Commissioner John A. Bohn that occurred on April 5, 2010. Present at the MCWRA-requested meeting were Commissioner John A. Bohn; Stephen St. Marie, Commissioner Bohn's Chief of Staff; Laura Krannawitter, Advisor to Commissioner Bohn; Stephen Collins, member of the MCWRA Board of Directors; Dave Potter, 5<sup>th</sup> District Supervisor for Monterey County; Curtis Weeks, MCWRA General Manager; Irven Grant, Deputy Monterey County Counsel, representing MCWRA; and Dan L. Carroll, outside counsel for MCWRA. The meeting began at 10:05 a.m. and lasted approximately an hour. Written materials described below and attached hereto were used.

Mr. Weeks stated that the Commission had urged the parties to settle this proceeding and arrive at a project, and noted that several of the parties had done so. Reaching settlement was no small feat and the negotiations leading to the settlement were at times difficult. The three parties to the Water Purchase Agreement all had specific goals as part of the settlement negotiations. As one such party, MCWRA was concerned that it recover all its costs associated with the project and that MCWRA fully comply with the Agency Act.

Supervisor Potter stated that this settlement is the only time during his lengthy political career that he has seen this kind of universal support for something in the Monterey Region. This settlement is supported both by the Salinas Valley agricultural interests and unanimously by

mayors of cities on the Monterey Peninsula. Supervisor Potter noted that 80% of the California American Water Company (“CalAm”) water users are in his district, which is a dynamic and diverse district.

Mr. Collins indicated that MCWRA has worked very hard and believes it along with the other settling parties have delivered an exceptional project. Mr. Collins noted that the settlement leads to a unique public-private partnership. The support of agricultural interests, the principal employer in Monterey County, was required for this project to succeed. A major concern of the agricultural community is compliance with the requirement under the Agency Act that water not be exported from the Salinas River Groundwater Basin elsewhere, specifically to the Monterey Peninsula. Mr. Collins also noted the unanimous support for the project of mayors of cities on the Monterey Peninsula.

Mr. Collins described the background that led to the settlement agreed to by the settling parties. DRA originally suggested a regional approach after which the REPOG process went forward. A document was issued in which eminent domain played a large part. The document also would have placed wells to provide water for desalination in prime agricultural land. This created significant negative reaction in the agricultural community. Monterey County Supervisors Potter and Louis Calcagno became involved in the process as did the MCWRA Board of Directors. Despite issues with it, the plan suggested from the REPOG process had many good elements. MCWRA, Monterey County, and MCWD became involved because any plan had to pass legal muster, especially under the Agency Act. The result eventually was a project where MCWD is the bridge that allows the project to comply with the Agency Act. In this project, MCWD is doing a significant favor with respect to bringing in water supply to the Monterey Peninsula. MCWD has agreed to utilize an amount of desalinated water within its

district boundaries that will prevent export of groundwater from the Salinas River Groundwater Basin. Some have criticized the difference between what MCWD pays for the desalinated water and the cost of producing the desalinated water. However, as Mr. Weeks explained, MCWD does not at this time need the desalinated water and will not need it until a point in the future when further development of the former Fort Ord occurs. Further, even if MCWD did need more water, it could obtain some of that water from other MCWRA programs. As a result, MCWD was not willing to pay for water that it did not need or to pass the cost of such water along to its customers. Mr. Weeks further explained that the collaboration between MCWD and MCWRA is vital to making the project work.

Mr. Weeks also discussed MCWRA's role with respect to the project. He noted that over a 50 year period, MCWRA has developed four projects, the result of which was to bring the Salinas River Groundwater Basin into balance. Without those projects, MCWRA would not be in a position to allow brackish source water to be delivered to the desalination plant. MCWRA is not seeking the recovery of the cost of those projects through the project proposed in the settlement agreement, but it is important to understand that without those projects, it would not be possible for MCWRA to deliver the source water to the desalination plant. Mr. Weeks also addressed the issue of other possible source water, such as use of slant wells. He noted that slant well technology is untested and has not been shown to be reliable. As part of the Water Purchase Agreement, a testing protocol will be put in place and the effort will be made to have the source water for the desalination plant to be as salty as possible. Mr. Collins also noted the difficulty with open ocean intakes associated with slant wells.

Mr. Weeks walked through the attached Monterey Bay Regional Water Supply Project Cost Comparison ("Cost Comparison"), which is a draft that will be finalized and provided in

response to a DRA data request. Mr. Weeks noted disagreement with cost information DRA had released in Monterey County. Mr. Weeks discussed the work that MCWRA and MCWD are doing with the State Water Resources Control Board to obtain State Revolving Fund loans at 2.5% interest over 20 years, which shortens financing repayment by ten years and is quite significant. MCWD and MCWRA continue to work hard at the federal level to obtain grants to also lower the cost to repairs of the project. Mr. Carroll noted that the Cost Comparison reflects estimates which MCWRA considers to be realistic. Mr. Collins noted that these estimates lead to a cost of approximately \$3,700.00/af of water.

The MCWRA meeting participants also discussed alternatives should the settlement not be approved. Mr. Collins noted that under the cease and desist order issued by the State Water Resources Control Board, the result would be 70% less water and very likely at least as high rates for CalAm's customers as would result from the settlement. Mr. Potter stated that should that occur, there would be significant impacts on the business community. Hotels would have to begin shuttering rooms. Mr. Weeks stated that the service and economic base would be seriously impacted. Mr. Collins further noted that some have claimed that the State Water Resources Control Board is not serious about enforcing the cease and desist order, but MCWRA is convinced the cease and desist order is not an "idle threat," as some have characterized it. Mr. Collins further stated that the Salinas Valley and MCWD would not be impacted by the cease and desist order, yet agricultural interests and MCWD are involved in and support the settlement. This support despite lack of impact emphasizes the credibility brought to the settlement by the involvement of MCWD and MCWRA.

Pursuant to Rule 8.3(a), this notice is being filed within three working days of the ex parte communication.



## CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the **NOTICE OF EX PARTE COMMUNICATION OF MONTEREY COUNTY WATER RESOURCES AGENCY** on April 19, 2010, on the persons shown below. Service was made by electronic mail to those whose electronic mail addresses are available and via U.S. mail to those for whom electronic mail addresses were not known. The service list used is the official service list found on the docket page for A.04-09-019 on website of the California Public Utilities Commission.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated this 19<sup>th</sup> day of April, 2010, at Sacramento, California.

/s/

\_\_\_\_\_  
Shawn L. Prentiss

### VIA ELECTRONIC MAIL:

venskus@lawsv.com; georgeriley@hotmail.com; dave@laredolaw.net;  
folk@smwlaw.com; mlm@cpuc.ca.gov; mfogelman@friedumspring.com;  
lweiss@manatt.com; nelsonp34@hotmail.com; Carroll, Dan; steller@rtmmlaw.com;  
jgeever@surfrider.org; connere@west.net; carrie.gleeson@amwater.com;  
robert.maclean@amwater.com; tim.miller@amwater.com; tmontgomery@rbf.com;  
Gregory.Wilkinson@bbkllaw.com; jason.Ackerman@bbkllaw.com; llowrey@nheh.com;  
ffarina@cox.net; weeksc@co.monterey.ca.us; stecllns@aol.com; nisakson@mbay.net;  
Glen.Stransky@LosLaurelesHOA.com; bobmac@qwest.net;  
dlopez@montereyherald.com; jim@mcwd.org; manuelfierro02@yahoo.com;  
erickson@stamplaw.us; bobh@mrwpc.com; catherine.bowie@amwater.com;  
john.klein@amwater.com; andy@mpwmd.dst.ca.us; darby@mpwmd.dst.ca.us;  
heidi@laredolaw.net; tgulessarian@adamsbroadwell.com; ezigas@esassoc.com;  
dhansen@friedumspring.com; selkins@friedumspring.com; ldolqueist@manatt.com;  
sleeper@manatt.com; michael@rri.org; Audra.Hartmann@Dynergy.com;  
lmelton@rmcwater.com; scorbin@surfrider.org; swilliams@poseidon1.com;  
joyce.ambrosius@noaa.gov; O'Brien, Kevin; abl@bkslawfirm.com;  
dstephen@amwater.com; bca@cpuc.ca.gov; ang@cpuc.ca.gov; cjt@cpuc.ca.gov;  
dsb@cpuc.ca.gov; jzr@cpuc.ca.gov; llk@cpuc.ca.gov; mzx@cpuc.ca.gov;  
rkk@cpuc.ca.gov; rra@cpuc.ca.gov; steve@seacompany.org

**VIA U.S. MAIL:**

Jerry Gallego  
Monterey County Civil Grand Jury  
15790 Horizon Way  
Prunedale, CA 93907

Angela K. Minkin, Administrative Law Judge  
CALIFORNIA PUBLIC UTILITIES COMMISSION  
Division of Administrative Law Judges  
505 Van Ness Avenue, Room 5105  
San Francisco, CA 94102-3214