

**Before the Board of Supervisors of Monterey County  
In Its Capacity as the Board of Supervisors of  
the Monterey County Water Resources Agency  
County of Monterey, State of California**

**Resolution No. 11-003**

Resolution of the Board of Supervisors of Monterey County Water Resources Agency In Its Capacity as the Board of Supervisors of the Monterey County Water Resources Agency Adopting Findings and the Mitigation Monitoring and Reporting Plan, and Reaffirming Approval of the Regional Desalination Project, as Approved by the California Public Utilities Commission in Decision December 2, 2010..... )

**WHEREAS**, California American Water Company (“CAW”) is a public utility providing water service in California and is subject to regulation by the California Public Utilities Commission (“CPUC”);

**WHEREAS**, on September 20, 2004, CAW submitted an application, A.04-09-019, to the CPUC which, among other things, sought the issuance of a Certificate of Public Convenience and Necessity (“CPCN”) to construct and operate a desalination project, the Coastal Water Project, on the Monterey Peninsula;

**WHEREAS**, various local agencies that are involved in water resources management on the Monterey Peninsula, including Marina Coast Water District (“MCWD”) and Monterey County Water Resources Agency (“MCWRA”) and are not subject to the CPUC’s jurisdiction, have been active participants in the CPUC’s A.04-09-019 proceedings;

**WHEREAS**, the CPUC issued Decision No. 03-09-022, designating itself as the lead agency for environmental review of the Coastal Water Project under the California Environmental Quality Act (“CEQA”);

**WHEREAS**, during the environmental review process, the CPUC considered the Regional Desalination Project, which would address water demands in CAW’s service area as well as other areas of northern Monterey County and would incorporate agreements among CAW, MCWD, and MCWRA and between MCWD and MRWCPA;

**WHEREAS**, the Regional Desalination Project contemplates that MCWRA would construct, own, and operate a series of wells that would extract brackish water and a portion of the pipeline and appurtenant facilities (collectively, “Intake Facilities”) that would convey the brackish water to a desalination plant that would be owned and operated by MCWD;

**WHEREAS**, on December 17, 2009, the CPUC issued Decision No. 09-12-017, certifying a Final Environmental Impact Report (“Final EIR”) that analyzes the potential impacts of the Regional Desalination Project on the environment and confirming the CPUC’s role as the lead agency for the Coastal Water Project;

**WHEREAS**, on March 24, 2010, an addendum to the Final EIR (“Addendum”) was released, which responds to comment letters that had been inadvertently omitted from the Final EIR and includes an errata to the Final EIR;

**WHEREAS**, the Final EIR designates MCWRA as a responsible agency under CEQA;

**WHEREAS**, on November 5, 2009, the CPUC ordered that its A.04-09-019 proceedings be held in temporary abeyance so that the parties could devote their resources to settlement discussions;

**WHEREAS**, on April 6, 2010, the Board of Supervisors of Monterey County in its capacity as the Board of Supervisors of MCWRA adopted Resolution No. 10-091;

**WHEREAS**, through Resolution No. 10-091, MCWRA conditionally approved the Regional Desalination Project subject to final approval of the CPUC (“Conditional Project Approval”) and authorized execution of certain agreements, including a Settlement Agreement and Water Purchase Agreement, that proposed the means by which the CPUC proceedings could be settled and the Regional Desalination Project could be carried out;

**WHEREAS**, Resolution No. 10-091 explained that MCWRA intended to reaffirm its Conditional Project Approval and its adoption of Findings and mitigation measures following final approval of the Project by the CPUC;

**WHEREAS**, on April 7, 2010, certain parties to the CPUC proceedings, including CAW, MCWD, and MCWRA, filed a Motion to Approve Settlement and submitted executed agreements to the CPUC, including the Settlement Agreement and Water Purchase Agreement, which proposed settlement terms;

**WHEREAS**, on December 2, 2010, following a hearing and the submission of briefs regarding the proposed settlement, the CPUC issued Decision No. 10-12-016, which approves the Settlement Agreement and Implementing Agreements (including the Water Purchase Agreement), filed on April 7, 2010, and updated by the Settling Parties on August 31, 2010, and makes no material modifications to the referenced agreements;

**WHEREAS**, Decision No. 10-12-016 constitutes the lead agency’s approval of the Regional Desalination Project under CEQA;

**WHEREAS**, MCWRA discussed the certified Final EIR during its meetings on April 6, 2010 and December 14, 2010 and provided the opportunity for the public to give comments on the Final EIR during those meetings;

**WHEREAS**, the Board has determined that the Regional Desalination Project will result in the following benefits: (1) diversify and create a reliable drought-proof water supply; (2) protect the Seaside basin for long-term reliability; (3) address CAW's obligations to find alternative water sources to reduce diversions from the Carmel River; (4) protect listed species in the riparian and aquatic habitat below San Clemente Dam; (5) protect the local economy from the effects of an uncertain water supply; and (6) minimize water rate increases by creating a diversified water supply portfolio;

**WHEREAS**, MCWRA has made written findings for each significant effect associated with the Intake Facilities and prepared a Statement of Overriding Considerations, which explains that the benefits of the Regional Desalination Project outweigh any significant and unavoidable impacts on the environment;

**WHEREAS**, the Board wishes to approve the Findings, which includes the Statement of Overriding Considerations;

**WHEREAS**, the Board wishes to approve the Mitigation Monitoring and Reporting Plan, which includes all mitigation measures designed to substantially lessen or eliminate the adverse impact on the environment associated with construction and operation of the Intake Facilities, as well as a plan for reporting obligations and procedures by parties responsible for implementation of the mitigation measures;

**WHEREAS**, the Board has determined that the Regional Desalination Project comports with and advances MCWRA's duties under the Monterey County Water Resources Agency Act;

**WHEREAS**, the Board intends to reaffirm its Conditional Project Approval by approving the Regional Desalination Project, as approved by the CPUC in Decision No. 10-12-016;

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Board hereby certifies, pursuant to CEQA Guidelines §§ 15050(b) and 15096(f), that it has reviewed and considered the Final EIR as certified by the CPUC on December 17, 2009 in Decision D.09-12-017 and the Addendum that was released on March 24, 2010.
2. The Board hereby approves and adopts the Findings, which are incorporated herein, pursuant to CEQA Guidelines §§ 15091 and 15096(h).
3. The Board hereby approves and adopts the Mitigation Monitoring and Reporting Plan identified and attached to the Findings, pursuant to CEQA Guidelines § 15096(g).
4. The Board hereby approves the Regional Desalination Project, as approved by the CPUC in Decision No. 10-12-016.
5. The Board hereby directs staff to take all other actions that may be necessary to carry out this project approval, including, but not limited to, filing a Notice of

Determination regarding MCWRA's project approval with the Office of Planning and Research and the County Clerk for the County of Monterey **and limit staff's authority to take actions regarding financing; and direct staff to return with a financing plan with sufficient time to allow for an independent review by the financial advisor within three to four months.**

6. **Directed the County Administrative Officer to hire an independent financial advisor to review the Water Resources Agency and Marina Coast Financing Plans to ensure that the terms do not expose the taxpayers of Monterey County (other than the CalAm Ratepayers) to any liability or exposure to litigation.**

On motion of Supervisor Potter, seconded by Supervisor Calcagno the foregoing Resolution is adopted this 11<sup>th</sup> day of January 11, 2011, by the following vote:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker, Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 75 for the meeting on January 11, 2011.

Dated: January 21 2011

Gail T. Borkowski, Clerk of the Board of Supervisors  
County of Monterey, State of California

By Denise Hancock  
Deputy