

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



**FILED**

06-04-12  
04:59 PM

In the Matter of Application of California-  
American Water Company (U210W) for  
Approval of the Monterey Peninsula Water  
Supply Project and Authorization to Recover All  
Present and Future Costs in Rates

A.12-04-019

(Filed April 23, 2012)

---

**PREHEARING CONFERENCE STATEMENT OF THE  
MONTEREY PENINSULA REGIONAL WATER AUTHORITY**

RUSSELL M. MCGLOTHLIN (SBN 208826)  
RYAN C. DRAKE (SBN 262580)  
BROWNSTEIN HYATT FARBER SCHRECK, LLP  
21 East Carrillo Street  
Santa Barbara, CA 93101  
Telephone: (805) 963-7000  
Facsimile: (805) 965-4333  
Email: [rmcglathlin@bhfs.com](mailto:rmcglathlin@bhfs.com); [rdrake@bhfs.com](mailto:rdrake@bhfs.com)

Attorneys for Proposed Intervenor,  
MONTEREY PENINSULA REGIONAL WATER  
AUTHORITY

Dated: June 4, 2012

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

In the Matter of Application of California-  
American Water Company (U210W) for  
Approval of the Monterey Peninsula Water  
Supply Project and Authorization to Recover All  
Present and Future Costs in Rates

A.12-04-019  
(Filed April 23, 2012)

---

**PREHEARING CONFERENCE STATEMENT OF THE  
MONTEREY PENINSULA REGIONAL WATER AUTHORITY**

Pursuant to Rule 7.2 of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, the Monterey Peninsula Regional Water Authority (“Authority”) respectfully submits this Prehearing Conference Statement addressing the subjects set forth in Administrative Law Judge Weatherford’s May 11, 2012 ruling.

**I. Introduction and Principal Positions of the Authority**

The Authority perceives three critical objectives relating to this proceeding:

1. Timely development of replacement water supplies before catastrophic water reductions are imposed upon the community at the end of 2016 pursuant to the Cease and Desist Order;<sup>1</sup>
2. Development of the most cost-effective projects that can provide necessary replacement water supplies prior to the 2016 deadline; and
3. Project oversight that includes public representation that is directly accountable to the ratepayers.

The Authority has joined as a party to this proceeding to urge the Commission to develop a Certificate of Public Convenience and Necessity (“CPCN”) that achieves these critical objectives. The Authority also hopes to collaborate with California-American Water (“Cal-Am”) and the other parties, to the extent possible, to resolve differences and craft a settlement consistent with these goals.

---

<sup>1</sup> State Water Resources Control Board WR Order 2009-0060.

The Authority supports the groundwater replenishment (“GWR”) and aquifer storage and recovery (“ASR”) components of the proposed Project provided that they can be timely and cost-effectively developed as proposed in Cal-Am’s application.. The Authority's support for these projects recognizes the benefit of pursuing a portfolio of projects to mitigate the risk of a single project being delayed, and because the GWR and ASR projects are both public-private partnerships with strong public oversight. Based on current information, the cost of both projects appears to be competitive with alternative projects.

The Authority also generally supports the development of a desalination project as the third component of the Project, but believes the principal competitive project proposals must also be vetted for comparative feasibility, timing, and cost competitiveness within this proceeding. Although the Authority acknowledges that there is a necessary limit to the scope of project alternatives that can be timely and economically evaluated, it is also essential that the community be confident that the best project (in terms of feasibility, timing, and cost) is developed. The Authority intends to undertake its own efforts to perform this evaluation and to present its findings as testimony in this proceeding.

The Authority further believes it is essential that the oversight of the desalination project include representation that is directly accountable to the ratepayers that will fund the project. Such representation must include public governance with binding application as to the project’s design, financing, construction, and operation. The Regional Desalination Project drew criticism by some based on a perception that the project lacked sufficient ratepayer representation. This result can be avoided here if the project governance includes public agencies that are accountable to the ratepayers. The Authority is one, though not the only, public agency that can serve in that role.

A related matter is the Monterey County ordinance that limits the ownership and operation of desalination facilities to public agencies. (Subsection 10.72.030(B) of Monterey County Code of Ordinance, Title 10, Chapter 10.72.) Regardless of whether this ordinance is preempted or not, and whether or not the desalination project is owned by Cal-Am, a public agency or agencies, or some form of public-private partnership, the need for accountable public representation remains. Such public representation will help to garner community support, and ensure transparency as to the project's design, financing, construction and operation. Public participation may also facilitate public financing, which may provide the most advantageous project financing.

## **II. Issues That Should Define the Scope of the Proceeding**

The Authority believes the principle issues that must be resolved in the proceeding include, without limitation, the following:

A. Viability and timing of the groundwater replenishment and aquifer storage and recovery components of the project, and how these projects influence the necessary sizing of the desalination component.

B. Feasibility, timing, and cost comparisons between Cal-Am proposed desalination facility and alternatives. Sub-issues include:

1. Property acquisition;
2. Source water method and facilities;
3. Brine disposal method and facilities; and

4. Conveyance and storage of product water.

C. Viability of Cal-Am proposed slant wells for source water and timing of test/pilot slant wells, and evaluation of alternative source water facilities;

D. Analysis of necessary federal, state, and local permits and land use entitlements, and resulting impact to the feasibility, timing, and cost comparison among competing projects.

E. Issues concerning the Salinas Valley groundwater basin, including water rights and compliance with the prohibition on export of groundwater from the Salinas Valley groundwater basin set forth in Water Code Appendix § 52-21.

F. Project costs, revenue requirements, and financing feasibility and options, including public financing potential.

G. Project governance and means to include public agency oversight that is directly accountable to the Cal-Am ratepayers.

H. Monterey County ordinance requiring public ownership of desalination facilities. (Subsection 10.72.030(B) of Monterey County Code of Ordinance, Title 10, Chapter 10.72)

I. CEQA compliance (scope and process for compliance), including consideration of alternative desalination projects.

### **III. Settlement Discussions**

The Authority supports a facilitated settlement effort to attempt to resolve issues raised by the application. Such an effort is justified because of the complexity of the issues and the multitude of parties with varying views. A facilitated settlement process could result in

consensus emerging among the parties, at least with respect to some of the relevant issues, which in turn could reduce the scope of contested issues to be addressed at the hearing.

#### **IV. Schedule**

The Authority recognizes the limited time available to construct the necessary replacement water supply projects ahead of the 2016 deadline set forth by the Cease and Desist Order. However, the Authority respectfully requests that the schedule set forth in Cal-Am's application be extended by approximately 60 days to afford sufficient time to submit testimony. The Authority intends to retain a technical consultant to evaluate and compare the feasibility, timing, and cost of Cal-Am's proposed projects with principle alternatives. It intends to submit the results of that professional evaluation as testimony in this proceeding. To afford sufficient time to develop and submit this testimony, the Authority respectfully requests that the date for submission of intervenor testimony be set for September, and that the remainder of the schedule be adjusted accordingly.

Dated: June 4, 2012

Respectfully submitted,

*/s/ Russell M. McGlothlin*

---

Russell M. McGlothlin  
Ryan C. Drake  
BROWNSTEIN HYATT FARBER SCHRECK, LLP  
Attorneys for Proposed Intervenor  
MONTEREY PENINSULA REGIONAL WATER  
AUTHORITY