



Timothy J. Miller  
1033 B Avenue  
Suite 200  
Coronado, CA 92118  
[tim.miller@amwater.com](mailto:tim.miller@amwater.com)

P 619.522.6371  
F 619.522.6391

November 6, 2012

Carl Holm, Director of Resource Management  
County of Monterey  
168 West Alisal St., Third Floor  
Salinas, CA 93901

Re: California American Water's Response to Staff's Report Regarding a Safe Potable Water Supply for the Oaks Subdivision

Dear Mr. Holm:

## I. INTRODUCTION AND SUMMARY

On October 2, 2012, County staff presented the Board of Supervisors with report to facilitate a public hearing to "consider alternatives for the provision of safe potable water to the approved nine-lot Oaks subdivision due to the high arsenic level in the subdivision well water" ("Staff Report"). California American Water understands that the County and the Save Our Peninsula Committee ("SOPC") are embroiled in litigation regarding the County's practices to verify that projects comply with the conditions of approval imposed by the County when the County issues various discretionary approvals. Included in an audit of the County's practices are certain conditions relating to the water supply for the Oaks subdivision.

The Oaks subdivision is within California American Water's certificated Ambler service area, effective with the California Public Utilities Commission's ("CPUC") approval of Advice Letter 617 on February 17, 2005. California American Water is currently providing water service to three lots within the Oaks subdivision as well as the common areas. California American Water is awaiting authorization from the California Department of Public Health ("CDPH") to introduce water from the Oaks well into the distribution system. California American Water has read the Staff's Report and generally supports staff's recommendation with one minor revision: the MOU should be between California American Water and the Water Resources Agency, not the County. California American Water also provides the following comments and analyses for the Board's consideration.

In summary, once the Oaks wells is a permitted source through CDPH, the Oaks system will be a "satellite" system in compliance with Condition No. 34 of the Oaks' Conditions of Approval. To the extent SOPC contends the County needs to explore other sources of supply, this appears to be the result of SOPC's focus on the system being a "stand alone" system, even though the conditions of approval are written disjunctively and allow the system to be operated

either as a satellite or a stand alone system. Regardless of SOPC's motivation, because the Oaks subdivision is within California American Water's Ambler service territory and California American Water is providing service to that subdivision, the County does not have the authority to regulate California American Water's service to those customers or to order California American Water to implement any of the proposed infrastructure projects sought by SOPC. The County's authority is preempted by the CPUC's jurisdiction over water utilities. Thus, any analysis of those projects will be a fruitless effort. Moreover, even if the County could order such projects, California American Water's estimates of the project costs, when spread among ten customers using standard water utility ratemaking principles, show that implementing these projects would result in astronomical water bills. Such rates are unlikely to be authorized by the California Public Utilities Commission. Most importantly, such projects are unnecessary; the existing Ambler water treatment plant has more than adequate treatment capacity to serve the estimated water needs of the Oaks subdivision, and upon being permitted by CDPH as an allowed water source, the operation of the Oaks well pursuant to staff's MOU will avoid any issues with the Water Resources Agency's "zones of benefit."

If the heart of SOPC's concern with the Oaks subdivision is the state of the El Toro Groundwater Basin ("the Basin"), this concern is supported by the 2007 Geosyntec study of the Basin, which concludes that the Basin is in overdraft. Both the County and SOPC have a flawed approach to solving the Basin's overdraft problem. This flawed approach has been to restrict new development that could increase the demand for water. Despite decades of development restrictions, the Basin remains in overdraft. That is an obvious result; stopping additional development only affects the *rate of depletion* of the aquifer, it does not *reverse* existing overdraft. Absent significant conservation measures that would drastically reduce existing customers' consumption, the basin will remain in overdraft because existing consumption ostensibly exceeds the basin's natural safe yield.<sup>1</sup> The true solution to this problem is to augment the Basin's natural supplies. As demonstrated by the Salinas and Seaside basins, implementing such a solution is a significant effort that takes many years. California American Water recommends that the Board of Supervisors for the Water Resources Agency direct the Water Resources Agency to begin the process of exploring the recommendations in the 2007 Geosyntec study. California American Water and its 422 customers in the Ambler service area are dependent on the continued viability of the Basin as a source of water and the Water Resources Agency has the authority to take on that challenge. In the absence of such leadership, the likely result is the adjudication of the Basin and implementation of a physical solution by court order rather than local policymakers.

## **II. ONCE THE OAKS WELL IS A PERMITTED SOURCE, THE OAKS SYSTEM WILL BE A SATELLITE SYSTEM; STAFF'S MOU WILL CLARIFY THE REPORTING REQUIREMENTS**

As noted in the Staff Report, when the County approved the Oaks subdivision, it conditioned that approval on, among other things, that Ambler Park Water Utility (California American Water's predecessor in interest) "operate the system as a satellite or stand alone system providing domestic and fire flow water supply to the subdivision in accordance with Title 22 and California Public Utility Commission standards." This condition is written in the disjunctive; the system must be operated *either* as a "satellite" *or* a "stand alone" system.

---

<sup>1</sup> California American Water's understanding of the Geosyntec study suggests that when the planning area is "built-out," the rate of overdraft will be 25 to 50 percent of the overall demand from the Basin. It is unclear if this level of conservation can be achieved in practice.

SOPC appears to be focusing only on the notion of a “stand alone system” and not what it means to operate as a “satellite system.” The third definition of satellite is: something that depends on or accompanies something else. Hence, satellite and “stand alone” are mutually exclusive and cannot logically be considered synonymous. Accordingly, because the Oaks water distribution system “depends on” the Ambler system, once CDPH issues a permit allowing water from the Oaks well to be included in the distribution system, the Oaks system will be operated as a satellite system; it will have an independent water source including sufficient water supply for both domestic consumption and fire protection, but will depend on the Ambler system to ensure that water from that source meets Title 22 standards and that there is adequate fire storage in accordance with CPUC standards. Condition No. 34 gives both the developer and County staff the discretion to approve the water distribution system plans as a “satellite” system, not just a stand alone system. Because the developer paid for the improvements to connect the Oaks subdivision to the existing treatment plant and existing fire flow facilities, such plans were in compliance with Condition No. 34 of the Conditions of Approval as a satellite system. Ostensibly, County staff interpreted Condition No. 34 to have this effect because the County approved the system as it is currently constructed and the developer properly incurred the costs for the necessary improvements. The actions of the County are presumed to be correct, and great weight is afforded to an agency’s contemporaneous interpretation of its decisions.

In 2006, California American Water agreed to report to the Monterey County Water Resources Agency the quarterly production of the Oaks well to address issues relating to Water Resources Agency “zones of benefit.” California American Water stands by that commitment and is awaiting approval from CDPH to operate the Oaks well as an authorized source of supply before drawing water from the Oaks well. To the extent that the Water Resources Agency needs additional assurances that water from the Oaks well is not providing a benefit outside the Agency’s zones of benefit, California American Water is willing to perform the water accounting contained in the proposed MOU. To the extent that the County seeks the MOU to enforce B-8 zoning restrictions, as discussed subsequently, the County does not have authority to enforce those provisions against California American Water. If the County will gain incidental benefit from an MOU between California American Water and the Water Resources Agency, California American Water has no objection to Monterey County being a signatory to the MOU.

### **III. MONTEREY COUNTY DOES NOT HAVE THE AUTHORITY TO REGULATE CALIFORNIA AMERICAN WATER’S AMBLER SYSTEM, INCLUDING THE OAKS WELL**

SOPC has requested County staff to analyze various projects as a means to provide “safe potable water” to the Oaks subdivision. Such analyses would be fruitless because, even if the County wanted California American Water to pursue such projects, the County does not have the authority to regulate California American Water’s Ambler distribution system or order California American Water to implement such projects.

#### **A. The County Cannot Order California American Water to Disconnect Oaks Customers From the Ambler Treatment Plant Because Any Such Order is Barred by Public Utilities Code Section 1759**

The Public Utilities Code states:

No court of this state, except the Supreme Court and the court of appeal, to the extent specified in this article, shall have jurisdiction to review, reverse, correct, or annul any order or decision of the commission **or to suspend or delay the execution or operation thereof**, or to enjoin, restrain, or interfere with the commission in the performance of its official duties, as provided by law and the rules of court.<sup>2</sup>

In D.11-09-001, the CPUC addressed the use of the Ambler treatment plant to serve customers in the Oaks subdivision. In that decision, the CPUC ruled that California American Water's use of the Ambler treatment plant was an appropriate use of that treatment facility under the terms of California American Water's acquisition of the Ambler Park water system. An order by the County purporting to prohibit California American Water from using that treatment plant for Oaks customers would have the effect of suspending or delaying the operation of CPUC decision D.11-09-001 allowing such use. The County does not have the authority to suspend or delay the operation of decision of the CPUC; only the Supreme Court has that authority.<sup>3</sup>

Because an order of the County purporting to prohibit California American Water from using the Ambler treatment plant for the Oaks subdivision would have the effect of delaying or suspending the operation of CPUC decision D.11-09-001, any such order by the County is barred by Public Utilities Code section 1759. Thus, the County cannot order California American Water to implement any of the projects suggested by the Committee. Accordingly, analyzing projects to alter the existing service to the Oaks subdivision would be fruitless.

## **B. The County Is Expressly Preempted Under State Law From Regulating The Operation of California American Water's Ambler System and the Rates Charged By Utilities**

Article XII, Section 8 of the California Constitution states that a city, county, or other public body may not regulate matters over which the Legislature grants regulatory power to the Commission. Sections 451 and 770 of the Public Utilities Code specify the Commission's authority to require adequate service by regulated utilities. The Commission is empowered to do "all things ... necessary and convenient in the exercise of such power and jurisdiction."<sup>4</sup> In addition, the Commission is authorized and obligated to regulate all aspects of utility facilities and infrastructure: no water utility may construct any major water facility without first obtaining a certificate of public convenience and necessity ("CPCN") from the Commission;<sup>5</sup> the Commission must fix the rules, practices, equipment, appliances, facilities, service or methods to be observed, furnished, constructed enforced or employed; the Commission must order extensions of existing facilities or extension of new facilities where the Commission finds it will

---

<sup>2</sup> Public Utilities Code § 1759(a)(emphasis added).

<sup>3</sup> Public Utilities Code section 1759 vests the authority to review CPUC decisions in the Supreme Court or the court of appeal. Subdivision (f) of Public Utilities Code section 1756 requires most petitions to review decisions relating only to water corporations to be filed in the Supreme Court.

<sup>4</sup> Cal. Pub. Util. Code § 701; and see *Consumers Lobby Against Monopolies v. Public Utilities Com.* (1979) 25 Cal.3d 891, 905 [the Commission's powers are liberally construed].

<sup>5</sup> Cal. Pub. Util. Code § 1001.

promote the security and convenience of the public or ensure adequate service,<sup>6</sup> and the Commission may establish rules and regulations to require public utilities to construct and maintain its plant, system and facilities so as to promote the health and safety of the utility's customers, employees and the public.<sup>7</sup> The CPUC has, in fact, exercised that authority when it adopted General Order 103A, which specifies the minimum standards for water quality, distribution system design, and system operation.

The courts have interpreted Article XII, § 8 broadly. In *Southern California Gas Co. v. City of Vernon* (1995), 41 Cal. App.4th 209, a gas utility challenged the city's denial of an encroachment permit to install pipelines under city streets. The court affirmed judgment for the gas utility, holding that the City could not regulate matters over which the state public utilities commission was accorded exclusive regulatory power under the state constitution and that the utility was entitled to issuance of a permit as a matter of law.

Here, under Article XII, Section 8 of the California Constitution, any effort by the County to order California American Water to provide alternate service to the Oaks subdivision has multiple fatal flaws. First, above and beyond the CPUC's authority under the Public Utilities Code, the CPUC has adopted General Order 103A, which contains standards regarding water quality as well as the design and operation of water distribution systems. Therefore the Commission clearly has regulatory power, and has exercised regulatory power, that preempts the County. Second, as noted previously, the CPUC issued order D.11-09-001 regarding the use of the Ambler treatment plant and that order is final. Hence, to the extent that the CPUC has actually exercised its regulatory power regarding service to the Oaks subdivision through the Ambler treatment plant, the County is expressly preempted under Article XII, § 8 of the California Constitution as a separate basis from Public Utilities Code § 1759. Accordingly, any effort by the County purporting to order California American Water to implement a capital project or apply the County's B-8 zoning to California American Water's service to the Oaks subdivision is expressly preempted by Article XII, § 8 of the California Constitution.

### **C. The California Public Utilities Code Fully Occupies the Field of Regulating Water Utilities.**

The County's authority is preempted not only because it is expressly unconstitutional under Article XII, Section 8 of the California Constitution, but also because the State has fully occupied the field of regulation of privately owned water utilities.

Relying on the breadth of the Public Utilities Code, courts have consistently held that local or municipal regulation of public utilities is impliedly preempted by the Commission's jurisdiction. The Commission has "paramount jurisdiction in cases where it has exercised its authority and its authority is pitted against that of a local government involving a matter of statewide concern."<sup>8</sup> In other words, there is no room for local regulation of public utilities.

---

<sup>6</sup> Cal. Pub. Util. Code § 762.

<sup>7</sup> Cal. Pub. Util. Code § 768.

<sup>8</sup>; *Public Utilities Com. v. Energy Resources Conservation & Dev. Com.*, 150 Cal. App. 3d 437, 451-452 (Cal. App. 1st Dist. 1984); *Harbor Carriers, Inc. v. City of Sausalito* (1975) 46 Cal.App.3d 773, 775; *Orange County Air Pollution Control Dist. v. Public Util. Com.* (1971) 4 Cal.3d 945, 953 at fn. 7.

In *San Diego Gas and Electric v. City of Carlsbad*, (1998) 64 Cal.App.4th 785 (“*SDG&E*”), an electric utility challenged the City of Carlsbad’s requirement that the electric utility obtain a permit for dredging sand to maintain seawater flow for a power plant. The City was purporting to act under the authority of the planning and zoning law. The Court of Appeal overturned a Superior Court ruling that the City could require such a permit, finding that the conditions placed in the permit placed “a significant physical and economic burden on [the utility’s] operation and maintenance of its facilities” and that the City intruded “into a field that is significantly and fully occupied by the state in such a manner as to indicate clearly that a paramount state concern will not tolerate further or additional local action.”

In *California Water & Telephone Co. v. County of Los Angeles*, (1967) 253 Cal.App.2d 16 (“*California Water & Telephone*”), the court struck down as unconstitutional a county ordinance that required any person that supplied domestic water to more than one customer to obtain a permit as a condition precedent to the construction of any portion of the water system.<sup>9</sup> The purported purpose of the ordinance was to promote fire safety, an area otherwise within a municipality’s authority over health and safety. Nevertheless, the court found that “the construction, design, operation and maintenance of public water utilities is a matter of state-wide concern.”<sup>10</sup> The court reasoned that the control of design and construction of water utility facilities “is not a municipal affair subject to a checkerboard of regulations by local governments” and is within the exclusive statewide jurisdiction of the Commission.

Similarly, in *Los Angeles Ry. Corp. v. Los Angeles*, (1940) 16 Cal. 2d 779, a City of Los Angeles ordinance was found unconstitutional on the grounds that the ordinance, which required crews of at least two persons on all streetcars in the city, conflicted with a Railroad Commission order authorizing operation of streetcars by one person.

The proposals demanded by SOPC would place Monterey County in a situation analogous to the City of Carlsbad and Los Angeles County, whose regulatory efforts were struck down in *SDG&E* and *California Water & Telephone*, respectively. As in *SDG&E*, the County is exercising its power here pursuant to the Planning and Zoning law, and the *SDG&E* court found that the CPUC’s jurisdiction was paramount to the City’s. As in *California Water & Telephone*, the B-8 zoning is enrolled as a health and safety regulation. As the court noted in that case, however, while the regulation of health and safety is otherwise a legitimate area of municipal concern, it is invalid if it encroaches on the Commission’s jurisdiction. Here, the County is ostensibly being asked to order California American Water to construct specific capital improvements and modify the manner in which the Company is providing service to the Oaks subdivision pursuant to the County’s authority under the Planning and Zoning law or general police power.<sup>11</sup> Clearly the Commission’s broad authority over water utility facilities leaves no room for such additional and conflicting municipal regulation. As the court in *California Water & Telephone* stated “[n]o profound exegesis of the Water Ordinance... the Public Utilities Code, and the [C]ommission’s regulations promulgated pursuant thereto is necessary to conclude that the Water Ordinance as applied to [the public utility] conflict with general law.”<sup>12</sup> So, too, here, no profound exegesis is required to determine that Monterey County would be intruding into the

---

<sup>9</sup> *California Water & Telephone Co. v. County of Los Angeles*, 253 Cal.App.2d 16, 21 (1967).

<sup>10</sup> *California Water & Telephone Co. v. County of Los Angeles*, 253 Cal.App.2d 16, at 30 (1967).

<sup>11</sup> California American Water also understands that, under the Planning and Zoning law, the County cannot order additional improvements by the developer because the County approved the final subdivision map.

<sup>12</sup> *California Water & Telephone Co. v. County of Los Angeles*, supra, 253 Cal.App.2d at 26.

CPUC's jurisdiction if the County ordered capital improvements and changes to California American Water's operations or attempted to order a change in California American Water's operations pursuant to the B-8 zoning.

#### **D. Municipal Law Is Preempted Where It Conflicts with the Commission's Authority Over Public Utilities**

Even where local legislation is otherwise valid, it is void if it interferes with the Commission's jurisdiction. In *Harbor Carriers v. City of Sausalito*, (1975) 46 Cal.App.3d, 773, 775, ("*Harbor Carriers*") the court found a city zoning ordinance preempted by a Commission certificate of public convenience and necessity ("CPCN") as it applied to the location of a harbor ferry terminal and docking facility. The court held that "to the extent that the city's zoning ordinance is applied to prevent establishment of any terminal in Sausalito, it must give way to the [Commission's] grant of the right to operate a service to and from Sausalito." The court further concluded that a city terminal site was necessarily contemplated by the commission's CPCN and ordered the city to afford the opportunity for a reasonable terminal site.

Here, any effort by Monterey County to implement SPOC's proposal or otherwise apply the B-8 zoning restrictions to the operation of the Ambler treatment plant would conflict with CPUC decision D.11-09-001 and the CPUC's approval of Advice Letter 617 regarding service to the Oaks subdivision. Accordingly, the County's authority must yield to Commission's jurisdiction.

#### **IV. THE PROJECTS PROPOSED BY THE SAVE OUR PENINSULA COMMITTEE ARE TOO COSTLY AND WOULD RESULT IN UNREASONABLE RATES OR ARE INFEASIBLE.**

Again, SOPC has requested the County to analyze certain capital improvements that appear to result in the Oaks subdivision having a "stand alone" water system. What is not clear is how those capital projects would be funded. Only the CPUC can authorize rate modifications that would be paid by California American Water's customers to fund capital improvements.<sup>13</sup> Thus, even if the County had the authority to order California American Water to implement one of SOPC's projects, the CPUC would still have to approve the recovery of those costs from California American Water's customers.<sup>14</sup>

As summarized in Attachment One, the bill impact to ten customers associated with the improvements proposed by SOPC range from \$801 per month to over \$5,000 if fire protection improvements are implemented to m the Oaks subdivision a independent water system.<sup>15</sup> It is important to note that the actual rate impact varies with the number of customers in the Oaks subdivision actually receiving service. Currently, California American Water has four customers

---

<sup>13</sup> See Public Utilities Code section 451.

<sup>14</sup> Requiring California American Water to construct these projects without allowing those costs to be recovered in rates would be a taking of Company property in violation of the United States and California Constitutions. Accordingly, recovery of these costs is essential to any order to implement these projects.

<sup>15</sup> These estimated were prepared by California American Water's in-house project management team, composed of licensed civil engineers experienced in the construction of water distribution system infrastructure.

with a maximum of ten in the subdivision.<sup>16</sup> Until the subdivision is fully built out, the actual rate impacts would be greater than outlined below.

**A. The Addition of a Second Treatment Plant Would Result In Unreasonable Rates.**

Attachment 2 is an estimate of the various capital improvements to install a second treatment plant, as suggested by SOPC, as well as the operation and maintenance costs for the treatment plant.<sup>17</sup> That exhibit shows that under standard utility ratemaking principles, California American Water would have to receive annual revenue of \$63,414.29 in the first year of operation to offset the estimated capital costs. It is important to note that this excludes the costs to acquire additional land so that there is adequate room to safely operate and maintain the plant; it is not clear that there is adequate room at the existing well site for the treatment equipment as well as the necessary electrical facilities and the well. The annual operation and maintenance costs are an additional \$52,900, for a total annual revenue requirement of \$116,314.29. These total annual costs spread among ten customers would result in a monthly bill impact of \$969.29, in addition to existing utility charges of approximately \$42. This would result in the average bills for the Oaks residents being \$1,011.29 assuming those residents' bills would otherwise be similar the typical Ambler customers' bill.

In addition, if California American Water were to completely disconnect the Oaks subdivision from the Ambler system, additional storage would be necessary for equalization and fire protection. Attachment 3 details the estimated cost of \$1,285,000, exclusive of property acquisition costs, to construct such improvements. Under standard utility ratemaking principles, California American Water would need to recover \$183,571.43 in revenue to pay for these improvements. This would result in a monthly bill impact, when spread among ten customers of \$1,529.76.<sup>18</sup>

Depending on whether fire flow improvements are necessary, the bill impact associated with constructing a new treatment plant ranges from \$969.29 to \$2,299.05 per month, exclusive of property acquisition costs and other, regular monthly bill charges and assuming that these costs are spread among ten customers. These are clearly unreasonable water rates that are unlikely to be approved by the CPUC.

**B. Adding a Connection To Another Water Utility Would Result In Unreasonable Rates.**

Attachment 4 shows the capital costs and purchase water costs to provide water to the Oaks subdivision via a connection to California Water Service's closest service area. It is important to note at the outset that any analysis of this option assumes that California Water Service has sufficient source capacity to supply not only its existing and future customers, but

---

<sup>16</sup> There are nine lots, plus one irrigation meter for common areas.

<sup>17</sup> These estimated were prepared by California American Water's in-house project management team, composed of licensed civil engineers experienced in the construction of water distribution system infrastructure.

<sup>18</sup> There would be a \$100,000 reduction in the costs for the treatment plant, as this tank would eliminate the need for a separate hydroneumatic tank at the treatment plant. This would reduce the revenue requirement for the treatment plant to \$49,128.57. The resulting bill impact would drop from \$1,076.98 to \$944.71.



also to supply the Oaks subdivision, and that there are no legal restrictions on California Water Service's sources that would prohibit exporting water to the Oaks subdivision. Assuming that California Water Service has adequate, legal sources to provide water to the Oaks subdivision, the total estimated capital cost of a pipeline and related improvements is \$2,695,550.00. This results in a first year revenue requirement of \$385,078.57. Added to these capital costs are the costs to purchase water from California Water Service, estimated to be \$219.79 per month, per lot based on average annual consumption from existing Oaks customers. Dividing the capital costs among ten customers and adding the purchased water costs, the monthly bill impact associated with obtaining service from California Water Service is \$3,428.78. California American Water would then need to add its costs associated with customer service, which would further increase these bills.

Similar to the treatment plant proposal, if SOPC's goal is to completely separate the Oaks subdivision from California American Water's Ambler system, the same fire flow improvements necessary for the treatment plant would need to be constructed to receive water from California Water Service. Again, Attachment 3 shows the estimated cost of \$1,285,000, exclusive of the costs to acquire a tank site, with a resulting bill impact of \$1,529.76.74. When added to the monthly bill impact from the pipeline and purchased water costs, the total monthly bill impact would be \$4,958.54.

### **C. Trucked Water Would Result in Additional Capital Costs And Degrade Traffic Conditions and Air Quality**

County staff's report for this item opines that trucked water is not an option because it is inconsistent with various County policies. In addition, California American Water is unaware of any such system being authorized as a permanent means of providing public water supply, and is not certain that such a system could be authorized under State law. California American Water notes that an additional hurdle this option faces is determining the source of trucked water, and the resulting purchased water costs. In the absence of an identified source that can legally export water to the Oaks subdivision, any analysis of this option is going to be incomplete and speculative.

Setting aside the fact that SOPC omits the critical details of supply source and purchased water costs, there are a number of other flaws with the trucked water proposal that make this option infeasible.

#### **1. *Trucked Water System Would Require Large Capital Costs Associated With Truck Acquisition, Property Acquisition and Booster Costs***

While a trucked water supply has a low probability of being implemented because of legal impediments associated with CPUC jurisdiction and County policies, assuming for the sake of argument such an alternative could be implemented, it would be at a very high cost. The system would have to have sufficient storage to meet customer demands as well as fire flow requirements based on an assumed delivery schedule. This would mean that multiple trucks would have to be purchased at an unknown capital cost and there would have to be a site where the trucks could be staged, and safely navigate the site. Hence, there will be property acquisition costs that could not be determined until the number of trucks and the requirements for safely navigating the trucks is determined. In addition, the system would have to be pressurized. This would likely require a hydropneumatic tank to be constructed at

approximately \$100,000. The bill impact associated with only the hydro-pneumatic tank would be \$119.04 per month.<sup>19</sup> The complete bill impact is not capable of being determined because the cost and number of trucks necessary to provide adequate water are unknown, as are the property acquisition costs and purchased water costs.

2. *Trucking Water Would Result In An Increase in Local Large Truck Traffic and Diesel Emissions*

Assuming that the large capital costs and uncertainties associated with a legal water supply can be addressed, a trucked water supply will adversely affect two other aspects of the local environment: traffic and air quality. These effects are the result of the increase in large truck traffic on Highway 68 and San Benancio Road associated with imported water trucks. California American Water does not have data on traffic levels of service associated with the potential impacted roadways, but California American Water understands that there are colloquial reports of traffic on Highway 68 being a concern. In addition, the trucks that would have the horsepower to haul large volumes of water would likely be diesel-fueled trucks that will increase the levels of nitrogen oxide emissions as well as toxic diesel particulate. These impacts would have to be analyzed against established thresholds of significance to determine the effect on the local environment; however, it is unclear how the County could justify these environmental impacts when there is a treatment plant capable of serving the Oaks subdivision at reasonable rates with negligible capital improvements.<sup>20</sup>

**D. The Addition of a Second Well Is Likely Infeasible and Would Result In Unreasonable Rates**

California American Water agrees with County staff that the addition of a second well is unlikely to result in the Oaks subdivision becoming a stand alone system, as opposed to a satellite system, because all of the available data suggests that the water from that well would also exceed the arsenic Maximum Contaminant Level, requiring additional treatment. Thus, all of the bill impacts associated with a second treatment plant and fire flow improvements would be exacerbated by adding the capital costs of a second well.

In addition to providing no benefit to the water quality, the addition of a second well will increase the costs of water service and result in unreasonable rates. Attachment 5 is an estimate to construct a second well. The total cost of a second well (excluding property acquisition costs) is \$673,340. Under standard utility ratemaking principles, California American Water would need to recover \$96,191.43 in revenue the first year to pay for these improvements. The resulting bill impact would be \$801.60. Again, if the goal is to have the Oaks system be an independent system, adding a second well will require fire flow improvements and will likely require the construction of a treatment plant, at the substantial costs described previously. The total bill impact associated with a second well, treatment plant and fire flow improvements would be \$3,300.65. Clearly, these are unreasonable water rates.

---

<sup>19</sup>  $((\$100,000/7)/10)/12 = \$119.04$

<sup>20</sup> As will be discussed subsequently, to implement staff's proposed MOU, California American Water will need to install meters to track well production. These costs would be subsumed in already approved CPUC budgets, so there would be no additional rate impacts associated with those improvements.

## **V. THE WATER RESOURCES AGENCY NEEDS TO PLAN AND IMPLEMENT A PHYSICAL SOLUTION TO THE OVERDRAFT PROBLEM IN THE EL TORO GROUNDWATER BASIN**

In 2007, the Water Resources Agency obtained a report from the consulting firm Geosyntec regarding the El Toro watershed. Section 6 of that report analyzed the trends in water inflows and outflows, and concluded that the Basin is in overdraft, and suggests that the rate of overdraft was increasing from a 25-year average of 500 acre-feet per year to a rate of approximately 1,000 acre-feet per year at the time of the study. The Study also estimated consumption at “build out” to be just over 2,000 acre feet per year. The study also concluded that 280,000 acre-feet of water was being stored in the Basin in 2007.

If the rate of outflow from the Basin exceeded the rate of inflow in 2007 while at the same time there has been no change in water consuming behavior of water users in the Basin, it stands to reason that water levels in the groundwater basin have decreased since the study was prepared. It also stands to reason that if current water use exceeds the natural safe yield of the basin, no amount of restriction on **future** increases in demand will reverse the current trend. There are only two ways to **reverse** the trend of overdraft – impose water restrictions on existing water uses or augment the water supplies.

If the estimated rate of overdraft and the water demand at build out are both correct, it appears that the water demand at “build out” will be twice the natural safe yield, requiring water conservation measures to reduce consumption by 50 percent. California American Water’s main Monterey system customers have reduced their demand by at least 20 percent. So while some reduction in consumption can be achieved, it is difficult to predict whether water conservation measures could result in water demand being in balance with the natural safe yield of the Basin. Accordingly, some means of augmenting the Basin’s supply is appropriate.

The Geosyntec study included recommendations for augmenting water supplies in the Basin, including evaluating water reclamation for golf course irrigation, retaining surface runoff and enhancing aquifer recharge, as well as impounding water in the upper Calera Canyon area to augment water supplies. California American Water is not aware of any efforts to conduct the recommended feasibility studies or otherwise develop a physical solution to the Basin’s overdraft problem. While the available data suggests there is adequate water for 280 years, assuming the estimates of storage and overdraft rates are correct, there remains the possibility of near-term impacts to well production as the water level drops.

## **VI. CONCLUSION**

California American Water’s service to the Oaks subdivision will comply with Condition of Approval No. 34 once CDPH approves the Oaks well as a potable water source because the Oaks will be a “satellite” system.

To the extent that SOPC seeks to have the County analyze various other options for providing potable water to the Oaks subdivision, such analyses would be fruitless because the County does not have the authority to order California American Water to implement any such projects, and the costs for such projects, when divided among nine customers under standard utility ratemaking practices, would result in water rates that would be unreasonable and unlikely to be approved by the CPUC.

To the extent that SOPC is concerned about the state of water resources for the Basin, none of SOPC's proposals will improve the water supply; only a physical solution augmenting water supply will reverse overdraft. California American Water recommends that the Water Resources Agency perform the feasibility studies proposed in the 2007 Geosyntec report.

California American Water fully intends to honor its commitment to the Water Resources Agency to monitor production from the Oaks well. To the extent that the Water Resources Agency desires additional protections on production from the Oaks well relating to its Zones of Benefit, California American Water is willing to enter into the proposed MOU and implement additional water accounting measures when CDPH approves the Oaks well as a water source. With that modification, California American Water supports staff's recommendation.

Best Regards,



Tim Miller  
Corporate Counsel

att.

cc: Wendy Strimling, Esq.

<b>Project</b>	<b>Estimated Capital Cost</b>	<b>O&amp;M Costs</b>	<b>Revenue Requirement</b>	<b>Estimated Bill Impact for 10 Customers</b>
Construct Second Treatment Plant	\$ 443,900.00	\$ 52,900.00	\$ 116,314.29	\$ 969.29
Piped Supply From Salinas	\$ 2,695,550.00	\$ 219.79	\$ 385,078.57	\$ 3,428.78
Second Well	\$ 673,340.00	\$ -	\$ 96,191.43	\$ 801.60
Stand Alone Fire Flow Improvements	\$ 1,285,000.00	\$ -	\$ 183,571.43	\$ 1,529.76

<b>Treatment Plant Capital Cost</b>	
Treatment System (minimum) <sup>1</sup>	
Filter System	\$ 130,000.00
Mobilization/Demobilization	\$ 10,000.00
Labor	\$ 20,000.00
Well to Plant Piping	\$ 10,000.00
Electrical	\$ 10,000.00
Mechanical	\$ 10,000.00
Design	\$ 10,000.00
Inspection	\$ 20,000.00
SCADA	\$ 10,000.00
Contingency	\$ 69,000.00
Project Management	\$ 29,900.00
Treatment System Subtotal	\$ 328,900.00
Hydroneumatic Tank	\$ 100,000.00
Property Acquisition - Treatment Plant	TBD
Plant to Distribution System Piping	\$ 15,000.00
Treatment Plant Capital Cost <sup>2</sup>	\$ 443,900.00
First Year Revenue Requirement	\$ 63,414.29
Per Month Per Lot Capital Surcharge	\$ 528.45

<b>Annualized Treatment Plant O&amp;M Costs</b>	
Filter Media Replacement (once per year) <sup>3</sup>	\$ 13,000.00
Labor (T2 operator, 1 hr/day, 365 days)	\$ 33,600.00
Treatment Chemicals (2,400 lbs/month)	\$ 6,000.00
Electricity (plant only, 250 kwh/mo, \$0.10/kwh)	\$ 300.00
Annualized Treatment Plant O&M Costs	\$ 52,900.00
Monthly Rates for O&M	\$ 440.83

**Monthly Bill Impact** **\$ 969.29**

1. Assumes use of titanium dioxide treatment media. Depending on the silica concentrations in the groundwater, a titanium dioxide system may not be feasible because the titanium dioxide system treats silica the same as arsenic, requiring frequent media changes, raising O&M costs to the point of infeasibility. If titanium dioxide is not feasible due to silica, a coagulation system will be required at approximately 3 times the capital cost, in addition to creating a "sludge" waste stream, an additional O&M cost.

2. Excludes property acquisition costs.

3. Depending on water quality, the actual schedule may be different.

<b>Fire Flow Improvements</b>	
Storage (140,000 gal. tank)	\$ 700,000.00
Plant to Tank Booster Station	\$ 185,000.00
Plant to Tank Pipeline	\$ 200,000.00
Tank to Distribution System Pipeline	\$ 200,000.00
Property Acquisition - Tank Site	TBD
Fire Flow Capital Costs	\$ 1,285,000.00
First Year Revenue Requirement	\$ 183,571.43
Per Month Per Lot Capital Surcharge	\$ 1,529.76
<b>Monthly Bill Impact</b>	<b><u>\$ 1,529.76</u></b>

<b>California Water Service Pipeline Costs</b>	
<b>Pipeline Capital Costs</b>	
Pipe and Labor 6,800 lf @ \$200/ft)	\$ 1,360,000.00
Bridge Crossing at El Toro Creek (permits/construction)	\$ 204,000.00
Caltrans Permit /Traffic Control (Hwy 68)	\$ 136,000.00
Booster Station	\$ 185,000.00
Contingency	\$ 565,500.00
Project Management	\$ 245,050.00
<b>Total Capital Costs</b>	<b>\$ 2,695,550.00</b>
First Year Revenue Requirement	\$ 385,078.57
Per Month Per Lot Capital Surcharge	\$ 3,208.99

<b>Purchased Water Costs</b>	
Estimated Monthly Volumetric Charge/Lot <sup>1</sup>	\$ 207.05
Monthly Per Lot Meter Charge <sup>2</sup>	\$ 12.74
<b>Monthly Purchased Water Costs</b>	<b>\$ 219.79</b>

**Monthly Bill Impact (Surcharge plus Purchased Water) \$ 3,428.78**

1. Calculated by taking the average annual consumption of the existing Oaks lots, in 100 cubic feet multiplied by California Water Service's Non-Residential Metered Rate for Meters of 6" or less (1.9993/100 cubic feet) and divided by 12

2. Assumes 2" meter charge; this rate will need to be negotiated with California Water Service because California American Water will likely require a compound meter to address small volumes of water passing through the large pipes necessary to mitigate friction losses over long distances. California Water Service does not have a compound meter rate approved by the CPUC.



<b>Additional Well</b>	
Property acquisition	TBD
Surveying, engineering	\$ 20,000.00
Site development, grading, fencing	\$ 10,000.00
Well, 12 inch, 700 ft deep, ss casing	\$ 250,000.00
Pump, submersible, 400 gpm	\$ 15,000.00
Column piping (400 lf)	\$ 4,000.00
Interconnecting piping (500 lf)	\$ 100,000.00
On-Site Electrical, SCADA	\$ 100,000.00
Electrical Connection	\$ 15,000.00
Subtotal	\$ 514,000.00
Overhead	\$ 56,540.00
Contingency	\$ 102,800.00
Second Well Capital Costs	<u>\$ 673,340.00</u>
First Year Revenue Requirement	<u>\$ 96,191.43</u>
Per Lot Per Month Surcharge	<u>\$ 801.60</u>
<b>Monthly Bill Impact</b>	<b><u><u>\$ 801.60</u></u></b>