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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

In the Matter of the
Application of California-
American Water Company
for Approval of the Monterey
Peninsula Water Supply Project
and Authorization to Recover
All Present and Future Costs
in Rates

Application 12-04-019

MOTION OF THE PUBLIC TRUST ALLIANCE TO BECOME A PARTY (RULE 1.4(a)(4)) AND STATEMENT OF INTEREST AND FACTUAL AND LEGAL CONTENTIONS (RULE 1.4(B))

THE PUBLIC TRUST ALLIANCE
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I. MOTION OF THE PUBLIC TRUST ALLIANCE TO BECOME A PARTY

The Public Trust Alliance, pursuant to CPUC Rule 1.4 (a)(4), requests the PUC to permit it to become a party to the above proceeding. The Public Trust Alliance now describes its interest in this proceeding, and offers its legal and factual contentions (sensitive to the request for sharper focus at this stage in problem solving - and conscious of possible confusion and delay that may result from attempts to re-characterize present circumstances as a "starting point").

II. STATEMENT OF INTEREST

More than a decade ago, the Public Trust Alliance was founded as a project of The Resource Renewal Institute ("RRI"), a California-based 501 (c) (3) corporation. RRI seeks to promote comprehensive natural resource management strategies that are ecologically sustainable and firmly rooted in public participation. The Public Trust Alliance, as an RRI project, has worked to empower citizens, government agencies and private businesses to defend and conserve public resources in a manner consistent with the public trust doctrine. This time-tested legal framework, in turn, requires that public agencies hold and manage water and certain other critical resources and fields measured on the basis of public benefit rather than purely private economic gain. As the Public Utilities Commission recognized in D. 10-12-016, the public trust is a fundamental community value which must be considered and protected when feasible.

The Public Trust Alliance has been a party to A 04-09-019, the P.U.C. proceeding framing the efforts of the California American Water Company and various public and private actors to establish a "Coastal Water Project" for the Monterey Peninsula. In the beginning of 2008, The Public Trust Alliance intervened before the State Water Resources Control Board in order to help solve a critical water supply problem and prevent unnecessary continuing harm to public trust resources on the Carmel River in Monterey County. We only intervened when the California American Water Company requested a hearing to oppose an Order to Cease and Desist harmful and illegal diversions from the Carmel River and its underflow. In this case, we hoped the legal obligations, the technological ability and the financial capacity of utility ratepayers to solve the problem were all present, along with the substantial reservoir of public frustration over the seemingly perpetual illusion of implementing a "solution" to a problem that has been exhaustively debated both within and outside local communities for generations. The

public trust is not merely just one more among an array of similar competing values; rather it is foundational to how we function as a democratic community. We ourselves are not the only impacted stakeholders, but our communities have always recognized future generations of Californians also as direct beneficiaries and trustees with legal interests in and responsibilities for our shared resources. The Public Trust Alliance works together with others to ensure that these all too frequently unrepresented public trust values and interests are incorporated into natural resource problem solving, especially where other laws require that actions be taken "consistent with the public interest."

The Public Trust Alliance wants to see an alternative water supply system for the Monterey Peninsula and an end to avoidable and illegal harm to public trust values. We joined as signatories on a Settlement Agreement between the Monterey County Water Resources Agency (MCWRA), the Marina Coast Water District (MCWD) and the California American Water Company establishing a project and governance structure which were approved and given a CPCN in a final decision by the Public Utilities Commission. Along the way, we have participated in public negotiations in good faith and sometimes have taken positions that we know will be difficult for various constituencies to process and understand because initial appearances might seem inconsistent with our organizational mission. But we consider these essential personal and institutional risks in good faith problem-solving and we believe that we will constructively contribute to efficient implementation of a viable solution to the Monterey Peninsula Water Supply problem through our participation in this proceeding.

II. Factual and Legal Contentions

A.) The Public Trust Alliance is concerned by what we perceive may be happening: The same patterns of organizational blockage and constellations of opposition and dysfunction that have prevented local problem solving in the past may be inadvertently institutionalized once again, while at the same time, the only concrete proposal to come close to passing institutional and technological muster as a viable solution may in fact be prematurely and summarily dismissed for unspecified and unexamined reasons.

B.) Efficient problem solving does not require summary exclusion of MCWD as a Party or complete denial of its motion to dismiss the Cal Am Application. In fact, public credibility could even be enhanced by requiring that all alternatives be evaluated on their merits in the same field.

C.) The public interests in environmental protection and healthy utility management are closely intertwined. Law in both fields has evolved to cope with institutional challenges at various levels of governance and various possibilities for interference by ignorance, design or relative resource endowments. Here we may have environmental regulation (CEQA), perhaps used exactly as intended to solve a problem of statewide significance, being inappropriately collaterally attacked on a local level in exactly the circumstances utility law evolved to prevent (eg. jurisdictional conventions and appeals practice).

D.) Institutional commitments and missions may have become confused over time and there may be risk that legal duties may be interpreted to create greater incentive to proceed with familiar mitigation programs than actually solving underlying problems (eg. Can an approved user fee-based program ever be "more valuable" than an alternative water supply with less risk of "drifting back" to illegal overdrafting of public trust resources?)

E.) The public trust values of open and express public decision-making have been deeply challenged in this situation by frequent retreats behind closed doors and repeated requests that the public "stand by" as decision-makers do their jobs. Literally years have passed while major actors have been unsuccessfully "negotiating" or "settling" their differences behind closed doors. The only viable solution to emerge did so in the context of public discussion and debate. At the first indications of management problems with the Regional Project, the public participation in governance was shut down so the old hands could move ahead and solve the problem. This policy must be examined in moving forward, and strategic attention given to re-establishment of accessible public forums supporting a healthy public conversation where a viable solution can emerge. This approach has the added benefit that major players will be prevented from making the unilateral moves which have become a recipe for delay for so many years.

Respectfully Submitted,

June 4, 2012

/s/ Michael Warburton

Michael Warburton

Executive Director, The Public Trust Alliance