

# Monterey Peninsula Regional Water Authority

## **POLICY POSITION STATEMENT**

The Authority considered and adopted this position statement as direction to our staff and consultants in preparing Public Utilities Commission (PUC) testimony due February 22<sup>nd</sup>, 2013. This document was adopted at the January 31, 2013 Special Meeting, amended at the June 13, July 11 and July 25, 2013 Regular meetings.

This position was adopted, in advance of a completed EIR and in recognition that more information will be forthcoming, because the PUC decision process is underway and the Authority seeks to have a voice in that process. While the Project is not sized for General Plan build-out within Peninsula jurisdictions, the Authority has requested that the EIR evaluate a full range of plant sizes up to and including the size necessary for full General Plan build-out.

### **POSITION STATEMENT**

Reiterate our support for a portfolio approach. This includes Ground Water Replenishment (GWR), Aquifer Storage and Recovery (ASR), and Pacific Grove Small Projects, all of which have public ownership, in addition to a desal project described here. Benefits of a portfolio approach allow each individual element (PG small projects, GWR, ASR, desal) ability to move on its own track and schedule such that a delay in one doesn't necessarily delay others. As such, the Authority supports efforts to move forward with any individual element on its own, especially if one element of the portfolio can move faster than the rest. For example, we support ASR (and the associated pipeline infrastructure) moving forward even if desal is delayed." The Authority's position is consistent with the powers afforded to the Governance Committee and as set forth in the Authority's direct PUC testimony submitted on February 22, 2013.

Any project must meet four basic criteria:

1. Project economics must be competitive.
2. Project must have suitable public governance, public accountability and public transparency.
3. Project must have clear path to permitting and constructing the facility as near to the CDO deadline as feasible.
4. Project must have contingency plans to address significant technical, permitting and legal risks.

None of the three projects (Cal Am, Deepwater Desal or DWD, or People's Moss Landing or PML) as proposed meet these criteria. Therefore, none of the three projects as proposed warrant Authority support. However, at this time Cal Am's proposed project appears to be closest to meeting these four criteria. Cal Am's Project would earn our support if Cal Am makes certain modifications. Consequently, the Authority's support for the Cal Am Project is subject to the following conditions:

### **FINANCIAL CONSIDERATIONS**

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1. Cal Am must accept a significant contribution of public funds consistent with the parameters set forth within the Authority's direct testimony submitted to the PUC on February 22, 2013. Without the interest rate advantages afforded by such approach, the costs of water from the Cal Am Project will be materially higher, and likely substantially in excess of the cost of water from the alternative projects. A significant contribution of public funds will avoid such an unwarranted expense to Cal Am's rate payers. At the May 23, 2013 meeting, the Authority approved the refinement of the previously adopted position to define "significant contribution of public funds" to mean that Cal Am must accept the contribution of public funds of approximately 50% of the cost of the project to include both surcharge two and the rate reduction bonds to count toward the public contribution of 50%. Cal Am's traditional financing entails a blend of 53% equity and 47% debt. A significant public contribution (combined with Surcharge 2) should be of sufficient size to reduce Cal Am's equity to approximately half that much (26 to 27%).
2. Cal Am must diligently seek to secure lower electricity rates for the project (e.g., \$0.08-\$0.09 cents/kWh as most recently estimated by Cal Am) including agreement to purchasing power through a municipal electrical utility, generation of on-site power if necessary, other public entity or other source of low-cost power.
3. Cal Am must agree to limit the use of revenue from Cal Am's Surcharge 2 to reduce risk to Cal Am ratepayers in the event the Cal Am project does not move forward. For example, Cal Am could agree only to use Surcharge 2 to fund lower risk parts and phases of the project (such as only the construction phase after the issuance of a Coastal Development Permit from the Coastal Commission) or could provide other mechanisms of reducing the risk to Cal Am ratepayers.
4. Cal Am must show something in writing from the State demonstrating its ability to secure SRF financing. Absent such a document, the Authority will work with the Water Management District to secure SRF financing as public agencies. Cal Am must accept a public agency partner for SRF purposes if necessary, even if doing so results in a reduction in Cal Am's equity position.

### **GOVERNANCE**

5. Cal Am must agree, upon mutually-acceptable terms, to form a Governance Committee to provide publicly-accountable oversight of the project.

### **PERMITTING & CONTINGENCY PLANS**

6. To promptly address concerns pertaining to Cal Am's proposed intake wells, Cal Am must:
  - a. Address or cause to be addressed all issues raised in the December 2012 Tim Durbin testimony;
  - b. Proceed with the planned test wells and any other advanced geotechnical work to support the proposed intake wells as soon as practically feasible;

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- c. Collaborate with local public agencies to advance permitting efforts with other responsible agencies, including the California Coastal Commission;
  - d. Seek to clarify whether the installation of Cal Am's intake wells will require approval from any federal agency, which would, in turn, require NEPA compliance; and
7. Continue to explore and advance alternative intake strategies as a contingency if Cal Am's proposed intake wells prove legally or technically infeasible.
- a. Cal Am must fully develop a contingency plan or plans and implement that plan or those plans for source water that do not involve wells in the Salinas Basin. This must be done concurrently along with Cal Am planning and testing of slant wells.
8. Cal Am must address questions about sea level rise and coastal erosion with respect to the placement and longevity of their proposed slant wells. Coastal sands are also prone to liquefaction in seismic events and coastal facilities are susceptible to damage from tsunami events as well.

If Cal Am meets the above conditions, the Authority conditionally supports the Cal Am Project because:

1. Based on current information, Cal Am's desal project size (9.6 MGD desal only or 6.4 MGD desal with GWR) appears to be consistent with the Authority's position of focusing on water for "replacement and replenishment" including lots of record, pebble beach, allocation entitlement, and economic rebound and accommodates the policy desire to pursue a portfolio of projects to meet the needs of our communities, thereby reducing the risk associated with any project failing or being delayed. The Coastal Commission identifies proposed projects with a "defined service area with a known level of build-out" as involving an "easier" review while projects with an "unknown or extensive service area" as involving a "more difficult" review. Cal Am's project would involve this "easier" review while DWD would involve a "more difficult" review.
2. Cal Am's project, DWD project and PML project are all in the planning stage although Cal Am's project is the most "advanced" according to both SPI and the TAC.
3. Permitting agencies will require the "least environmentally harmful feasible alternative" for source water intake. The Coastal Commission states that a subsurface intake (such as Cal Am's proposed slant wells) involve an "easier" review while an open-water intake involves a "more difficult" review. State Water Board staff likely will recommend that subsurface is "preferred." If subsurface is not feasible, consider Track 2 (infiltration galleries or open water intake). It is unlikely that open water intake will be permitted unless test slant wells have shown subsurface intake to be infeasible. Any project must therefore include a test slant well. Only Cal Am's project proposes to do so.
4. Only Cal Am has demonstrated ability to finance a project. Their financing plan is comprised of four different sources of capital; short-term construction financing, Surcharge 2, SRF, and equity. Neither of the other two projects have a detailed financing plan and

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neither would likely have access to short-term construction financing, Surcharge 2 or SRF, all advantageous forms of financing (Cal Am offers the short-term construction financing but only for their project. Surcharge 2 is only permitted for a Cal Am facility. SRF is unlikely to be available for open water intake.) We propose to include a significant public contribution as a fifth source of capital. Doing so would significantly lower the Net Present Value (NPV) cost of the project.

5. Cal Am has the capital necessary to complete the permitting of its project. Neither of the other projects have demonstrated this ability.
6. Cal Am has indicated the potential for securing electricity at \$0.087 per kwh and could possibly purchase electricity at a lower rate through a municipal electrical utility formed by a local public agency. DWD's proposed municipal electrical utility involves the City of Salinas and its success is therefore outside of the direct control of the Authority.
7. The ultimate unit cost of water from the Cal Am Project in comparison to the cost of water from the DWD and PML projects are close in amount presuming a significant public contribution is made to lower the financing costs of the Cal Am Project and that Cal Am secures electricity in the \$0.08-0.09 per kwh range.
  - a. SPI estimates that Cal Am's production cost would be \$2,310/\$3,015 per acre foot for the larger/smaller desal projects respectively if the cost of financing is brought down to 4% and the cost of electricity is reduced to \$0.087 per kwh. This is within about 10% of the unit production costs of DWD (\$2,100/\$2,670) and is largely due to the increased cost of slant wells.
  - b. The range of these estimates is minus 30% to plus 50%. The TAC recommends the Authority focus its attention on the ranges.
  - c. For the larger plant, the range of the cost per acre foot of Cal Am's project with Authority conditions is \$1617 to \$3465. The corresponding range for DWD is \$1470 to \$3150.
  - d. For the smaller plant, the range of the cost per acre foot of Cal Am's project with Authority conditions is \$2110 to \$4522. The corresponding range for DWD is \$1870 to \$4005.
8. The DWD project involves a "complex" relationship of various entities, including a municipal electrical utility, a data center, the formation of a regional JPA, a water purchase agreement with Cal Am. The Authority is not aware that any of these relationships have been established. This unresolved complexity leaves more room for possible delay or failure. In contrast, Cal Am's organization structure is described as "good" by SPI.
9. Both DWD and PML will likely face questions from permitting agencies regarding the placement of the desalination plant in relationship to the 100 year flood plain and sea level rise. It is unclear how either project will respond to such questions.
10. The CEQA review for Cal Am's project is well underway and is being handled by the Public Utility Commission as the lead agency. Any court challenge to the CPUC's EIR must be made by a petition directly to the State Supreme Court (very few petition are granted), reducing the legal risk of a challenge and also reducing the likelihood of project delay in comparison to a CEQA challenge to a project involving a local lead agency. Moreover, the Authority reiterates its request that both alternatives be reviewed at a

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project level such that no further environmental review would be required if the Cal Am project fails in whole or part.

11. The draft Governance Committee agreement strikes the right balance of ensuring that the most important decisions are either made by public agencies or are fully informed by recommendations from public agencies. The draft Governance Committee agreement avoids inserting the public agencies into decisions that are judged to be better made by a private entity.

### **ADDITIVE CONSIDERATIONS**

- Water Allocation. The proposed project is sized based on an estimate of the water needed for replacement, replenishment, economic rebound, Pebble Beach allocation entitlement, and lots of record. The estimate has been established for project design, engineering, and financial planning purposes. The Authority supports this size for this purpose. Allocation decisions about the use of the water should not be made by the PUC but instead should be made locally. The Authority supports the MPWMD's proposal to initiate a process, in collaboration with the Authority and other public agencies, to develop proposed amendments to MPWMD's water allocation ordinances to address the allocation of water obtained from the Project. While the Project is not sized for General Plan build-out within Peninsula jurisdictions, the Authority has requested that the EIR evaluate a full range of plant sizes up to and including the size necessary for full General Plan build-out. Further, the MPWMD, in collaboration with other public agencies, should seek to update the estimate of the added capacity necessary to meet the General Plan build-out projections for the Peninsula jurisdictions. The Authority recognizes that future circumstances may trigger a need for review of future water supply needs for the Peninsula to either expand or develop a new water supply to avoid future pending shortage situations. The Authority will request Cal Am to initiate a process to address the adequacy of the water supply to meet the future service obligations of Cal Am customers as defined by the California Public Utilities Commission.
- Pacific Grove Non-Potable Water Projects. The Authority supports Cal Am's inclusion in its next general rate case application proposals for Cal Am to collaborate with Pacific Grove in the development of its projects to generate as much as 500 acre-feet of recycled, non-potable water per year.
- Project Cost Control. The Authority is working to reduce the Project's ratepayer impacts through a significant public contribution, appropriate use of Surcharge 2, the Governance Committee's review of the RFP process, and the Governance Committee's value engineering process. Any cost cap imposed on the Project should be reasonably calculated to avoid frustrating project financing or causing project delay.
- Contingency Planning. As described in condition #6 above, the Authority's primary concern regarding contingency planning involves contingencies for the source water intake. We also recognize the need to do contingency planning for certain other aspects of the Project, including brine discharge.

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- Water Connection Fee. At the May 23, 2013 regular meeting the Authority approved support of the concept of a new water service connection fee with the reservation of seeing further information and study to refund the connection fee costs for possible integration.