

WATER/DJE/SNR/SBH:jlj*

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**WATER DIVISION
Water Advisory Branch**

**RESOLUTION NO. W-4131
February 18, 1999**

RESOLUTION

(RES. W-4131), CALIFORNIA-AMERICAN WATER COMPANY (CAL-AM), MONTEREY DIVISION. ORDER TO PAY TO THE PUBLIC UTILITIES COMMISSION (COMMISSION) FOR THE EXPECTED COST OF OUTSIDE CONSULTING SERVICES IN CONNECTION WITH THE LONG-TERM CONTINGENCY PLAN THAT CAL-AM WOULD PURSUE, IF THE NEW CARMEL RIVER DAM PROJECT DOES NOT GO FORWARD, AND TO SET UP A MEMORANDUM ACCOUNT TO ACCRUE SUCH PAYMENTS TO RECOVER IN RATES AFTER COMPLETION OF PLAN PURSUANT TO ASSEMBLY BILL 1182.

SUMMARY

AB 1182 requires the Commission, in consultation with Cal-Am, Department of Water Resources and other affected parties, to prepare a long-term contingency plan that Cal-Am would pursue if the proposed Carmel River Dam and Reservoir Project (CRDRP) does not go forward. To fulfill the legislative mandate the Commission expects to incur substantial costs for consulting services to evaluate and determine possible alternatives. Also, the Commission must assess the environmental impact for the selected alternatives. The total estimated cost of outside consulting services and assessing environmental impact is \$750,000. It is reasonable for Cal-Am to pay for such costs and to establish a memorandum account to accrue such costs so that they can be recovered through water rates later.

BACKGROUND

As a result of State Water Resources Control Board Order No. WR 95-10, Cal-Am must cease and desist from diverting approximately 10,730 acre-feet of water annually from the Carmel River or its underflow. Cal-Am has filed an application with the Commission that the present and future public convenience

and necessity require the company to construct and operate the 24,000 acre-foot CRDRP. After holding a public participation meeting and prehearing conference in Monterey on June 23, 1997, the Commission, in its Joint Ruling, determined that the issues regarding the application of Cal-Am fall into three broad categories: environmental, financial, and alternative water strategies. The Commission also found that the necessity to secure the Monterey Peninsula's water supply greatly predates the current crises, and that the company's Dam proposal is the latest of several projects that have received serious consideration. Further, the Commission recognized that some project or combination of projects must be chosen and completed, or long-term water rationing is likely to be unavoidable for this community. Decision (D.) 98-08-036, adopted by the Commission on August 6, 1998, requires Cal-Am to prepare a long-term contingency plan describing the program or combination of programs that the company would pursue if, for any reason, the new CRDRP does not go forward.

Because of both the long-standing difficulties in meeting the water needs of the Monterey Peninsula, and the present urgency to resolve those water needs, the Legislature passed AB 1182 on August 28, 1998, to ensure that an environmentally sound water source would be secured as quickly as possible in a responsible manner and to achieve closure of the water supply problem in the Monterey community. AB 1182 requires the Commission, in consultation with Cal-Am, the Department of Water Resources, and other affected parties, to prepare a long-term contingency plan (described in D.98-08-036), and to set forth the criteria that it uses in deciding upon the program or combination of programs included in the plan. To achieve these objectives, the Commission needs to consider both the dam proposed by Cal-Am, and a long-term contingency plan if the dam does not go forward.

DISCUSSION

The preparation of the long-term contingency plan and assessment of environmental impact requires substantial expertise in wide areas of water supply feasibility analysis and environmental science. A large number of different projects as well as combinations of projects that meet the water supply requirement must be evaluated. The needed expertise is not all available within the Commission Staff.

It will also take substantial time and effort to complete the work. The Commission has been contracting out environmental projects requiring specialized expertise. That situation applies here. The required outside consulting service is expected to cost about \$750,000.

The work required by AB 1182 is for the benefit of Cal-Am's ratepayers in its Monterey Division service area; therefore, these costs are part of the cost of service and only the Monterey Division ratepayers should pay for such costs. To recover these costs, Cal-Am should first establish a memorandum account to accumulate the payments to the Commission for reimbursement of the cost of consultants and should accrue interest on the balance at the 90-day commercial paper rate. Cal-Am should then be allowed to file an advice letter to recover the costs as soon as it makes payment to the Commission so that the interest is not accrued over a long time.

COMMENTS AND PROTESTS

The draft resolution of the Water Division in this matter was mailed on January 15, 1999 to the parties in accordance with Public Utilities (PU) Code Section 311(g)(1). Four comments were filed by February 8, 1999, the date on which comments were due: W.C. Woodworth, representing himself and Aquanet Systems; Alliance of Citizens with Water Alternatives (ACWA) and Lou Haddad; Cal-Am; and by the Monterey Peninsula Water Management District (MPWMD).

W.C. Woodworth: Mr. Woodworth generally directed his comments to what Plan B should consider and to the workshops held last year. He did not address the Plan B funding issue.

ACWA and Lou Haddad: They urged that the issue of pueblo water rights should continue to be examined by the Commission as an alternative. Both ACWA and Mr. Haddad expected that the funding for the Commission staff's cost for the Plan B analysis would be borne by the Commission's budget. They also question the estimated costs of \$750,000.

Cal-Am: The company believes that neither Cal-Am nor its ratepayers should be saddled with the costs of the Commission's contracting with outside environmental consultants. Cal-Am points out that it and its ratepayers have already incurred substantial expenses for the environmental assessment of the CRDRP and its alternatives. Cal-Am says it was led to believe, at public meetings in the spring and summer of 1998, while AB 1182 was pending

approval, that the funds for the Commission's environmental analysis would come from state sources, or from the Commission's Utilities Reimbursement Account. At a minimum, the Commission should tap these sources before requiring Cal-Am or its ratepayers to incur these expenses. Cal-Am also questions the estimate of \$750,000.

MPWMD: MPWMD's comments mirror the comments of Cal-Am. In addition, MPWMD believes it is unfair to require local ratepayers to pay the cost for additional analyses that may duplicate existing work. The District believes that the result of the long-term contingency plan and its analysis of emerging water supply technologies will provide a statewide benefit to both private and public and public water utilities.

DISCUSSION OF COMMENTS or ISSUES

1. Pueblo Water Rights: This issue has been presented to the Commission previously in other pleadings and will not be addressed in this resolution.
2. Cost Justification of the Consultants: The Staff of the Energy Division's Environmental Section and the Water Division, based on similar studies in the past, and with a margin for safety, estimated conservatively the total costs of an engineering and environmental study would cost \$750,000. If the costs are less than \$750,000, only the actual costs would be recovered from Cal-Am's ratepayers.
3. Who Should Pay: There is no question that Cal-Am's and its customers have paid for many studies related to water supply, and that Cal-Am's Monterey Division customers pay among the highest water rates in California. We have reviewed the history of AB 1182, and we agree that there may have been statements made that the proposal, if it became law, could be funded by a state budget appropriation. However, since the AB 1182 did not provide the needed funds, this resolution does so by setting up a memorandum account to be paid for by the Monterey Division customers of Cal-Am. We discuss below whether this burden should be shared by water ratepayers in other regions.
4. Equity Issues: The Commission in D. 98-08-036 (August 7, 1998), directed Cal-Am to file a long-term contingency plan. This was done before enactment of AB 1182. In order to comply with the Commission's order, Cal-Am would have had to incur similar costs as the Commission will now experience. It would be naive to assume that Cal-Am would "eat these costs" and not try to include them

as legitimate costs of the dam project. In any case, it would not be fair for the customers of the nearly 180 other regulated water companies to pay for the consultants out of the Utilities Reimbursement Account. This account is funded by a 1.4 percent of gross revenues collected from all the water companies to support all the water regulation of the Commission, not just Cal-Am's. In contrast, the study of alternatives to the CRDRP can have no benefit to ratepayers other than those in Cal-Am's Monterey Division. It is a basic ratemaking principle that those ratepayers benefiting from a program should bear the cost burdens of the program.

5. MPWMD asserts that the results of long-term contingency plan and its analysis of emerging water supply technologies will provide a benefit to both private and public water utilities. We agree that there may be some such benefits, but the unique circumstances that make water supply problems so difficult for the Monterey Peninsula also make it unlikely that the solution to those problems will have broad applicability. Cal-Am in its application for a new general rate increase filed in January of this year estimates that it will have 37,6000 customers. The \$750,000 spread over these 37,600 customers is just about \$20 per customer or about \$1.67 per customer per month for a year. We wish that there were no costs associated with the mandated studies, but there are, and they are rather large. We believe that these costs spread over all customers of Cal-Am's Monterey District are reasonable, and we shall so order.

FINDINGS

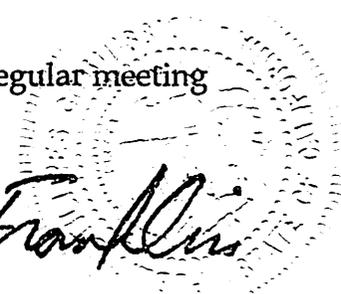
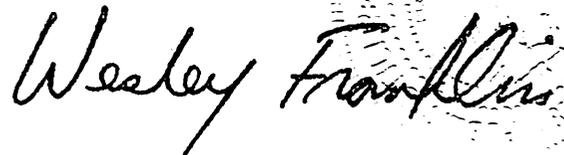
1. AB 1182 requires the Commission, in consultation with Cal-Am, the Department of Water Resources, and other affected interested parties, to prepare a prescribed long-term contingency plan that Cal-Am would pursue if CRDRP does not go forward.
2. The specialized engineering and environmental expertise required to perform this work is not all available in the Commission; therefore, it is necessary to hire outside consultants for this work.
3. It is estimated to cost approximately \$750,000 to use outside consultants needed to evaluate and to prepare the long-term contingency plan and perform related environmental assessments.
4. The consulting service required is for the benefit of the ratepayers in Cal-Am's Monterey Division. Therefore, the costs of consultants are reasonable expenses for ratemaking.

5. The protests of Woodworth, ACWA and Haddad, Cal-Am, and MPWMD are denied.
6. Cal-Am should establish a memorandum account for the consulting services. The account balance should accrue interest at the 90-day commercial paper rate.
7. Cal-Am should request to recover these costs through rates as soon as it makes payment to the Commission.

IT IS ORDERED that:

1. Cal-Am shall reimburse the Commission for the costs of consulting services for the preparation of the long-term contingency plan and environmental assessments for its Monterey Division.
2. Cal-Am is authorized to open a memorandum account to track the payments to the Commission for later recovery through rates and should accrue interest on the balance at the 90-day commercial paper rate.
3. Cal-Am is authorized to file an advice letter to recover the costs as soon as it makes full payment to the Commission.
4. This resolution is effective today.

I certify that this resolution is adopted by the Commission at its regular meeting on February 18, 1999. The following Commissioners approved it:



WESLEY M. FRANKLIN
Executive Director

RICHARD A. BILAS
President

HENRY M. DUQUE
JOSIAH L. NEEPER

Commissioners