

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



FILED

09/04/26

04:59 PM

C2606021

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

Complainants

vs

California American Water Company
(U210W),

Defendant.

Case 26-06-021
(Filed June 16, 2026)

**CALIFORNIA-AMERICAN WATER COMPANY'S (U210W) REPLY TO JOINT
RESPONSE IN OPPOSITION TO ITS MOTION TO DISMISS THE COMPLAINT OF
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT, CITY OF MARINA
AND MARINA COAST WATER DISTRICT**

Cathy Hongola-Baptista
Nicholas A. Subias
California American Water
550 California Street, Suite 650
San Francisco, CA 94111
(415) 293-3023
cathy.hongola-baptista@amwater.com

Lori Anne Dolqueist
Matt Menezes
Nossaman LLP
50 California Street 34th Floor
San Francisco CA, 94111
(415) 398-3600
ldolqueist@nossaman.com

Duncan Joseph Moore
Natalie C. Rogers
Paul Hastings
1999 Avenue of the Stars, 26th Floor
Century City, CA 90067
(31) 620-5700
djmoore@paulhastings.com

Attorneys for California-American Water Company

September 4, 2026

TABLE OF CONTENTS

I. Introduction.....	1
II. Summary.....	2
III. Legal Standards.....	3
IV. Discussion.....	4
A. The facts alleged in the Complaint do not support a conclusion that California American Water violated a statute, rule, or CPUC order.	5
1. The Complaint conflates a phased 6.4 mgd Project with a standalone 4.8 mgd Project.	5
2. California American Water must comply with both the CPUC and Coastal Commission’s requirements and has been transparent about the conditional nature of the Coastal Commission’s approval.	8
3. California American Water did not claim that CPUC staff authorized a standalone 4.8 mgd desalination project, nor did it ask staff to do so. ...	10
4. California American Water has consistently represented its intention to complete the 6.4 mgd Project while complying with Coastal Commission requirements.	14
B. The Complaint seeks legally unsupported remedies.....	15
C. The Complaint fails to demonstrate that California American Water is obligated to file a petition for modification of D.18-09-017.	17
D. The Complaint does not satisfy the CPUC’s criteria for injunctive relief or a Stop Work Order.....	20
1. The Complaint does not satisfy any of the elements required for injunctive relief.	20
2. Complainants have not demonstrated that a Stop Work Order is appropriate.....	27
V. CONCLUSION.....	30

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

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

Complainant

vs

California American Water Company
(U210W),

Defendant.

Case 26-06-021
(Filed June 16, 2026)

**CALIFORNIA-AMERICAN WATER COMPANY’S (U210W) REPLY TO JOINT
RESPONSE IN OPPOSITION TO ITS MOTION TO DISMISS THE COMPLAINT OF
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT, CITY OF MARINA
AND MARINA COAST WATER DISTRICT,**

I. INTRODUCTION

Pursuant to Rules 11.1 and 11.2 of the Rules of Practice and Procedure of the California Public Utilities Commission (“CPUC”), Defendant California-American Water Company (“California American Water” or the “Company”) respectfully submits this Reply to the Joint Response to its Motion to Dismiss (“Motion”) the Complaint filed by Monterey Peninsula Water Management District (“MPWMD”), City of Marina (“City”), and Marina Coast Water District (“MCWD”) (collectively, “Complainants”). Pursuant to Rule 11.1(f) of the Rules of Practice and Procedure, California American Water sought permission from Administrative Law Judge (“ALJ”) Gerald F. Kelly to file this Reply on August 25, 2026. In his email ruling granting permission, ALJ Kelly stated “[t]he Reply shall be filed and served no later than September 4, 2026.”

For the reasons discussed below and in California American Water's Motion and concurrently filed Answer,¹ the Company respectfully requests that the CPUC dismiss the Complaint. Even if it does not dismiss the Complaint, California American Water respectfully requests that the CPUC deny Complainants' request for an order to halt construction of the Monterey Peninsula Water Supply Project ("MPWSP" or "Project").

II. SUMMARY

Under the CPUC's standards for resolving a Motion to Dismiss, Complainants are not entitled to any presumption that their legal conclusions are valid, only that their allegations are true. Complainants' allegations do not support their asserted legal conclusions, so the CPUC should dismiss the Complaint. In addition, the Complaint attempts to re-litigate settled CPUC decisions. For these reasons too, it should be dismissed.

Under the CPUC's standards for evaluating a request for injunctive relief, Complainants are not entitled to the presumption that their allegations are true. The CPUC weighs them against Defendants' rebuttals in its verified Answer and supporting evidence to determine whether Complainants satisfy all four elements for injunctive relief.² Applying this standard, Complainants' facts have not satisfied those elements, so the CPUC should not issue an injunction halting the project. Furthermore, Complainants cite no decision, and counsel for California American Water could not locate any, in which a Stop Work Order was issued in any

¹ This Reply refers to attachments to the Motion and concurrently filed Answer by the same numbers used therein.

² See D.95-05-020, p. 8 (Westlaw Pagination) ("[Complainants] must allege sufficient facts through the verified complaint or affidavits and declarations to show, if uncontroverted, the right to relief If the defendant controverts the showing through its verified answer and legally effective denial or through its own affidavits and declarations or testimony, we must weigh the evidence to determine how we assess the probable balance following trial."); D.23-10-032, pp. 35-36; see also *Sarale v. Pacific Gas & Electric Co.* (2010) 189 Cal.App.4th 225, 243 (to obtain injunctive relief, a party must show all of the following "(1) irreparable injury to the moving party without [injunctive relief]; (2) no harm to the public interest; (3) no substantial harm to other interested parties; and (4) a likelihood of prevailing on the merits.").

context other than a CPUC-initiated enforcement action (not an adjudication) to enforce environmental mitigation mechanisms or CEQA compliance. Complainants have not demonstrated that the CPUC should exercise its authority in the extraordinary manner they suggest by issuing a Stop Work Order in this case.

Complainants' Joint Response also accuses California American Water of attempting to mislead the CPUC or misrepresent the law. These accusations are without merit, and California American Water addresses each below.

III. LEGAL STANDARDS

The CPUC has developed two standards for ruling on a Motion to Dismiss; this Complaint should be dismissed under either standard. The first “requires the [CPUC] to determine whether the party bringing the motion prevails based solely on undisputed facts and matters of law.”³ The second requires the CPUC to determine “whether, taking the well-pleaded factual allegations of the complaint as true, the defendant is entitled to prevail as a matter of law.”⁴ Under both standards, the CPUC applies its independent judgment about the legal implications of the facts alleged, it does not defer to a Complainant's legal conclusions.⁵

When evaluating a request for a preliminary injunction in a Complaint, the CPUC does not simply take a Complainant's factual assertions as true. The CPUC must balance the Complainant's alleged facts against the Defendant's rebuttals.⁶ To obtain injunctive relief before

³ D.14-03-032, p. 4.

⁴ *Id.*, p. 5.

⁵ See D.14-06-035, pp. 5-7, Conclusions of Law 1-3, p. 9 (taking as fact Complainant's assertions about Defendant's acts or omissions, the CPUC dismissed the Complaint because none of these acts or omissions violated any law, rule, or CPUC decision).

⁶ See D.95-05-020, p. 8 (Westlaw Pagination) (“[Complainants] must allege sufficient facts through the verified complaint or affidavits and declarations to show, if uncontroverted, the right to relief If the defendant controverts the showing through its verified answer and legally effective denial or through its

the CPUC, “the moving party must show all of the following: (1) irreparable injury to the moving party without [injunctive relief]; (2) no harm to the public interest; (3) no substantial harm to other interested parties; and (4) a likelihood of prevailing on the merits.”⁷

IV. DISCUSSION

At base, the Complaint alleges that California American Water is building a 4.8 mgd capacity version of the MPWSP that the CPUC has not authorized.⁸ However, as Complainant’s own exhibits demonstrate, California American Water is working to construct a 6.4 mgd MPWSP in phases, as authorized by the California Coastal Commission’s (“Coastal Commission”) conditional approval. California American Water has never represented otherwise. These facts do not support the legal conclusion that California American Water is violating D.18-09-017 or that it must file a petition for modification. The Complaint also attempts to re-litigate settled CPUC and court decisions. The CPUC should conserve its limited resources by granting the Motion and dismissing the meritless Complaint.

Further, Complainants have not satisfied their heavy burden to obtain injunctive relief or any other order to halt construction of the Project. The CPUC must weigh their allegations against California American Water’s rebuttals, and under this standard, Complainants have not satisfied any of the four elements required to issue an injunction. Nor have they demonstrated that a Stop Work Order is an appropriate mechanism to pause construction outside the context of a CPUC-initiated CEQA enforcement action. Thus, the CPUC should deny Complainants’ request for an order to halt construction of the Project.

own affidavits and declarations or testimony, we must weigh the evidence to determine how we assess the probable balance following trial.”).

⁷ D.23-10-032, pp. 35-36.

⁸ Compl., pp. 5-7.

A. The facts alleged in the Complaint do not support a conclusion that California American Water violated a statute, rule, or CPUC order.

1. The Complaint conflates a phased 6.4 mgd Project with a standalone 4.8 mgd Project.

As in D.14-06-035, the CPUC must draw its own legal conclusions from the facts that Complainants allege. Taking as true that California American Water is currently building a 4.8 mgd capacity desalination facility does not require the CPUC to conclude that “authorization is required, but was *not* granted” for this action.⁹ The initial 4.8 mgd phase of the MPWSP is part of California American Water’s effort to construct the full 6.4 mgd desalination facility, which the parties agree was authorized in D.18-09-017.¹⁰ The Findings of Fact and other portions of D.18-09-017 and D.19-01-051 cited by Complainants explain why a standalone 4.8 mgd Project is inferior to a 6.4 mgd Project.¹¹ California American Water does not intend to build a standalone 4.8 mgd Project; it fully intends to build a 6.4 mgd Project while abiding by the conditions imposed by the Coastal Commission, which requires starting with an initial 4.8 mgd phase.¹²

Complainants’ assertion that the CPUC specifically “rejected phasing from a 4.8 mgd to a 6.4 mgd Project in the future”¹³ completely mischaracterizes D.18-09-017. Originally, California American Water proposed a version of the Project that would have a 9.6 mgd capacity. The FEIR

⁹ Resp., p. 4 (emphasis original).

¹⁰ *Id.*; Mot., pp. 2-3.

¹¹ Resp. pp. 4-5, nn. 17-18; (citing D.18-09-017, pp. 69-70, Findings of Fact 93-97, pp. 178-79; D.19-01-051, pp. 60-61.).

¹² **Attachment 1**, California Coastal Commission, Final Adopted Findings, De Novo Appeal Hearing and Consolidated Coastal Development Permit Appeal No. A-3-MRA-19-0034, Application No. 9-20-0603, November 17, 2022 (“CDP Final Findings”), pp. 2-3, 14 (Coastal Development Permits authorize construction and operation of 4.8 mgd Project, California American Water may obtain authorization to complete 6.4 mgd Project after satisfying criteria set forth by the Coastal Commission).

¹³ Resp., p. 19 (quoting Compl., pp. 4-5).

and the CPUC analyzed the 9.6 mgd version, as well as a 6.4 mgd alternative.¹⁴ The CPUC recognized that the Project’s water production capacity could be sized up or down by adding or removing a desalination train (which is approximately 1.6 mgd) to the desalination plant.¹⁵ The CPUC ultimately determined that a 6.4 mgd Project, in conjunction with the purchase of 3,500 acre-feet per year of water from Monterey One Water’s Pure Water Monterey recycled water project, was the environmentally preferred alternative.¹⁶

As part of its review, the CPUC rejected requests to approve a standalone 4.8 mgd Project because it determined, based on water supplies available at that time, that such a facility likely would be insufficient to meet future water demand, citing the likely need for future expansion.¹⁷ In particular, the CPUC was “not persuaded” by representations that the Pure Water Monterey project could be expanded to provide additional water in combination with a standalone 4.8 mgd Project.¹⁸ Any expansion was speculative at that time. However, in 2022, when the Coastal Commission considered the 6.4 mgd Project, expansion of Pure Water Monterey was no longer speculative; the CPUC had approved a Water Purchase Agreement for water from the Pure Water Monterey expansion.¹⁹ Thus, the Coastal Commission found it appropriate to phase construction of the CPUC-approved 6.4 mgd Project. In 2025, the CPUC

¹⁴ D.18-09-017, pp. 79-80.

¹⁵ *Id.*, p. 57.

¹⁶ *Id.*, pp. 82, 102-03, 126, Findings of Fact 82-83, p. 177.

¹⁷ *Id.*, p. 69.

¹⁸ *Id.*, Conclusion of Law 9, p. 194.

¹⁹ **Attachment 1**, CDP Final Findings, p. 54.

found that, even accounting for the Pure Water Monterey expansion, projected 2050 water demand will still exceed the current water supply.²⁰

Nothing in D.18-09-017 can fairly be read to reject phased construction of the approved 6.4 mgd Project. The CPUC rejected issuance of a CPCN for a standalone 4.8 mgd project because, based on the record before it at the time, that smaller project would not adequately meet projected demand and would not materially reduce the environmental impacts associated with construction.²¹ That is materially different from constructing the approved 6.4 mgd facility in phases, beginning with a 4.8 mgd operational phase and then completing the remaining work necessary to increase capacity as contemplated by Special Condition 2 of the Coastal Commission’s approval of the Project’s Coastal Development Permits (“CDPs”).²² The additional slant wells required to complete the 6.4 mgd facility are already permitted by the CPUC²³ and can be authorized by the Coastal Commission amending the CDPs without requiring a new permit.²⁴ The Coastal Commission’s conditions have reduced the environmental impacts of constructing and operating these additional wells compared to what the CPUC analyzed in its FEIR.²⁵ Further, as explained in detail below, Project components that will serve the 4.8 mgd phase are all necessary components for the final 6.4 mgd Project (e.g., desalination

²⁰ D.25-08-005, pp. 2, 44-46, Conclusions of Law 6, 11, p. 50; D.25-10-001, pp. 2-4 (correcting typographical errors).

²¹ D.18-09-017, pp. 69-70.

²² **Attachment 1**, CDP Final Findings, p. 14.

²³ D.18-09-017, Finding of Fact 87, p. 178 (“The MPWSP (6.4 mgd Project) utilizes a source water intake system consisting of seven new subsurface slant wells... .”); *see also id.*, Finding of Fact 98, p. 179 (“Seven slant wells are required to operate the MPWSP sized at the 6.4 mgd plant.”).

²⁴ **Attachment 1**, CDP Final Findings, p. 14 (“To obtain authorization for construction and operation of [the 6.4 mgd phase], [California American Water] shall submit an application for an amendment to this permit... .”).

²⁵ *Id.*, pp. 42, 68, 70, 163; **Attachment 7**, State Lands Commission (“SLC”) Environmental Memorandum, p. 8, n.4, pp. 22-25; Resp. Ex. 1, pp. 37-38.

plant facility, water conveyance pipelines). Accordingly, phased construction of the approved 6.4 mgd Project is consistent with the CPUC's decision and does not convert the approved Project into the standalone 4.8 mgd alternative the CPUC declined to authorize.

2. California American Water must comply with both the CPUC and Coastal Commission's requirements and has been transparent about the conditional nature of the Coastal Commission's approval.

California American Water never asserted that an approval by the Coastal Commission can change a final jurisdictional decision of the CPUC.²⁶ The Company is required to abide by the decisions of both Commissions.²⁷ Where two state agencies share overlapping and concurrent jurisdiction, a regulated entity must comply with the more stringent requirements imposed by each.²⁸ California American Water did not "fail[] to mention that there is no certainty that [] an amendment to the Coastal Commission's conditional approval" would be accepted by the Coastal Commission.²⁹ While an amendment is not guaranteed, California American Water intends to pursue the requisite approvals to proceed with the full 6.4 mgd Project at the appropriate time in the future, once the pre-requisites in Special Condition 2 of the CDPs have been satisfied.

²⁶ Resp., p. 5 ("Cal-Am never provides any legal authority to support a claim that an 'approval' by the California Coastal Commission can change a final jurisdictional decision of this Commission.").

²⁷ Pub. Res. Code § 30600(a) ("in addition to obtaining any other permit required by law ... any person ... wishing to perform or undertake any development in the coastal zone ... shall obtain a coastal development permit"); D.94-06-014, Conclusion of Law 15, p. 22 (Westlaw Pagination) ("The [CPUC] acknowledges the concurrent jurisdiction of the California Coastal Commission in the coastal zone and the need for the utilities to comply with the permit requirements of state agencies having concurrent jurisdiction.").

²⁸ *Pacific Lumber Co. v. State Water Resources Control Bd.* (2006) 37 Cal.4th 921, 936.

²⁹ Resp., pp. 5-6; see Mot., p. 4 ("The Coastal Commission requires an amendment to the CDP[s] ... to complete the build-out of the 6.4 mgd phase of the project); see also *id.*, p. 11, n. 37 ("the Coastal Commission approved a plant that will be constructed preliminarily at 4.8 MGD, which can be scaled up to accommodate future demand.").

The CPUC’s jurisdiction to authorize utility construction may be exclusive, but its jurisdiction over this Project in the Coastal Zone is not.³⁰ Therefore, California American Water is obligated to comply with both CPUC and Coastal Commission decisions.³¹ California American Water does not ask the CPUC to “ignore the law or wrongly delegate its decision-making authority to other agencies or ‘CPUC staff.’”³² California American Water simply urges the CPUC to recognize that the Company’s actions are consistent with both the CPUC and the Coastal Commission’s authorizations, and therefore the relief that Complainants seek is not supported by law. This is why California American Water did not “cite[] to any authority ... that authorizes Cal-Am to construct a 4.8 mgd project or a ‘phasing’ of a 4.8 mgd project to a 6.4 mgd MPWSP” in its Motion.³³ California American Water is not constructing a standalone 4.8 mgd Project and phased construction and operation of the Project’s slant wells does not violate the CPUC’s prior decisions.

The passage Complainants cite from California American Water’s joint brief with the Coastal Commission (“Joint Brief”) in litigation brought by Complainants in state court

³⁰ See **Attachment 15**, *City of Marina v. Cal. Coastal Com.*, Final Decision, Case No. 22CV004063 (May 12, 2025), p. 62 (“Acceptance of [Petitioners’] argument would require complete disregard of the CPUC’s repeated statements recognizing the [Coastal] Commission’s authority under the Coastal Act, of the subsequent evidence considered by the [Coastal] Commission, and of the practical realities of obtaining approvals for a project from multiple governmental agencies. It is clear that the CPUC recognized future changes might be required by the Coastal Commission in its role under the Coastal Act to determine consistency.”); see also *id.*, p. 65 (“[T]he [Coastal] Commission’s decision was not a collateral attack on the CPUC’s decision and conclusions reached in the FEIR/FEIS.”).

³¹ Pub. Res. Code § 30600(a) (“in addition to obtaining any other permit required by law ... any person ... wishing to perform or undertake any development in the coastal zone ... shall obtain a coastal development permit”); D.94-06-014, Conclusion of Law 15, p. 22 (Westlaw Pagination) (“The [CPUC] acknowledges the concurrent jurisdiction of the California Coastal Commission in the coastal zone and the need for the utilities to comply with the permit requirements of state agencies having concurrent jurisdiction.”).

³² Resp., pp. 8-9.

³³ *Id.*, p. 9. In any event, the Coastal Commission has authority to impose phasing under its role and responsibilities under CEQA and the California Coastal Act. See 14 Cal. Code Regs., § 15096(g)(1); Pub. Resources Code, § 30607.

challenging the CDPs (Court of Appeal Case No. H05360) confirms this. It does not, as Complainants state, “tak[e] the position ... that the 6.4 mgd Project may never be constructed.”³⁴ The quoted text candidly informs the Court that the Coastal Commission had expressed uncertainty about need for the 6.4 mgd Project, given then-pending water supply and demand proceedings before the CPUC.³⁵ Nonetheless, as the Joint Brief explains, the Coastal Commission analyzed the full 6.4 mgd Project pursuant to its duties under the California Coastal Act and CEQA.³⁶ As to the “demonstrated need for additional supplies,”³⁷ D.25-08-006 concluded that the Monterey Peninsula currently anticipates a water supply deficit by 2050,³⁸ confirming the CPUC’s 2018 prediction that water sources other than the MPWSP “likely will continue to be constrained,” which necessitates the Project’s additional water supply.³⁹ The Coastal Commission also found that the “no action” alternative to the MPWSP would leave Monterey customers without adequate water supplies.⁴⁰

3. California American Water did not claim that CPUC staff authorized a standalone 4.8 mgd desalination project, nor did it ask staff to do so.

California American Water never claimed that CPUC staff “authorized a 4.8 mgd project.”⁴¹ The Company merely advised the CPUC that it had informed Energy Division staff

³⁴ Resp., p. 6, n. 24.

³⁵ Resp. Ex. 1, pp. 36, 39; *see* **Attachment 1**, CDP Final Findings, p. 43.

³⁶ Resp. Ex. 1, pp. 32-34 (The Coastal Commission “properly considered and relied upon” the CPUC’s EIR/EIS which “extensively analyzed the full [6.4 mgd] Project’s impacts” and fully evaluated environmental impacts “associated with the full scale of the [6.4 mgd] Project... .”); **Attachment 1**, CDP Final Findings, p. 43.

³⁷ Resp., p. 6.

³⁸ D.25-08-006, Conclusions of Law 6, 11, p. 50; D.25-10-001, p. 4 (correcting typographical errors). The CPUC’s determination of need was far greater than the assumptions used by the Coastal Commission in its findings in approving the CDPs. *See* **Attachment 1**, CDP Final Findings, pp. 151-56.

³⁹ D.18-09-017, p. 127.

⁴⁰ CDP Final Findings, pp. 156-57.

⁴¹ Resp., p. 7.

about its intent to “begin the [6.4 mgd Project] with a 4.8 mgd phase pursuant to the Coastal Commission’s conditional approval.”⁴² California American Water raised this for three reasons. First, to demonstrate that it has been candid with the CPUC about its intended approach, as required by D.18-09-017, applicable law, and good faith.⁴³ Second, to explain that, though the Notices to Proceed (“NTPs”) do not mention this intent, it has been communicated with CPUC staff. And third, to note that, when apprised of these plans, CPUC staff did not indicate that so much as a minor project refinement memo was needed to reflect project phasing.⁴⁴ California American Water did not contend that “CPUC staff issued Notices to Proceed with construction of a 4.8 mgd project... .”⁴⁵ As Complainants observe, the CPCN authorizes a 6.4 mgd Project, and the NTPs confirm that this is what California American Water has begun to build.⁴⁶ Beginning to build a 6.4 mgd Project as authorized in D.18-09-017 by building a desalination plant with an initial capacity of 4.8 mgd as conditionally authorized by the Coastal Commission is not inconsistent with this CPCN, nor is it an attempt to pursue a version of the project that was “*rejected by the [CPUC].*”⁴⁷

⁴² Mot., p. 3.

⁴³ A.25-07-003, Direct Testimony of Stephen (Wes) Owens, p. 76 (“In October 2022, California American Water announced a phasing plan for the proposed desalination plant component of the MPWSP. The desalination plant and slant wells originally approved by D.18-09-017 would produce up to 6.4 million gallons of desalinated water per day. Under the phased approach, the facilities would initially be constructed to produce up to 4.8 million gallons per day of desalinated water, enough to meet anticipated demand through about 2030, and would limit the number of slant wells initially constructed. As demand increases in the future, desalination facilities would be expanded to meet the additional demand. The phased approach seeks to meet near-term demand by allowing for additional supply as it becomes needed, while also providing an opportunity for regional future public participation and was developed by California American Water based on feedback received from the community.”)

⁴⁴ Mot., p. 3; **Attachment 2**, Declaration of Tyler Potter, (“Potter Decl.”), ¶¶ 3-6, 9.

⁴⁵ Resp., p. 18.

⁴⁶ *Id.*, p. 7; Mot., p. 12; **Attachment 13**, NTP-5a, issued September 14, 2025; **Attachment 14**, NTP-5b, issued May 29, 2026).

⁴⁷ Resp., p. 8 (emphasis original).

Importantly, the CPUC’s rejection of a standalone 4.8 mgd Project and “expansion” from a standalone 4.8 mgd Project to a 6.4 mgd Project was based on a slant well network design that would require five new well pads, with just one fewer new slant well to be drilled than compared to the 6.4 mgd Project.⁴⁸ The slant well network design has since been refined to require construction of only two new well pads, with each well pad able to “accommodate a third well during the [6.4 mgd] phase (i.e., without constructing an additional well pad).”⁴⁹ With this refinement, the Coastal Commission concluded it was preferable to phase the Project to reduce potential environmental impacts.⁵⁰

Further, as California American Water explained in its Motion, given the plant’s modular configuration, much of the work done to complete the 4.8 mgd phase is in service of completing the full 6.4 mgd Project.⁵¹ The components (including slant wells, distribution pipes, power connections, and administrative apparatus) that will serve the 4.8 mgd phase are all necessary for the final 6.4 mgd Project.⁵² The Coastal Commission recognized as much in its approval of the CDPs: “With the recently proposed phased Project approach, Cal-Am would still construct the facility and pipeline system to accommodate the potential full-scale facility[.]”⁵³ Ultimately, the modular design of the MPWSP did not “serve[] as another basis for the [CPUC] to *reject* a 4.8

⁴⁸ D.18-09-017, p. 69.

⁴⁹ **Attachment 1**, CDP Final Findings, p. 42.

⁵⁰ *See, e.g., id.*, p. 68.

⁵¹ Mot., p. 11.

⁵² *See Answer*, pp. 10-13 (describing the construction of the Project in detail).

⁵³ **Attachment 1**, CDP Final Findings, pp. 43-44; *see also id.*, p. 44 (“As noted above [in the Findings], Cal-Am would install pipelines that could accommodate its full proposed 6.4 mgd capacity for any future second phase but would initially operate the pipelines at about two-thirds of that capacity in the first phase.”).

mgd project.”⁵⁴ As the text quoted by Complainants shows,⁵⁵ the CPUC concluded that a 6.4 mgd Project was superior to the standalone 4.8 mgd project.⁵⁶

California American Water raises its communications with CPUC staff to show that it has been forthright about this dual compliance and has been following the normal required process for building out the approved 6.4 mgd project, beginning with a 4.8 mgd phase as required by the Coastal Commission. To be clear, staff were not asked to authorize any change, non-minor refinement or otherwise, in these discussions.⁵⁷ California American Water explained its plans as described in the Potter Declaration, and staff issued two NTPs.⁵⁸ As far as “public or transparent confirmation,”⁵⁹ Complainants have Mr. Potter’s word, on penalty of perjury, that these discussions took place as described.⁶⁰

⁵⁴ Resp., p. 8 (emphasis original).

⁵⁵ *Id.* (“We consider *but decline to adopt a plant smaller than 6.4 mgd*. The MPWSP is made up of 1.6 mgd modular increments. This means that the facility *can only be sized up or down in 1.6 mgd increments* (roughly 1,792 afy if the train is running constantly). Operation of a smaller, 4.8 mgd desalination plant could require Cal-Am to find an additional water to meet project needs with little to no savings for ratepayers[,] . . . [and] would increase the annual Operations and Maintenance (O&M) costs by \$340,000.”) (emphasis added by Complainant) (quoting D.18-09-017, pp. 128-29).

⁵⁶ D.18-09-017, pp. 57, 69, 128.

⁵⁷ See Resp., p. 10 (“CPUC staff has no power to authorize a ‘non-minor’ refinement in the MPWSP... .”); see **Attachment 2**, Potter Decl. ¶¶ 3-6, 9 (explaining that California American Water communicated its plan to construct the MPWSP in phases pursuant to the Coastal Commission’s conditional approval and that CPUC staff did not request a minor project refinement memo or indicate that a petition for modification was required).

⁵⁸ Mot., p. 12; **Attachment 2**, Potter Decl., ¶¶ 3-6, 9; **Attachment 13**, NTP-5a, issued September 14, 2025; **Attachment 14**, NTP-5b, issued May 29, 2026.

⁵⁹ Resp., pp. 10-11.

⁶⁰ **Attachment 2**, Potter Decl., p. 2.

4. California American Water has consistently represented its intention to complete the 6.4 mgd Project while complying with Coastal Commission requirements.

Complainants attempt to support their claim that California American Water misled the CPUC⁶¹ by asserting that the Joint Brief illustrates the uncertainty of the 6.4 mgd Project.⁶² As explained in the Joint Brief, this “uncertainty” arose from the Coastal Commission’s assessment of need for desalinated water, given that the CPUC’s review of updated water supply and demand projections in A.21-11-024 was pending at the time.⁶³ Moreover, California American Water – and the Coastal Commission – have made clear that the Coastal Commission studied the entire 6.4 mgd Project pursuant to its obligations under CEQA and the California Coastal Act, which further demonstrates that it has always been California American Water’s intention to construct a 6.4 mgd Project as authorized by D.18-09-017.⁶⁴ California American Water is beginning construction of the 6.4 mgd Project by building support infrastructure and treatment facilities that will process 4.8 mgd of seawater as conditionally approved by the Coastal Commission. The Company intends to expand to the full 6.4 mgd Project in the future after receiving the appropriate authorizations, including an amendment to the Coastal Commission

⁶¹ Resp., p. 10 (“Cal-Am claims that it is ‘proceeding to construct the 6.4 mgd desalination plant that the CPUC approved in D.18-09-017, starting with a 4.8 mgd capacity operational phase as required’ by the Coastal Commission. The nuance in phrasing, with reference to ‘plant’ construction, for which Notices to Proceed as to a 6.4 mgd Project have been issued, appears to be an attempt to mislead the Commission into the impression that Cal-Am will simply be operating its certificated Project at a lower capacity initially because of the Coastal Commission’s conditions.”).

⁶² *Id.*, p. 10, n. 44 (citing Resp., Ex. 1, pp. 36, 39).

⁶³ *Id.* (citing Resp. Ex. 1, p. 36); *see also* **Attachment 1**, CDP Final Findings, p. 43.

⁶⁴ Resp. Ex. 1, pp. 32-34 (Coastal Commission “properly considered and relied upon” CPUC’s EIR/EIS which “extensively analyzed the full [6.4 mgd] Project’s impacts” and fully evaluated environmental impacts “associated with the fully scale of the [6.4 mgd] Project...”).

CDPs, to do so. This is explained throughout the Motion⁶⁵ and demonstrates that California American Water has violated no law, rule, or CPUC order.

B. The Complaint seeks legally unsupported remedies.

California American Water has not taken any action that requires it to submit a petition for modification of D.18-09-017. As communicated to CPUC staff, in public statements, in court, and in these proceedings, California American Water intends to build a 6.4 mgd desalination Project, beginning with a 4.8 mgd phase as required by the Coastal Commission. Complainants' assertions to the contrary are incorrect.

The remedies that Complainants seek are inappropriate because they follow from erroneous conclusions of law. As detailed below in Section IV.C., California American Water has not deviated from the project authorized in D.18-09-017 to the extent that a petition for modification or a new CPCN are required. As explained in Section IV.D., California American Water's actions do not warrant the extraordinary relief of an order to halt construction, either through an injunction or a Stop Work Order. The other relief that Complainants seek, which they do not discuss in their Response, is also unwarranted. No Order to Show Cause as to why California American Water should not be disciplined is appropriate because the Company has not violated any law, rule, or CPUC order.

California American Water did not suggest that "participation in other proceedings on the MPWSP is [a] bar to this Complaint."⁶⁶ The Company detailed various lawsuits in which Complainants have failed to block implementation of D.18-09-017 to illustrate that this

⁶⁵ Mot., pp. 2-5, 7-9, 11-12.

⁶⁶ Resp., p. 12; Mot., pp. 5-7.

Complaint is the latest in a long series of efforts to prevent the construction of the MPWSP. Like those efforts, the Complaint is wrong on the law. It should be dismissed.

Complainants assert that the CPUC provided “clear direction in D.26-04-046 that any change in project size from the authorized 6.4 mgd Project to the smaller unauthorized 4.8 mgd project is a ‘non-minor’ refinement that requires Cal-Am to file a petition to modify D.18-09-017... .”⁶⁷ This decision states, in pertinent part:

“[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].”].)⁶⁸

The CPUC did not analyze the implications of Ordering Paragraph 22 on the size of the Project, it simply confirmed that the proper course of action to obtain “non-minor project refinements” is to file a petition for modification.

Notably, MCWD and City filed Applications for Rehearing of D.25-08-006 making similar arguments to those in the Complaint regarding the Coastal Commission’s approval of a phased build-out of the 6.4 mgd Project.⁶⁹ The CPUC denied Complainants’ Applications for Rehearing, in which MCWD and City sought to resolve allegedly “conflicting [CPUC] and Coastal Commission desalination project approvals.”⁷⁰ The CPUC did not make any determination whether California American Water’s phased build-out, guided by the Coastal Commission’s conditions, constituted a change requiring a petition for modification because

⁶⁷ Resp., p. 12 (citing D.26-04-046, p. 5).

⁶⁸ D.26-04-046, p. 5,

⁶⁹ A.21-11-024, MCWD Request for Rehearing of D.25-08-006, pp. 39, 42; A.21-11-024, City of Marina Request for Rehearing of D.25-08-006, pp. 14-17, 20.

⁷⁰ Resp., pp. 12-13.

there was no evidence in the record on the issue.⁷¹ Nor did it opine that California American Water’s phased build-out of the 6.4 mgd Project “requires Cal-Am to file a petition to modify D.18-09-017... .”⁷²

C. The Complaint fails to demonstrate that California American Water is obligated to file a petition for modification of D.18-09-017.

Complainants appropriately frame the issue of whether a petition for modification is required around Ordering Paragraphs 21 and 22 of D.18-09-017.⁷³ However, by the plain terms of these paragraphs, California American Water is not obligated to file a petition for modification at this time.⁷⁴ California American Water is not seeking to recover funds exceeding the cost cap stated in Ordering Paragraph 21 from ratepayers at this time. The Company has not made any changes to the MPWSP that are described in Ordering Paragraph 22.⁷⁵ That paragraph provides that a petition for modification is required for changes that:

“are [not] located within the geographic boundary of the study area of the [EIR/EIS], without mitigation, result in a new significant impact or a substantial increase in the severity of a previously identified significant impact based on the criteria issued in the [FEIR/EIS]; substantively conflict with any mitigation measure or applicable law or policy; or trigger an additional permit requirement.”⁷⁶

The CPUC’s brief invocation of Ordering Paragraph 22 in D.26-04-046 does not suggest otherwise. Moreover, California American Water did not “fail[] to cite or address” D.26-04-046 in its Motion.⁷⁷ California American Water cited precisely the portion of the decision that

⁷¹ D.26-04-046, p. 5.

⁷² Resp., p. 12 (citing D.26-04-046, p. 5).

⁷³ *Id.*, p. 13.

⁷⁴ D.18-09-017, Ordering Paragraphs 21, 22, pp. 210-11.

⁷⁵ *Id.*, Ordering Paragraph 22, pp. 210-11.

⁷⁶ *Id.*.

⁷⁷ Resp., pp. 14, 16.

Complainants cite to reiterate that a petition for modification is only required for changes that fall into the categories listed in Ordering Paragraph 22.⁷⁸

California American Water made no “attempt to misstate the requirements of these [Ordering Paragraphs].”⁷⁹ In its Motion, California American Water quotes verbatim the text of Ordering Paragraph 22 to explain why its approach to the Project does not require a petition for modification.⁸⁰ In its discussion of Ordering Paragraph 21, California American Water intended to indicate that a petition for modification is required if the costs of the Project exceed the cost cap and erroneously equated this with the need to file a Tier 2 Advice Letter.⁸¹ In any case, the condition in Ordering Paragraph 21 has not been met. Furthermore, as stated in its Motion, California American Water is preparing to submit a filing to address project costs in the coming months.⁸²

California American Water also did not claim that “[Ordering Paragraph] 22 relates only to an Energy Division review and approval of requests for ‘minor project refinements that may be necessary’”⁸³ California American Water simply explained that the Energy Division may approve requests for project changes that do not require a petition for modification but do require a minor project refinement.⁸⁴ California American Water then explained why, based on review of

⁷⁸ Mot., p. 11.

⁷⁹ Resp., p. 14.

⁸⁰ Mot., pp. 3-4.

⁸¹ *Id.*, p. 3.

⁸² *Id.*, pp. 4-5.

⁸³ Resp., p. 16.

⁸⁴ Mot., p. 4.

the MPWSP by the State Lands Commission (“SLC”) and the Coastal Commission, the criteria that Ordering Paragraph 22 sets forth for requiring a petition for modification are not met.⁸⁵

California American Water does not “ignore” that the Energy Division’s authority to approve minor project refinements does not extend to changes requiring a petition for modification.⁸⁶ The Motion states clearly that the Energy Division “may approve requests for ‘minor project refinements that may be necessary’ that do not meet these [Ordering Paragraph 22] criteria.”⁸⁷ The CPUC did not “ma[k]e [] clear in D.26-04-046” that “any change in project size from the authorized 6.4 mgd Project to the smaller unauthorized 4.8 mgd project [i]s a ‘non-minor’ refinement.”⁸⁸ It stated generally that a petition for modification is the appropriate “mechanism for adjustments if needed” should California American Water seek a non-minor project refinement.⁸⁹

The CPUC did make clear, however, that it did not view Complainants’ characterizations of California American Water’s approach to the Project as “evidence ... establishing construction of a 4.8 mgd desalination plant in lieu of the 6.4 mgd plant authorized in D.18-09-017.”⁹⁰ Nothing has changed since that decision and, therefore, the CPUC can, and should, reach the same conclusion here.

⁸⁵ *Id.*, p. 4.

⁸⁶ Resp., p. 16.

⁸⁷ Mot., p. 4. (citing D.18-09-017, Ordering Paragraph 22, pp. 210-11).

⁸⁸ Resp., p. 16.

⁸⁹ D.26-04-046, p. 5.

⁹⁰ *Id.*

D. The Complaint does not satisfy the CPUC’s criteria for injunctive relief or a Stop Work Order.

Complainants’ request for an order to halt construction of the MPWSP is effectively a request for injunctive relief, and they have not met their burden to secure such an extraordinary remedy. Even at the pleading stage, the CPUC must weigh Complainants’ allegations against California American Water’s rebuttals to determine whether they have made the requisite showing.⁹¹ Under this standard, Complainants have not demonstrated that they will suffer irreparable injury without an injunction, that an injunction will not harm the public interest or substantially harm other interested parties, or that they are likely to prevail on the merits.⁹² They must satisfy all four factors to obtain the relief they seek. California American Water does not “ask the [CPUC] to require proof ... *at the pleading stage*.”⁹³ The Company simply asks the CPUC to apply the required standard.

1. The Complaint does not satisfy any of the elements required for injunctive relief.

On the first element, Complainants claim they will suffer irreparable injury because “phasing from a 4.8 mgd to a 6.4 mgd Project” would “increase environmental impacts, face additional scrutiny in the permitting review process, and increase costs to ratepayers.”⁹⁴ As discussed above, California American Water’s approach to building the first 4.8 mgd phase will not result in increased environmental impacts compared to what the CPUC previously studied in

⁹¹ See D.95-05-020, p. 8 (Westlaw Pagination) (“[Complainants] must allege sufficient facts through the verified complaint or affidavits and declarations to show, if uncontroverted, the right to relief If the defendant controverts the showing through its verified answer and legally effective denial or through its own affidavits and declarations or testimony, we must weigh the evidence to determine how we assess the probable balance following trial.”).

⁹² D.23-10-032, pp. 35-36.

⁹³ Resp., p. 19 (emphasis original).

⁹⁴ *Id.*

the Project’s Final EIR. Complainants claim the CPUC has conducted no environmental review of a standalone 4.8 mgd project.⁹⁵ This is not a basis for irreparable injury because California American Water is not constructing a standalone 4.8 mgd project; rather, it is building a 6.4 mgd Project in phases with an initial capacity of 4.8 mgd.

Complainants also claim that California American Water’s Project will result in groundwater impacts, including threats to Marina’s groundwater supply and seawater intrusion into the central and southern sections of the Monterey Subbasin.⁹⁶ The CPUC extensively studied the Project’s groundwater impacts and concluded that potential impacts to Marina’s groundwater supplies would be less than significant.⁹⁷ The Coastal Commission’s independent hydrogeologist similarly concluded that no such impacts to groundwater would occur.⁹⁸ The SLC concurred, finding that the Project would have “groundwater impacts that are consistent with the project approved in D.18-09-017 and the magnitude of potential impacts would be less” for an initial 4.8 mgd phase.⁹⁹ As noted in the Motion, Complainants’ assertion that the Project would “threaten the integrity of Marina’s groundwater supply” is not supported by the source cited.¹⁰⁰ As the State Water Resources Control Board (“SWRCB”) explains in its Final Report, submitted in Case No. 20CV001387, Complainants’ assertion is untrue.¹⁰¹ Complainants also claim

⁹⁵ *Id.*

⁹⁶ *Id.*, pp. 19-20.

⁹⁷ D.18-09-017, pp. 82, 84.

⁹⁸ **Attachment 1**, CDP Final Findings, p. 81.

⁹⁹ Answer, p. 18 (citing **Attachment 7**, SLC Environmental Memorandum, p. 23).

¹⁰⁰ Mot., p. 8.

¹⁰¹ See **Attachment 8**, SWRCB Final Report of the Board as Referee, submitted in Monterey Superior Court, Case No. 20CV001387 (*City of Marina v. RMC Lonestar*) on June 25, 2025 (“AHO Report”), p. 96 (“Marina does not own or operate any wells in the [Salinas Valley Groundwater Basin]. The residents of Marina are customers of MWCD and receive water from MCWD.”); see also *id.*, p. 100 (Project “would not injure MCWD’s water rights by materially or unreasonably affecting the amount of water available to MCWD at its existing wells, either now or over time... ”); see also *id.*, p. 101 (Project is “unlikely to cause significant or unreasonable impacts to the quality of water drawn from MCWD’s Wells

irreparable injury to their constituents arising from “unanalyzed cost issues implicated by Cal-Am’s proposal to change the Project size.”¹⁰² California American Water has made no such proposal, and halting construction imposes its own set of unanalyzed cost issues, as discussed further below.

When weighed against California American Water’s rebuttals, the harms that Complainants assert are purely speculative. For example, in D.97-12-085, when presented with speculative assertions that MFS Intelenet “‘may’ have to discontinue offering ISPs service in the future if Pacific continue[d] to withhold payments until th[e] dispute [was] resolved,”¹⁰³ the CPUC denied injunctive relief. The CPUC noted that “[s]peculative injury does not constitute irreparable injury sufficient to warrant granting a preliminary injunction. Bare allegations of what is likely to occur are of no value since the court must decide whether the harm will *in fact* occur. Injunctive relief will not be granted against something which is merely feared as liable to occur.”¹⁰⁴

The second element does not require that “interim relief would serve, or at minimum would not harm, the public interest.”¹⁰⁵ To obtain injunctive relief, Complainants must show that an injunction would cause “no harm to the public interest.”¹⁰⁶ Notwithstanding Complainants’ assertions about public benefits to be gained from an injunction, they do not, and cannot, rebut the harms to the public interest identified in the Motion. Delaying construction will increase

... and the quality of water drawn from those wells will remain suitable for municipal use”); *see also id.* (“Marina has not demonstrated that it has any rights to groundwater in the [Salinas Valley Groundwater Basin] that could be injured.”).

¹⁰² Resp., p. 20.

¹⁰³ D.97-12-085, p. 10.

¹⁰⁴ *Id.*, pp. 9-10 (citations omitted).

¹⁰⁵ Resp., p. 20.

¹⁰⁶ *Sarale v. Pacific Gas & Electric Co.* (2010) 189 Cal.App.4th 225, 243 (emphasis added).

costs to ratepayers, an outcome that Complainants themselves characterize as “irreparable injury.”¹⁰⁷ Delaying construction will also delay a necessary solution to a known and anticipated water supply deficit. As the CPUC observed, “[t]he MPWSP is the only alternative water source that provides an independent supply not dependent on existing water sources that are already, and likely will continue to be, constrained.”¹⁰⁸ The CPUC confirmed the looming deficit last year, finding that the Monterey Peninsula will face an annual shortfall of 2,528 acre-feet by 2050.¹⁰⁹ The Coastal Commission also found in 2022—before the CPUC issued D.25-08-006—that “additional water supply will likely be needed ... at some point before 2050.”¹¹⁰

In a similar situation, when project opponents requested an order halting construction of Southern California Edison’s (“SCE”) transmission facilities in and around Mission Viejo, the CPUC denied that request.¹¹¹ The CPUC concluded that public interest weighed against injunctive relief because “the evidence from th[e] proceeding suggests the community ... require[s] the construction of the project to assure local [power] reliability in the immediate future.”¹¹²

Here, public interest would be harmed by an order halting construction of a project to assure local water reliability in the near future. More recently, the CPUC declined to enjoin PG&E’s vegetation management activities because halting fire-prevention work would be “harmful to the public interest.”¹¹³ Likewise, enjoining construction work on an approved water

¹⁰⁷ Mot., pp. 9-10; Resp., p. 19.

¹⁰⁸ D.18-09-017, p. 127.

¹⁰⁹ D.25-08-006, Conclusions of Law 6, 11, p. 50; D.25-10-001, p. 4 (correcting typographical errors).

¹¹⁰ **Attachment 1**, CDP Final Findings, p. 156.

¹¹¹ D.05-04-040, p.1, Ordering Paragraph 1, p. 7.

¹¹² *Id.*, p. 6.

¹¹³ D.23-10-032, p. 36.

supply project to serve an area that will not have adequate water supply without the project would harm the public interest.

As to the third element, Complainants acknowledge that California American Water asserts that “a halt in construction would delay the project, increase costs, and impede a water supply solution.”¹¹⁴ Those assertions are indeed “relevant to the [CPUC]’s balancing of the equities”¹¹⁵ and provide compelling reasons to deny injunctive relief. It is notable that Complainants do not affirmatively allege that there will be no substantial harm to other interested parties. They simply assert that the harms are “mitigated” by a current water supply surplus (citing an allegation that California American Water controverts in its Answer),¹¹⁶ “a lack of water source for the Project” (which the SWRCB confirmed is not the case),¹¹⁷ and “remaining regulatory hurdles”¹¹⁸ (the existence of which do not change the negative impact an order to halt construction, as an independent reason for delay, would have on the Project timeline). Further, California American Water has commenced construction of the Project, so an order to halt construction would leave a partially constructed site vulnerable to weather-related deterioration

¹¹⁴ Resp., p. 21 (citing Mot., pp. 9-10).

¹¹⁵ *Id.*

¹¹⁶ *Id.*, p. 21, n. 90; see Answer, p. 49, ¶ 102.

¹¹⁷ Resp., p. 21, n. 91; see **Attachment 8**, AHO Report, p. 102 (California American Water will obtain 90-92% of the water it needs for the Project from the Pacific Ocean, and it “either needs no water right to draw ocean water or may obtain such a right by diverting and using the water.” “Cal-Am may lawfully draw the proposed amount of ocean water for desalination and service to its customers.”); see also *id.*, pp. 103-04 (While California American Water has no existing right to extract groundwater from the Salinas Valley Groundwater Basin or “SVGB,” it may be able to develop an appropriative right to extract from the basin if surplus water is available or the Company otherwise prevents injury to existing users and unreasonable harm. California American Water could also purchase or lease an existing appropriative right to extract from the SVGB.); see also *id.*, pp. 96-101 (Only 8-10% of the Project will draw from groundwater and this will not injure or infringe upon any water rights held by MCWD or Marina.).

¹¹⁸ Resp., p. 22.

while also increasing the risk of losing skilled labor, equipment and other critical project resources.

The CPUC has denied requests for injunctive relief where defendants can show they would be harmed if the order was granted. For instance, Havasu Lakeshore Investments (“HLI”) sought an order requiring Havasu Water Company (“HWC”) to provide 50,000 gallons of water per day under certain conditions.¹¹⁹ One condition required HWC to deliver the water into a 212,000-gallon tank owned by HLI, which HWC resisted due to concern that the tank was unsanitary and presented a risk that HLI residents, contractors, and employees would drink contaminated water and “turn to HWC to cast blame.”¹²⁰ The CPUC found that this assertion “raise[d] at least an inference of harm to other interested parties – namely HWC itself – if HLI [wa]s allowed to receive water in its tank at this time. Thus, HLI fail[ed] the harm to others test.”¹²¹ Like HWC, California American Water has raised “at least an inference” that it will suffer harm if Complainants’ request for an order to halt construction of the MPWSP is granted.

As to the fourth element, for the reasons California American Water has detailed throughout this Reply, Complainants are not likely to succeed on the merits of their claim. In a decision involving SCE’s construction of transmission facilities in and around Mission Viejo, the CPUC denied a request to enjoin the project pending a rehearing of its decision approving it.¹²² There, following the issuance of a mitigated negative declaration (“MND”), the CPUC approved construction of a transmission facility project designed to improve regional electric service

¹¹⁹ C.05-04-007, Ruling Denying Havasu Lakeshore Investments’ Motion for Interim Relief and Motion to Strike Havasu Water Company’s Post-Hearing Brief (October 12, 2005), pp. 2-3.

¹²⁰ *Id.*, p. 3.

¹²¹ *Id.*, p. 7.

¹²² D.05-04-040, Ordering Paragraph 1, p. 7.

reliability.¹²³ The CPUC found that project opponents presented “no evidence that SCE ha[d] failed to comply with any ordering paragraph or condition” of its decision approving the project.¹²⁴ The CPUC further found that project opponents did not “provide any convincing evidence that [they] would likely prevail on the merits of the complaint.”¹²⁵

As in the instant proceeding, opponents of the SCE project alleged that SCE “failed to comply with Ordering Paragraph[s]” from the CPUC decision authorizing its Mission Viejo transmission project.¹²⁶ SCE countered that it had complied with the ordering paragraphs at issue and noted that the CPUC had issued a Notice to Proceed with construction of the project.¹²⁷ California American Water has raised similar facts to counter Complainants’ allegations. As in the Mission Viejo proceeding, Complainants have not provided any evidence – beyond bare assertions – that California American Water has “failed to comply with any ordering paragraph or condition” of D.18-09-017.¹²⁸

The CPUC is not obligated to take Complainants’ asserted facts on their face to evaluate this element. The CPUC must weigh Complainants’ allegations against California American Water’s contrary assertions to determine whether injunctive relief in the form of an order to halt construction is warranted. Even if the CPUC concludes, after weighing the parties’ assertions, that Complainants satisfy one or more of these elements, injunctive relief may not issue unless they meet all four.

¹²³ *Id.*, pp. 3-4.

¹²⁴ *Id.*, p. 5, Finding of Fact 2, p. 6, Conclusion of Law 2, p. 6.

¹²⁵ *Id.*

¹²⁶ *Id.*, p. 4.

¹²⁷ *Id.*, p. 5.

¹²⁸ *Id.*

2. Complainants have not demonstrated that a Stop Work Order is appropriate.

While Pub. Util. Code §§ 701 and 702 articulate broad authority for the CPUC to issue orders to ensure compliance with its decisions,¹²⁹ in practice, the CPUC generally issues Stop Work Orders pursuant to an enforcement action to ensure compliance with environmental mitigation measures, not in adjudication proceedings.¹³⁰ Moreover, Resolution E-4550, one of the Resolutions Complainants cite to argue for this broad authority,¹³¹ deals specifically with Stop Work Orders as an alternative enforcement mechanism to citations, both of which allow CPUC staff to ensure compliance with CEQA, and in particular, environmental mitigation measures.¹³² Indeed, the Mitigation Monitoring and Reporting Program adopted by the CPUC and attached as Appendix D to D.18-09-017 includes many environmental mitigation measures that California American Water must comply with as it constructs the MPWSP,¹³³ but Complainants fail to identify any noncompliance with any mitigation requirement to justify a Stop Work Order.

Complainants cite no decision, and counsel for California American Water could locate none, where the CPUC issued a Stop Work Order outside the context of enforcing environmental mitigation measures, or in an adjudicatory proceeding. Complainants also cite no authority for the assertion that “[a]t the pleading stage, Complainants ... need only allege facts that, if proven,

¹²⁹ Resp., p. 17.

¹³⁰ See, e.g., D.00-01-022; D.08-12-058 (Appendices D and E); D.13-11-023.

¹³¹ Resp., p. 17, n. 69.

¹³² Resolution E-4550, pp. 6-7 (Stop Work Orders are “an additional tool [for Staff] to increase compliance with all Construction Requirements.”).

¹³³ See, e.g., **Attachment 21**, Mitigation Monitoring and Reporting Program, pp. D-9, D-15-D-17, D-19-D-24, D-26-D-39 (Measures 4.6-1, 4.6-2, 4.6-3).

would support the CPUC’s exercise of its discretionary oversight authority.”¹³⁴ Given that Stop Work Orders are primarily an administrative tool for CPUC staff to enforce construction requirements to ensure environmental protection, Complainants’ request for an order to halt construction is better understood as a request for injunctive relief,¹³⁵ which, as discussed above, they have not shown is warranted. Moreover, that CPUC staff have issued NTPs for various Project components demonstrates that California American Water is complying with the environmental mitigation requirements applicable to those Project components.

Accordingly, California American Water structured its argument in the Motion against this potential form of relief around CPUC decisions that engaged with Stop Work Orders.¹³⁶ This was not an effort to “sidestep the Complaint’s basis.”¹³⁷ California American Water simply sought to explain that CPUC precedent does not support the use of a Stop Work Order to grant Complainants’ request to halt construction of the MPWSP. Indeed, as Complainants acknowledge, the Complaint does not raise the sort of CEQA violation that typically justifies a Stop Work Order.¹³⁸

Complainants point to other Resolutions that they argue “reaffirm [the CPUC’s] ‘authority to establish enforcement mechanisms,’ including stop work orders... .”¹³⁹ However, Complainants cite no decision where the CPUC points to any of these Resolutions as a basis to issue a Stop Work Order “independent of any CEQA review pursuant to its broad supervisory

¹³⁴ Resp., pp. 17-18.

¹³⁵ See D.05-04-040, p. 1 (request for an “order ... that would require [defendant] to cease construction” was subject to the same standards that apply for any request for injunctive relief).

¹³⁶ Mot., p. 7, n. 17 (citing D.00-01-022 and D.06-10-027).

¹³⁷ Resp., p. 9.

¹³⁸ *Id.* (“The Complaint does not raise a routine failure to properly survey or fence for sensitive habitat that can be addressed by following Resolution E-4550 CEQA violation procedures.”).

¹³⁹ *Id.*, p. 17.

powers... .”¹⁴⁰ The Resolutions¹⁴¹ focus on the CPUC’s powers when it initiates an enforcement action, not on how it should respond to a Complaint seeking to halt work on a project. They do not say anything about a Stop Work Order being used to “allow the [CPUC] to determine whether additional approvals or review are required.”¹⁴²

Resolution M-4846 says “[CPUC] or staff may issue an order to cease and desist an activity or an order to stop work to a regulated entity consistent with existing [CPUC] decisions and orders and as permitted by the Public Utilities Act. Nothing in this Policy is intended to modify existing procedures concerning such actions, including any right to appeal such actions.”¹⁴³ This, like the statutory authority cited above, suggests a broader authority, but authority the CPUC rarely, if ever, exercises outside the context of CEQA enforcement.

Resolutions M-4876 and M-4877 both approved enforcement actions related to Public Safety Power Shutoffs that failed to comply with applicable CPUC requirements.¹⁴⁴ Both cite the above passage from M-4846 as their only reference to Stop Work Orders.¹⁴⁵ The only reference to injunctive relief is the statement that “[s]taff may request that the [CPUC] refer the matter to the Legal Division for the filing of a civil or criminal action, including requests for injunctive relief.”¹⁴⁶ Neither says anything about the CPUC’s own authority to issue injunctions in adjudicatory proceedings.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*, p. 17, n. 69.

¹⁴² *Id.*, p. 17.

¹⁴³ Resolution M-4846, Attachment (not numbered) p. 8.

¹⁴⁴ Resolution M-4876, pp. 1-2; Resolution M-4877, pp. 1-2.

¹⁴⁵ Resolution M-4876, Appendix D (M-4846), Attachment (not numbered) p. 8.; Resolution M-4877, Appendix D (M-4846), Attachment (not numbered) p. 8.

¹⁴⁶ Resolution M-4876, Appendix D (M-4846), Attachment (not numbered) p. 14.; Resolution M-4877, Appendix D (M-4846), Attachment (not numbered) p. 14.

Complainants' Response fails to show, either in the cited statutes and Resolutions or in any reference to a CPUC decision, that they are entitled to an order to halt construction of the MPWSP. Weighing their allegations against California American Water's rebuttals, as the CPUC must, it is not possible to conclude that Complainants have satisfied all four elements required for injunctive relief. A Stop Work Order, while theoretically an available mechanism to halt construction, is not, as far as California American Water can tell, used in adjudicative proceedings, or outside the context of enforcing impact mitigation requirements on construction projects. Thus, whether or not the CPUC dismisses the Complaint, it should not grant Complainants' request for an order to halt construction of the Project.

V. CONCLUSION

In summary, California American Water respectfully requests that the CPUC dismiss the Complaint for the reasons set forth above and in its Motion and concurrently filed Answer.

Dated: September 4, 2026

Respectfully submitted,

NOSSAMAN LLP

Lori Anne Dolqueist
Matt Menezes

By: /s/ Lori Anne Dolqueist
Lori Anne Dolqueist

Cathy Hongola-Baptista
Nicholas A. Subias
California American Water
550 California Street, Suite 650
San Francisco, CA 94111
(415) 293-3023
Cathy.hongola-baptista@amwater.com

50 California Street 34th Floor
San Francisco, CA 94111
Tel.: (415) 398-3600
Fax: (415) 398-2438
Email: ldolqueist@nossaman.com

Duncan Joseph Moore
Natalie C. Rogers
Paul Hastings
1999 Avenue of the Stars, 26th Floor

Century City, CA 90067
(310) 620-5700
djmoore@paulhastings.com

Attorneys for Defendant California-American Water Company