Decision 09-12-017 December 17, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of California-American Water Company (U210W) for a Certificate of Public Convenience and Necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs in Connection Therewith in Rates.	Application 04-09-019 (Filed September 20, 2004; Amended July 14, 2005)

DECISION CERTIFYING FINAL ENVIRONMENTAL IMPACT REPORT

1. Summary

In this decision, we certify the Final Environmental Impact Report (FEIR) as the environmental impact report for the Coastal Water Project. By taking this action, the FEIR is certified for use by the Commission and responsible agencies in considering subsequent approvals for the project, or for portions thereof.

This decision considers only the certification of the FEIR and does not determine whether California-American Water Company should be granted a Certificate of Public Convenience and Necessity and if so, whether the proposed project or an alternative should be adopted. Certification of the FEIR does not prejudge the Commission's final selection of the project or alternative.

2. Procedural Background

This proceeding is a successor proceeding to Application (A.) 97-03-052, which was California-American Water Company's (Cal-Am) application for a certificate of public convenience and necessity (CPCN) to construct the Carmel River Dam and Reservoir. Because of several intervening events, including legislation directing the Commission to identify a long-term water supply contingency plan to replace the diversions from the Carmel River,[1] Decision (D.) 03-09-022 dismissed that application without prejudice and expressly directed Cal-Am to file a new application to seek Commission authorization to pursue the Coastal Water Project.

On September 20, 2004, Cal-Am filed A.04-09-019 which, among other things, sought the issuance of a CPCN to construct and operate its proposed Coastal Water Project and also sought approval to increase rates to fund the proposed project. Because the application did not include a Proponent's Environmental Assessment (PEA), a necessary precursor to evaluating the merits of the proposed project and associated proposed rate increase, the assigned Administrative Law Judge (ALJ) suspended the procedural process for this matter until such time as the PEA was filed.

On July 14, 2005, Cal-Am filed an amended application, its PEA, and a Motion for Interim Rate Relief. Cal-Am concurrently began the Public Notice process required by Rule 24 of the Commission's Rules of Practice and Procedure (Rules).[2] On July 29, 2005, the Division of Ratepayer Advocates (DRA)[3] and the

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[1] Assembly Bill 1182, Chapter 797, Stats. 1998.

[2] Rule 24 is now codified as Rule 3.2(b), (c), and (d) in the Commission's most recent publication of its Rules of Practice and Procedure.

Monterey County Water Resources Agency (MCWRA) filed responses to the motion. On August 8, 2005, Cal-Am filed a reply to the responses, which was supplemented on August 10, 2005. On August 15, 2005, several parties filed protests to Cal-Am's amended application.[4] On August 25, 2005, Cal-Am filed a reply to the protests.

On September 6, 2005, the assigned ALJ determined that there should be two distinct phases to this proceeding. Phase 1 addressed interim rate relief and the Commission has issued D.06-12-040, which authorized Cal-Am to implement the Special Request 1 Surcharge commencing January 1, 2007, to collect authorized preconstruction costs. That decision also authorized Cal-Am to implement the Special Request 2 Surcharge if the Commission issues a CPCN for the Coastal Water Project, or alternative long-term supply solution, in Phase 2 of this proceeding.[5]

On March 29, 2006, the assigned ALJ issued a ruling indicating that when more information was available about the schedule for the environmental review documents, a scoping memo ruling would be issued for Phase 2. The Draft

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[3] DRA was formerly known as the Office of Ratepayer Advocates.

[4] Protests were filed by the following parties: DRA, the MCWRA, the Monterey Peninsula Water Management District, (MPWMD), the Pajaro/Sunny Mesa Community Services District, Public Citizen, and Independent Reclaimed Water Users Group.

[5] The Commission has also issued D.08-01-007, which adopted a settlement between Cal-Am and DRA, whereby Cal-Am was authorized to recover $9.31 million as compensation in full for all Coastal Water Project preconstruction costs incurred through December 31, 2006. Cal-Am continues to track preconstruction costs and files annual applications to request recovery of these costs. Cal-Am filed A.08-04-019 to recover preconstruction costs incurred in 2007, and the Commission approved a settlement in D.08-12-034 that allows Cal-Am to recover $3.74 million for those costs. Cal-Am has also filed A.09-04-015, which is currently pending before the Commission.

Environmental Impact Report (DEIR) was issued on January 30, 2009. A prehearing conference was held on March 13, 2009, and the Assigned Commissioner and ALJ's Joint Scoping Memo Ruling was issued on March 26, 2009. Facilitated cost workshops were held on July 7 and 8, 2009, and public participation hearings were held in Monterey and Seaside on July 13 and July 14, respectively. The schedule set forth in the Scoping Memo Ruling was subsequently revised by ALJ Ruling on July 21, 2009, and again on August 10, 2009, in response to the Marina Coast Water District's (MCWD) motion to address the environmental review documents in a decision separate from the decision addressing the remainder of the CPCN issues. Because issuance of the Final Environmental Impact Report (FEIR) was delayed by 30 days, the schedule was again revised on September 14, 2009.

Finally, on October 30, 2009, on behalf of itself, Cal-Am, MCWRA, and MCWD filed and served a motion on October 30, 2009 requesting to hold the procedural schedule in abeyance to afford the parties additional time to conduct settlement discussions. Parties filed and served responses on November 4, 2009. On November 6, 2009, the ALJ issued a ruling that extended the procedural schedule, required the parties to participate in alternative dispute resolution, required Cal-Am to convene a settlement conference by year-end 2009, required Cal-Am to provide joint status reports on a biweekly basis, and scheduled a formal status conference for January 4, 2010.

3. California-American Water Company's Monterey District

Cal-Am is a Class A investor-owned water utility, regulated by this Commission. Its Monterey District serves most of the Monterey Peninsula, including Carmel-by-the-Sea, Del Rey Oaks, Monterey, Pacific Grove, Sand City,

and Seaside, as well as the unincorporated areas of Carmel Highlands, Carmel Valley, Pebble Beach, and the Del Monte Forest.

Cal-Am supplies the Monterey District with surface water and groundwater from the Carmel River System and the coastal subarea of the Seaside Groundwater Basin (also known as the Seaside Basin). Cal-Am also operates three small independent water systems along the Highway 68 corridor east of Monterey that draw water from the Laguna Seca subarea of the Seaside Basin.

Water supply has long been constrained due to frequent drought conditions on the semi-arid Monterey Peninsula, which obtains its water supply solely from rainfall. In addition, as described in the FEIR, seawater intrusion and excess diversion have existed for decades, first identified in the late 1930s and documented by the State of California in 1946.[6]

In addition to this Commission, many federal, state, and local agencies are involved in the regulation of water, water rights, and water supply on the Monterey Peninsula. These agencies include, but are not limited to, the State Water Resources Control Board (SWRCB), the Monterey Peninsula Water Management District (MPWMD), the MCWRA, Monterey Regional Water Pollution Control Agency (MRWPCA), the Monterey Regional Waste Management District, and the Seaside Groundwater Basin Watermaster. The MCWD is a municipally owned water district, which supplies water to the City of Marina and the Ord Community (formerly known as Fort Ord). Of these

[6] FEIR at 5-1.

agencies, the MCWD, the MPWMD, the MCWRA, and the MRWPCA have actively participated as parties in this proceeding.

4. Constraints on Water Supply

Cal-Am has owned and operated the San Clemente Dam and the Los Padres Dam since 1965. As described in the FEIR, the San Clemente Dam was constructed on the Carmel River in 1921 and is the major point of surface water diversion from the river. The Los Padres Dam was constructed in 1949. Sedimentation has reduced the usable storage at both reservoirs over the years, such that by 1995, the primary source of water supply for Cal-Am was multiple wells located along the lower Carmel River. These wells supplied approximately 70 percent of Cal-Am's demand, with the balance of supply provided by storage at the Los Padres Reservoir, diversions from the San Clemente reservoir, and water pumped from the Seaside Basin. Cal-Am's main distribution system also includes eight wells in the Coastal subarea of the Seaside Basin. In addition, Cal-Am owns nine wells in the Laguna Seca subarea, which serve the three independent water systems along Highway 68 described above.

According to the FEIR, as of 1995, Cal-Am served approximately 105,000 customers in its Monterey District, supplying them with approximately 17,000 acre-feet of water per year (afy).[7] Of this amount, approximately

[7] An acre-foot of water, described as enough to cover an acre of land with one foot of water, is equivalent to 325,851 gallons of water.

14,106 afy was supplied from the Carmel River system and 2,700 afy was supplied from the Seaside Basin.[8]

In 1995, the SWRCB issued its Order No. WR 95-10 (Order 95-10). The SWRCB concluded that although Cal-Am had been diverting 14,106 afy from the Carmel River, it has a legal right to only 3,376 afy from the Carmel River system, including surface water and water pumped from the Carmel Valley wells. Thus, SWRCB ordered Cal-Am to replace what SWRCB determined to be unlawful diversions of 10,730 afy from the Carmel River with other sources and through other actions, such as conservation to offset 20 percent of demand.[9]

In 2006, the Monterey County Superior Court issued a final decision regarding adjudication of water rights of various parties who use groundwater from the Seaside Basin. (*California American Water v. City of Seaside et al.*, Case No. 66343). The court's decision established physical limitations to various users' water allocations to reduce the drawdown of the aquifer and prevent additional seawater intrusion and set up a Watermaster to administer and enforce the Court's decision. Cal-Am is currently allocated 3,504 afy from the Coastal subarea of the Seaside Basin and 345 afy from the Laguna Seca subareas.

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[8] DEIR at 2-6. The Commission generally refers to number of metered connections rather than number of persons served. In D.09-07-021, we refer to approximately 39,000 connections in Cal-Am's Monterey District. (Appendix B at 7.)

[9] On July 27, 2009, the SWRCB issued a Draft Cease-and-Desist Order that orders Cal-Am to undertake additional measures. After considering written comments and public testimony, the SWRCB issued a revised Draft Cease-and-Desist Order on September 16, 2009. The SWRCB issued its Cease-and-Desist Order on October 20, 2009 (Order WR 2009-0060), which requires Cal-Am to undertake additional measures to reduce its diversions from the Carmel River and to terminate all such diversions no later than December 31, 2016.

These allocations will be reduced over time until they eventually reach 1,474 afy from the overall Seaside Basin. Prior to the Seaside Basin adjudication, Cal-Am's allocation for the Coastal subarea was 4,000 afy.

Cal-Am developed its PEA assuming that 10,730 afy of replacement water supply would be required to comply with Order 95-10 and that 1,000 afy of replacement water supply would be required for the Seaside Basin adjudication, for a total of 11,730 afy in replacement supply. In 2006, the MPWMD issued a technical memorandum, updating the demand in Cal-Am's service territory. In sum, the replacement water supply required to meet total updated demand is 12,500 afy, as shown in the following table:[10]

Replacement Amount	Source to be Replaced
8,498 afy	To replace diversions from Carmel River sources
2,975 afy	To replace allocations from overall Seaside Basin
762 afy	To replace supply from Los Padres Reservoir, due to continuing sedimentation
272 afy	To account for replacement of water from non Cal-Am production from Seaside Basin

The environmental documents were developed to assess and analyze the environmental impacts of replacing 12,500 afy of long-term water supply on the Monterey Peninsula, as we discuss further below.

[10] Based on FEIR, Table 2-2 at page 2-7; total replacement supply is 12,507 afy, rounded to 12,500 afy.

5. Environmental Review

D.03-09-022, issued in A.97-03-052, designated the Commission as the lead agency for environmental review of the Coastal Water Project. Cal-Am's proposal to build, own, and operate the Coastal Water Project is subject to environmental review under the California Environmental Quality Act (CEQA).[11] The CEQA review evaluates the proposed project and other alternatives that can address the water supply situation, as well as a no project alternative.

Pursuant to its usual practice, the Commission retained outside consultants to prepare the DEIR and FEIR for the proposed project and alternatives. The Commission's Energy Division Staff managed the environmental review process. The process of preparing the DEIR and FEIR included the steps described below, which offered numerous opportunities for public involvement and were designed to maximize agency and public input for the Coastal Water Project environmental review process.

The scoping process for the Coastal Water Project consisted of five elements:

1. In accordance with §§ 15063 and 15082 of the CEQA Guidelines, the Commission prepared a Notice of Preparation (NOP) for this EIR and Notice of Public Scoping Meetings soliciting comments from affected public agencies, as required by CEQA, as well as from the public;

2. Public scoping meetings and meetings with agencies;

3. Summarization of scoping comments in a Scoping Report;

[11] The CEQA statute appears at Cal. Pub. Res. Code §§ 21000 et seq.

4. Distribution of the Scoping Report and scoping comments as appropriate to the commenting agencies, to scoping meeting attendees, and to the EIR team members for use in work planning and impact analysis; and

5. Establishment of an Internet website (www.CWP-EIR.com) and an electronic mail address (www.cwp-eir.com/notify.html).

The Commission issued the NOP on September 26, 2006 and distributed it to the State Clearinghouse and city, county, state and federal agencies, affected state and federal legislators, local elected officials, news publications, and other groups or individuals who had previously expressed interest in the project. Interested parties received over 30 days to submit comments regarding the content of the EIR. Copies of the NOP were distributed by mail and at scoping meetings. Approximately 230 copies were distributed.

In addition, the Commission prepared a Notice of Availability of the NOP in English, Spanish, and Mandarin, in order to notify potentially interested members of the public about the availability of the NOP. On October 4, 2006, approximately 38,000 copies of the Notice of Availability were distributed by mail to all Cal-Am and MCWD ratepayers, as well as to owners of properties adjacent to some of the proposed facilities. Copies of the NOP were made available for public review at 17 public libraries within Monterey County. The NOP and Notice of Availability were also accessible on the Commission's Coastal Water Project website.

Scoping meetings were held prior to selection of alternatives to be studied in order to receive input from the public regarding the proper scope and content of the EIR. The 30-day project scoping period remained open through

November 9, 2006. The scoping process was also used to identify alternatives and mitigation measures that should be considered in the analysis.

Four public scoping meetings were conducted in Castroville, Monterey, and Seaside as part of the EIR scoping process. An initial mailing list was developed based on Cal-Am's precursor application, as well as agencies, groups, and individuals with an interest in the Proposed Project identified by the EIR team. The Notice of Scoping Meeting was mailed to over 38,000 individuals, groups, and government agencies identified for the mailing list. The dates, times, and locations of the four scoping meetings were included in the NOP mailed to affected agencies and parties to this proceeding, about two weeks in advance of the meetings. The information was also posted on the Commission's project website and Staff published ads in The Carmel Pinecone (in English), El Sol (in Spanish), The Salinas Californian (in English), and the Monterey Herald (in English, Spanish, and Mandarin).

The Commission received 40 unique letters, e-mails, and faxes commenting on the proposed project during the scoping period. Commission staff also received comments during the scoping meetings and numerous comments were recorded on the flip-charts used during the scoping meetings. In all, approximately 45 people attended the scoping meetings. On December 22, 2006, the Commission's consultants issued a scoping report, summarizing issues and concerns identified by the public and various agencies during the scoping process. This report was made available for review on the Project website, and mailed to agencies and individuals who requested copies.

On December 15, 2008, the Commission issued a press release announcing that it would issue the DEIR on January 30, 2009, explaining how to obtain a copy of the DEIR, describing the public comment process, and providing the

website address for additional information.[12] As set forth in CEQA, a notice of availability for a DEIR was issued to the county clerk, all responsible and trustee agencies, and any person or organization requesting, or who previously requested, a copy.

CEQA also requires that notice be issued in one of the following three manners: publication in a newspaper of general circulation; posting on and off the project site; and direct mailing to owners and occupants of contiguous property. Consistent with these requirements, the Notice of Availability was published in the Carmel Pine Cone (in English), El Sol (in Spanish), the Salinas Californian (in English, and the Monterey Herald (in English, Spanish and Mandarin). In addition, on January 30, 2009 the Notice of Availability was sent to the EIR mailing list and the service list in this proceeding. The mailing list consisted of more than 46,000 recipients and included persons and organizations who had requested to receive a copy, affected landowners, and public agencies. The DEIR was also submitted to the State Clearinghouse, pursuant to CEQA Guidelines § 15205.

Following the release of the DEIR, staff established a 75-day comment period and four public meetings were held in the Monterey Peninsula.[13] Four informational meetings were held: on March 2, 2009 in Seaside (in both the afternoon and evening), on March 3, 2009 in Castroville, and on March 4, 2009 in Carmel. The purpose of the meetings was to help the public understand the

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[12] The press release can be found at: http://docs.cpuc.ca.gov/PUBLISHED/NEWS_RELEASED/95081.htm.

[13] The 60-day public comment period on the DEIR was extended to 75 days at the parties' request. Comments on the DEIR were due on April 15, 2009.

proposed project, alternatives, and the findings of the DEIR, and to explain how to participate in the Commission's decision-making processes. Commission staff and the consultants who prepared the DEIR were available to respond to attendee questions and to provide clarification regarding the technical aspects of the proposed project, EIR alternatives, and the impact analysis presented in the DEIR. A summary of the comments received at these informational meetings can be found on the EIR website.

Fourteen local agencies, one tribe, three state agencies, one federal agency, 25 non-governmental groups, and 70 unaffiliated individuals commented on the DEIR. The Commission also received many form letters (157) and petitions regarding the DEIR and the particular project that should be selected.
Each comment on the DEIR can be found on the project website and in the FEIR. The FEIR evaluated and responded to each comment on the DEIR, consistent with the requirements of CEQA, and was issued on October 30, 2009.[14]
The public agencies that commented on the DEIR received a copy of the FEIR at least 10 days before certification, pursuant to CEQA Guidelines § 15088(b). We find that the notification procedures employed for this project are adequate and are consistent with the requirements of CEQA.[15]

6. Brief Description of Proposed Project and the Alternatives

[14] CEQA Guidelines § 15088. The FEIR also briefly addressed the Hybrid Regional Plan discussed at the Public Participation Hearings held in July 2009. FEIR at Sec. 13.9.5.

[15] We do not reproduce the FEIR in its entirety in this decision. The ALJ issued a ruling on November 2, 2009, which identified the DEIR and FEIR as Reference Items A and B. The FEIR is also available on the web at www.cwp-eir.com.

As described in the FEIR, the Coastal Water Project proposal and alternatives are the result of a multi-year planning effort that has included the analysis and consideration of several alternatives in the context of several different proposed projects and related documents. The project objectives are as follows:

1. Satisfy Cal-Am's obligations to meet the requirements of SWRCB Order 95-10;

2. Diversify and create a reliable drought-proof water supply;

3. Protect the Seaside basin for long-term reliability;

4. Protect listed species in the riparian and aquatic habitat below San Clement Dam;

5. Protect the local economy from the effects of an uncertain water supply;

6. Minimize water rate increases by creating a diversified water supply portfolio;

7. Minimize energy requirements and greenhouse gas emissions per unit of water delivered to the extent possible;

8. Explore opportunities for regional partnerships, consistent with D.03-09-022; and

9. Avoid duplicative facilities and infrastructure.[16]

[16] FEIR at ES-2, ES-3. The last three objectives were developed by Staff during the process of compiling the EIR.

The FEIR sets forth three water supply projects that have been analyzed at an equal level of detail, each of which can satisfy the objectives described above. As stated above, we do not select a particular project at this time; however, we provide a very brief description of the projects, as provided in the FEIR.
As described in the FEIR, while each of the three projects would provide the majority of water required, none of the three projects that are analyzed would meet total demand on their own. There are certain other project components and measures that are assumed to be operational under all of the alternatives studied in the FEIR.

In addition to the three project options described below, the FEIR analyzes several other alternatives to the project, as well as multiple alternatives "of the project," i.e., alternatives to select elements or locations of the project. At the appropriate juncture, we will consider the selection of project alternatives. The FEIR analyzes a wide and reasonable range of alternatives to help inform that decision-making process.

6.1. Proposed Project – Moss Landing Power Plant

The Moss Landing Project would be sited on 16 acres at the Moss Landing Power Plant and would be owned and operated by Cal-Am. The proposed project includes a desalination plant sized to produce 10 million gallons per day (mgd) of desalinated water. The proposed project also includes a seawater intake system using source water supplied from the existing Moss Landing Power Plant once-through cooling water return system, an open-water brine discharge system through the Moss Landing Power Plant, and a variety of conveyance and storage facilities, including approximately 28 miles of pipeline and an aquifer storage and recovery system. The aquifer storage and recovery system consists of two existing and two proposed injection/extraction wells.[17] The proposed project would produce 8,800 afy of desalinated water in non-drought years (and 10,900 afy in drought years) that would be delivered to Cal-Am's Terminal Reservoir for distribution to its customers. We note that the proposed project and the alternative projects include certain storage, delivery and distribution components that would be owned and operated by Cal-Am. Because these elements are common to all projects, these are known as "common" components.

6.2. North Marina Alternative

The North Marina alternative consists of much of the same infrastructure as described above. The North Marina alternative would also be owned and operated by Cal-Am, but the desalination plant would be sited on 10 acres at the Armstrong Ranch (near the Monterey Regional Water Pollution Control Agency)

[17] The existing injection/extraction wells supply 920 afy. The proposed wells are expected to provide a long-term average of 380 afy.

and sized to produce 11 mgd of desalinated water. The North Marina alternative utilizes a seawater intake system consisting of six new subsurface beach slant wells, an open-water brine discharge system through the Monterey Regional Water Pollution Control Agency outfall, project water conveyance and storage infrastructure, including several miles of pipeline and an aquifer storage and recovery system, as described above. The main differences between the Moss Landing Project and the North Marina alternative are location and size of the desalination plant, the intake technology, and the outfall.

The North Marina alternative would also produce 8,800 afy of desalinated water in non-drought years (and 10,900 afy in drought years) that would be delivered to Cal-Am customers. Any source water that originated from the Salinas Valley Groundwater Basin (as measured by salinity) would be returned to the Basin through deliveries to the Castroville Seawater Intrusion Project (CSIP). Because modeling indicates that source water pumped from the slant wells over the long term could include a small amount of intruded groundwater from the Salinas Valley Groundwater Basin, the North Marina alternative includes a provision for excess desalinated water to be returned to the Salina Valley Groundwater Basin via the CSIP's storage pond. Thus, desalinated water would be delivered to the Cal-Am Terminal Reservoir for distribution to its customers and to the CSIP pond for distribution to the Salinas Valley Groundwater Basin.

6.3. Regional Project, Phase 1

Given the complexity of the water supply issues facing the Monterey Peninsula, D.03-09-022 directed Cal-Am to "thoroughly explore opportunities for

partnerships with other regional water supply entities as it prepares its PEA and to incorporate such partnerships into the project, if appropriate."[18] Cal-Am included a preliminary assessment of such a regional approach in its PEA. DRA built on this work and worked with the University of California, Santa Cruz, Center for Integrated Water Research to determine whether a more cost-effective and fully developed regional approach could be developed as an alternative to the proposed project. Accordingly, the Regional Project would address water supply demands within the Cal-Am service area and in other areas of northern Monterey County.

The Regional Project analyzed in the environmental documents was developed after extensive public input through the establishment of several community-based working groups, now known collectively as Water for Monterey County. The Regional Project has been envisioned as having two phases, and Phase 1 is analyzed at a level of detail consistent with the proposed project and the North Marina alternative. Due to the legal constraints on diversions from the Carmel River and the Seaside Basin, Phase 1 of the Regional Project would provide "regulatory replacement" water supply of 15,200 afy (12,500 afy to Cal-Am customers and 2,700 afy of water supply to the Ord Community); therefore, Phase 1 is the first priority for project implementation.[19]

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[18] D.03-09-022 at 12.

[19] As noted in the FEIR, Cal-Am, MCWD, and MCWRA have continued to work together to refine the components of Phase 1 of the Regional Project, and the FEIR has been updated to reflect those changes. FEIR at 5-1.

Phase 1 of the Regional Project includes previously analyzed and permitted water supply projects that will be undertaken whether or not the Coastal Water Project is implemented. These projects include the Sand City desalination plant,[20] the Regional Urban Water Augmentation Project,[21] and two existing aquifer storage and recovery wells, as well as an additional demand offset of 1000 afy from conservation. New aspects of Phase 1 of the Regional Project that were analyzed in the environmental documents include a 10-mgd desalination plant, to be owned and operated by the MCWD and six vertical intake wells to provide source water. The desalinated water (8,800 afy in non-drought years and 10,900 afy in drought years) would be delivered to the Cal-Am Terminal Reservoir system for distribution to its customers and to the MCWD system (approximately 1,700 afy in non-drought years) for distribution to its customers.

Phase 2 of the Regional Project has been studied at a more general or programmatic level, consistent with the information that is available at this time. As explained in the FEIR, the components of Phase 2 of the Regional Project have been included for context and for informational purposes; they would not function as an alternative that would meet the project objectives and are not subject to our approval at this time.

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[20] The FEIR for the Sand City desalination plant was certified by the City of Sand City in 2005, with an addendum approved in 2007. Construction began in 2008 and the desalination plant became operational in 2004. The Sand City desalination plant will provide 300 afy.

[21] The Regional Urban Water Augmentation Project was approved by the Marina Coast Water District in 2004 (with addenda in 2006 and 2009) and will provide delivery of recycled water from the Salinas Valley Reclamation Plant for urban irrigation uses.

No party disputes that there is a need to find an alternative water supply to replace Cal-Am's water supplies that are drawn from the Carmel River, in order to ensure that Cal-Am complies with both the SWRCB Order 95-10 and the Seaside Basin adjudication. The FEIR identifies the overall environmentally superior project, taking the "No-Project" analysis into consideration. To reiterate, this decision considers only whether the Commission should certify the FEIR and does not determine whether Cal-Am should be granted a CPCN or if so, whether the proposed project or an alternative project should be adopted. Certification of the FEIR does not prejudge the Commission's final selection of the project or alternative. The proposed decision addressing issuance of a CPCN is targeted for April 2010.

7. Adequacy and Certification of the FEIR

The FEIR must be certified by the lead agency under CEQA before a project may be approved. Certification is predicated upon three findings. First, the agency must conclude that the document has been completed in compliance with CEQA. Second, the lead agency must find that the document was (or will be) presented to the decision-making body for review and consideration prior to project approval. Third, the lead agency must find that the FEIR reflects its independent judgment.[22]

The FEIR must contain specific information according to the CEQA Guidelines, Sections 15120 through 15132. The various elements of the FEIR for the Coastal Water Project satisfy these CEQA requirements. The FEIR consists of the DEIR (volumes 1 through 3, inclusive), with revisions in response to

[22] Pub. Resources Code § 21082.1(c)(3).

comments and other information received. Volume 4 of the FEIR contains the comments received on the DEIR; individual responses to these comments appear in Volume 5 of the FEIR.[23]

The Commission must conclude that the FEIR is in compliance with CEQA before determining whether to approve Cal-Am's request for a CPCN.
As defined in the CEQA Guidelines, the purposes of CEQA include informing decisionmakers and the public of the potential, significant environmental effects of the proposed activities; identifying ways that environmental damage can be avoided or significantly reduced; preventing significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible; and disclosing to the public the reasons why a governmental agency approves a project in the manner ultimately selected, if significant environmental effects are involved.[24]

In order to satisfy these requirements, the environmental document must be comprehensive, accurate, and unbiased, so that it can be used by the lead agency and other decisionmakers in assessing the merits of the project.
The document should embody "an interdisciplinary approach that will ensure the integrated use of the natural and social sciences and the consideration of qualitative as well as quantitative factors."[25] It must be prepared in a clear format and in plain language.[26] It must be analytical rather than encyclopedic,

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[23] CEQA Guidelines, § 15132.

[24] *Id.*, § 15002(a).

[25] *Id.*, § 15142.

[26] *Id.*, §§ 15006(q) and (r), 15120, 15140.

and emphasize feasible mitigation measures and alternatives over unnecessary description of the project.[27] Most importantly, it must be "organized and written in such a manner that [it] will be meaningful and useful to decision makers and to the public."[28]

The FEIR for the Coastal Water Project meets these requirements. It is a comprehensive, detailed, and complete document that thoroughly discusses and assesses the environmental impacts of Cal-Am's proposed project, the North Marina alternative, and the Regional Project, Phase 1, as well as other project components and alternatives. We find that the FEIR is the competent and comprehensive informational tool that CEQA requires it to be. The quality of the information therein is such that we are confident of its accuracy. We find that the FEIR was completed in compliance with CEQA; that the FEIR has been presented to the Commissioners (the decision-making body of the Commission), and has been and will be reviewed, considered, and applied prior to action on the project; and that the FEIR reflects the Commission's independent judgment and analysis. Accordingly, the Commission should certify the FEIR.

8. Comments on Proposed Decision

The proposed decision of the ALJ was mailed to the parties in accordance with Pub. Util. Code § 311 and comments were allowed under Rule 14.3. No comments were filed.

[27] *Id.*, §§ 15006, 15141; Pub. Res. Code § 21003(c).

[28] Pub. Res. Code § 21003(b).

9. Assignment of Proceeding

John A. Bohn is the assigned Commissioner and Angela K. Minkin is the assigned ALJ in this proceeding.

Findings of Fact

1. The Commission is the lead agency under CEQA with respect to the environmental review of the project and preparation of the FEIR.

2. The Commission has conducted an environmental review of the project pursuant to CEQA.

3. The environmental documents were prepared to assess and analyze the environmental impacts of replacing 12,500 afy of long-term water supply on the Monterey Peninsula.

4. The FEIR consists of the DEIR, revised as appropriate to incorporate comments received by the Commission from the proponent, agencies, and the public, and the responses to comments.

5. The FEIR has been completed in accordance with CEQA Guidelines, Sections 15120 through 15132.

6. The FEIR accurately and comprehensively describes the proposed project at the Moss Landing Power Plant, the North Marina alternative, and the Regional Project, Phase 1, as well as the potential environmental impacts of the project and alternatives.

Conclusions of Law

1. The notification procedures employed for this project are consistent with the requirements of CEQA.

2. The preparation and processing of the DEIR and the FEIR for the Coastal Water Project comply with the requirements of CEQA.

3. The contents of the FEIR comply with the requirements of CEQA and represent the Commission's independent judgment.

4. The FEIR should be certified for the project in accordance with CEQA.

5. Certification of the FEIR does not prejudge the Commission's final selection of the project or alternative.

6. The FEIR will be considered by the Commission before approval of the project or any alternatives.

7. This decision should be effective immediately.

O R D E R

IT IS ORDERED that:

1. The Final Environmental Impact Report is certified as the Environmental Impact Report for the Coastal Water Project, which is the subject of this application, and is certified for use by the Commission and responsible agencies in considering subsequent approvals for the project, or for portions thereof.

2. This proceeding remains open to consider whether California-American Water Company should be granted a Certificate of Public Convenience and Necessity, and if so, whether the proposed project or an alternative project should be adopted.

This order is effective today.

Dated December 17, 2009, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners