

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



FILED

10-28-09
11:36 AM

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**

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October 28, 2009

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 October 27, 2009, in an in-person meeting held at the office of the California Public Utilities Commission at 505 Van Ness Avenue in San Francisco, California. California-American Water Company ("Cal-Am") requested the meeting. Present at the meeting were Laura Krannawitter, Advisor to Commissioner John A. Bohn; Robert MacLean, President of Cal-Am; Stephen Morrison, Director of Regulatory Policy & Counsel for Cal-Am; Jim Heitzman, General Manager of MCWD; Lyndel Melton of RMC Water and Environment, a consultant to MCWD; Mark Fogelman, outside counsel for MCWD; Curtis Weeks, General Manager of the Monterey County Water Resources Agency ("MCWRA"); Irven Grant, Deputy Monterey County Counsel, representing MCWRA; and Dan L. Carroll, outside counsel for MCWRA. The meeting began at 11:05 a.m. and ended at 11:40 a.m. No written materials were used.

Mr. Weeks reported that Cal-Am, MCWRA, and MCWD ("the parties") had made good progress toward reaching a settlement of the issues in the proceeding, which would be subject to compliance with all legal requirements, including CEQA. However, the resources of all the parties are deeply engaged in the efforts necessary to settle the proceeding. The parties cannot both continue working hard trying to reach a settlement and address upcoming scheduled matters, including the mitigation cost workshop and testimony due from Cal-Am and MCWD on November 13, 2009 and MCWRA on December 4, 2009. The parties therefore request the Commission to modify the existing procedural schedule so that these obligations are moved to a later point in time, allowing the parties to continue their diligent efforts to resolve the matter by agreement. The parties suggest moving testimony due dates until after the Commission certifies

the Final Environmental Impact Report. The parties are hopeful that if they can reach resolution, subject to CEQA and other legal requirements, the proceeding can reach a final decision approving a settlement by April 2010, a month earlier than would occur under the existing schedule.

Mr. MacLean indicated the parties intend to file a motion to modify the schedule very soon. He expressed belief that the parties would have a very good idea within two weeks whether they would be able to reach a tentative agreement, subject to compliance with legal requirements. He expressed a preference to dedicate resources to reaching settlement rather than to draft testimony that may become unnecessary. He noted that if the case were fully litigated, even after a final Commission decision, time would be consumed in seeking to reach agreement with others who must be part of any project adopted or recommended in such a decision, and that such a final Commission decision could not bind MCWRA and MCWD. He also said the parties are committed to informing the Commission expeditiously should they determine they will be unable to reach a settlement. Mr. Weeks agreed with that commitment. Mr. Carroll suggested the parties commit to provide periodic progress reports to the Commission as to the status of their settlement efforts.

Mr. Fogelman explained that preparing testimony at this time would require a great deal of work that would be an impediment to reaching a tentative settlement. He also noted that MCWD and MCWRA continue to be concerned regarding how helpful testimony could be in light of the lack of a certified Final EIR, which will not be completed until after current testimony due dates. The parties are hopeful they will be able to reach a tentative agreement that all parties to the proceeding will agree to join.

Mr. Melton and Mr. Weeks discussed potential financing for a project if a settlement were reached.

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

Parties may request a copy of this notice by contacting:

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DATED: October 28, 2009

Respectfully Submitted,
DOWNEY BRAND LLP

By: _____ / s / _____

Dan L. Carroll
Attorneys for Monterey County Water
Resources Agency

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 October 28, 2009, 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 28th day of October, 2009, at Sacramento, California.

/ s /

Cassandra J. Baines

VIA ELECTRONIC MAIL:

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