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AGENDA (**Corrected 5/1/24**)  
**Water Supply Planning Committee**  
**of the Monterey Peninsula Water Management District**  
\*\*\*\*\*

Monday, May 6, 2024 at 3:00 p.m. [PST] | *Virtual Meeting*

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**Water Supply Planning Committee Members:**

*Karen Paull, Chair*  
*Marc Eisenhart*  
*Ian Oglesby*

**Alternate:**

*Amy Anderson*

**Staff Contact**

*David J. Stoldt,*  
*General Manager*

*Jon Lear, Water*  
*Resources Manager*

*Maureen Hamilton,*  
*District Engineer*

*Sara Reyes,*  
*Board Clerk*

**Mission Statement**

Sustainably manage and augment the water resources of the Monterey Peninsula to meet the needs of its residents and businesses while protecting, restoring, and enhancing its natural and human environments.

**Vision Statement**

Model ethical, responsible, and responsive governance in pursuit of our mission.

**Board's Goals and Objectives** (Online)

<https://www.mpwmd.net/wh-o-we-are/mission-vision-goals/bod-goals/>

**Call to Order / Roll Call**

**Comments from Public** - *The public may comment on any item within the District's jurisdiction. Please limit your comments to three minutes in length.*

**Action Items** - *Public comment will be received. Please limit your comments to three (3) minutes per item.*

1. Consider Adoption of the March 5, 2024 Committee Meeting Minutes

**Discussion Items** – *Public comment will be received. Please limit your comments to three (3) minutes per item.*

2. CPUC Phase 2 Supply & Demand Discussion
3. Update on the Emergency ASR Rehabilitation
4. Pure Water Monterey Project Update

**Suggest Items to be Placed on Future Agendas**

**Adjournment**

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All documents submitted by the public must have no less than one copy to be received and distributed by the **Clerk** prior to the Meeting.

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**COMPUTER / SMART DEVICE USERS:** You can find the raise hand option under your participant's name.

**TELEPHONE USERS:** The following commands can be entered using your phone’s dial pad:

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2. Staff will call your name or the last four digits of your phone number when it is your time to speak.
3. You may state your name at the beginning of your remarks for the meeting minutes.
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## **WATER SUPPLY PLANNING COMMITTEE**

### **ITEM: ACTION ITEM**

#### **1. CONSIDER ADOPTION OF THE MARCH 5, 2024 COMMITTEE MEETING MINUTES**

**Meeting Date:** May 6, 2024

**From:** David J. Stoldt,  
General Manager

**Prepared By:** Sara Reyes

**CEQA Compliance:** This action does not constitute a project as defined by the California Environmental Quality Act Guidelines Section 15378.

**SUMMARY:** Attached as **Exhibit 1-A** are draft committee meeting minutes for March 5, 2024.

**RECOMMENDATION:** The Committee should adopt the minutes by motion.

### **EXHIBIT**

**1-A** Draft Minutes of the March 8, 2024 Committee Meeting



**EXHIBIT 1-A**

**Draft Minutes  
Water Supply Planning Committee of the  
Monterey Peninsula Water Management District  
Tuesday, March 5, 2024**

**Call to Order:** Chair Paull called the meeting to order at 3:03 p.m.

**Committee Members Present:** Karen Paull, Chair  
Marc Eisenhart

**Committee Members Absent:** Mayor Ian Oglesby

**Staff Members Present:** David J. Stoldt, General Manager  
Sara Reyes, Executive Assistant/Board Clerk  
Jonathan Lear, Water Resources Manager  
Maureen Hamilton, District Engineer

**District Counsel Present:** David Laredo with De Lay & Laredo  
Michael Laredo with De Lay & Laredo

**Comments from the Public:** Chair Paull opened public comment; no comments were directed to the Committee.

**Corrections / Additions to the Agenda** None

**Action Items**

**1. Consider Adoption of the January 8, 2024 Committee Meeting Minutes**

Chair Paull introduced Item No. 1 and opened public comment; no comments were directed to the Committee.

A motion was offered by Director Paull with a second by Director Eisenhart to accept the January 8, 2024 Committee Meeting minutes. The motion was unanimously passed with 2-Ayes (Paull, and Eisenhart), 0-Noes and 1-Absent.

**2. Adopt 2024 Water Supply Planning Committee Meeting Schedule**

Chair Paull introduced Item No. 2 and opened public comment; no comments were directed to the Committee.

A motion was offered by Director Paull with a second by Director Eisenhart to adopt the 2024 meeting schedule. The motion was unanimously passed with 2-Ayes (Paull and Eisenhart), 0-Noes and 1-Absent.

## Discussion Items

### 3. Update on Fort Ord Wells Nos. 10 and 11

Jonathan Lear, Water Resources Manager provided a brief overview of this item and stated there are several pathways to go forward for the wells.

- District pays for destroying Fort Ord Well No. 10
- District splits the cost for destroying Fort Ord Well No. 10
- District transfers ownership to Marina Coast Water District

Chair Paull opened public comment; no comments were directed to the Committee.

### 4. Seaside Groundwater Basin Watermaster Seawater Intrusion Analysis Report Findings

David Stoldt introduced this item and stated that an overview would be presented by Jonathan Lear, Water Resources Manager. Mr. Lear shared excerpts of the report provided by Montgomery & Associates and reported that the full report is available on the Seaside Basin Watermaster web page at

[https://seasidebasinwatermaster.org/Other/2023%20Seawater%20Intrusion%20Analysis%20Report\\_2024\\_0227\\_Board\\_Final\\_withAppendices.pdf](https://seasidebasinwatermaster.org/Other/2023%20Seawater%20Intrusion%20Analysis%20Report_2024_0227_Board_Final_withAppendices.pdf).

Chair Paull opened public comment; *the following comment was directed to the committee:*

- (1) Susan Schiavone asked what consideration is being taken for the anticipated sea level rise and how that would affect the aquifer at the edge of the water. Has there been any consideration for that, and if so, what is it and does the Sand City Desal plant at all affect that area of the aquifer?

### 5. Discuss Federal Water Resources Development Act (WRDA) Projects

General Manager Stoldt provided a brief overview on the Water Resources Development Act Projects and materials that were developed by the District and shared in Washington DC at the ACWA conference on February 27-29, 2024. Committee discussion followed.

Chair Paull opened public comment; no comments were directed to the Committee.

## ADJOURNMENT

1. Chair Paull adjourned the Regular Meeting at 4:27 PM and recessed into Closed Session

## Closed Session

- CS 1.** Conference with Real Property Negotiators (Government Code Sections 54954.5(b), 54956.8/  
District Representative: David Stoldt / Negotiation Regarding Properties Affected by California American Water Company and Monterey Peninsula Unified School District

General Counsel Laredo reported from the Closed Session and stated that the committee discussed the background of the property, but no action was taken, and therefore there is no further report from the Closed Session.

## Suggest Items to be Placed on Future Agendas

None

**Adjournment**

1. The committee adjourned from Closed Session at 5:05 PM
2. District Counsel Laredo provided a brief update from Closed Session

There being no further business, Chair Paull adjourned the meeting at 5:07 PM.

/s/ Sara Reyes

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Sara Reyes, Committee Clerk  
to the Water Supply Planning Committee

Reviewed and Approved by the MPWMD Water Supply Planning Committee on \_\_\_\_\_, 2024.  
Received by the MPWMD Board of Directors on \_\_\_\_\_, 2024.

## WATER SUPPLY PLANNING COMMITTEE

ITEM: DISCUSSION ITEM

### 2. CPUC PHASE 2 SUPPLY & DEMAND DISCUSSION

Meeting Date: May 6, 2024 Budgeted: N/A

From: David J. Stoldt Program/  
General Manager Line Item No.: N/A

Prepared By: David J. Stoldt Cost Estimate: N/A

General Counsel Approval: N/A

Committee Recommendation: N/A

**CEQA Compliance: This action does not constitute a project as defined by the California Environmental Quality Act Guidelines section 15378.**

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**SUMMARY:** The California Public Utilities Commission (CPUC) is wrapping up their “Phase 2” of the proceeding in Application 21-11-024 to “Update Supply and Demand Estimates for the Monterey Peninsula Water Supply Project.” On April 30<sup>th</sup>, the District and Cal-Am submitted the opening briefs attached as **Exhibit 2-A** and **Exhibit 2-B**. Also submitting briefs were Marina Coast Water District, the City of Marina, Public Water Now, and the CPUC Public Advocates Office. There is a large disparity between the conclusions of the District, which are consistent with all the other intervenors, and Cal-Am.

A discussion and presentation will occur at the Committee meeting.

#### EXHIBITS

**2-A** MPWMD Phase 2 Opening Brief

**2-B** Cal-Am Phase 2 Opening Brief



## EXHIBIT 2-A

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

Application of California-American Water Company (U210W) to Obtain Approval of the Amended and Restated Water Purchase Agreement for the Pure Water Monterey Groundwater Replenishment Project, Update Supply and Demand Estimates for the Monterey Peninsula Water Supply Project, and Cost Recovery

Application 21-11-024  
(Filed November 29, 2021)

### PHASE 2 OPENING BRIEF OF MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

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WATER MANAGEMENT DISTRICT**

April 30, 2024

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## SUMMARY OF RECOMMENDATIONS

Rule 13.12 of the Commission's Rules of Practice and Procedure requires a "summary of the briefing party's recommendations following the table of authorities." In summary, as supported by this opening brief and the record in this proceeding, MPWMD recommends and respectfully requests that the Commission's final decision in Phase 2 of Application 21-11-024 on the most recent water supply and demand data for California-American Water Company's Monterey Service Area should find and order as follows:

1. The Commission should find that current demand is a maximum of 9300 AFY.
2. The Commission should find that the addition of Pure Water Monterey expansion coupled with accumulated storage provides sufficient water for decades.
3. The Commission should find that Cal-Am's forecast of demand in 2050 is overstated and that its analysis of the water supply sources is understated.
4. The Commission should find that MPWMD has the regulatory authority to control the rate at which the PWM expansion water is allocated.
5. The Commission should find that the desalination component of the MPWSP is not required at least until after 2050.
6. The Commission should conclude the updated supply and demand figures presented by MPWMD, Cal Advocates, and MCWD are reasonable, prudent, and in the public interest.

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

Application of California-American Water Company (U210W) to Obtain Approval of the Amended and Restated Water Purchase Agreement for the Pure Water Monterey Groundwater Replenishment Project, Update Supply and Demand Estimates for the Monterey Peninsula Water Supply Project, and Cost Recovery

Application 21-11-024  
(Filed November 29, 2021)

**PHASE 2 OPENING BRIEF OF  
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT**

In accordance with Rule 13.12 of the California Public Utilities Commission’s (Commission) Rules of Practice and Procedure, the procedural schedule set forth on November 30, 2023<sup>1</sup>, and modified by Administrative Law Judge Robert Haga at the conclusion of the March 15, 2024, evidentiary hearing,<sup>2</sup> the Monterey Peninsula Water Management District (MPWMD) hereby submits its opening brief on the Phase 2 issues identified in the initial Scoping Memo of this proceeding, to wit: “...the supplemental testimony required in Phase 2...should address the most recent supply and demand data California American Water has available....”<sup>3</sup>

**I. INTRODUCTION**

California-American Water Company (Cal-Am) filed Application (A.) 21-11-024 on November 29, 2021. Phase 1 of the proceeding adopted the Amended and Restated Water Purchase Agreement (Amended WPA) authorizing Cal-Am to contract with

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<sup>1</sup> *Administrative Law Judge’s Ruling Regarding Evidence and Setting Schedule Second Phase Hearings* of November 30, 2023.

<sup>2</sup> Reporter’s Evidentiary Hearing Transcript (RT) Volume 6:733-15-19 (ALJ/Haga).

<sup>3</sup> *Assigned Commissioner’s Scoping Memo and Ruling* of February 9, 2022, p. 3, fn. 2.

MPWMD and Monterey One Water (M1W) for an additional 2,250 acre-feet annually (AFY) produced from an expansion of Pure Water Monterey (PWM) project.<sup>4</sup> The original WPA was authorized by the Commission in 2016 for 3,500 AFY.<sup>5</sup> The PWM facility is online and consistently providing 3,500 AFY. The PWM expansion is under construction and scheduled to be online by late 2025. After updating the Commission’s supply and demand estimates in Phase 2, the remaining issue is whether the desalination facility is needed, at what size, and when. The intervening parties including MPWMD provided extensive evidence showing it will be decades before a desalination facility of any size would be needed.

## II. CAL-AM GROSSLY OVERSTATES DEMAND

Cal-Am argues that future demand in the year 2050 will reach 14,480 AFY from the current demand of 9,270.<sup>6</sup> To reach that growth required adding categories of demand that are duplicative or even triple counted as explained more fully below. The two experienced engineers with the most knowledge of Cal-Am’s demand assessment, Ian C. Crooks and Christopher Cook, were no longer employed at the company;<sup>7</sup> neither was a representative from the consulting firm that prepared the 2020 Urban Water Management Plan. Cal-Am’s witness O’Halloran admitted that while he “participated in the preparation

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<sup>4</sup> Decision (D.) 22-12-001, *Application of California-American Water Company (U210W) to Obtain Approval of the Amended and Restated Water Purchase Agreement for the Pure Water Monterey Groundwater Replenishment Project, Update Supply and Demand Estimates for the Monterey Peninsula Water Supply Project, and Cost Recovery*, Decision Authorizing California-American Water Company to Enter into the Pure Water Monterey Groundwater Replenishment Expansion Project, and Authorizing the Construction of Four Company-Related Facilities and Associated Ratemaking Treatment, modified in D.23-03-048 in Order Denying Rehearing of Decision 22-12-001.

<sup>5</sup> D.16-09-021, *Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates*, Decision on California-American Water Company’s Application for Approval of the Monterey Peninsula Water Supply Project Specifically in Regards to Phase 2.

<sup>6</sup> CAW-23, Phase 2 Supplemental Direct Testimony of Christopher Cook, dated December 21, 2023, p. 4 and p. 5, Table 3. See also MCWD-10 for Cal-Am compliance report to the SWRCB shows for Water Year 2023 total production was even lower at 8,995 AFY and 4RT, p. 472 (CAW/O’Halloran).

<sup>7</sup> Ian C. Crooks served as Cal-Am’s Vice President and Senior Director of Engineering and Business Development. Christopher Cook was Director of Operations for Cal-Am’s Central Division.



along with our consultants developing the Urban Water Management Plan,” he did not prepare the demand projections.<sup>8</sup>

The sole witness available at the hearing to respond to questions on demand issues including sponsorship of Crooks’ and Cook’s testimonies was Tim O’Halloran. Mr. O’Halloran was employed by Cal-Am in January 2019 to serve as the Engineering Manager for the Central Division in Monterey.<sup>9</sup> His responsibilities include “planning, engineering, permitting, and construction of capital investment projects for water and wastewater.”<sup>10</sup>

A. **Demand Analysis**

1. **How was Demand Calculated in the Commission’s 2018 Decision?**

In the 2018 Decision approving the Monterey Peninsula Water Supply Project (MPWSP), there was no rigorous technical analysis or independent consultant analysis by the Commission.<sup>11</sup> Rather, the Commission evaluated the various party demand projections and adopted Cal-Am’s forecast of 14,355 AFY.<sup>12</sup> The calculation included existing customers, lots of record, Pebble Beach, tourism rebound, and a buffer against uncertainties.<sup>13</sup>

2. **Independent Third-Party Analysis by AMBAG**

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<sup>8</sup> 4RT, pp.423-424 (CAW/O’Halloran).

<sup>9</sup> CAW-25, Phase 2 Supplemental Rebuttal Testimony of Tim O’Halloran, dated February 20, 2024, p. 1.

<sup>10</sup> *Id.*

<sup>11</sup> MPWD-06, Phase 2 Direct Testimony of David J. Stoldt, dated August 19, 2022, p. 2.

<sup>12</sup> D.18-09-017, *Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates*, Decision Approving a Modified Monterey Peninsula Water Supply Project, Adopting Settlement Agreements, Issuing Certificate of Public Convenience and Necessity and Certifying Combined Environmental Report, p. 46.

<sup>13</sup> *Id.*, pp. 45-46.

The Association of Monterey Bay Area Governments (AMBAG) is a Joint Powers Authority that serves as both a federally designated Metropolitan Planning Organization and Council of Governments. AMBAG provides metropolitan-level transportation planning on behalf of a region that includes Monterey County.<sup>14</sup> AMBAG manages the region’s transportation demand model and prepares *regional housing, population and employment forecasts* that are used in a variety of regional plans. In other words, the AMBAG forecast “represents population growth and expansion of the commercial sector/job growth that already encompass such future demands.”<sup>15</sup> [Emphasis added.] Even Cal-Am acknowledges in its 2020 UWMP that its service area *population* will increase at the rate forecasted by AMBAG and water use for non-residential customers will increase at the rate of *employment* forecasted by AMBAG.<sup>16</sup>

AMBAG has no incentive to either overstate or underestimate demand. Thus, it provides an independent forecast of growth through modeling that has proved to be reliable. On the other hand, Cal-Am needs to maintain inflated demand numbers to keep its desalination facility alive or risk being left with a costly stranded asset.

### 3. How Reliable is Cal-Am’s Urban Water Management Plan?

Cal-Am’s 2020 Urban Water Management Plan (UWMP) is not an objective third-party analysis of demand. Cal-Am retained Water Systems Consulting Inc. to prepare its 2010 UWMP, 2015 UWMP, and the current 2020 UWMP. One can review the accuracy of their long-term demand forecasting in Table 2 of MPWMD Stoldt Phase 2 Direct Testimony.<sup>17</sup> The 2010 plan projected 2015 demand at 11,298 AFY when the actual demand was 10,023 AFY. The 2015 plan projected 2020 demand at 11,951 AFY but the actual demand was 9,680 AFY. The current 2020 UWMP projects 10,443 AFY by 2025

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<sup>14</sup> The AMBAG region includes Monterey, Santa Cruz and San Benito Counties. See <https://www.ambag.org/index.php/about-us>.

<sup>15</sup> MPWD-06, p. 9. MPWMD’s General Manager, David J. Stoldt, has demand forecasting experience at PG&E.

<sup>16</sup> CAW-17, Phase 2 Direct Testimony of Ian C. Crooks, Corrected, dated July 25, 2022, Attachment A, Cal-Am 2020 Urban Water Management Plan, pp. 4-7.

<sup>17</sup> MPWD-06, p. 12.

while current demand is not even 9,300 AFY.<sup>18</sup> It is apparent that the UWMP is not a good predictor of demand even five years out.

It should be noted that the Department of Water Resources (DWR), not SWRCB as stated by witness Pezzini, does not “approve” urban water plans.<sup>19</sup> California Water Code section 10653 only requires the *preparation and adoption* of a water management plan by urban water suppliers like Cal-Am. The plan must be updated every five years on or before July 1 of years ending in 1 or 6.<sup>20</sup>

#### 4. Will Residential Demand Increase by 10%?

Cal-Am arbitrarily adds another demand category to its forecast by asserting that there is so much “pent-up demand” that customers will start using more water once additional supplies come online thereby justifying an additional 10% residential demand.<sup>21</sup> Of course, this argument is contrary to every documented statistic in the evidentiary record.

During cross-examination, intervening parties including MPWMD showed there was no current prohibition on customers using as much water as they can afford, planting a new garden or adding landscape, or even adding an additional bathroom or enlarging floorspace.<sup>22</sup> So long as the customer does not waste water<sup>23</sup> or has water credits available from retrofitting to offset expansion,<sup>24</sup> everything is possible. Similarly, hotel guests and businesses in general can use as much water as they can afford.<sup>25</sup> Even customers in the

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<sup>18</sup> 4RT, p.428 (CAW/O’Halloran). O’Halloran confirmed the most recent demand for Calendar Year 2022 was 9,288 AFY.

<sup>19</sup> CAW-27, Phase 2 Supplemental Rebuttal Testimony of David Pezzini, dated February 20, 2024, p. 13.

<sup>20</sup> Cal. Water Code §§10620(a) and 10621(a).

<sup>21</sup> 3RT, p. 382 (CAW/O’Halloran).

<sup>22</sup> *Id.*, p. 383, p. 388.

<sup>23</sup> MPWMD Rules and Regulations, Rule 162 B provides a prohibition on water waste at all times. “Water Waste” means the indiscriminate, unreasonable, or excessive running or dissipation of water.

<sup>24</sup> Property owners can avoid the need for additional water by retrofitting existing fixtures with more efficient water-using products such as high-efficiency dishwashers or clothes washers. Another option is to remove existing fixtures like laundry or bar sinks to free up enough credits for a new bathroom.

<sup>25</sup> The continued downward consumption may likely be attributed to the significant cost increase on Monterey water bills.

Cities of Carmel-by-the-Sea and Sand City, Carmel Valley, and Pebble Beach have access to entitlement water without any constraint on setting a new meter.

Annual historic total demand has reduced from 9,690 acre-feet (AF) in 2018 to 9,270 AF in 2022.<sup>26</sup> Not only is it speculative to include a 10% increase in per capita residential demand, it is contrary to state law. MPWMD’s Water Demand Manager, Stephanie Locke, with over thirty-four years of demand management experience at MPWMD, provides testimony showing that the efficiency standard for indoor residential use is 55 gallons per capita per day (GPCD) until 2025 after which it is reduced to 52.5 GPCD until 2030 and then is further reduced to 50 GPCD.<sup>27</sup> Locke provides “Making Water Conservation a California Way of Life” in Attachment A to her testimony. So, with additional legislative restrictions on indoor per capita water use “as a way of life,” Cal-Am’s projected increase is contraindicated.<sup>28</sup>

The trend in water use is down, not up. The inclusion of a 10% increase in residential per capita use must be deleted as it is contrary to law and reality.

##### 5. Where does Housing and Commercial Expansion Occur?

Cal-Am continues to argue that “Legal Lots of Record” is a “separate demand component.”<sup>29</sup> This concept was developed in a 1997 study after State Water Board Order WR-95<sup>30</sup> to project future demand of 1,180 AF.<sup>31</sup> The figure was used as a proxy for future population growth, not as an addition to a forecast of water demand based on population growth. Not only has that estimate *never* been modified, but it also amounts to double-counting growth that is included in the AMBAG population forecast.

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<sup>26</sup> CAW-23, p. 5, Table 3.

<sup>27</sup> MPWD-05, Phase 2 Direct Testimony of Stephanie Locke, dated August 19, 2022, p. 3, citing Cal. Water Code §10609.4. See also Attachment L to the exhibit showing Cal-Am’s residential gpcd at 57.47 as of April 2022.

<sup>28</sup> The water conservation legislation and rulemaking is now focusing on reductions in outdoor water use.

<sup>29</sup> CAW-23, p. 4.

<sup>30</sup> SWRCB Order WR 95-10, *Order on Four Complaints Filed Against the California-American Water Company*, July 6, 1995.

<sup>31</sup> MPWD-06, p. 12.

The moratorium on setting new meters did not occur until 2009 with SWRCB Order 2009-0060<sup>32</sup> so some construction on vacant lots/legal lots of record has occurred. Additional water entitlements held by the Pebble Beach Company, the City of Sand City and Malpas also allowed construction on these lots even when it was prohibited by the SWRCB<sup>33</sup> and the Commission's moratorium<sup>34</sup>. Cal-Am fails to acknowledge these facts or quantify their impact on demand.

Population growth is accommodated in the existing housing stock or newly built structures. New housing stock is built only on Legal Lots of Record. Similarly, commercial expansion occurs on Legal Lots of Record. Cal-Am captures this growth in its Residential and Non-Residential Demand numbers.<sup>35</sup> It is double-counting to add 1,180 AF to the Residential and Non-Residential Demand figures.

#### 6. Is Tourism Rebound a Separate Demand Category?

“Tourism Rebound” also referenced as “Tourism Bounceback” is another remnant dating from the post-1995 period when the Monterey community tried to determine the appropriate size for a replacement water project. This concept carried over to Cal-Am's 2012 Application for the MPWSP<sup>36</sup> and continues as 500AF in Cal-Am's 2020 UWMP and testimony. The only examples of this factor in the record are from Ian C. Crooks Phase 2 Rebuttal Testimony where he states, “...evidence provided by the Monterey area tourism industry indicates that tourism bounce-back has not occurred, and the tourism industry still

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<sup>32</sup> SWRCB Order WR 2009-0060, *In the Matter of the Unauthorized Diversion and Use of Water by the California-American Water Company*, October 20, 2009. This included a Cease and Desist Order and imposed a building moratorium.

<sup>33</sup> *Id.*

<sup>34</sup> D.11-03-048, *In the Matter of the Application of California-American Water Company (U210W) for an Order Authorizing and Imposing a Moratorium on Certain New or Expanded Water Service Connections in its Monterey District*, Decision Directing Tariff Modifications to Recognize Moratorium Mandated by State Water Resources Control Board, issued March 28, 2011.

<sup>35</sup> CAW-23, pp. 3-4, Table 2, Residential Demand and Non-Residential Demand.

<sup>36</sup> D.18-09-017.

needs to increase occupancy rates in the future”<sup>37</sup> and a reference to the Monterey County Hospitality Association letter to the Commissioners.<sup>38</sup>

Arguments about not being able to modernize, add amenities, or increase occupancy are easily dismissed. For example, there is no limit on the amount of water that hotels can use so there is no impact to increased occupancy. If a hotel already has 100 rooms, there is water to serve those rooms regardless of the current occupancy rate, be it 60%, 80%, or 100%. Similarly, new hotels have been approved in Pacific Grove and are under construction in Sand City. Some had existing meters while others utilized water entitlements. Also, if a hotel wants to renovate and add a spa but lacks sufficient water credits or access to entitlement water for its project, that demand is captured prospectively in the AMBAG employment and population forecasts and included in Cal-Am’s Non-Residential Demand component.<sup>39</sup>

Hotels and restaurants are commercial uses that are categorized as Non-Residential customers. Their future water demand is captured as Non-Residential and does not justify double counting by adding an additional demand category for “Tourism Rebound.”

### 7. Is “Pebble Beach Entitlements” Really a Unique Demand Factor?

The “Pebble Beach Entitlements” were established through a water supply project that converted potable water use for irrigation in the Del Monte Forest to non-potable use. The Pebble Beach Company and two other sponsors provided fiscal guarantees for the project and were given entitlements for their financial contributions.<sup>40</sup>

Cal-Am identifies “Pebble Beach Entitlements” as constituting *additional* demand of 325 AF<sup>41</sup> but does not list it as part of its supply sources.<sup>42</sup> Cal-Am argues that “there is no evidence that the growth attributed to the Unincorporated County in the AMBAG Regional Growth Forecast will use Pebble Beach Entitlement water.”<sup>43</sup> However, this

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<sup>37</sup> CAW-20, Phase 2 Rebuttal Testimony of Ian C. Crooks, dated September 19, 2022, p. 23.

<sup>38</sup> *Id.* This ex parte letter directly to the Commissioners was dated September 14, 2022.

<sup>39</sup> CAW-23, p. 4.

<sup>40</sup> See MPWMD Rule 23.5.

<sup>41</sup> CAW-23, p. 4

<sup>42</sup> *Id.*, p. 6.

<sup>43</sup> CAW-20, p. 19.

entitlement was based on Pebble Beach Buildout, a plan adopted by Monterey County that includes all commercial and residential development anticipated within the Del Monte Forest.<sup>44</sup> The President of the Pebble Beach Company acknowledged that “we’ve used or allocated for use all but 60 acre-feet out of our total 365 acre-foot entitlement.”<sup>45</sup> The projected growth *is* captured in AMBAG’s Regional Growth Forecast and reflected in Cal-Am’s Residential Demand and Non-Residential Demand.<sup>46</sup>

## 8. RHNA is a Planning Tool, not a Separate Growth Factor

The City of Santa Monica explains Regional Housing Needs Allocation (RHNA) process as follows, “It is important to recognize that the RHNA is a targeted housing number – Cities and counties do not have to build this number of units, but rather they are required by the state to plan for them and demonstrate that under the current land use and development standards, there is capacity to accommodate for this number of housing units.”<sup>47</sup>

It is evident that Cal-Am’s witness misunderstands RHNA when he states that “RHNA housing numbers...require additional water supplies to serve those customers....”<sup>48</sup> The misunderstanding goes even further because Cal-Am assumed RHNA required these units to be built during the current cycle ending in 2031.

RHNA housing numbers are included in the AMBAG Regional Growth Forecast. Population estimates drive water demand, not housing stock estimates.

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<sup>44</sup> MPWD-06, pp. 22-23.

<sup>45</sup> CAW-17, Phase 2 Direct Testimony of Ian C. Crooks, Corrected, dated July 25, 2022, Attachment Y, Letter dated October 18, 2019 from David L. Stivers, President of the Pebble Beach Company. The Company controls how much entitlement water it assigns for each development project. MPWMD records show use of 100.587 AF as of June 2022 averaging 4.9 AF from 2011-2020, a far cry from Cal-Am’s estimate of 65 AF every five years. See MPWD-06, pp. 23-24.

<sup>46</sup> CAW-23, pp. 3-4.

<sup>47</sup> MPWD-06, pp.19-20, citing Attachment I, Frequently Asked Questions About RHNA. p. 16.

<sup>48</sup> 4RT, p. 502 (CAW/O’Halloran).

**B. MPWMD Regulatory Powers Control Demand**

As Stephanie Locke noted, MPWMD has been actively involved with water conservation and rationing programs “since its inception in 1978.”<sup>49</sup> MPWMD has mandated retrofit on resale, required water permits for new construction, and implemented comprehensive landscaping standards.<sup>50</sup> These requirements are enforced through deed restrictions recorded against real property.

MPWMD has the power to do any and every lawful act necessary in order that sufficient water may be available for any present or future beneficial use.<sup>51</sup> An example of this was MPWMD’s creation of the Pebble Beach Entitlements made possible through its legislative power. When a new water source becomes available, MPWMD implements an allocation process among the six cities and unincorporated areas within its boundary to divide the water among these jurisdictions.

MPWMD’s authority to control the release of PWM expansion water offers an effective and less costly solution than constructing a depreciating facility for which there is no immediate need.

**C. Realistic Future Demand Estimates**

Cal-Am argues that future demand in 2050 will be 14,480 AFY, an increase from current demand of approximately 9300 AFY.<sup>52</sup> In contrast to the Cal-Am forecast, MPWMD offers a 2050 demand of 10,599 AFY,<sup>53</sup> Cal Advocates at 11,073 AFY,<sup>54</sup> and Marina Coast Water District forecast of 11,160 AFY.<sup>55</sup>

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<sup>49</sup> MPWD-05, p. 5.

<sup>50</sup> *Id.*, p. 6.

<sup>51</sup> *Id.*, p. 7 citing Cal. Water Code, Appendix §118-325.

<sup>52</sup> 4RT, pp. 440-443 (CAW/O’Halloran).

<sup>53</sup> MPWD-07, Phase 2 Supplemental Direct Testimony of David J. Stoldt, Corrected, served March 1, 2024, p. 8.

<sup>54</sup> PAO-05, Public Advocates Office Report and Recommendations, dated August 19, 2022, p. 2.

<sup>55</sup> MCWD-05, Phase 2 Testimony of Peter Mayer, P.E., Updated and served March 14, 2024



The Commission should disregard Cal-Am’s forecasts, projections, and speculation about future demands. They are intentionally overstated to create the impression that the Monterey community is in dire straits without Cal-Am’s desalination facility.

### **III. CAL-AM DISCOUNTS WATER SUPPLIES**

“The availability and reliability of all the supply sources are relevant” in Phase 2 of this proceeding.<sup>56</sup>

#### **A. Supply Source Analysis**

##### **1. Areas of Agreement**

There are two water supply sources where MPWMD agrees with Cal-Am. We agree that the SWRCB Carmel River water right is 3,376 AFY in normal and drought years.<sup>57</sup> We also agree that Pure Water Monterey provides 3,500 AFY in normal and drought years.<sup>58</sup>

##### **2. Seaside Basin**

The Seaside Basin was adjudicated in 2006. Cal-Am has an adjudicated right to 1,474 AFY in normal and drought years; however, Cal-Am only accounts for 774 AFY<sup>59</sup> as available supply due to a 25-year in-lieu recharge commitment of 700 AFY that would start when the desalination facility is operational in 2030. MPWMD asserts the full 1,474 AFY is available now, but also describes several scenarios where only 774 AFY is available.<sup>60</sup>

##### **3. Cal-Am Understates Sand City Desalination Supply**

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<sup>56</sup> 4RT, p. 484 (ALJ/Haga).

<sup>57</sup> CAW-23, p. 6 and MPWD-07, p. 9.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> MPWD-07, Attachment A. MPWMD asserts the in-lieu recharge may not be required when storage is considered.

Sand City constructed and owns a desalination plant producing potable water for which MPWMD granted an entitlement for 206 AFY.<sup>61</sup> Cal-Am undercounts this source as it only recognizes 94 AFY of supply in both normal and drought years. The purpose of Sand City’s desalination facility is “to furnish water for present and future beneficial use of lands and inhabitants...within Sand City.”<sup>62</sup> MPWMD asserts a minimum of 160 AFY to 200 AFY should be included as the appropriate amount of water from this water supply source.<sup>63</sup>

#### 4. Pure Water Monterey Expansion Contractual Obligation for 2,250 AFY

Cal-Am believes PWM expansion will provide a reliable supply in normal years of 2,001 to 2,234 AFY.<sup>64</sup> In drought years, Cal-Am reduces this supply to only 0 to 1,100 AFY. The owner and operator of M1W represented by its General Manager, Paul Sciuto, explains in detail the source water availability for the existing facility as well as the expansion.<sup>65</sup> Mr. Sciuto rebuts and corrects all inaccurate statements by Ian Crooks July 2022 Phase 2 Direct Testimony, Corrected (CAW-17), and concludes that the source waters are available “to deliver the contractually obligated 2,250 AFY.”<sup>66</sup>

The Amended and Restated Water Purchase Agreement (Amended WPA) approved in Phase 1 of this proceeding confirms the requirement to provide a total of 5,750 AFY when the expansion comes online. Crooks included a copy of the full agreement as Attachment X to his CAW-17 testimony. Under the definition “Company Allotment” (read into the record at the evidentiary hearing by Cal-Am witness Pezzini<sup>67</sup>)

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<sup>61</sup> MPWMD Rule 23.6.

<sup>62</sup> MPWMD Ordinance No. 132, Finding 5.

<sup>63</sup> MPWD-07, pp. 11-12.

<sup>64</sup> CAW-23, p. 6.

<sup>65</sup> M1W-02, Phase 2 Testimony of Paul A. /Sciuto, Corrected, dated August 24, 2022, pp. 4-41 including Exhibits A and B attached thereto.

<sup>66</sup> *Id.*, p. 4.

<sup>67</sup> 3RT, p. 282 (CAW/Pezzini).

“means 3,500 acre-feet of AWT water until the expansion performance start date, after which it shall mean 5,750 acre-feet or another quantity of AWT water as agreed to in writing by the parties.”<sup>68</sup> There are financial penalties if this quantity is not available.

The success of both PWM and PWM expansion requires Cal-Am to construct and operate four (4) new extraction wells to access these water supplies. They were approved in Phase 1 of this proceeding.<sup>69</sup>

### 5. Aquifer Storage and Recovery

Both MPWMD and Cal-Am reviewed historical Carmel River flow records over a 59-year period to determine how much ASR injection could have occurred if today’s facilities and permits were in place at that time.” During this 59-year period the average available “Total ASR Injection” is 1,210 AF per year. That means carryover storage in the good years will be available to make-up for a lack of injection in below normal to dry years. The ASR project can provide an average yield of 1,210 AFY. Cal-Am undercounts this source and only recognizes 470 AFY from ASR in normal years and 0 AFY in drought years.<sup>70</sup>

Maintaining reliable yield assumes Cal-Am maintains capacity in the Carmel Valley wells for ASR purposes in addition to any system demand<sup>71</sup> and returns ASR-3 and ASR-4 wells for injection use. By the end of 2023, the ASR storage balance was 2,159 AF.<sup>72</sup>

### 6. Groundwater Storage is Completely Ignored

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<sup>68</sup> *Id.* The Amended WPA also requires Drought and Operational Reserves. Cal-Am recognizes these in its Updated Supply and Demand Summary in CAW-23, p. 6 – Table 4.

<sup>69</sup> D.22-12-001.

<sup>70</sup> CAW-23, p. 6.

<sup>71</sup> MPWD-04, Phase 2 Direct Testimony of Jonathan Lear, dated August 19, 2022, p.5.

<sup>72</sup> MPWD-07, p. 15.

On the supply side, Cal-Am completely overlooks the availability and importance of groundwater storage. Nowhere in the testimony of Cal-Am is there a discussion of storage of water for use in later years.

ASR is intended to enable storage of water from year-to-year. The “S” in ASR stands for “storage.” Further, PWM Expansion will initially produce more water, in conjunction with other surface water and groundwater supplies, than existing demands can utilize. This, too, will create water that can be diverted to storage for future years.

Even the American Water Works Association (AWWA) recognizes ASR in its reliability assessment: “ASR wells can improve water basin management by storing water underground from periods of excess supply..., and later allowing a portion of the stored water to be extracted during periods of demand or short supply”<sup>73</sup>

It is unconscionable that Cal-Am undercounts this source by leaving storage out of their analysis. It would be akin to San Francisco evaluating water supply and demand without considering the Hetch Hetchy reservoir.

MPWMD prepared a 2024 Water Supply Assessment showing eight “supply versus demand” scenarios with each progressively more restrictive – increasing demand expectations while reducing supply availability.<sup>74</sup> The analysis concludes that existing water supplies plus PWM expansion provide sufficient water for more than three decades, in most cases, without necessitation of a desalination plant.<sup>75</sup>

## **B. Realistic Supply Estimates**

Firm water rights recognized by the SWRCB on the Carmel River for Cal-Am and additional permitted ASR water for Cal-Am and MPWMD from the river’s excess winter flows, adjudicated water rights in the Seaside Basin for Cal-Am and other overlying property owners, PWM and PWM expansion and Sand City desalination plant provide at

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<sup>73</sup> MPWD-06, Attachment O, AWWA, “Water Resources Planning: Manual of Water Supply Practices M50”, 3rd Edition, p. 148.

<sup>74</sup> MPWD-07, pp.14-15 and Attachment A.

<sup>75</sup> *Id.*, Attachment A, p. 1.

least 10,800 AFY. Coupled with existing storage in the Seaside Groundwater Basin exceeding 2,000 AF, Cal-Am starts 2026 with a firm supply of 12,800 AF. Given that current demand is about 9,300 AFY, as much as 3,500 AF can be stored for future development and build up over time with increments withdrawn as development occurs.

#### **IV. CONCLUSION**

The record shows a consistent pattern by Cal-Am discounting water supply availability and overstating demand to create a false crisis in the hopes of justifying continued support for the desalination component of the MPWSP.

AMBAG's regional growth forecast provides an independent assessment of population and economic growth through 2045. It should be the sole determination of future growth in Cal-Am's Monterey Service Area. Any other category such as Lots of Record, Tourism Rebound, and Pebble Beach Entitlements is a duplication of growth. RHNA provides a planning tool for governmental agencies for future housing stock. The governments' obligation is to zone for these units which will eventually be constructed on Legal Lots of Record. Planned housing does not use water beyond that shown in AMBAG's forecast; only population and employment growth support the need for these structures.

The Commission's approval of the Pure Water Monterey Expansion Project adds 2,250 AFY to Cal-Am's water supply portfolio by the end of 2025. Firm water rights on the Carmel River of 3,376 AFY and adjudicated water rights in the Seaside Basin of 1,474 AFY plus contract water from Pure Water Monterey provide an additional 3,500 AFY. Sand City owns a desalination plant and holds a water entitlement to at least 200 AFY directly connected to Cal-Am's Main System.

The risk from overstating demand and understating supply to justify Cal-Am's desalination facility places the burden and risk solely on Cal-Am ratepayers for the cost of excess capacity.

For the reasons set forth above, MPWMD respectfully requests the Commission to adopt the updated supply and demand figures presented by MPWMD, Cal Advocates, and MCWD and find they are reasonable, prudent, and in the public interest.

Dated: April 30, 2024

Respectfully submitted,

/s/ David C. Laredo

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## EXHIBIT 2-B

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

Application of California-American Water Company (U210W) to Obtain Approval of the Amended and Restated Water Purchase Agreement for the Pure Water Monterey Groundwater Replenishment Project, Update Supply and Demand Estimates for the Monterey Peninsula Water Supply Project, and the Cost Recovery.

A.21-11-024  
(Filed November 29, 2021)

### OPENING BRIEF OF CALIFORNIA-AMERICAN WATER COMPANY ON PHASE 2 ISSUES

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April 30, 2024

## **SUMMARY OF RECOMMENDATIONS**

Phase 2 of this proceeding is limited to review and approval of updated water supply and demand estimates for the Monterey Peninsula Water Supply Project (“MPWSP”). California American Water recommends that the Commission adopt an estimated demand of 14,480 acre-feet per year (“afy”) by 2050, and an estimated firm supply of 9,194-9,403 afy in a normal year and 6,970-8,657 afy in a drought year. In the absence of the MPWSP, this would result in projected shortfalls of 5,077-5,287 afy in a normal year, and 5,823-7,510 afy in a drought year.

California American Water based its estimated demand for its Monterey Peninsula service area on expert analyses, State standards and requirements, and judicious assessments of the future needs of the Monterey customers, businesses, and community. California American Water analyzed its expected supply taking into account the availability and reliability of sources under a variety of scenarios, including, the likelihood of more frequent and longer lasting droughts.

Sound long-term planning for the Monterey Peninsula must be based on prudent estimates and conservative assumptions that err on the side of ensuring that residents of Monterey have access to sufficient water for the decades ahead. California American Water has an obligation to provide safe and reliable service to its Monterey customers. The Commission must ensure that California American Water has sufficient water to meet the needs of its customers, and should give no weight to short-sighted and overly optimistic estimates that fail to take into account the very real challenges facing the Monterey service area now and in the future.



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**BEFORE THE PUBLIC UTILITIES COMMISSION  
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Application of California-American Water Company (U210W) to Obtain Approval of the Amended and Restated Water Purchase Agreement for the Pure Water Monterey Groundwater Replenishment Project, Update Supply and Demand Estimates for the Monterey Peninsula Water Supply Project, and the Cost Recovery.

A.21-11-024  
(Filed November 29, 2021)

**OPENING BRIEF OF CALIFORNIA-AMERICAN WATER COMPANY  
ON PHASE 2 ISSUES**

**I. INTRODUCTION**

Pursuant to Rule 13.2 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”) and as directed by Administrative Law Judge Haga,<sup>1</sup> California-American Water Company (“California American Water”) hereby submits this Phase 2 opening brief on future demand and supply for its Monterey service area. As discussed in more detail below, without the approved Monterey Peninsula Water Supply Project (“MPWSP”),<sup>2</sup> California American Water estimates shortfalls of 5,077-5,287 acre-feet per year (“afy”) in a normal year, and 5,823-7,510 afy in a drought year.<sup>3</sup>

Throughout the years of this proceeding and the decades prior, California American Water has continuously worked to develop a long-term solution to its Monterey service area’s water supply issues. Fundamentally, any long-term plan must be based on prudent planning and conservative assumptions that err on the side of ensuring that residents of Monterey have access to sufficient water for the decades ahead. California American Water based its estimated demand for the Monterey service area on expert analyses, State standards and requirements, and judicious assessments of the future needs of the Monterey customers, businesses, and community.

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<sup>1</sup> Reporters’ Transcript (“RT”) 732:19 (Haga/ALJ).

<sup>2</sup> D.18-09-017.

<sup>3</sup> CAW-23, p. 6.

California American Water analyzed its expected supply, taking into account the availability and reliability of sources under a variety of scenarios, including, the likelihood of more frequent and longer lasting droughts.

California American Water has an obligation to provide safe and reliable service to its Monterey service area customers. The Commission must ensure that California American Water has sufficient water to meet the needs of its customers, and should give no weight to short-sighted estimates that fail to take into account the very real challenges facing the Monterey service area now and in the future. The Commission should therefore adopt California American Water’s projected demand of 14,480 afy in 2050<sup>4</sup> and estimated firm supply of 9,194-9,403 afy in a normal year and 6,970-8,657 afy in a drought year.<sup>5</sup>

## **II. PROCEDURAL HISTORY & BACKGROUND**

### **A. History of Monterey Water Supply**

For decades, California American Water has been working to find a long-term solution to the water supply needs of its Monterey service area.<sup>6</sup> Historically, the Monterey Peninsula received the majority of its water from the Carmel River. Beginning in 1995, the State Water Resources Control Board (“SWRCB”) issued a series of orders requiring California American Water to find alternatives to the Carmel River to provide service to its customers, and to drastically reduce its Carmel River diversions.<sup>7</sup> Pursuant to these orders, California American Water was required to terminate all unauthorized diversions from the Carmel River by December 31, 2021.

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<sup>4</sup> *Id.*, p. 4.

<sup>5</sup> *Id.*, p. 6. This is the estimated firm supply at 90% operating capacity.

<sup>6</sup> *See* D.22-12-001, p. 3.

<sup>7</sup> SWRCB Order WR 95-10, July 6, 1995; SWRCB WR 2009-0060, October 20, 2009; SWRCB Order WR 2016-0016, July 19, 2016. The 2009 Order resulted in a moratorium on new service connections, as recognized by the Commission in D.11-03-048.

In 2018, the Commission approved the MPWSP, which consists of: (1) desalination,<sup>8</sup> (2) groundwater replenishment, and (3) aquifer storage and recovery (“ASR”).<sup>9</sup> In that proceeding, the Commission estimated California American Water’s demand to be approximately 14,000 afy and determined that California American Water’s water supply portfolio would not exceed 9,044 afy.<sup>10</sup>

The groundwater replenishment component of the MPWSP is the Pure Water Monterey (“PWM”) project. The Commission originally authorized California American Water to enter into a water purchase agreement for 3,500 afy of product water from the PWM project and to construct facilities necessary to maximize the use of that water.<sup>11</sup> In Phase 1 of this proceeding, the Commission authorized California American Water to enter into the amended water purchase agreement for the PWM expansion project, which increases the amount of water by 2,250 afy, from 3,500 afy to 5,750 afy.<sup>12</sup>

#### **B. Limited Scope of Phase 2**

Recognizing the need for updated supply and demand estimates in this proceeding to aid in considering issues related to the long-term water needs of California American Water’s Monterey service area, the Commission ordered a second phase of this proceeding to determine updated supply and demand forecasts.<sup>13</sup> The Commission declared that Phase 2 would include

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<sup>8</sup> California American Water has worked diligently since 2018 to proceed with the desalination component of the MPWSP. A major permit required to further advance and construct the MPWSP desalination facility was the coastal development permit from the California Coastal Commission for the construction of the slant intake wells. Although the California Coastal Commission approved this permit on November 17, 2022, the four-year delay prevented California American Water from advancing and constructing the desalination facilities in time to meet the December 31, 2021 SWRCB deadline.

<sup>9</sup> D.18-09-017, p. 13.

<sup>10</sup> *Id.*, pp. 67-68, p. 167 (Finding of Fact 14), p. 194 (Conclusion of Law 17).

<sup>11</sup> D.16-09-021, pp. 2, 11-12.

<sup>12</sup> D.22-12-001, pp. 2-3, 22-23.

<sup>13</sup> *Assigned Commissioner’s Scoping Memo and Ruling*, filed February 9, 2022 (“Scoping Memo”), at p. 4

one issue only: “Review and approve updated water supply and demand estimates for the MPWSP.”<sup>14</sup> Notably, Phase 2 of this proceeding does **not** address the status of the MPWSP. As Administrative Law Judge Haga stated, it “doesn’t matter whether we view the plant as already built and producing water,”<sup>15</sup> and that issue is outside the scope of Phase 2.<sup>16</sup> Until the Commission makes an updated determination with respect to the water supply available to California American Water and a reasonable estimate of demand, any discussions of the status of the MPWSP would be highly speculative and outside the scope of Phase 2 of this proceeding.

### **C. Phase 2 Procedural History**

California American Water served direct testimony on Phase 2 issues on July 20, 2022. The other parties to this proceeding served testimony on August 19, 2022, and California American Water served rebuttal testimony on September 19, 2022. California American Water served supplemental direct testimony on December 21, 2023. The other parties served testimony on January 22, 2024, and California American Water served supplemental rebuttal testimony on February 20, 2024. Evidentiary hearings were held from March 11-15, 2024.

At the evidentiary hearing, Administrative Law Judge largely granted California American Water’s motion to strike portions of the testimony of Marina Coast Water District (“MCWD”) and the City of Marina (“Marina”) for being outside the scope of Phase 2.<sup>17</sup>

### **D. Burden of Proof and Standard**

California American Water has the burden of proof in this proceeding, and the standard that California American Water must meet is the preponderance of the evidence.<sup>18</sup> According to

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<sup>14</sup> *Id.*

<sup>15</sup> RT 722:17-18 (Haga/ALJ).

<sup>16</sup> RT 723:5-6 (Haga/ALJ). If, based on the result of Phase 2 of this proceeding, the Commission believes it must address the MPWSP, California American Water recommends that it do so in a separate proceeding and not as a third phase of this proceeding.

<sup>17</sup> RT 551:19-561:12 (Haga/ALJ); RT 727:14-20 (Haga/ALJ).

<sup>18</sup> D.18-12-021, p. 10.

the Commission, “Preponderance of the evidence is defined in terms of probability of truth, e.g., such evidence as, when weighed with that opposed to it, has more convincing force and the greater probability of truth.”<sup>19</sup> In this proceeding, the evidence provided by California American Water regarding future estimated demand and supply has far more convincing force and the greater probability of truth than evidence provided against it.

### III. DEMAND

California American Water’s total estimated demand for 2050 is 14,480 afy.<sup>20</sup> The components of this estimate are provided below.

**Updated Demand Estimate<sup>21</sup>**

	Baseline (2018 - 2022)	2025	2030	2035	2040	2045	2050
<b>Demographics</b>							
Service Area Population	91,717	93,577	95,437	97,297	99,157	101,017	102,877
Annual Population Growth Rate		0.40%	0.39%	0.39%	0.38%	0.37%	0.37%
Service Area Employment	64,307	67,020	69,732	72,445	75,157	77,870	80,583
Service Area Employment Growth Rate		0.83%	0.80%	0.77%	0.74%	0.71%	0.69%
Residential GPCD	55.2	55.2	60.7	60.7	60.7	60.7	60.7
<b>Residential Demand (AF)</b>	<b>5,673</b>	<b>5,788</b>	<b>6,493</b>	<b>6,620</b>	<b>6,746</b>	<b>6,873</b>	<b>6,999</b>
<b>Non-Residential Demand (AF)</b>	<b>3,773</b>	<b>3,932</b>	<b>4,091</b>	<b>4,250</b>	<b>4,409</b>	<b>4,569</b>	<b>4,728</b>
<b>Other Future Demand (AF)</b>							
<b>Pebble Beach Entitlements</b>		0	65	130	195	260	325
<b>Tourism Rebound</b>		250	500	500	500	500	500
<b>Legal Lots of Record</b>		0	300	520	740	960	1,180
Residential (Single)		0	59	103	147	190	234
Residential (Multi)		0	35	60	86	111	137

<sup>19</sup> *Id.*

<sup>20</sup> CAW-23, p. 4.

<sup>21</sup> CAW-23, pp. 3-4, Table 2.



Commercial	0	158	274	389	505	621	
Residential Remodels	0	27	47	66	86	106	
Commercial Remodels	0	21	36	51	67	82	
<b>RHNA Demands</b>	0	370	745	745	745	745	
<b>Demand Subtotal</b>	<b>9,446</b>	<b>9,970</b>	<b>11,819</b>	<b>12,765</b>	<b>13,336</b>	<b>13,906</b>	<b>14,477</b>
Water Loss	Included as non-revenue water in the non-residential demand category						
<b>Average Annual Demand (AFY, rounded to tenth)</b>	<b>9,450</b>	<b>9,970</b>	<b>11,820</b>	<b>12,760</b>	<b>13,340</b>	<b>13,910</b>	<b>14,480</b>

**A. California American Water Estimated Residential and Non-Residential Demand in Accordance with the Requirements for the Urban Water Management Plan**

California American Water’s estimate is based on five years of historical data and California American Water’s current Urban Water Management Plan (“UWMP”).<sup>22</sup> Urban water suppliers such as California American Water are required by law to prepare and adopt an urban water management plan,<sup>23</sup> which must be updated every five years and submitted to the Department of Water Resources (“DWR”). California American Water contracted with Water Systems Consulting, Inc. (“WSC”)<sup>24</sup> to prepare the Urban Water Management Plan with input and assistance from California American Water personnel. As required, the UWMP includes an assessment of current and projected water supplies, an evaluation of demand and customer types, an evaluation of the reliability of water supplies, a description of conservation measures, a response plan, in the event of a water shortage, comparison of demand and supply projections. California American Water’s UWMP is consistent with the methodology published by DWR in its 2020 Urban Water Management Plan Guidebook (“UWMP Guidebook”).<sup>25</sup> As required, California American Water notified all of the necessary cities, counties and districts (including

<sup>22</sup> CAW-17, Attachment A.

<sup>23</sup> Water Code §10620(a).

<sup>24</sup> WSC has prepared more than 100 Urban Water Management Plans that have been approved by DWR. RT 572:10-11 (O’Halloran/CAW). WSC also conducted the Water Supply Assessment for the City of Monterey. CAW-27, Attachment 2.

<sup>25</sup> CAW-25, p. 3; *see* CAW-17, Attachment A, Appendix A.

MPWMD) of its UWMP and held a noticed public hearing.<sup>26</sup> California American Water’s UWMP was reviewed and certified by DWR.<sup>27</sup>

In the UWMP, “Future demands were projected by evaluating monthly historic trends in customer water usage and incorporating estimated future changes in water use due to behavior, new water use regulations, projected growth, and tourism water use.”<sup>28</sup> The UWMP relied on the Association of Monterey Bay Area Governments (“AMBAG”) forecasts of regional growth to estimate future increases in population, households, and employment that are expected to occur.<sup>29</sup> The UWMP assumes the service area population will increase at the rate forecasted by AMBAG and that non-residential water use will increase at the rate of employment growth forecasted by AMBAG.<sup>30</sup>

**B. California American Water’s Estimated Increase in Residential Demand is Reasonable**

The UWMP assumed that residential use will likely increase by approximately ten percent after a long-term water supply solution is implemented.<sup>31</sup> In evaluating future water demand, it is important to keep in mind the Monterey service area’s current state of “water starvation.”<sup>32</sup> Residents of Monterey have lived under the moratorium on new meters and household renovations for decades now. As a result, they have implemented extreme conservation measures and limited their water use to minimal amounts. Further water reductions are unlikely, and many customers choose not to use water outdoors because of the scarcity of water on the Monterey Peninsula.<sup>33</sup> Once a long-term water supply solution is implemented,

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<sup>26</sup> CAW-17, Attachment A, Appendix A, Appendix J.

<sup>27</sup> RT 574:20 (O’Halloran/CAW).

<sup>28</sup> CAW-17, Attachment A, p. 4-5.

<sup>29</sup> *Id.*, Attachment A, Appendix A, p. 4-5.

<sup>30</sup> *Id.*, Attachment A, Appendix A, p. 4-7.

<sup>31</sup> *Id.*, Attachment A, Appendix A, p. 4-6.

<sup>32</sup> CAW-25, pp. 4-5; *see also* CAW-20, p. 13.

<sup>33</sup> *Id.*

customers will be able to increase their water use for things such as gardening, while still remaining highly efficient water users.<sup>34</sup> “It would be unfair to our existing customers to add new water supply sources without allowing existing customers to marginally relax extreme conservation behaviors and enjoy an adequate and reliable water supply.”<sup>35</sup> This projected increase in the UWMP is conservative<sup>36</sup> and consistent with the DWR UWMP Guidebook.<sup>37</sup>

Although some parties criticize this projected increase as contrary to State conservation goals and policies,<sup>38</sup> Monterey residents’ per capita consumption is among the lowest in the state, and is lower even than proposed requirements set to be in place for 2030, due to years of extreme water conservation.<sup>39</sup>

### **C. California American Water’s Demand Estimate Includes Additive Unmet Demand Factors**

The UWMP also considered factors impacting future demand that are independent and **additive** of the AMBAG projections: (1) Pebble Beach entitlements, (2) legal lots of record, (3) Regional Housing Needs Assessment (“RHNA”), and (4) increased tourism.

#### **1. Pebble Beach Entitlements**

In 1989, MPWMD granted water entitlements totaling 380 AFY to the Pebble Beach Company for underwriting the development of a wastewater reclamation project to provide recycled water in lieu of potable water to golf courses in the Del Monte Forest, which includes Pebble Beach.<sup>40</sup> The Pebble Beach entitlements belong to the Pebble Beach Company for future development, including the Lodge at Pebble Beach, the Inn at Spanish Bay, Area M Spyglass

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<sup>34</sup> CAW-25, p. 5.

<sup>35</sup> CAW-20, p. 4.

<sup>36</sup> CAW-17, Attachment A, Appendix A, p. 4-6.

<sup>37</sup> CAW-25, pp. 4-5.

<sup>38</sup> *See e.g.*, MCWD-6, pp. 5-6; MCWD-7, Exhibit A, p. 18; MPWMD-5, pp. 3-4; MPWMD-7, pp. 4-5.

<sup>39</sup> CAW-25, p. 5.

<sup>40</sup> CAW-17, p. 20.

Hill, residential lot subdivisions, and the and the SR 1/SR 68/17-Mile Drive intersection reconstruction.<sup>41</sup> The Pebble Beach Company has stated, “PBC’s vested rights to use our water have been consistently upheld by every concerned agency, and we intend to fully utilize the entitlement.”<sup>42</sup> The Pebble Beach entitlements must be included in future water because California American Water is the service provider for all Pebble Beach Company properties, including properties to be developed in the future.

## **2. Legal Lots of Record**

In the Monterey service area, there is a backlog of vacant commercial, industrial and residential properties that remain undeveloped and currently cannot be developed because of the existing moratorium on new water service connections. In addition, under the existing moratorium there is a backlog of developed commercial, industrial and residential properties that cannot be remodeled or expanded if proposed modifications would intensify water usage, such as through the addition of new bathroom facilities. These vacant and developed properties are referred to as “legal lots of record.”<sup>43</sup> Because these legal lots of record represent a source of water demand that is not currently being serviced by California American Water due to the moratorium on new service connections, the demand for these legal lots of record must be factored into the total future water demand. The majority of the demand for the legal lots of record is due to commercial and industrial development or residential and commercial remodels.<sup>44</sup> Once a new permanent water supply source sufficient to meet long-term demand becomes available and the SWRCB and Commission lift the moratorium on new service connections, this backlog of properties is expected to be developed either with new or

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<sup>41</sup> CAW-20, p. 20-21.

<sup>42</sup> CAW-17, Attachment Y, p. 2.

<sup>43</sup> *Id.*, pp. 16-20.

<sup>44</sup> CAW-20, p. 13; CAW-23, pp 3-4, Table 2.

renovated/expanded development, and California American Water will be required to provide water to meet this demand.<sup>45</sup>

### **3. Regional Housing Needs Assessment (RHNA)**

RHNA is mandated by the State as part of the periodic process of updating local housing elements of the General Plan. RHNA quantifies the need for affordable housing, and communities must plan to meet low-income housing requirements.<sup>46</sup> Growth related to RHNA projections is exclusively residential and will likely be the addition of multi-family residential units.<sup>47</sup>

Certain parties argued that there is double counting between RHNA growth projections and AMBAG growth projections, and between RHNA, legal lots of record, and the Pebble Beach entitlements.<sup>48</sup> However, RHNA addresses specific policy goals that are unrelated to AMBAG, including improving housing affordability and promoting infill development.<sup>49</sup> It is not clear to what extent, if any, the AMBAG regional forecast incorporated the additional housing units that would be required to meet the RHNA objectives and the households that occupy them.<sup>50</sup> Likewise, with respect to legal lots of record, it is equally unclear how many legal lots of record or Pebble Beach entitlements would be developed to provide RHNA units, and it is possible that none of them will be.<sup>51</sup> Therefore, sound, long-range planning requires including the growth in the demand projections as separate line items.<sup>52</sup>

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<sup>45</sup> CAW-17, p. 17.

<sup>46</sup> *Id.*, Attachment A, p. 4-5.

<sup>47</sup> CAW-20, p. 6.

<sup>48</sup> *See e.g.*, MCWD-7, Exhibit A, pp. 22-23; MPWMD-6, pp. 14-26; MPWMD-7, p. 4.

<sup>49</sup> CAW-25, p. 7.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

#### 4. Tourism

The UWMP also estimates increased tourism activity that “will bring an increased number of business and leisure travelers to the region, generating economic activity in related businesses.”<sup>53</sup> Monterey hotel occupancy is expected to increase 12-15% over the next several decades.<sup>54</sup> Information from the Monterey County Hospitality Association (“MCHA”) specifically shows that many hotels and tourism properties plan to remodel and add capacity, resulting in higher water use.<sup>55</sup> Additionally, Monterey County Convention and Visitors Bureau (“MCCVB”) plans to increase extended stays, meetings, and conferences in the region; these additional visitors will generate additional water use.<sup>56</sup> This future increase in usage due to the tourism rebound is not incorporated into the residential demand forecasts based on the AMBAG or RHNA forecasts.<sup>57</sup> The increase in water due to the tourism rebound is necessarily not reflected in residential consumption forecasts, since the water will be used by tourists, not residents.<sup>58</sup>

#### **D. California American Water’s Demand Methodology is Consistent with D.18-09-017**

California American Water’s updated demand estimate for Phase 2 is less than 500 afy more than the estimate that the Commission adopted in D.18-09-017.<sup>59</sup> In that proceeding, the Commission found that it was reasonable to assume that usage may increase if some of the more extreme conservation measures currently in place were removed.<sup>60</sup> It also found that California American Water’s inclusion of demand related to the Pebble Beach entitlements and legal lots of

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<sup>53</sup> CAW-20, Attachment A, p. 4-7.

<sup>54</sup> See CAW-20, pp. 8-9, Answer 13; CAW-25, p. 8.

<sup>55</sup> CAW-25, p. 8.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> D.18-09-017, p. 68.

<sup>60</sup> *Id.*, pp. 52-53.

record was reasonable<sup>61</sup> and that it was appropriate to include demand associated with future increases in tourism.<sup>62</sup> Generally, these categories represent “unmet demand” that California American Water cannot currently satisfy due to existing water supply constraints.<sup>63</sup> In Phase 2 of this proceeding, California American Water used the same process and methodology to estimate demand that the Commission previously found to be reasonable in D.18-09-017.

#### **E. The Demand Estimates of Other Parties are Flawed and Inaccurate**

The demand estimates developed by other parties to this proceeding omit or substantially underestimate key demand sources, or fail to incorporate long-term planning needs.

##### **1. General Rate Case Forecasts and Methods Cannot Be Used for Long-Term Planning**

The Public Advocates Office (“Cal Advocates”) bases its long-term demand estimate on short-term sales forecasts used as part of the general rate case (“GRC”) process.<sup>64</sup> Such the use of the GRC forecast is highly misleading, however, because it ignores the disparate purposes of the GRC forecasts and the long-term demand forecasts in this proceeding. The sales forecast provided in the GRC is a near-term forecast prepared in early 2022.<sup>65</sup> This near-term forecast provides the basis for California American Water’s calculation in the GRC of the rates and charges needed to recover the revenue requirement.<sup>66</sup>

For short-term demand planning for GRC purposes the risk of under-forecasting demand is that revenue will be under-recovered and the risk of over-forecasting demand is that revenue will be over-recovered.<sup>67</sup> Because of California’s weather and hydrology, these risks are

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<sup>61</sup> *Id.*, pp. 50-51.

<sup>62</sup> *Id.*

<sup>63</sup> RT 578:25-579:1-6 (O’Halloran/CAW).

<sup>64</sup> PAO-6, p. 2.

<sup>65</sup> CAW-26, p. 3.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*, p. 4.

asymmetrical and it is more likely that sales will come in below rather than above the forecasted demand.<sup>68</sup> Consequently, it is fiscally prudent to incorporate the likelihood of sales curtailments in short-term GRC forecasting.<sup>69</sup>

By contrast, for long-term demand forecasting, it is prudent not to err on the side of under-forecasting demand, as there are long lead times and high costs associated with constructing infrastructure in California.<sup>70</sup> Furthermore, because the forecast relied on by Cal Advocates is for This the near-term, it does not include increased demand due to the Pebble Beach entitlements, legal lots of record, RHNA, future tourism, or increase usage following implementation of a long-term water supply solution.<sup>71</sup> The sales forecast in the GRC is appropriate for developing rates in the near-term, but it would be irresponsible to use such a forecast for long-term planning.

## **2. The Impact of Price on Demand in 2050 Cannot be Estimated**

Some parties have also claimed that GRC forecasting methods regarding the impact of price on consumption be incorporated into the long-term forecasts in this proceeding.<sup>72</sup> As an initial matter, this is not required by the DWR in developing demand forecasts for the UWMP.<sup>73</sup> Moreover, the combined impact of funding for the MPWSP, other capital and operational costs, compliance with existing and future regulations, and potential changes to rate design on customer bills decades in the future simply cannot be forecasted with any degree of accuracy at

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<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> CAW-20, pp. 5-6, 10-12, 22-27.

<sup>72</sup> *See e.g.*, MNA-2, pp. 9-10; MPWMD-7, pp. 5-6.

<sup>73</sup> RT 386:7, 18-20 (O'Halloran/CAW); CAW-25, p. 4.



this time.<sup>74</sup> Therefore, any attempt to estimate the impact of pricing on consumption in 2050 would be speculative.<sup>75</sup>

**F. California American Water’s Estimated Demand Allows for Prudent Long-Term Planning**

Based on the record of this proceeding, the Commission should adopt California American Water’s total estimated demand of 14,480 afy for 2050. California American Water’s demand forecast is a conservative estimate that prudently and reasonably accounts for the future needs of its Monterey service area customers. A prudent water supplier cannot assume that the lowest demand scenario will accurately reflect future demands and still be confident of an adequate water supply. “California American Water’s number one priority is to deliver clean, safe, reliable, and affordable water service to our customers. We absolutely cannot be in a situation in the future in which we do not have adequate water supply to meet customer demands.”<sup>76</sup>

**IV. SUPPLY**

The Monterey service area is dependent on local water sources for its supply, including groundwater from the Carmel River, Seaside Groundwater Basin, ASR, indirect potable reuse from PWM, and desalinated water from the Sand City Desalination Plant.<sup>77</sup> California American Water’s estimated firm supply is 9,194-9,403 afy in a normal year and 6,970-8,657 afy in a drought year.<sup>78</sup> Given the estimated 14,480 afy demand in 2050, that would result in shortfalls of 5,077-5,287 acre-feet per year afy in a normal year, and 5,823-7,510 afy in a drought year.<sup>79</sup>

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<sup>74</sup> CAW-6, p. 6.

<sup>75</sup> RT 176:6-179:5 (Owens/CAW).

<sup>76</sup> CAW-20, p. 27.

<sup>77</sup> CAW-17, Attachment A, p. E-3.

<sup>78</sup> CAW-23, p. 6. This is the estimated firm supply at 90% operating capacity.

<sup>79</sup> *Id.*

**Updated Supply and Demand Summary<sup>80</sup>**

<b>Demand Estimate Year 2050 (AFY)</b>	<b>14,480 AFY</b>	
<b>Supply (AFY)</b>	Normal Year	Drought <sup>81</sup>
Carmel River Aquifer	3,376	3,376
Seaside Groundwater Basin	774	774
Sand City Desalination	94	94
ASR <sup>82 83</sup>	470	0
Pure Water Monterey	3,500	3,500
Pure Water Monterey Expansion <sup>84</sup>	2,001 to 2,234	0 to 1,100
Pure Water Monterey Reserves <sup>85</sup>	n/a	0 to 775
<b>Total Water Supply</b>	10,215 to 10,448	7,744 to 9,619
<b>Total Firm Supply @ 90% operating capacity (or 10% Supply Buffer/Contingency)<sup>86</sup></b>	<b>9,194 - 9,403</b>	<b>6970 - 8657</b>

<sup>80</sup> CAW-23, pp. 6-7, Table 4.

<sup>81</sup> Drought conditions consider multiple consecutive dry years.

<sup>82</sup> ASR availability is determined to be 470 AFY with 90% reliability. CAW-18, Attachment 1.

<sup>83</sup> ASR availability will likely be zero in a multi-year drought as any reserves will be depleted.

<sup>84</sup> Assumes during normal year the PWM project delivers 3,500 af and PWM expansion can deliver 2,001-2,234 af based on assessment of source water availability. During drought years the assumption is the PWM project delivers 3,500 af, but PWM expansion on the low end is zero due to source water availability during a multi-year drought and reserves are not established or used already, and on the high end 1,100 af to meet the minimum Water Guarantee of 4,600 afy (PWM 3,500 plus PWM expansion 1,100).

<sup>85</sup> During a multi-year drought, it is assumed that PWM reserves are used to offset some of the resulting shortfall if available. The amended and restated water purchase agreement requires operational and drought reserves of 2,875 af and 1,000 af, respectively, for a total of 3,875 af. This analysis assumes that 775 af will be available per year from operational and drought reserves over a five-year drought period ( $775 \times 5 = 3,875$ ).

<sup>86</sup> Contingency / Buffer is to account for uncertainty, fluctuations, interruptions, and/or unanticipated limitations to these supply sources for various reasons including: operations, maintenance, water quality, wildfires and other nature disasters, climate change, Seaside Basin or Carmel River rights, environmental mitigations, habitat protection, Seaside Basin Protective Water Levels, etc.

<b>Deficit / Surplus using Firm Supply (AFY)</b>	Normal Year	Drought <sup>1</sup>
Supply Deficit / Surplus	-5,077 to -5,287	-5,823 to -7,510
MPWSP Desalination Supply <sup>87</sup>	6,250	6,250
Total Firm Supplies with MPWSP Desalination	15,444 to 15,650	13220 to 14910
Supply Deficit/Surplus with MPWSP Desalination	964 to 1,170	-1,260 to 430

### **A. Carmel River**

California American Water extracts water from wells located in the Carmel Valley Aquifer, located along the Carmel River, southeast of the Monterey Peninsula. The Carmel Valley Aquifer is identified by DWR as a high-priority basin subject to critical overdraft. The Carmel River has also been designated as critical habitat for the threatened California Central Coast Steelhead; the SWRCB has found that diversions from the river adversely impact steelhead and their habitat.<sup>88</sup> Because withdrawals are regulated by the SWRCB through surface water rights, the Carmel Valley Aquifer is not currently managed under the Sustainable Groundwater Management Act (“SGMA”).<sup>89</sup> Effective Water Year 2022-2023 (beginning October 1, 2022), California American Water’s Carmel River diversions (exclusive of diversions under the ASR and Table 13 permits<sup>90</sup>) have been capped at 3,376 afy.<sup>91</sup> Since source water supplies are forecasted and planned for each water year on a month-to-month basis,

<sup>87</sup> Assumes approximately 6,250 afy of desalination water by 2050.

<sup>88</sup> SWRCB Order 2009-0060, pp. 10, 13.

<sup>89</sup> CAW-17, p. 27.

<sup>90</sup> SWRCB Permit 21330 allows California American Water to divert a maximum of 1,488 afy from the Carmel River separate from its existing right to 3,376 afy. This water, known as Table 13 water, is subject to specific minimum daily instream flow requirements for the protection of fisheries, wildlife, and other instream uses in the Carmel River. As a result of low flow conditions, Table 13 water is not always available from year-to-year. Due to the uncertainty of the availability of Table 13, inclusion of any permitted amounts from this source would be speculative. CAW-17, pp. 37-39.

<sup>91</sup> *Id.*, p. 29.

however, and must take into account potential demand, operational constraints, and maintenance as discussed below, the actual supply from Carmel River may be slightly less than 3,376 afy.<sup>92</sup>

## **B. Seaside Groundwater Basin**

The Seaside Basin is California American Water's largest source of supply after the Carmel River. The Seaside Basin provides native groundwater for municipal uses in California American Water's Monterey and Laguna Seca Districts and to the cities of Seaside and Sand City, among other uses. The Seaside Basin also provides groundwater storage for California American Water's ASR diversions from the Carmel River and provides storage and treatment of recycled water for the PWM.<sup>93</sup>

Because the Seaside Basin is adjudicated, the groundwater rights of individual water users, including California American Water, are limited and enumerated by court order. California American Water has an adjudicated right to 1,474 afy from the Seaside Basin, but it must reduce its pumping by 700 afy for a 25-year period once a new reliable water supply source is operational to help balance the Seaside Basin.<sup>94</sup> Therefore, the available supply from the Seaside Basin has been reduced to 774 afy for the period from 2030 to 2055.<sup>95</sup> This repayment period could increase in volume, however, or the duration of repayment could lengthen, due to California American Water's ongoing over pumping of the Seaside Basin as a result of delays in securing a new reliable water supply.<sup>96</sup>

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<sup>92</sup> CAW-17, p. 29.

<sup>93</sup> *Id.*, p. 29-30.

<sup>94</sup> *Id.*, pp. 30-31.

<sup>95</sup> *Id.*, p. 31. This assumes that the MPWSP will be in service by 2030. The Commission previously adopted the 774 afy estimate for the Seaside Basin. D.18-09-017, p. 167, Finding of Fact 12.

<sup>96</sup> CAW-17, pp. 30-31.

### C. Aquifer Storage and Recovery (ASR)

ASR is a joint program between California American Water and MPWMD that allows excess Carmel River flows that meet specified thresholds during the months of December through May to be diverted and injected into the Seaside Basin for extraction in dryer months, historically between July and November.<sup>97</sup> The ASR system was developed in two phases. Operation of Phase 1 ASR is regulated under SWRCB Permit No. 20808A, which permits the withdrawal of up to 2,426 afy of excess Carmel River flows under specified streamflow conditions in that permit. Operation of Phase 2 ASR is regulated under SWRCB Permit No. 20808C, which permits the withdrawal of up to 2,900 afy of excess Carmel River flows under specified streamflow conditions in that permit. If specified streamflow conditions are met, the SWRCB permits allow the ASR program to divert a total of up to 5,326 afy of excess flows from the Carmel River.<sup>98</sup>

Despite what is allowed under the SWRCB permits, California American Water's actual ability to utilize ASR is limited by its ability to divert from the Carmel River. Because diversions for the ASR program are contingent on maintaining minimum daily instream Carmel River flows, and precipitation and streamflow vary substantially from year to year, the actual supply from the ASR program can and will vary substantially.<sup>99</sup> Notably, in dry years no water may be available for ASR.<sup>100</sup> Therefore, the ASR supply is highly unpredictable and depends entirely on rainfall conditions during a water year.<sup>101</sup> Based on the in-depth ASR Availability and Reliability

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<sup>97</sup> *Id.*, p. 32.

<sup>98</sup> *Id.*, p. 33. Under the permits, diversions may only occur from December 1 of each year to May 31, and at a maximum instantaneous rate of 6.7 cubic feet per second (permit 20808A) and 8.0 cubic feet per second (permit 20808C).

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*, p. 34.

<sup>101</sup> *Id.*

Analysis (“ASR Technical Memorandum”) by expert Paul Findley,<sup>102</sup> California American Water estimated the supply from ASR to be 470 afy in a normal year and zero in a drought year.

Certain parties accused California American Water of failing to take storage into account in determining the forecasted water supply.<sup>103</sup> As Mr. Findley demonstrated, however, without the desalination component of the MPWSP, it will not be possible to accumulate long-term ASR storage.<sup>104</sup> Moreover, the alternate supply scenarios provided by MPWMD fail to take into account the effect of drought, particularly with respect to storage.<sup>105</sup>

The unreliability of ASR supplies makes it difficult to project how much water will be available from ASR in the future, and the likelihood of more frequent and longer-lasting droughts call into question the availability of water from ASR in any given year. California American Water’s estimated ASR supply is based on an in-depth, expert analysis that results in a prudent forecast.

#### **D. Pure Water Monterey (PWM)**

As discussed above, California American Water originally entered into a water purchase agreement for 3,500 afy of product water from the PWM project, which was amended to provide for an additional 2,250 afy from the PWM expansion. For the purpose of forecasting demand, California American Water estimated 3,500 from PWM, and 2,001-2,234 afy in a normal year and zero to 1,100 afy in drought year from the PWM expansion. The variability of estimated supply from the PWM expansion is due to the uncertainty regarding the volume of source water

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<sup>102</sup> CAW-18, Attachment 1. Mr. Findley is a licensed professional engineer and has worked for 42 years as an environmental consulting engineer for three different companies on projects in twelve states involving environmental impact analysis, planning, program management, design, value engineering, and construction management for water and wastewater facilities, surface water facilities, industrial water and wastewater facilities, and seawater/brackish water desalination facilities. CAW-18, pp. 1-2.

<sup>103</sup> *See e.g.* MCWD-7, pp. 9-10; MPWMD-4, pp. 11-12; MPWMD-7, p. 13.

<sup>104</sup> CAW-24, pp. 3-4, Table 1.

<sup>105</sup> CAW-27, pp. 3-8.

available to provide the full projected 2,250 afy potable water output, especially during dry years.<sup>106</sup>

The PWM Expansion requires at least 2,778 afy of source water to provide 2,250 afy of potable water.<sup>107</sup> The source waters for the PWM expansion have been identified as:

1. Secondary effluent to ocean outfall
2. Reclamation ditch
3. Blanco Drain
4. Agricultural wash water
5. Recycle Sump #1
6. Recycle Sump #2
7. PWM and MCWD Advanced Water Purification Facility backwashes
8. Modifications to MCWD Advanced Water Purification Facility backwashes
9. Salinas Valley Reclamation Plant backwashes
10. Boronda
11. Farmworker housing
12. Monterey One Water's ARWA summer water
13. Salinas River Diversion Facility screening
14. Salinas Industrial Wastewater Treatment Facility pond system

As California American Water explained, however, several of these sources, including agricultural wash water, the Salinas Valley Reclamation Plant backwashes, Monterey One Water's ARWA summer water, Salinas River Diversion Facility screening, and the Salinas Industrial Wastewater Treatment Facility pond system cannot reasonably be expected to provide any water for the PWM expansion.<sup>108</sup> Moreover, under the best case scenario, the water from the

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<sup>106</sup> CAW-17, p. 43.

<sup>107</sup> CAW-20, p. 80.

<sup>108</sup> CAW-17, pp. 44-63, Attachment Q, Attachment R; CAW-20, pp. 47-78.

remaining sources would likely be limited to 2,471-2,759 afy, making the total best case output for the PWM expansion 2,001-2,234 afy.<sup>109</sup>

California American Water supports the PWM expansion, which provides a valuable source of supplemental water. It is important to note, however, that while the amended water purchase agreement obligates delivery of 2,250 afy from the PWM expansion, it accounts for potential issues with project source waters by providing “Minimum Allotment” or “Water Delivery Guarantee.”<sup>110</sup> The minimum allotment under the amended water purchase agreement is 2,800 afy until the PWM expansion comes online, after which it increases only to 4,600 afy for the PWM and PWM expansion combined.<sup>111</sup> Moreover, even that amount may not be achievable under certain conditions.

California American Water is a partner in the PWM expansion project. In order to meet the near-term and long-term water supply and demand projections, it needs the PWM expansion to be successful and is counting on PWM expansion to deliver. California American Water’s only concern with the supply from PWM expansion is related to its resilience and consistent output on a year-to-year basis, particularly in times of drought. California American Water is required to evaluate its supply based on dry and multiple dry water years, and must consider the lowest anticipated yield of any given source, including the PWM expansion.

#### **E. Sand City Desalination**

The Sand City desalination plant is located in and owned by Sand City, and operated by California American Water.<sup>112</sup> The Sand City desalination plant is designed to produce up to 300 afy, but it does not typically produce this volume. Sand City has a right to 206 afy for use on certain properties located within Sand City’s jurisdiction that are also within California

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<sup>109</sup> CAW-20, p. 79, Updated Table 7.

<sup>110</sup> D.22-12-001, Appendix A, pp. 7, 11.

<sup>111</sup> *Id.*, Appendix A, p. 7.

<sup>112</sup> CAW-17, p. 39.



American Water’s service area. The remaining 94 afy is permanently allocated to California American Water to reduce pumping demand from the Carmel River and/or the Seaside Groundwater Basin.<sup>113</sup> California American Water used 94 afy as the available supply from the Sand City desalination plant because any water beyond this amount is reserved for Sand City and cannot be relied upon as a future water supply.<sup>114</sup>

**F. Buffer**

As shown in the table above, California American Water included a 10% contingency or buffer in its estimated supply. This buffer accounts for uncertainty, fluctuations, interruptions, and/or unanticipated limitations to the supply sources for a variety of reasons.

As California American Water explained:

A complex water system such as the Monterey system cannot be operated to produce water at 100% capacity 100% of the time. While the Monterey System benefits from a diverse portfolio of water supplies (existing and planned), this diversity adds to the number of complicated regulations, agreements, and supply constraints limiting the operation of the system. These limitations, plus risks associated with each of the Monterey system supplies, must be taken into account to ensure sufficient supplies are available to meet customer demand, especially during dry summer months and extended periods of drought. Assuming 100% of a system’s maximum supply will be available all of the time is not prudent. Moreover, it is common industry practice that a system’s firm capacity is determined as the available supply with the system’s largest unit(s) out of service.<sup>115</sup>

**G. California American Water’s Estimated Supply is Reasonable and Properly Accounts for the Reliability and Resilience of Supply Sources**

The Commission previously stated in D.18-09-017, “Unless and until...potential sources of water supply can be found with an acceptable degree of confidence to be reasonably likely to

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<sup>113</sup> CAW-17, p. 40.

<sup>114</sup> CAW-20, p. 26. The Commission previously adopted 94 afy as the supply from the Sand City Desalination Plant and stated, “The claim that Cal-Am can rely on more than 94 afy from the Sand City plant is not supported with credible evidence.” D.18-09-017, p. 36.

<sup>115</sup> CAW-17, pp. 67-68.

be specific, concrete, reliable, affordable, and permanent sources, the Commission cannot include them as available supply for Cal-Am.”<sup>116</sup>

This holds true today. Estimates concerning sources of supply must be carefully scrutinized to avoid overly optimistic, unproven projections resulting in insufficient supplies to meet demand. Unlike the estimates provided by other parties, California American Water’s estimates do not rely solely on “paper water,” but instead examine the real-life conditions that must be present in order to achieve certain supply levels. Several key sources of supply are significantly impacted by weather conditions, including drought. While these sources still provide valuable diversity to California American Water’s water supply portfolio, California American Water and the Commission must be realistic as to the availability of water from these sources. The Commission must ensure that California American Water is able to meet the needs of its Monterey service area customers by adopting realistic, data-driven estimates that take into account the reliability and resiliency of supply sources.

## **V. CONCLUSION**

As discussed above and as demonstrated by the record of this proceeding, California American Water based its estimated demand for the Monterey service area on expert analyses, State standards and requirements, and judicious assessments of the future needs of the Monterey customers, businesses, and community. California American Water analyzed its expected supply, taking into account the availability and reliability of sources under a variety of scenarios, including, the likelihood of more frequent and longer lasting droughts.

Sound long-term planning for the Monterey service area must be based on prudent estimates and conservative assumptions that err on the side of ensuring that residents of Monterey have access to sufficient water for the decades ahead. California American Water has an obligation to provide safe and reliable service to its Monterey service area customers. The Commission must ensure that California American Water has sufficient water to meet the needs

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<sup>116</sup> D.18-09-017, p. 34.

of its customers, and should give no weight to short-sighted and overly optimistic estimates that fail to take into account the very real challenges facing the Monterey service area now and in the future. The Commission should therefore adopt California American Water's projected demand of 14,480 afy in 2050 and estimated firm supply of 9,194-9,403 afy in a normal year and 6,970-8,657 afy in a drought year.

April 30, 2024

Respectfully submitted,

NOSSAMAN LLP  
Lori Anne Dolqueist

By: /s/ Lori Anne Dolqueist

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*Attorneys for California-American Water  
Company*

**WATER SUPPLY PLANNING COMMITTEE**

**ITEM: DISCUSSION ITEM**

**3. UPDATE ON THE EMERGENCY ASR REHABILITATION**

<b>Meeting Date:</b>	<b>May 6, 2024</b>	<b>Budgeted:</b>	<b>No</b>
<b>From:</b>	<b>David J. Stoldt, General Manager</b>	<b>Program/</b>	<b>Water Supply Projects ASR Operations &amp; Maintenance</b>
		<b>Line Item:</b>	<b>1-2-1B</b>
<b>Prepared By:</b>	<b>Maureen Hamilton</b>	<b>Cost Estimate:</b>	<b>\$333,283.50</b>

**General Counsel Review: N/A**

**Committee Recommendation: N/A**

**CEQA Compliance: This action is a categoric exemption from CEQA under CEQA Guideline Section 15301 for “Existing Facilities.” District will prepare a NOE for this effort**

**SUMMARY:** Two Aquifer Storage and Recovery (ASR) wells, ASR-1 and ASR-2, experienced an event on March 6, 2024 that resulted in an injection capacity decline. To ensure maximum ASR water supply during this ongoing period of insufficient legal water supply, ASR-1 and ASR-2 must be rehabilitated between injection seasons this summer and fall. At the March 18, 2024 Board of Directors meeting, the Board found the ASR capacity loss constitutes an unexpected emergency situation and directed staff to obtain quotes for the rehabilitations.

Staff finalized specifications and obtained quotes from three qualified contractors to perform formal rehabilitation of ASR-1 and ASR-2, provided below:

Maggiore Brothers Drilling, Inc.	Zim Industries, Inc.	Weber Water Resources CA, LLC
<b>\$302,985.00</b>	<b>\$333,300.00</b>	<b>\$505,077.02</b>

The lowest quote was submitted by Maggiore Brothers Drilling, Inc (Maggiore). Maggiore meets the qualification criteria having performed two well rehabilitations on large injection wells in 2020-2021. Maggiore expects to mobilize the week of June 3.

Staff estimates up to \$70,000 could be invoiced this fiscal year, requiring a transfer of unused funds from the ASR Land Easement budget line item to the ASR Maintenance budget line item, both within the Water Supply fund. The remaining amount would be invoiced in fiscal year 2024-2025 and has been fully budgeted.

Staff is requesting a 10% contingency in the event unforeseen repairs are required. Neither well’s motor has been inspected since their installations in 2010 and 2015, and ASR-2 has not been rehabilitated since 2010.

Maintenance and repair work at the ASR facilities is fully reimbursable by Cal-Am per the Amended and Restated Aquifer Storage and Recovery Management and Operations Agreement executed February 23, 2021.

**RECOMMENDATION:** That the Committee provide general direction that the item be taken to the Finance and Administration Committee to consider a recommendation to the Board of Directors to enter into a contract with Maggiora Brothers Drilling, Inc. for rehabilitation of ASR-1 and ASR-2 wells.

**EXHIBIT**

None

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## WATER SUPPLY PLANNING COMMITTEE

ITEM: DISCUSSION ITEM

### 4. PURE WATER MONTEREY PROJECT UPDATE

Meeting Date: May 6, 2024 Budgeted: N/A

From: David J. Stoldt Program/  
General Manager Line Item No.: N/A

Prepared By: David J. Stoldt Cost Estimate: N/A

General Counsel Approval: N/A

Committee Recommendation: N/A

CEQA Compliance: This action does not constitute a project as defined by the California Environmental Quality Act Guidelines Section 15378.

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#### SUMMARY:

Through the beginning of April:

- PWM X construction status:
  - ✓ Injection Wells Phase 4: The new purified recycled water pipeline (2,800 linear feet of the 20-inch diameter pipe) connecting the existing Western Well field to the new Eastern Wellfield, was installed by a specialty subcontractor, JC Engineering, using a trenchless construction method, i.e., Horizontal Directional Drilling (HDD). General site grading for the future injection well pads and percolation ponds was also underway.
  - ✓ The AWPf Expansion contractor (Overaa & Co.) was proceeding with all long-lead equipment procurement and construction activities.
- PWM X permitting activities with the State Division of Drinking Water (DDW) and the RWQCB continue on the Amended Title 22 Engineering Report to permit injection of up to 5,750 AFY as groundwater replenishment to the Seaside Basin.
- EPA loan reimbursements are being paid quickly. M1W & MPWMD have now executed all awarded PWM X grants which total ~\$42 million from state and federal sources:
  - ✓ \$10.32 million from US Bureau of Reclamation Title XVI
  - ✓ \$15 million from California State Revolving Fund
  - ✓ \$11.94 million from California DWR Urban Community Drought Relief
  - ✓ \$4.8 million from California Budget Act of 2022 (Governor's earmark)

- The attached PWM X schedule (**Exhibit 4-A**) illustrates that all the new PWM X facilities will be operational by the end of 2025.

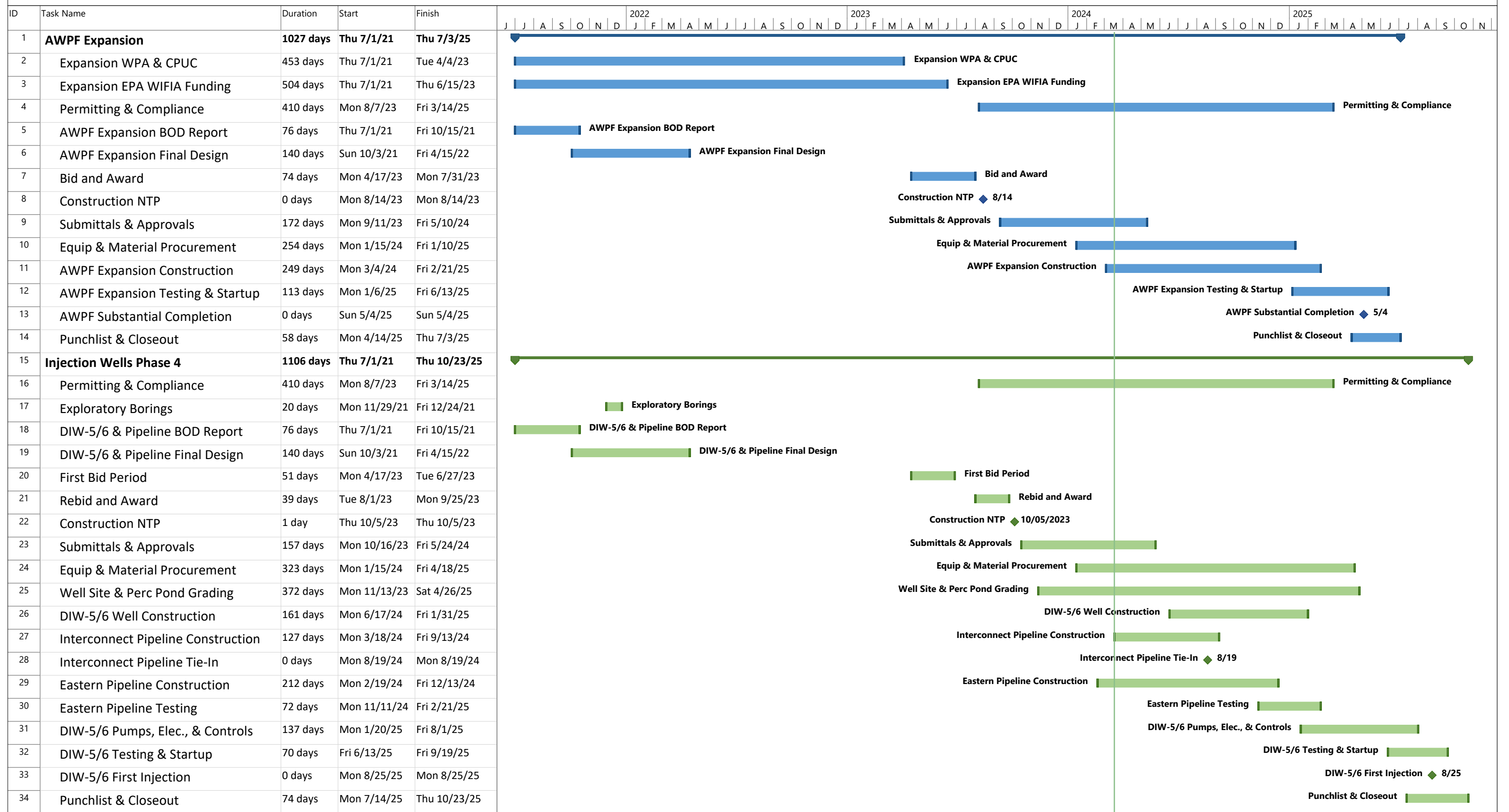
**EXHIBIT**

**4-A** Construction Work Schedule

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# EXHIBIT 4-A

## PWM Expansion Schedule (3-14-24 Update)



Project: PWM GWR Summary Date: Thu 3/14/24	AWP Expansion Injection Well Ph 4	AWP Expansion/IW Ph 4 Summary	Injection Well Ph 4 Summary	PWM Expansion Milestones	Injection Wells Phase 4 Milestone
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