

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Monterey Peninsula Water Management
District, City of Marina and Marina Coast
Water District,

Complainants

v.

California-American Water Company (U210W),
Defendant.

Complaint 26-06-_____
(Filed _____)

COMPLAINT

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DATED: JUNE 16, 2026

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Management District, City of Marina and Marina
Coast Water District,

Complainants

v.

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Defendant.

Complaint 26-06-_____
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COMPLAINT

Pursuant to Article XII of the California Constitution, Sections 3, 5, and 6; Sections 451, 701, 702, 761, 1001, 1002, and 1702 of the California Public Utilities Code (“PU Code”);¹ and Articles 1, 4, and 7 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure (“Rules” or “Commission Rules”), the Monterey Peninsula Water Management District (“MPWMD”), the City of Marina (“City” or “Marina”), and the Marina Coast Water District (“MCWD”), collectively, the “Complainants,” jointly submit this Complaint seeking a decision by the Commission to do all of the following:

- (1) Find that the California-American Water Company (“Cal-Am”), a “public utility” water corporation subject to the Commission’s jurisdiction and regulation,² is in violation of Decision (“D.”) 18-09-017, including Ordering Paragraph (“OP”) 22 thereof,³ because it is implementing a different, reduced-size desalination project and not the 6.4 million gallons per day (“mgd”) Monterey Peninsula Water Supply Project (“MPWSP” or “Project”) that the Commission authorized and

¹ All statutory references herein are to the California Public Utilities Code unless otherwise indicated.

² PU Code Sections 216(a)(1), 701, 702.

³ D.18-09-017, at pp. 210-211.

granted a Certificate of Public Convenience and Necessity (“CPCN”) in D.18-09-017 without first seeking and securing the Commission’s authorization and modification of D.18-09-017 to do so;

- (2) Direct Cal-Am to file a petition to modify D.18-09-017 and the CPCN granted therein (a) to authorize the project that Cal-Am is implementing, which was rejected by the Commission in D.18-09-017 and D.19-01-051;⁴ (b) to revise the forecasted costs and cost caps adopted by D.18-09-017 for a 6.4 mgd Project to support authorization of the project Cal-Am is implementing with cost projections that also account for the increased water supply approved by the Commission in D.22-12-001 (approval of Cal-Am’s purchase of an additional supply of water from the Pure Water Monterey (“PWM”) Expansion project) and the change in water demand and water supply estimates adopted in D.25-08-006, D.25-10-001 and D.26-04-046, and that are “supported by an appropriate declaration or affidavit”⁵; (c) to undertake appropriate environmental review of the revised phased project proposed by Cal-Am and conditionally approved by the California Coastal Commission with a 4.8 mgd capacity project to operate through January

⁴ Throughout this Complaint, reference to the “Project,” with a capital “P,” is to the 6.4 mgd Project authorized and granted a CPCN in D.18-09-017. Reference to “project” with a small “p” is to a 4.8 mgd project, any expansion from that project size, or any other project that has never been authorized or granted a CPCN by the Commission. Notably, a 4.8 mgd project was not among the alternatives analyzed in detail in the Commission’s Final Environmental Impact Report (“FEIR”) for the Project, and the Commission expressly rejected such an alternative from consideration on both cost and environmental grounds. (D.18-09-017, at pp. 69-70, 170-171; D.19-01-051, at pp. 60-61.)

⁵ As to the required content of a Petition for Modification, Rule 16.4(b) requires: “Any factual allegations must be supported with specific citations to the record in the proceeding or to matters that may be officially noticed. Allegations of new or changed facts must be supported by an appropriate declaration or affidavit.”

1, 2050⁶ in compliance with PU Code Section 1002(a)(4); (d) to revise the findings of fact, conclusions of law, and ordering paragraphs of D.18-09-017 to demonstrate that “the present or future public convenience and necessity require or will require” construction of a 4.8 mgd project limited in duration through January 1, 2050 pursuant to PU Code Section 1001 inclusive of consideration of all factors required by PU Code Section 1002, subsection (a) to support such a determination; and (e) to justify the filing of the petition more than a year after the issuance of D.18-09-017;⁷

- (3) Direct Cal-Am to halt any construction or other activity to implement any desalination project until such a petition for modification is filed, addressed, and resolved by a final Commission decision;
- (4) Order the issuance of an Order to Show Cause (“OSC”) to Cal-Am as to why Cal-Am should not be sanctioned, fined, or otherwise disciplined for implementing an unauthorized desalination project in violation of D.18-09-017 and D.19-01-051 and for failing to file the petition required by D.18-09-017 to amend the Project’s size, as supported by facts and law in compliance with PU Code Sections 1001 and 1002.

The Complainants are all public agencies that are authorized to bring this Complaint against Cal-Am pursuant to Commission Rules⁸ and that have long-established and continuous

⁶ *Exhibit 1 to Complaint*: Final Adopted Findings of California Coastal Commission, Appeal No. A-3-MRA-19-0034, Application No. 9-20-0603 (“Coastal Commission Findings”), at pp. 2, 9, 16, available at <https://documents.coastal.ca.gov/assets/legal/Final-Adopted-Findings-CalAm-.pdf>.

⁷ Rule 16.4 of the Commission Rules governs Petitions for Modification of Commission decisions. Among other things, Rule 16.4(d) requires a petitioner to “explain why the petition could not have been presented within one year of the effective date of the decision.”

⁸ Commission Rules, Rule 4.1(a)(1).

rights and obligations to protect their ratepayers, communities, and water supplies impacted by Cal-Am’s planned construction and operation of the MPWSP. Those obligations extend to ensuring that the Commission review and decide whether to approve the major Project changes being implemented by Cal-Am to construct an unauthorized, reduced-size project instead of the MPWSP authorized by the Commission. This review must ensure that the change to that reduced-size project is supported by facts and law as to its forecasted costs, environmental impacts, “present or future public convenience and necessity,” with consideration of community values, recreational and park areas, and historical and aesthetic values in compliance with PU Code Sections 1001 and 1002. Each Complainant, therefore, has a direct and concrete stake in filing this Complaint to seek an outcome that requires the Commission to properly exercise its regulatory jurisdiction over Cal-Am by compelling Cal-Am to comply with all of the Commission’s orders and laws governing its construction of the MPWSP.

I. SUMMARY⁹

By D.18-09-017, the Commission, pursuant to PU Code Sections 1001 and 1002, granted Cal-Am a CPCN to build a desalination project identified as the Monterey Peninsula Water Supply Project, which was authorized to deliver 6.4 mgd, subject to other operational and environmental parameters. By D.18-09-017, the Commission expressly rejected a 4.8 mgd project on both cost and environmental grounds in favor of the 6.4 mgd plant size and never required it to be considered as a project alternative in the FEIR for the MPWSP.¹⁰ The Commission also rejected phasing from a 4.8 mgd to a 6.4 mgd Project in the future because such an approach would create “a higher likelihood that any expansion that includes permitting,

⁹ This Summary is provided for context and is supported by the specific numbered allegations set forth in Section III, below.

¹⁰ D.18-09-017 at pp. 69-70, 128-130, 178-179; rehearing denied D.19-01-051, *see* pp. 60-61.

drilling, and construction of an additional well to increase capacity will increase environmental impacts, face additional scrutiny in the permitting review process, and increase costs to ratepayers.”¹¹

The Commission has never modified, nor has it been petitioned by Cal-Am to modify, D.18-09-017 to change the Project’s size from that authorized by the Commission (6.4 mgd).¹² Instead, the Commission has repeatedly confirmed in subsequent decisions, including its recent D.26-04-046, that only the construction of a 6.4 mgd Project by Cal-Am has been authorized by the Commission.¹³ As particularly relevant here, by D.26-04-046, the Commission has further stated:

“[T]here is no evidence in the record establishing construction of a 4.8 mgd desalination plant in lieu of the *6.4 mgd plant authorized in D.18-09-017*, and in any event, *D.18-09-017 provides a mechanism for adjustments if needed*. (See D.18-09-017, Ordering Paragraph 22 [*Cal-Am “shall seek any other [non-minor] project refinements by a petition to modify [D.18-09-017].”*].)¹⁴

This statement by the Commission confirms the following: (1) the Commission has solely authorized Cal-Am to construct a 6.4 mgd Project pursuant to its statutory authority, and (2) a change in that Project size requires Cal-Am to file a petition to modify D.18-09-017. No such petition to modify D.18-09-017 has been filed by Cal-Am, despite Cal-Am’s many public assertions over at least the past three years that, commencing in “mid-2026,” the Project “will be constructed...at 4.8 mgd,” not 6.4 mgd, and that Cal-Am is doing so as “approved by the Coastal Commission,” not as authorized by this Commission.¹⁵

The circumstances necessitate urgent action by the Commission where (1) only this

¹¹ D.18-09-017, at p. 69.

¹² See D.19-01-051.

¹³ See D.22-03-038, at pp. 9-12; D.22-12-001, at p. 5; D.25-08-006, at p. 3; D.26-04-046, at pp. 4-5.

¹⁴ D.26-04-046, at p. 5 (emphasis added).

¹⁵ See, e.g., *Exhibit 2 to Complaint*: Cal-Am MPWSP Q4 2025 Project Update, at pp. 2, 5.

Commission has exclusive jurisdiction to authorize the construction of a utility plant pursuant to PU Code Sections 1001, *et seq.*, (2) the Commission has exercised that jurisdiction and has solely authorized Cal-Am to build a 6.4 mgd Project in D.18-09-017, (3) no Coastal Commission action supersedes this Commission's exclusive authority to authorize the Project's construction, including all adopted parameters for doing so, (4) Cal-Am has never filed a petition to modify D.18-09-017 to change the 6.4 mgd Project size authorized by that decision, and (5) Cal-Am has stated that it "will" proceed this year to build a 4.8 mgd project instead in violation of the Commission's jurisdiction and orders.

To address these violations of law by Cal-Am, the Commission must promptly grant the relief requested by this Complaint (1) to preserve and enforce the Commission's regulatory jurisdiction over Cal-Am, (2) to prevent Cal-Am's construction and operation of infrastructure that has not been authorized by the Commission, and (3) to require Cal-Am to meet its burden of filing a petition to modify D.18-09-017 in order to lawfully proceed with a major "refinement" to the certificated Project by reducing its size.¹⁶ Cal-Am's decision to proceed with an unauthorized project deprives the Complainants, each of which is directly and adversely impacted, of notice and opportunity to be heard as to this major refinement in the Project, including whether that change is just, reasonable, prudent, and serves the public convenience and necessity. Cal-Am's failure to appropriately seek Commission authorization to proceed with an unauthorized project also wrongly shifts the burden of ensuring Commission enforcement of its orders governing the jurisdictional utility (Cal-Am) to adversely affected third parties – the Complainant public agencies – that now must use their limited resources to seek corrective Commission action by filing this Complaint.

¹⁶ D.24-04-046, at p. 5.

The Commission must, therefore, promptly (1) find Cal-Am in violation of D.18-09-017, (2) order Cal-Am to file a petition to modify D.18-09-017 to change the desalination project size, supported with cost analysis and cost caps, a proposal for appropriate environmental review of that reduced project size, and consideration of the PU Code Section 1002(a) “factors,” (3) direct Cal-Am to halt implementation of any desalination project until such a petition for modification is filed, addressed, and resolved by a final Commission decision, and (4) order Cal-Am to show cause as to why Cal-Am should not be sanctioned, fined, or otherwise disciplined for implementing an unauthorized project in violation of D.18-09-017 and D.19-01-051 beginning in October 2022 when Cal-Am sought a Coastal Development Permit (“CDP”) from the Coastal Commission for an unauthorized 4.8 mgd project.

II.
COMPLIANCE WITH COMPLAINT REQUIREMENTS
(PU Code Section 1702; Rules 4.1(a) and 4.2)

Rule 4.1 (a), pursuant to the authority stated in PU Code Section 1702, provides that a “complaint may be filed” with the Commission by “any body politic or municipal corporation” that sets “forth any act or thing done or omitted to be done by any public utility including any rule or charge heretofore established or fixed by or for any public utility, in violation, or claimed to be in violation, of any provision of law or of any order or rule of the Commission.” Rule 4.2 sets forth the required “Form and Contents of the Complaint.”

Each of the Complainants is a “body politic,” and the Complaint sets forth violations of law by Cal-Am with respect to the orders of this Commission governing the Project to the detriment of the public, Cal-Am ratepayers, and the communities located within and represented by the Complainants, as more fully described below. The Complaint also meets all requirements for a Complaint set forth in the Commission Rules.

A. Authority for Complainants to File the Complaint; Legal Name and Contact

Information for Complainants and Defendant (PU Code Section 1702; Rules 4.1(a)(1)) and 4.2(a))

1. Complainants

a) Monterey Peninsula Water Management District

The California State Legislature created the Monterey Peninsula Water Management District (“MPWMD” or “District”) in 1977. The District is organized and exists under Chapter 527 of the Statutes of 1977, found at Water Code Appendix, Section 118-1 *et seq.* (District Law). MPWMD’s boundary is coterminous with Cal-Am’s Monterey service area. Cal-Am’s customers directly elect the District’s Directors.

The District has the power to store water in surface or underground reservoirs within or outside of the District for the common benefit of the District, to conserve and reclaim water for present and future use within the District, to appropriate and acquire water and water rights and import water into the District, and to conserve and utilize, within or outside of the District, water for any purpose useful to the District.

MPWMD monitors, regulates, and controls water use through issuance and enforcement of Water Distribution Permits to distributors of water, including Cal-Am, and through issuance of Water Permits for new connections and modifications of existing connections to Water Distribution Systems with the District, including Cal-Am ratepayers. MPWMD is the local directly elected representative for Cal-Am water customers. These Cal-Am ratepayers consistently raise concerns at public meetings and in written communications about Cal-Am’s expensive water service even without the addition of a desalination plant.

The District and Monterey One Water, both public bodies, with MCWD successfully created the PWM project and the PWM Expansion project creating 5,750 acre-feet per annum of

potable drinking water for Cal-Am's use in serving its customers, as well as additional supplies for MCWD.

MPWMD's principal place of business is 5 Harris Court, Building G, Monterey, CA 93940 with postal address of P.O. Box 85, Monterey, CA 93942-0085. Contact information for Complainant MPWMD and its counsel is as follows:

David J. Stoldt, General Manager
5 Harris Court, Building G
Monterey, CA 93940
Telephone: (831) 658-5651
Email: dstoldt@mpwmd.net

David C. Laredo
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606 Forest Avenue
Pacific Grove, CA 93950
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Email: dave@laredolaw.net
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b) City of Marina

The City of Marina is a city of approximately 23,000 residents located along the Pacific Ocean in northern Monterey County, California. The City was incorporated in 1975, has a total area of 9.8 square miles, and has been identified as an environmental justice community of concern.¹⁷

Cal-Am's Project is a large and complex industrial project that would be constructed (and operated) in, around and through Marina. Since Marina is not located within Cal-Am's service area and would not receive any water produced by the Project, it would bear the major burden of

¹⁷ *Exhibit 3 to Complaint*: MPWSP FEIR, Excerpts of Chapter 4 (Environmental Setting (Affected Environment), Impacts, and Mitigation Measures), at pp. 4.20-2, 5-9 and 16-21; *see also Exhibit 1 to Complaint*, Coastal Commission Findings, at p. 106.

the many adverse Project impacts without receiving any of its benefits. If the Project is constructed and operated, it would threaten the integrity of Marina's groundwater supply, would undermine the Groundwater Sustainability Plans for this groundwater, and would cause devastating impacts to the City's valuable coastal ecosystems and community values.

Cal-Am has represented to the public that, by mid-2026, it will implement a 4.8 mgd version of the Project that was not authorized, but was in fact rejected, by the Commission. This project implementation in violation of governing Commission decisions and statute will directly cause actual injury to Marina because the project's construction and operational impacts of slant wells, pipelines, roads and many other structures within a 39-acre easement area on Marina's dunes and beaches will cause permanent and irreversible impacts to Marina's protected species, environmentally sensitive habitat areas and groundwater resources.¹⁸ These premature and unwanted injuries emanating from Cal-Am's implementation of an unauthorized project must be redressed by the Commission's granting the relief requested by this Complaint.

The City's principal place of business is 211 Hillcrest Avenue, Marina, California.

Contact information for Complainant City of Marina and its attorneys is as follows:

Layne P. Long, City Manager
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211 Hillcrest Avenue
Marina, CA 93933
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San Francisco, CA 94121
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Email: ssmyers@att.net

Paul P. ("Skip") Spaulding, III

¹⁸ *Exhibit I to Complaint*: Coastal Commission Findings, at pp. 4-6.

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425 Market Street, 11th Floor
San Francisco, CA 94105
Telephone: 415-421-6500
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c) Marina Coast Water District

MCWD is a special district formed in 1960 under the County Water District Law, Division 12 of the California Water Code, Section 30000, *et seq.*, for the purpose of installing and operating a water supply system, water distribution system, and wastewater collection system for the City of Marina and neighboring communities within the County of Monterey. In 2001, the Fort Ord Reuse Authority quitclaimed the U.S. Army's water and wastewater systems and related easements on the former Fort Ord to MCWD. Today MCWD serves approximately 40,000 customers in the City of Marina, the City of Seaside, the Ord Military Community and neighboring areas, including East Garrison.

MCWD is also the exclusive groundwater sustainability agency ("GSA") within its jurisdictional areas, and it shares GSA responsibilities with the Salinas Valley Basin GSA for other areas of the Salinas Valley Groundwater Basin. MCWD serves several areas that are designated as communities of concern, based on low-income criteria utilized by the Department of Water Resources. These customers are particularly reliant on the affordable groundwater that MCWD provides.

MCWD's service territory is directly adjacent to Cal-Am's Monterey District. MCWD's service territory is also directly adjacent to the property within the City of Marina where Cal-Am's test slant well for the Project is located and where the Project's slant wells are proposed to be installed. MCWD draws its municipal groundwater supply from the Salinas Valley Groundwater Basin. Cal-Am's Project intake wells would be installed in the Salinas Valley Groundwater Basin. Cal-Am's Project intake wells would draw groundwater from one or more

aquifers that MCWD uses to serve its constituents, at a distance of less than five miles from MCWD wells that are screened in these same aquifers.

MCWD's principal place of business is 920 2nd Avenue, Suite B, Marina, California.

Contact information for Complainant MCWD and its counsel is as follows:

Remleh Scherzinger, General Manager
Marina Coast Water District
920 2nd Avenue, Suite B
Marina, CA 93933
Telephone: (831) 883-5900
Email: rscherzinger@mcwd.org

Ruth Stoner Muzzin
Friedman & Springwater, LLP
350 Sansome Street, Suite 800
San Francisco, CA 94104
Telephone: (415) 834-3800
Email: rmuzzin@friedmanspring.com

2. Defendant

The named Defendant is California-American Water Company (U210W). As stated in Cal-Am's most recently filed General Rate Case (Application ("A.") 25-07-003)), Cal-Am is a Class A public utility water and wastewater company regulated by the Commission, and its principal place of business is 655 W. Broadway, Suite 1410, San Diego, CA 92101-8494. Cal-Am's current President is Sarah E. Leeper, and communications are directed to the following:

Cathy Hongola-Baptista
California-American Water Company
555 Montgomery Street, Suite 816
San Francisco, CA 94111
Tel: (415) 293-3023
Email: cathy.hongola-baptista@amwater.com

B. Rules 4.1(a) and 4.2(a) Complaint Requirements

1. Grounds for Complaint (Rules 4.1(a) and 4.2(a))

In Section III below, the Complaint sets forth the acts “done or omitted to be done” by Cal-Am that are in violation of “law” and the orders and rules of the Commission (Rule 4.1(a)) and identifies “the specific act[s] complained of” to “completely advise the defendant and the Commission of the facts constituting the grounds of the complaint, the injury complained of, and the exact relief which is desired” (Rule 4.2(a)). Section III is specifically incorporated by reference herein.

2. Proposed Category of Proceeding (Rules, Articles 1, 4, and 7)

The Complaint should be categorized as “Adjudicatory” as it constitutes a complaint against a regulated entity (Defendant Cal-Am) regarding its “violations” of “statutory law or order or rule of the Commission.”¹⁹ Pursuant to Rules 4.2(b) and 1.3(a), this Complaint, which does not challenge the reasonableness of Defendant Cal-Am’s rates, is the appropriate means and forum for adjudicating Complainants’ allegations that Cal-Am has violated an order or rule of the Commission.

3. Issues to Be Considered and Need for Hearing

The issues raised by this Complaint are as follows:

- (1) Is Defendant Cal-Am violating D.18-09-017 by implementing a project not authorized by the Commission?
- (2) Does implementation of a project not authorized by the Commission violate PU Code Sections 1001 and 1002?
- (3) Is Defendant Cal-Am violating D.18-09-017 and/or PU Code Section 1002(a) and/or the Public Resources Code, including but not limited to Section 21166 thereof, by

¹⁹ Commission Rules, Rule 1.3(a).

implementing a project that was not evaluated as an alternative in the Commission's FEIR that was certified by the Commission in D.18-09-017 for the Project?

- (4) Should the Commission order Defendant Cal-Am to file a petition to modify D.18-09-017, as required by OP 22 of that decision, for authority to refine the authorized Project size and duration?
- (5) Should the Commission direct Cal-Am to include in the petition for modification pursuant to OP 22 (a) justification for filing of the petition more than one year after issuance of D.18-09-017 and D.19-01-051 as required by Commission Rule 16.4(d), (b) affidavits or declarations to support any allegations of new facts as required by Commission Rule 16.4(b), and (c) demonstration of the forecasted costs and cost cap for the project it is implementing, inclusive of consideration of changes in estimates of Monterey District demand and water supply resulting from D.22-12-001, D.25-08-006, D.25-10-001, and D.26-04-046?
- (6) To comply with PU Code Sections 451, 1001, and 1002, should the Commission direct Cal-Am to include in its petition for modification, with new facts supported by declaration or affidavit, (a) a demonstration that "the present or future public convenience and necessity require or will require" construction of the project Cal-Am is implementing pursuant to PU Code Section 1001 inclusive of consideration of all factors required by PU Code Section 1002, subsection (a) to support such a determination; (b) a request for the Commission to undertake appropriate environmental review under CEQA for the project Cal-Am is implementing; and (c) a demonstration of the forecasted costs and cost cap for the project it is implementing, inclusive of consideration of changes in estimates of Monterey District demand and water supply resulting from D.22-12-001, D.25-08-006, D.25-10-001 and D.26-04-046?
- (7) Should Defendant Cal-Am be barred from engaging in further activity to implement any desalination project until such a petition for modification has been filed, addressed, and resolved by a final Commission decision?
- (8) Should the Commission order Defendant Cal-Am to show cause why Cal-Am should not be sanctioned, fined, or otherwise disciplined for violating D.18-09-017 by implementing

an unauthorized project since at least October 5, 2022 and failing to obtain Commission authorization to do so?

As to the need for an evidentiary hearing to resolve these issues, it is clear that a petition to modify D.18-09-017 to change the CPCN granted by that decision will require significant “allegations of new facts” that will certainly be the subject of an evidentiary hearing. However, an evidentiary hearing on Cal-Am’s violations of D.18-09-017 alleged by this Complaint can be readily established from publicly available documents, including documents susceptible to official notice by the Commission. This may limit the need for discovery and may eliminate or reduce the need for evidentiary hearings on the Complaint. The applicable law and Commission decisions are also well known to the Commission, which should support an expedited briefing schedule, as proposed below.

4. Proposed Schedule and Venue

Pursuant to Rule 4.2, a complaint must propose a schedule for resolution of the complaint consistent with its categorization. For complaints categorized as “adjudicatory,” as the present Complaint should be, the deadline for resolution should be “within 12 months or less.”²⁰ Further, because urgent action is required by the Commission to prevent Cal-Am from proceeding to construct a project for which it has not received the required Commission authorization, Complainants urge adoption of the following proposed expedited schedule to prevent Defendant Cal-Am from developing and operating an illegal project to the detriment of the Cal-Am ratepayers, affected communities, and the Complainants.

PROPOSED SCHEDULE

Action	Date
Complaint Filed	June 16, 2026

²⁰ Commission Rules, Rule 4.2(a).

Action	Date
Instruction to Answer	Week of June 22, 2026
Answer Filed	Early July 2026
Prehearing Conference (Monterey)	Mid-July, 2026
Discovery (If Necessary)	July 2026
Evidentiary Hearings (If Necessary) (Monterey)	Late July 2026
Complainants' Opening Brief	Mid-August 2026
Defendant's Brief	Late August 2026
Complainants' Reply Brief	Early September 2026
Presiding Officer's Decision (POD)	Early October 2026
Appeal of POD (If Any)	October 2026
Response to Appeal of POD	October 2026
Final Decision	November 2026

As indicated above, Complainants respectfully request that the Prehearing Conference and any evidentiary hearings related to this Complaint be held at a venue in or near the City of Monterey. Monterey is over 100 miles from the Commission's headquarters in San Francisco. Complainants represent not only their own interests, but the interests of their constituents, the ratepayers of Cal-Am's Monterey District (in the case of MPWMD), the citizens of Marina (in the case of the City), and the customers within MCWD's service territory (in the case of MCWD).

This venue request is important where, collectively, over one hundred and thirty thousand people are affected by the issues raised in this Complaint, consisting of Cal-Am's ninety thousand or more water users and MCWD's approximately forty thousand constituents,

including the citizens of Marina. Cal-Am’s ratepayers, particularly including those within identified disadvantaged or environmental justice communities of concern, are affected by the unanalyzed cost issues implicated by Cal-Am’s proposal to change the Project size. MCWD and Marina’s constituents, including those within additional identified disadvantaged or environmental justice communities of concern, are affected by the unanalyzed environmental impacts of the proposed changes to the Project, as well as newly-developed evidence regarding increased impacts to groundwater. The issues raised by Complainants affect their constituents’ finances and water supplies. The Commission’s proceedings related to this Complaint should be accessible to these affected members of the public in their own community.

C. The Complaint Cannot Be Resolved “Informally” by Staff, and Consultation with Staff Will Inappropriately Delay Resolution that Requires Immediate Commission Enforcement Action (Rule 4.2(b))

Rule 4.2(b) of the Commission’s Rules of Practice and Procedure states that a “complaint which does not allege that the matter has first been brought to the staff for informal resolution *may* be referred to staff to attempt to resolve the matter informally.” (Emphasis added.) This Complaint has not been brought to the staff for informal resolution because the issues involve undisputed facts regarding well-documented public actions and statements by Defendant Cal-Am regarding plans and actions in violation of statute and Commission orders specific to the Project in D.18-09-017 and successive decisions. These facts raise legal issues that can only be addressed by, and the applicable law applied and enforced by, the Commission itself through a timely, formal decision, including any OSC or other enforcement order issued by the Commission.

The details of this Complaint are fully and clearly explained in Section III, including the Applicable Law and Specific Allegations. The Verifications of Complainants are attached hereto and incorporated by reference herein. As the facts and law set forth in Section III make clear,

there is no purpose served by delaying consideration of this Complaint for referral to staff and doing so will only risk further harm to Cal-Am's ratepayers, the affected communities, and the Complainants by Cal-Am's implementation of a project that has not been authorized and was in fact rejected by this Commission. Resolution of this Complaint should be undertaken now by the Commission without delay.

III. GROUNDS FOR COMPLAINT (Rules 4.1(a) and 4.2(a))

A. Applicable Law

California Constitution

1. The Commission was created by the California Constitution solely for the purpose of regulating monopoly, investor-owned public utilities, like Cal-Am, as *expressly* dictated by the California Legislature in the PU Code.²¹

2. In turn, the California Constitution prescribes that only the Legislature “has plenary power” to “confer additional authority and jurisdiction upon the [C]ommission” and to “establish the manner and scope of review of commission action in a court of record.”²²

3. The Commission, as an administrative agency, is, therefore, “a creature of statute and only possesses such powers as may be conferred upon it”²³ and, thus, it is from the Legislature “whence the commission's authority derives.”²⁴ The extent of the Commission's authority to regulate California's investor-owned utilities, including Cal-Am, is subject to “control” by the Legislature and is one over which the Legislature has “full” and “broad

²¹ Cal. Const., Art. XII, Sections 3 and 5; *see also* PU Code Section 701.

²² Cal. Const., Art. XII, Section 5.

²³ *People v. Harter Packing Co.* (1958) 160 Cal. App. 2d 464, 467.

²⁴ *City of Los Angeles v. Public Utilities Commission* (1972) 7 Cal.3d 331, 356 (citing *Pacific Tel. & Tel. v. Public Util. Com.* (1965) 62 Cal.2d 634, 655).

power.”²⁵

Relevant California Codes Governing Commission Regulation of Jurisdictional Utilities

4. By PU Code Section 701, the Commission may supervise and regulate every public utility in the State and may do all things, whether specifically designated in that part or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction.

5. By PU Code Sections 1001, *et seq.*, the Legislature has exclusively authorized and required the Commission to prohibit water corporations subject to its regulatory jurisdiction, including Cal-Am, from “*begin[ning] the construction of ... a line, plant, or system, or of any extension thereof, without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require such construction.*”²⁶

6. Pursuant to PU Code Section 1002, the Legislature has further required the Commission to authorize such construction by granting the utility a CPCN, so long as the Commission also considers the required following factors: community, historical and aesthetic values; recreational and park areas; and influence on the environment. The latter factor – influence on the environment – has consistently been satisfied by the Commission through an Environmental Impact Report subject to the requirements of the CEQA set forth in the California Public Resources Code and its implementing regulations.²⁷

²⁵ See Cal. Const., Art. XII, Sections 3 and 5; see also *County of Sonoma v. State Energy Resources Conservation etc. Com.* (1985) 40 Cal.3d 361 at 363, 369, 373 (also citing *Pickens v. Johnson* (1954) 42 Cal.2d 399, 404-405).

²⁶ PU Code Section 1001 (emphasis added).

²⁷ See Public Resources Code, Sections 21000, *et seq.*, and CEQA Guidelines, California Code of Regulations (“CCR”), Title 14, Sections 15000, *et seq.*, which govern the preparation, review, and certification of the FEIR for the Project by the Commission as “lead agency,” as well as the circumstances under which a lead agency or a responsible agency must conduct review under CEQA. See Pub. Resources Code Section 21166 and CCR, Title 14, Section 15162.

7. In meeting these requirements, pursuant to PU Code Section 451, the Commission is also charged with the responsibility to ensure that “all charges demanded or received by any public utility...for any product or commodity furnished or any service rendered or to be rendered shall be just and reasonable.”²⁸ For a utility plant, the Commission has made clear that it is required to ensure that the proposed plant or project’s costs are just and reasonable and, to do so, “must balance potential benefits against the cost burden” to the utility’s ratepayers from the project’s construction, including consideration of the “relative benefits and costs of reasonable alternatives,” “what is a reasonable cost burden for ratepayers to bear, under what conditions such a cost can be justified, and how the cost increase can be minimized.”²⁹

8. Pursuant to PU Code Section 761, whenever the Commission finds, after a hearing, “that the rules, practices, equipment, appliances, facilities, or service of any public utility, or the methods of manufacture, distribution, transmission, storage, or supply employed by it, are unjust, unreasonable, unsafe, improper, inadequate, or insufficient, the commission shall determine and, by order or rule, fix the rules, practices, equipment, appliances, facilities, service, or methods to be observed, furnished, constructed, enforced, or employed.”

9. The Legislature has conferred the authority to approve or grant permission for a jurisdictional public utility to construct a utility plant and to determine the utility’s cost recovery on the Commission and not on any other State agency.³⁰

10. Only the Commission, and not any other State agency, has been empowered by the Legislature to regulate a public utility, including Cal-Am, in the manner described in Paragraphs 1 through 9 herein. No statutory provision has been enacted to allow any act or order

²⁸ PU Code Section 451 further states: “Every unjust or unreasonable charge demanded or received for such product or commodity or service is unlawful.”

²⁹ D.18-09-017, at pp. 123-124.

³⁰ PU Code Section 1001.

of the California Coastal Commission to supersede this Commission’s exclusive authority pursuant to the PU Code to so authorize utility construction or to modify a CPCN or overrule Commission determinations in granting such authority.

Commission Orders Governing the CPCN for the Project

11. In 2018, pursuant to PU Code Sections 1001, *et seq.*, and Section 451, among others, the Commission issued D.18-09-017 in A.12-04-019, the application by Cal-Am for permission to construct the MPWSP.

12. A.12-04-019 involved multiple affected parties and required six years to complete, including hearings, pleadings, and briefs on both CPCN and CEQA issues.

13. Based on its record in A.12-04-019, the Commission granted Cal-Am a CPCN to implement the 6.4 mgd alternative of the Project over other alternatives examined in both the CPCN and CEQA tracks of that proceeding.

14. The Commission estimated a 40-year life of the Project.³¹

15. The approved alternative was solely and exclusively a 6.4 mgd desalination Project to produce a water supply of up to 7,167 acre-feet per year (“afy”).³²

16. The Commission based its authorization of the Project on the record established through both the CEQA and CPCN processes and that authorization was made in consideration of environmental, economic, community value, and ratepayer impacts.

17. Other “alternatives” were considered in this record but were not adopted in favor of the 6.4 mgd Project that the Commission deemed “superior” at that time. Neither a 4.8 mgd project nor a 4.8 mgd project later expanded to 6.4 mgd was among the alternatives evaluated in detail in the FEIR, and the Commission explicitly rejected consideration of both of a 4.8 mgd

³¹ *Exhibit 3 to the Complaint*: MPWSP FEIR, at p. 4.11-11.

³² D.18-09-017, at pp. 70, 178.

project and the expansion from a 4.8 mgd project on multiple grounds, including the following:

- a. A 4.8 mgd desalination plant would not alleviate or substantially reduce the greenhouse gas emission impacts of the project;³³
- b. A 4.8 mgd desalination plant would fail to provide sufficient supply to reliably meet, and be able to satisfy, peak month and peak day demands;³⁴
- c. A reduction in size of the Project from 6.4 mgd to 4.8 mgd would increase the annual Operation and Maintenance cost by \$340,000;³⁵
- d. The potential that additional capacity would need to be added to increase the size in the future creates “a higher likelihood that any expansion that includes permitting, drilling, and construction of an additional well to increase capacity will increase environmental impacts, face additional scrutiny in the permitting review process, and increase costs to ratepayers;”³⁶
- e. The cost savings for deferring one slant well to initially operate the facility at 4.8 mgd is small in comparison to the risks associated with eliminating the well and the likely environmental impacts associated with constructing it at a later time if needed;³⁷ and
- f. A 4.8 mgd desalination plant “would not alleviate or substantially reduce significant environmental impacts of the project, and would not meet the basic project objectives.”³⁸

18. In denying rehearing of D.18-09-017 in D.19-01-051, the Commission confirmed that D.18-09-017 was correct in “*rejecting*” a 4.8 mgd project where it would “not meet the basic objectives of the project or the purpose and need for the project, and a further reduced capacity alternative would *not* likely avoid or substantially reduce significant environmental effects of the

³³ *Id.*, at p. 69.

³⁴ *Ibid.*, based on the Commission’s supply and demand estimates at that time.

³⁵ *Id.*, Finding of Fact (“FOF”) 93, at p. 178.

³⁶ *Id.*, at pp. 69-70.

³⁷ *Id.*, FOF 97, at p. 179.

³⁸ *Id.*, at p. 70.

project.”³⁹

19. In D.18-09-017, the Commission also only authorized ratemaking and cost recovery for the *6.4 mgd Project* with a 40-year operational life⁴⁰ and concluded with the order that Cal-Am is to demonstrate the reasonableness of those costs in the first general rate case after the *specifically authorized 6.4 mgd Project* “becomes operational.”⁴¹

20. By OP 8 of D.18-09-017, Cal-Am was ordered to “implement the environmentally superior alternative (Alternative 5a) of the Monterey Peninsula Water Supply Project identified in the Final Environmental Impact Report”⁴² that will produce approximately 6,250 afy of desalinated water in non-drought years (and approximately 7,167 afy in drought years).⁴³

21. By D.18-09-017, as confirmed in denying rehearing in D.19-01-051, the Commission rejected a smaller sized desalination plant of 4.8 mgd that would produce 4,700 afy and any expansion of a 4.8 mgd project to 6.4 mgd as contrary to project objectives and as imposing increased costs and environmental risks.⁴⁴

22. In multiple decisions issued by the Commission over the last *eight years* since 2018, the Commission has repeatedly confirmed that Cal-Am has only been “*authorized*” by the Commission to construct a *6.4 mgd Project*.⁴⁵

23. By D.26-04-046, the Commission has further confirmed that D.18-09-017

³⁹ D.19-01-051, at pp. 60-61 (emphasis added).

⁴⁰ *Exhibit 3 to Complaint*: MPWSP FEIR, at p. 4.11-11.

⁴¹ D.18-09-017, OP 34, at pp. 213-214; FOF 96, at p. 178 (“The desalination plant is appropriately sized at 6.4 mgd.”); at p. 138; OP 34, at pp. 213-214; Conclusions of Law (“COLs”) 64, 67, 73, 75, 76, at pp. 202-204.

⁴² *Id.*, at p. 207.

⁴³ *Id.*, at pp. 2, 70; FOFs 88 (to “produce 7,167 afy assuming operation at full capacity”), 89, at p. 178.

⁴⁴ *Id.*, at pp. 69-70; FOFs 93-97, at pp. 178-179; D.19-01-051, at pp. 60-61.

⁴⁵ D.26-04-046, at p. 5 (emphasis added); *see also* D.19-01-051, at pp. 60-61; D.22-03-038, at p. 5; D.22-12-001, at pp. 10, 15; D.25-08-006, at p. 3.

“provides a mechanism for adjustments if needed” to the Project, with specific reference to a change in the size of the Project, by “Ordering Paragraph 22 [Cal-Am ‘shall seek any other [non-minor] project refinements by a petition to modify [D.18-09-017].’.]”⁴⁶

24. By OP 17 of D.18-09-017, at p. 209, beginning January 1, 2019, Cal-Am was ordered to “submit quarterly status reports on the permitting, financing, design, bidding, and construction of the Monterey Peninsula Water Supply Project to the Executive Director and to the Director of the Public Advocates Office, and publish the reports on a company maintained web site dedicated to the project.”

Required Standards of Conduct for Commission-Jurisdictional Utilities

25. Each investor-owned utility subject to this Commission’s jurisdiction, including Cal-Am, is subject to both general and program-specific standards of conduct.

26. In terms of general or overarching standards of conduct, PU Code Section 702 requires: “Every public utility shall obey and comply with every order, decision, or rule made or prescribed by the commission in the matters specified in this part, or any other matter in anyway relating to or affecting its business as a public utility, and shall do everything necessary or proper to secure compliance therewith by all of its officers, agents, and employees.”

27. By PU Code Section 1702, a “[c]omplaint may be made ... by any corporation or person, ... or any body politic or municipal corporation, ... setting forth any act or thing done or omitted to be done by any public utility, ... in violation or claimed to be in violation, of any provision of law or of any order or rule of the commission.”

28. The Commission’s constitutionally-conferred powers include the power to “examine records” and “punish for contempt.”⁴⁷

⁴⁶ D.26-04-046, at p. 5.

⁴⁷ Cal. Const., Art. XII, Section 6.

B. Specific Allegations

29. The Project is not constructed.

30. The Project is not operational.

31. No petition to modify D.18-09-017 to change the Project size or duration authorized by the Commission in that decision has been filed by Cal-Am.

32. No petition to modify D.18-09-017 to change the Project's forecasted costs and cost caps approved by the Commission in that decision has been filed by Cal-Am.

33. No petition to modify D.18-09-017 to undertake further environmental review and consideration of all factors required by Section 1002(a) for a project size or duration different than the Project authorized by the Commission in that decision has been filed by Cal-Am.

34. Cal-Am only received Coastal Commission conditional approval for its 4.8 mgd revised project through January 1, 2050.⁴⁸

35. The slant wells may need to shut down even sooner due to sea level rise, dune recession and slant well equipment life issues, which in combination with a smaller project size fundamentally changes the cost impacts on Cal-Am's ratepayers.⁴⁹

36. The Coastal Commission found that its Special Condition limiting operation through January 1, 2050 "creates a different concern that Cal-Am's desalination facility may not be able to operate for its overall expected 60-year operating life since Cal-Am does not currently

⁴⁸ *Exhibit I to Complaint*: Coastal Commission Findings, at pp. 2, 9, 16, 41, 100.

⁴⁹ *Id.*, at p. 8 ("Projections based on the [Coastal] Commission's current sea level rise guidance documents show the wells could be affected by coastal erosion within the next 40 years or so and that the well heads could be buried due to the inland movement of the adjacent sand dunes by about 2040 to 2050. However, Cal-Am estimates that its wells would operate for only 20 to 25 years before they would need to be relocated due to the decreased water yields they experience as they operate.... Special Condition 6 addresses these concerns by limiting the term of this CDP to no more than 25 years and requiring Cal-Am to submit a complete CDP application before the end of that term to propose relocation, rehabilitation, or removal of the wells.").

have a legal interest in locations further inland where Cal-Am might be able to relocate its wells ... A shorter operating life of the desalination facility may also create substantial changes in the Project's financing and water rates, since Cal-Am may seek to recover its costs in a much shorter time than the anticipated 60 years.”⁵⁰

37. Based on the Commission's determinations in D.25-08-006, as corrected by D.25-10-001 (rehearing denied, D.26-04-046), the Commission adopted an updated water supply estimate of 11,204 afy for the MPWSP.⁵¹

38. Cal-Am's current water demand for its Monterey District is approximately 9,000 afy, according to its MPWSP monthly reporting of system delivery.⁵²

39. Cal-Am's current water demand for its Monterey District is approximately 9,000 afy, according to its quarterly reporting to the State Water Resource Control Board (“SWRCB”).⁵³

40. Cal-Am reported a projected 42% annual supply surplus to the Department of Water Resources in June 2025.⁵⁴

41. Pursuant to a reference under Water Code Sections 2000 through 2048, the Executive Director of the SWRCB provided the SWRCB's Administrative Hearings Office's Final Report of the Board as Referee (“Final Report”) dated June 25, 2025 to the Monterey

⁵⁰ *Id.*, at p. 100.

⁵¹ D.25-08-006, COL 11 at p. 50, D.25-10-001, pp. 2-4.

⁵² *Exhibit 4 to Complaint*: Monterey Peninsula Water Supply Project, *System Delivery: Monterey Main, Hidden Hills, Ryan Ranch & Bishop*, available at <https://www.watersupplyproject.org/system-delivery>.

⁵³ *Exhibit 5 to Complaint*: California American Water, *Consolidated Report for the 4th Quarter of Water Year 2024* (October 30, 2024) see PDF page 8, available at https://amwater.com/caaw/resources/pdf/customer-service-billing/rates-al/monterey/2024/swrcb_q4wy_2024.pdf; *Exhibit 6 to Complaint*: California American Water, *Consolidated Report for the 4th Quarter of Water Year 2025* (October 27, 2025) see PDF page 8, available at https://www.amwater.com/caaw/resources/PDF/Custom-Service-Billing/Rates-AL/Monterey/2025/SWRCB_Q4WY_2024-2025-amended.pdf.

⁵⁴ *Exhibit 7 to Complaint*: Cal-Am Water Shortage Report dated June 25, 2025, “Retail Assessment” tab, available at https://wuedata.water.ca.gov/wsda_tool.asp?wuedata_plan_id=17600.

County Superior Court in its Case No. 20CV001387.⁵⁵

42. The Final Report concluded it is likely that the Project “will result in seawater intrusion in the central and southern sections of the Monterey Subbasin,” which is the subbasin of the Salinas Valley Groundwater Basin from which MCWD pumps its municipal groundwater supply.⁵⁶

43. Under Water Code Section 2019, such a report is *prima facie* evidence of the facts found therein, though parties to underlying litigation may offer rebuttal evidence to a court.

44. Increased seawater intrusion is an impermissible undesirable result under the MCWD and Salinas Valley Basin GSAs’ Groundwater Sustainability Plan for the Monterey Subbasin.⁵⁷

45. The trial of Case No. 20CV001387 in the Monterey County Superior Court concerning, among other things, the question of whether Cal-Am can obtain any water right applicable to its Project is ongoing, with final oral argument currently scheduled for November 12, 2026.⁵⁸

46. Environmental review of the unauthorized project Cal-Am is implementing is required.

47. In D.22-03-038, the Commission stated an expectation that the Project would be operational by December 31, 2021, to meet Cal-Am’s claimed “need for an additional 4,956 afy of water from an alternative water source” by that date in order to comply with State Water

⁵⁵ *Exhibit 8 to Complaint*: Administrative Hearings Office of the State Water Resources Control Board, *Final Report of the Board as Referee in City of Marina v. RMC Lonestar*, Case No. 20CV001384 (June 25, 2025) (“Final Report”) at p. 1.

⁵⁶ *Id.*, at pp. 83, 117.

⁵⁷ *Id.*, at p. 20.

⁵⁸ *Exhibit 9 to Complaint*: May 14, 2026 Minute Order of the Monterey County Superior Court in *City of Marina et al. v. RMC Lonestar et al.*, Case No. 20CV001387, at p. 3.

Resources Control Board Order WR 2016-0016.⁵⁹

48. SWRCB Order WR 2016-0016, required Cal-Am to terminate its unlawful diversions from the Carmel River by December 31, 2021.⁶⁰

49. In May 2021, MPWMD filed a complaint (C.21-05-005) against Cal-Am for failure to enter into an Amended Water Purchase Agreement (“WPA”) for the PWM Expansion project to provide 2,250 afy of additional water supply to meet Cal-Am’s customer demand.⁶¹

50. In response, a Presiding Officer’s Decision (“POD”) was issued dismissing the complaint as premature, while stating that the directive for Cal-Am “to provide alternative water supply sources should not be ‘stuck in time,’ based on outdated directives in D.18-09-017.”⁶²

51. The POD ordered Cal-Am to file an application to, among other things, update the demand and supply estimates for the MPWSP, inclusive of “any updated proposals for water supply projects, consistent with the requirements set out in Decision 18-09-017.”⁶³

52. On November 29, 2021, Cal-Am filed A. 21-11-024 requesting review and approval of an Amended WPA for the PWM Expansion project, and to update demand and supply estimates for the MPWSP.

53. The Commission issued D.22-03-038 dismissing MPWMD’s complaint as “moot” following the filing of A.21-11-024, stating that “the 6.4 mgd desalination plant has not been constructed” and had yet to receive permits necessary for its construction.⁶⁴

⁵⁹ D.22-03-038, at pp. 3-5.

⁶⁰ *Ibid.*; see *Exhibit 10 to Complaint*: SWRCB Order WR 2016-0016, at pp. 2, 19.

⁶¹ C.21-05-005 (MPWMD v. Cal-Am), POD (August 12, 2021), at pp. 10-11.

⁶² *Id.*, at pp. 21, 23.

⁶³ *Id.*, OP 2, at p. 24.

⁶⁴ D.22-03-038, at pp. 2, 13.

54. The Scoping Memo in A.21-11-024 divided the proceeding into two phases, with the potential for a third phase.⁶⁵

55. The first phase of A.21-11-024 approved an Amended WPA for water supply from the PWM Expansion project.⁶⁶

56. By D.22-12-001 (Rehearing Denied D.23-04-038), in Phase 1 of A.21-11-024, Cal-Am was authorized to enter the Amended WPA where the PWM Expansion project was found to be “reasonable, prudent, and in the public interest” and water supply and demand estimates supported its approval.⁶⁷

57. According to the MPWSP FEIR that was certified by the Commission in D.18-09-017, the first three primary objectives of the Project would be to:

- a. Replace Cal-Am’s Carmel River diversions in excess of 3,376 afy;
- b. Enable Cal-Am to reduce its Seaside Groundwater Basin pumping to 1,474 afy; and
- c. Enable Cal-Am to pay back 700 afy to the Seaside Groundwater Basin for 25 years.⁶⁸

58. Cal-Am has been able to cap its Carmel River diversions “at its legal limit of 3,376 afy” to comply with the SWRCB’s orders using its current water supplies and without the Project in every year since December 31, 2021.⁶⁹

⁶⁵ *Exhibit 11 to Complaint*: A.21-11-024, Scoping Memo, at pp. 3, 5-6.

⁶⁶ D.22.12-001, OP 1, at p. 87.

⁶⁷ *Id.*, COL 2 and 4, at p. 84; OP 1, at p. 87

⁶⁸ D.18-09-017, at pp. 14-15 (citing MPWSP FEIR, Vol. I, Section 1.3.1).

⁶⁹ *Exhibit 12 to Complaint*: A.21-11-024, Exhibit CAW-17, Phase 2 Direct Testimony of Ian C. Crooks, Corrected, at pp. 28:22 –29:4; *see also Exhibit 5 to Complaint*, at PDF p. 8 and *Exhibit 6 to Complaint*, at PDF p. 8.

59. Cal-Am has been able to cap its Seaside Basin pumping at 1,474 afy since the PWM project began producing supplies.⁷⁰

60. Cal-Am now has sufficient surplus supplies to commence its payback to the Seaside Basin.⁷¹

61. By OP 17 of D.18-09-017, the Commission ordered Cal-Am to submit quarterly status reports on the permitting, financing, design, bidding and construction of the MPWSP to the Commission's Executive Director and the Director of the Public Advocates Office, and publish the reports on a Cal-Am-maintained web site dedicated to the Project.

62. In reporting on the status of the MPWSP in its Q2 2022 MPWSP quarterly Project Update, Cal-Am stated that the "desalination plant will produce 6,250 acre-feet of treated water per year", which is the water production for a 6.4 mgd plant adopted by the Commission for "non-drought years."⁷²

63. As to the "budget," Cal-Am's same MPWSP Q2 2022 Project Update stated that its budget "figures are based on a 6.4 MGD desalination facility."⁷³

64. No reference was made in Cal-Am's MPWSP Q2 2022 Project Update to any Project other than 6.4 mgd.

65. In assessing Cal-Am's water supply and approving the PWM Expansion WPA, the Commission in D.22-12-001 again stated that the "6.4 mgd desalination plant" adopted by the Commission in D.18-09-017 had not been constructed.⁷⁴

66. Further, the Commission found that "there will continue to be delay in

⁷⁰ D.25-08-006, p. 51, as modified by D.25-10-001, p. 4 (11,204 AFY of supply) and D.25-08-006, p. 33 (Cal-Am states 9,280 AFY current demand, accepted by MCWD).

⁷¹ *Ibid.*

⁷² *Exhibit 13 to Complaint*: Cal-Am MPWSP Q2 2022 Project Update, at p. 4.

⁷³ *Id.*, at p. 5.

⁷⁴ D.22.12-001, at pp. 5, 10.

constructing the 6.4 mgd desalination plant” where “CalAm has not obtained” multiple permits, leases, and federal agency authorizations required for the MPWSP to be constructed,” the “6.4 mgd desalination plant is also at issue in pending litigation,”⁷⁵ and “[t]here is also significant opposition to the desalination plant from community members that cannot be ignored,”⁷⁶ in particular noting the strong opposition to construction of the Project from Marina “due to environmental justice concerns and what they see as the relative merits of the PWM Expansion Project compared to the desalination plant.”⁷⁷

67. In D.22-12-001, the Commission noted comments from Cal-Am “stating an intent to pursue a smaller 4.8 mgd” project.⁷⁸

68. In 2022, Cal-Am’s application for one of the multiple permits required for the construction of the Project – a CDP – was under consideration by the Coastal Commission.

69. In October 2022, Cal-Am modified its application to the Coastal Commission to request approval of a 4.8 mgd project.⁷⁹

70. Cal-Am’s corporate parent is American Waterworks Company, Inc.

71. American Waterworks Company, Inc., publicly announced Cal-Am’s plans for a 4.8 mgd phased project in a press release dated October 5, 2022.⁸⁰

72. The Docket Card in A.12-04-019 does not include any filing by Cal-Am providing notice of its Coastal Commission application or any change in the Project size and does not include any petition by Cal-Am to modify D.18-09-017 to change that decision’s

⁷⁵ *Id.*, at p. 15.

⁷⁶ *Ibid.*

⁷⁷ *Id.*, at pp. 15-16.

⁷⁸ *Id.*, at pp. 67-68.

⁷⁹ *Exhibit 1 to Complaint*: Coastal Commission Findings, at pp. 2, 51.

⁸⁰ *Exhibit 14 to Complaint*: American Waterworks Company, Inc. press release dated Oct. 5, 2022, available at <https://www.amwater.com/press-room/press-releases/california/california-american-water-announces-phasing-for-monterey-peninsula-water-supply-project>.

authorized 6.4 mgd size for the Project.

73. Cal-Am's Q3-Q4 2022 MPWSP Project Update made no reference to a capacity of 6.4 mgd, or 6,250 afy or greater for the Project, instead stating: "The plant has an initial 4.8 million-gallons-per-day capacity" and "is designed to accommodate a phased increase in capacity to provide for future needs for the Peninsula and design" and that "[t]his added flexibility in design was in response to concerns regarding future supply needs."⁸¹

74. In making the foregoing statements, Cal-Am never explains how the 4.8 mgd project, as opposed to a 6.4 mgd Project, responds to "future supply needs" or what those "needs" are to which only a 4.8 mgd project could respond.

75. No mention is made in any of the Cal-Am's quarterly MPWSP Project Updates published from Q3-Q4 2022 to the present of how Coastal Commission approval could alter the Commission's authorization solely for a 6.4 mgd Project in D.18-09-017.

76. In all of Cal-Am's quarterly MPWSP Project Updates since Q3-Q4 2022, Cal-Am has not mentioned its responsibility to file a petition to modify the Commission's decisions (D.18-09-017 and D.19-01-051) to change the Commission's authorization solely for a 6.4 mgd Project and its rejection of a 4.8 mgd project or a phased project from that smaller size.

77. At a hearing in November 2022, the Coastal Commission voted to conditionally approve Cal-Am's application to proceed with a 4.8 mgd project.⁸²

78. The Coastal Commission's summary of its action on page two of the Coastal Commission Findings states:

Cal-Am is proposing phased construction of the Project. It seeks authorization to construct a smaller initial phase of the Project that would produce 4.8 million

⁸¹ *Exhibit 15 to Complaint*: MPWSP Q3-Q4 2022 Project Update, at p. 2.

⁸² *Exhibit 1 to Complaint*: Coastal Commission Findings, at pp. 1, 9, 11.

gallons per day (“mgd”) per year. Construction of the full sale (*sic*) of the Project at 6.4 mgd per year would occur in a second phase *only if* Cal-Am can demonstrate a need for the additional water supply and demonstrate that the first phase has been operating in a manner that is protective of local groundwater supplies and nearby wetlands.

79. Among the Special Conditions imposed by the Coastal Commission, the 4.8 mgd project could be expanded to 6.4 mgd only after at least two years of operation without adverse impacts⁸³ and a further application demonstrating need for the additional supply.⁸⁴

80. In its written Final Adopted Findings on Cal-Am’s application, the Coastal Commission imposed multiple additional Special Conditions that Cal-Am must satisfy before the CDP can be issued.⁸⁵

81. The Coastal Commission’s Special Conditions include an express requirement for this Commission’s “authorization” to proceed with the 4.8 mgd project.⁸⁶

82. The Coastal Commission’s Special Conditions also require entry of a final judgment in Case No. 20CV001387, now pending before the Monterey County Superior Court; however, the CDP “shall not be issued if that judgment or disposition demonstrates that (a) the Applicant does not have, and cannot feasibly obtain, water rights (to the extent applicable) for the Project or (b) Cal-Am’s Project would cause harm to any aquifer that is a source of drinking water to the City of Marina or the Marina Coast Water District.”⁸⁷

83. During evidentiary hearings in Phase 2 of A.21-11-024 on updated water demand and supply estimates for the MPWSP held in April 2024, testimony by Cal-Am’s witness on

⁸³ *Id.*, at p. 14.

⁸⁴ *Id.*, at pp. 2, 41, 43.

⁸⁵ *Id.*, at pp. 12-40.

⁸⁶ *Id.*, at p. 13.

⁸⁷ *Ibid.*

water supply admitted into that record as Exhibit CAW-27 stated that a “first phase of the MPWSP” had been “*approved by the California Coastal Commission* in November 2022 [that] would have a capacity of 4.8 million gallons per day (mgd) and would produce approximately 5,372 AFY” and that Cal-Am would construct that 4.8 mgd project for operation by 2030.⁸⁸

84. Cal-Am continued to confirm its decision to construct a 4.8 mgd project in other testimony, public statements, and formally filed pleadings from 2024 to the present.

85. These continuing confirmations of Cal-Am’s decision to construct a 4.8 mgd project include the following:

a. During evidentiary hearings in Phase 2 of A.21-11-024, Cal-Am’s supply witness was asked whether Cal-Am intends to proceed with a 4.8 mgd project, to which he responded “Yes, the intent is to move forward with the project.”⁸⁹

b. During evidentiary hearings in Phase 2 of A.21-11-024, Cal-Am’s demand witness was asked whether the 6.4 mgd Project would be in service in or before 2030, to which he responded “No. Our plan is to construct the first phase of the 6.4 MGD project to be in service before 2030.”⁹⁰

c. In materials attached to a July 2025 Notice of Ex Parte Communications, Cal-Am stated “In 2022, **Coastal Commission approved** our application including **a phased development** of the desalination plant, with initial construction of a 4.8 MGD plant.” (Emphasis in original.)⁹¹

d. In testimony served on July 1, 2025, in A.25-07-003 (Cal-Am General Rate Case) Cal-Am confirmed that Cal-Am was moving forward to

⁸⁸ *Exhibit 16 to Complaint*: Phase 2 Supplemental Rebuttal Testimony of David Pezzini, Attachment 2 (WSA 2023), at p. 17 (emphasis added).

⁸⁹ *Exhibit 17 to Complaint*: A21-11-024 Reporter’s Transcript, Vol. 3, March 12, 2024, at pp. 329:24-330:17 (Cal-Am (Pezzini)).

⁹⁰ *Exhibit 18 to Complaint*: A.21-11-024, Reporter’s Transcript, Vol.4, at pp. 487:24 – 488:3 (Cal-Am (O’Halloran)).

⁹¹ *Exhibit 19 to Complaint*: A21-11-024 Cal-Am Notice of Ex Parte Communication (July 23, 2025), Attachment 1, at p. 2 (emphasis original).

construct a 4.8 mgd project based on the Coastal Commission approval of a “phased development.”⁹²

e. In Cal-Am quarterly progress reports on the status of the MPWSP required by D.18-09-017 and served on the service list for A.12-04-019, Cal-Am confirmed that the project being constructed “will produce 5,376 acre-feet of treated water per year,” which is the size of a 4.8 mgd project and *not* a 6.4 mgd Project that was expected to produce 7,167 acre feet per year.⁹³

f. According to Cal-Am’s quarterly progress report on the status of the MPWSP for the fourth quarter of calendar year 2025, Cal-Am has spent over \$200 million of its \$279.1 million cost cap applicable to the subsurface intake system, desalination plant and pipeline facilities for the approved 6.4 mgd Project, to implement “a plant that will be constructed preliminary at 4.8 MGD, which can be scaled up to accommodate future demand.”⁹⁴

g. Cal-Am has announced the construction of the 4.8 mgd project was to start in 2025.⁹⁵

h. In its February 18, 2026 10-K filing with the United States Securities and Exchange Commission for the fiscal year ended December 31, 2025, Cal-Am’s parent company, American Waterworks Company, Inc., stated on page 51 of the filing that construction “is expected to begin in 2026” on Cal-Am’s desalination project.⁹⁶

⁹² *Exhibit 20 to Complaint*: A.25-07-003, Cal-Am General Rate Case, Direct Testimony of Stephen (Wes) Owens for California-American Water Company dated July 1, 2025, at pp. 75-77.

⁹³ *Exhibit 2 to Complaint*: MPWSP Q4 2025 Project Update, at p. 4; *see also Exhibit 21 to Complaint*, MPWSP Q4 2024 Project Update, at pp. 2, 4.

⁹⁴ *Exhibit 2 to Complaint*: MPWSP Q4 2025 Project Update, at p. 5 “Budget and Note.”

⁹⁵ *Exhibit 22 to Complaint*: Press Release on Commission Decision 25-08-006, dated August 14, 2025, available at <https://www.amwater.com/press-room/press-releases/california/california-public-utilities-commission-approves-water-supply-decision-supporting-california-american-waters-monterey-peninsula-desalination-project>; *Exhibit 23 to Complaint*: Monterey Herald: “Regulators Side with Cam Am on Monterey Peninsula Water Supply,” dated August 14, 2025, available at <https://www.montereyherald.com/2025/08/14/regulators-side-with-cal-am-on-monterey-peninsula-water-supply/>.

⁹⁶ *Exhibit 24 to Complaint*: Form 10-K, ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934, AMERICAN WATER WORKS COMPANY,

i. In its February 18, 2026 10-K filing with the United States Securities and Exchange Commission for the fiscal year ended December 31, 2025, Cal-Am's parent company, American Waterworks Company, Inc., stated on page 52 of the filing that in 2022 Cal-Am had announced "a phasing plan" for the desalination project, initially "constructed to produce up to 4.8 [mgd]".⁹⁷

86. On information and belief, at no point in its amended application to the Coastal Commission nor in any formal hearing before the Coastal Commission did Cal-Am ever state that the Commission in D.18-09-017 had rejected both a 4.8 mgd project MPWSP and the expansion or phasing of a 4.8 mgd project.

87. In no quarterly MPWSP Project Update filed after Q2 2022 when Cal-Am began to report that the Coastal Commission had "approved" a 4.8 mgd project has Cal-Am ever stated or alerted the Commission to the facts that (1) the Coastal Commission's conditional CDP for a 4.8 mgd project was based on Cal-Am's request for such a CDP and (2) that such a request by Cal-Am never alerted the Coastal Commission to the fact that the Commission had rejected both a 4.8 mgd project and the expansion or phasing of a 4.8 mgd project to 6.4 mgd in D.18-09-017 and D.19-01-051.⁹⁸

88. No environmental review of a 4.8 mgd project as required by PU Code Section 1002(a)(4) has been conducted by the Commission.

89. Following completion of the Commission's environmental review as lead agency under CEQA and its approval of a 6.4 mgd Project in D.18-09-017, and following the Coastal Commission's conduct of its CEQA-equivalent process as a responsible agency, as part of the

INC., Commission File No. 001-34028, at p. 51, available at <https://www.sec.gov/Archives/edgar/data/1410636/000141063626000034/awk-20251231.htm>.

⁹⁷ Exhibit 24 to Complaint: Feb. 18, 2026 Form 10-K, at p. 52.

⁹⁸ See D.18-09-017, at pp. 69-70, 128, FOFs 93-97, at pp. 178-179; D.19-01-051, at pp. 60-61.

SWRCB referral and Monterey County Superior Court Case No. 20CV001387, additional groundwater modeling was performed.

90. The additional groundwater modeling has developed significant new information regarding the Project’s potential impacts on local groundwater resources.

91. As stated above, based on this additional groundwater modeling, the Final Report concluded it is likely that the Project “will result in seawater intrusion in the central and southern sections of the Monterey Subbasin.”⁹⁹

92. As stated above, the Monterey Subbasin is the subbasin of the Salinas Valley Groundwater Basin from which MCWD pumps its municipal groundwater supply.¹⁰⁰

93. Multiple discretionary agency approvals for the Project remain outstanding, including the State Lands Commission and the National Oceanic and Atmospheric Administration, as well as the Central Coast Regional Water Quality Board’s consideration of necessary modifications to an ocean outfall to accommodate the Project’s brine disposal and the Coastal Commission’s consideration of the necessary outfall modifications and groundwater impacts.

94. In seeking a lease from the State Lands Commission for its jurisdictional lands where a portion of the desalination intake infrastructure would be constructed, Cal-Am informed State Lands Commission that it had modified the project size to 4.8 mgd.¹⁰¹

95. In seeking amendments to an existing State Lands Commission lease for an existing test slant well, Cal-Am informed the State Lands Commission of ongoing proceedings

⁹⁹ *Exhibit 8 to Complaint*: Final Report, at pp. 83, 117.

¹⁰⁰ *Id.*, at pp. 3, 6.

¹⁰¹ *Exhibit 25 to Complaint*: State Lands Commission Environmental Memorandum dated May 2026, at pp. 7-8.

related to the proposed desalination project at the Coastal Commission, in the Superior Court, and before this Commission.¹⁰²

96. The State Lands Commission’s February 28, 2023 Staff Report stated an expectation that this Commission “will also consider longer term supply and demand estimates and whether additional water supplies will be needed beyond what the Pure Water Expansion will provide.”¹⁰³

97. In Phase 2 of A.21-11-024, the Commission further updated supply and demand estimates for the MPWSP, adopting an updated supply estimate of 11,204 afy and adopting an updated demand estimate forecasted for 2050 of 13,732 afy.¹⁰⁴

98. In D.25-08-006, the Commission received evidence of Cal-Am’s current demand estimates of approximately 9,200 afy.¹⁰⁵

99. Based on the Commission’s supply and demand estimates as updated in D.25-08-006, corrected by D.25-10-001, Cal-Am’s current supply surplus for its Monterey District is approximately 2,000 afy, not including supplies stored in the Seaside Basin.

100. On information and belief, as of the filing date of this Complaint, Cal-Am has not commenced construction of the proposed subsurface intake system or the desalination plant in any size.

101. Cal-Am has continued to publicly announce that “all conditions” of the Coastal Commission’s CDP for a 4.8 mgd project will be satisfied by “mid-2026” and that activities and “work” continue on “all project components” required to construct the project in that size.¹⁰⁶

¹⁰² *Exhibit 26 to Complaint*: State Lands Commission Staff Report dated Feb. 28, 2023, at pp. 5-6.

¹⁰³ *Id.*, at p. 5.

¹⁰⁴ D.25-08-006, OPs 1 and 2 at p. 51, as corrected by D.25-10-001, at pp. 2-4, rehearing denied D.26-04-046.

¹⁰⁵ *See* D.25-08-006, at pp. 17, 33.

¹⁰⁶ *Exhibit 2 to Complaint*: MPWSP Q4 2025 Project Update, at p. 2.

102. Based on Cal-Am’s current supply surplus for its Monterey District of approximately 2,000 afy as determined in Phase 2 of A.21-11-024, not including supplies stored in the Seaside Basin, there would be no threat of a water supply shortage for Cal-Am’s Monterey District ratepayers if the Commission were to prohibit Cal-Am from further implementing an *uncertificated* project, or any desalination project, during the pendency of a petition for modification of D.18-09-017.

103. The Commission declined to add a third phase to A.21-11-024.¹⁰⁷

104. The Commission denied Complainants’ applications for rehearing of D.25-08-006, including requests therein for a third phase of A.21-11-024 or other vehicle to address the conflict between the Coastal Commission’s conditional approval of a 4.8 mgd project and this Commission’s 2018 issuance of a CPCN for a 6.4 mgd Project.¹⁰⁸

105. Where the Complainants were foreclosed by the Commission from presenting evidence of the Coastal Commission’s conditional CDP for a 4.8 mgd project contrary to the CPCN for a 6.4 mgd Project issued by the Commission in D.18-09-017,¹⁰⁹ this Complaint to this Commission is Complainants’ sole recourse to set forth Cal-Am’s violations of D.18-09-017 and D.19-01-051 and seek Commission enforcement of Cal-Am’s compliance with D.18-09-017, including the filing of a petition for modification by Cal-Am to seek approval of proposed “non-minor” refinements to the Project, including refinements that have been rejected by the Commission in its “final and non-appealable” orders in D.18-09-017.¹¹⁰

106. Cal-Am’s implementation since at least October 5, 2022 of an uncertificated 4.8

¹⁰⁷ D.25-08-006, COL 14, at p. 51.

¹⁰⁸ D.26-04-046, OP 1, at p. 14.

¹⁰⁹ D.25-08-006, OPs 3 and 4, at p. 51 (upholding rulings on Cal-Am motion to strike and denying MCWD motion for official notice).

¹¹⁰ PU Code Sections 702, 1702. D.26-04-046, at p. 5, *see* D.18-09-017, OP 22, at pp. 210-211.

mgd project is a violation of D.18-09-017, wherein the Commission expressly rejected proposals for a smaller or phased project, based upon the Commission's 2018 supply and demand estimates as set forth in Paragraph 17 above.

107. Cal-Am's failure to petition the Commission for modification of D.18-09-017 prior to implementing a 4.8 mgd project is a violation of D.18-09-017, wherein the Commission expressly provided Cal-Am direction to seek non-minor Project "refinements by a petition to modify" D.18-09-017.¹¹¹

108. Cal-Am has been in violation of D.18-09-017 since October of 2022, when it began to implement a differently-sized, 4.8 mgd project that had not been authorized and had been rejected by the Commission, including by seeking a CDP before another State Agency (Coastal Commission) without first seeking authority to modify this Commission's decisions or a Commission-issued CPCN to construct a 4.8 project and by failing to apprise the Coastal Commission in its CDP application that it did not and does not have the authority from this Commission to build a 4.8 mgd project.

109. Cal-Am has failed to meet its duty and obligation to provide safe, reliable, and affordable service to its ratepayers by failing to file a petition to modify D.18-09-017 for authority to alter the Project size, including updated assessments of cost, environmental, and community value impacts.

110. All of these actions by Cal-Am violate D.18-09-017 and PU Code Sections 451, 702, 761, 1001, 1002, and 1702 and further demonstrate that Cal-Am has not met its obligation to provide lawful, safe, reliable, and affordable water service to its customers.

111. Cal-Am should be ordered by the Commission to show cause why it has not

¹¹¹ D.18-09-017, OP 22, at pp. 210-211, as confirmed in D.26-04-046, at p. 5.

petitioned for modification of D.18-09-017 to alter the 6.4 mgd Project size authorized by that decision.

112. Attached hereto are the following Exhibits in further support of the foregoing factual allegations:

- 1 Final Adopted Findings of California Coastal Commission, Appeal No. A-3-MRA-19-0034, Application No. 9-20-0603
- 2 Cal-Am MPWSP Q4 2025 Project Update (pages 2, 4, 5)
- 3 MPWSP FEIR, Excerpts of Chapter 4 (Environmental Setting (Affected Environment), Impacts, and Mitigation Measures) (pages 4.11-11 and 4.20-2, 5-9 and 16-21)
- 4 Monterey Peninsula Water Supply Project, *System Delivery: Monterey Main, Hidden Hills, Ryan Ranch & Bishop*, available at <https://www.watersupplyproject.org/system-delivery>
- 5 California American Water, *Consolidated Report for the 4th Quarter of Water Year 2024* (October 30, 2024), available at https://amwater.com/caaw/resources/pdf/customer-service-billing/rates-al/monterey/2024/swrcb_q4wy_2024.pdf (PDF page 8)
- 6 California American Water, *Consolidated Report for the 4th Quarter of Water Year 2025* (October 27, 2025), available at https://www.amwater.com/caaw/resources/PDF/Customer-Service-Billing/Rates-AL/Monterey/2025/SWRCB_Q4WY_2024-2025-amended.pdf (PDF page 8)
- 7 Cal-Am Water Shortage Report dated June 25, 2025, “Retail Assessment” tab, available at https://wuedata.water.ca.gov/wsda_tool.asp?wuedata_plan_id=17600
- 8 Administrative Hearings Office of the State Water Resources Control Board, *Final Report of the Board as Referee in City of Marina v. RMC Lonestar, Case No. 20CV001384* (June 25, 2025) (pages 1, 3, 6, 20, 83, 117)
- 9 May 14, 2026 Minute Order from *City of Marina et al. v. RMC Lonestar et al.*, Case No. 20CV001387, in Monterey County Superior Court (page 3)
- 10 SWRCB Order WR 2016-0016 (pages 2, 19)

- 11 A.21-11-024, Scoping Memo (pages 3, 5, 6)
- 12 A.21-11-024, Exhibit CAW-17, Phase 2 Direct Testimony of Ian C. Crooks, Corrected (pages 28-29)
- 13 Cal-Am MPWSP Q2 2022 Project Update (pages 4, 5)
- 14 American Waterworks Company, Inc. press release dated Oct. 5, 2022, available at <https://www.amwater.com/press-room/press-releases/california/california-american-water-announces-phasing-for-monterey-peninsula-water-supply-project>
- 15 MPWSP Q3-Q4 2022 Project Update (page 2)
- 16 Phase 2 Supplemental Rebuttal Testimony of David Pezzini (pages 13-14), Attachment 2 (WSA 2023) (page 17)
- 17 A21-11-024 Reporter's Transcript, Vol. 3, March 12, 2024 (pages 329-330)
- 18 A.21-11-024, Reporter's Transcript, Vol.4, March 13, 2024 (pages 487-488)
- 19 A21-11-024 Cal-Am Notice of Ex Parte Communication (July 23, 2025), Attachment 1 (page 2)
- 20 A.25-07-003, Cal-Am General Rate Case, Direct Testimony of Stephen (Wes) Owens for California-American Water Company dated July 1, 2025 (pages 75-77)
- 21 MPWSP Q4 2024 Project Update (pages 2, 4)
- 22 Press Release on Commission Decision 25-08-006, dated August 14, 2025, available at <https://www.amwater.com/press-room/press-releases/california/california-public-utilities-commission-approves-water-supply-decision-supporting-california-american-waters-monterey-peninsula-desalination-project>
- 23 Monterey Herald: "Regulators Side with Cam Am on Monterey Peninsula Water Supply," dated August 14, 2025, available at <https://www.montereyherald.com/2025/08/14/regulators-side-with-cal-am-on-monterey-peninsula-water-supply/>
- 24 Form 10-K, ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934, AMERICAN WATER WORKS COMPANY, INC., Commission File No. 001-

34028, available at
[https://www.sec.gov/Archives/edgar/data/
1410636/000141063626000034/awk-20251231.htm](https://www.sec.gov/Archives/edgar/data/1410636/000141063626000034/awk-20251231.htm) (pages 51, 52)

25 State Lands Commission Environmental Memorandum dated May 2026
(pages 7, 8)

26 State Lands Commission Staff Report of Feb. 28, 2023 (pages 5, 6)

113. As of the date of filing of this Complaint, no MPWSP quarterly Project Update has been released for 2026.

**IV.
REQUESTED RELIEF
(Rule 4.2(a))**

Wherefore, the Complainants respectfully request that the Commission:

1. Immediately issue a ruling or interim order prohibiting Cal-Am from undertaking any further implementation, including planning or construction, of any desalination project, pending resolution of this Complaint and resolution of any subsequent petition for modification of D.18-09-017.

2. Promptly issue an order:

a. Finding Cal-Am is in violation of D.18-09-017 for implementing a project not authorized by this Commission, and finding that Cal-Am's implementation of an unauthorized project also violates PU Code Sections 451, 702, 761, 1001, 1002, and 1702.

b. Ordering Cal-Am's immediate compliance with D.18-09-017 by requiring Cal-Am to file a petition to modify D.18-09-017 to authorize the project Cal-Am is implementing supported by (i) a thorough justification, as to law and fact, for seeking to change the authorized Project size, inclusive of any planned phasing or expansion; (ii) updated cost information for the project Cal-Am is implementing, including the basis for

revising costs and cost caps adopted by D.18-09-017; (iii) a proposal for environmental review as required under CEQA, to the extent environmental review specific to the project Cal-Am is implementing is not already under way before a different agency, to comply with PU Code Section 1002(a)(4); (iv) a demonstration that “the present or future public convenience and necessity require or will require” construction of the project Cal-Am is implementing pursuant to PU Code Section 1001 inclusive of consideration of all factors required by PU Code Section 1002, subsection (a) to support such a determination; (v) justification for the filing of the petition more than a year after the issuance of D.18-09-017;¹¹² and (vi) all new facts “supported by an appropriate declaration or affidavit.”¹¹³

- c. Requiring Cal-Am to show cause why it should not be sanctioned, fined, or otherwise disciplined for implementing an unauthorized project in violation of D.18-09-017 and

¹¹² Rule 16.4 of the Commission Rules governs Petitions for Modification of Commission decisions. Among other things, Rule 16.4(d) requires a petitioner to “explain why the petition could not have been presented within one year of the effective date of the decision.”

¹¹³ As to the required content of a Petition for Modification, Rule 16.4(b) requires: “Any factual allegations must be supported with specific citations to the record in the proceeding or to matters that may be officially noticed. Allegations of new or changed facts must be supported by an appropriate declaration or affidavit.”

D.19-01-051 and failing to file the petition required by D.18-09-017 to amend the Project's size.

3. Grant such other and further relief and remedies as the Commission deems just and equitable.

Respectfully submitted, June 16, 2026

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ATTORNEYS FOR THE
MARINA COAST WATER DISTRICT

VERIFICATIONS

(Rules 1.11 and 4.2)

I am the General Manager for the Monterey Peninsula Water Management District, a Complainant herein, and am authorized to make this verification on its behalf.

The statements in the foregoing document are true of my own knowledge, except as to the matters which are therein stated on information and belief, and as to those matters I believe them to be true.

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

Executed on June 15th, 2026 at Monterey, California.


By 

David J. Stoldt, General Manager
Monterey Peninsula Water Management District

**VERIFICATIONS
(Rules 1.11 and 4.2)**

I am the City Manager of the City of Marina, a Complainant herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except as to the matters which are therein stated on information and belief, and as to those matters I believe them to be true. I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 15, 2026, at Marina, California.



Layne P. Long

**VERIFICATIONS
(RULES 1.11 AND 4.2)**

I am the General Manager of Marina Coast Water District, a
Complainant herein, and am authorized to make this verification on its behalf. The statements in
the foregoing document are true of my own knowledge, except as to the matters which are
therein stated on information and belief, and as to those matters I believe them to be true. I
declare under penalty of perjury that the foregoing is true and correct.

Executed on Jan 16, 2026 at Marina, California.


Remteh Scherzinger

EXHIBITS