



President Michael R. Peevey  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

SUBJECT: APPLICATION NO. 10-01-012

Dear President Peevey and Commissioners:

The League of Women Voters of the Monterey Peninsula strongly supports Application No. 10-01-012 and modification to the Proposed Decision by Administrative Law Judge (ALJ) Maribeth Bushey. Based on studies by the League in 1982 and 1995, we support protection of the natural environment in areas of both water origin and water use and reservation of stream flows for protection of fish, wildlife habitat, and the riparian environment. Specific to the proposed action, the League supports maintenance of a healthy riparian habitat along the Carmel River, including reasonable protection of the steelhead and efforts to secure a variety of water supply sources such as conservation, including saving “lost water” and reclamation. We strongly support the Monterey Peninsula Water Management District (MPWMD) as the primary agency responsible for managing water on the Peninsula.

Currently Cal-Am and MPWMD implement a cooperative program to mitigate environmental impacts resulting from water use on the Carmel River. Additionally, they operate the Aquifer Storage and Recovery program (ASR) that recovers water from the Carmel River during high flows and transports it to the Seaside Basin.

The Proposed Decision denies Cal-Am’s application to collect and remit a “user fee” for the MPWMD. The Proposed Decision would terminate the funding for fish, riparian, lagoon, hydrology, water supply and conservation programs that have protected the Peninsula’s primary source of water supply for years. It would terminate funding for ASR.

This Mitigation Program is required by the State Water Resources Control Board (SWRCB) and the federal Endangered Species Act. We do not believe there is a compelling reason to reject an all party settlement particularly in light of the order from the SWRCB. The Proposed Decision would significantly disrupt the Mitigation Program and would force Cal-Am to seek new methods for program implementation. Additionally, we question the authority of one State agency (CPUC) arbitrarily interfering with mandates of another State agency (SWRCB).

The Proposed Decision also fails to recognize that ASR is a component of the Regional Project which the Commission authorized in December 2010. ASR as described in the project description of the FEIR is implemented by Cal-Am and MPWMD. The Proposed Decision would redefine the Regional Project and undermine a program that was recognized in the May 7, 2009 Administrative Law Judge draft opinion as one of the few successful programs implemented to-

date to address water supply issues. That opinion credited MPWMD for its leadership in developing ASR.

The District has legislative authority to establish a special tax, and MPWMD followed correct procedures for establishing it. The District simply asked Cal-Am to include it on its bills and be the collection service. Based on CPUC “Guidelines for the Equitable Treatment of Revenue Producing Mechanisms Imposed by Local Government Entities on Public Utilities”, the Commission does not typically examine the authority of a local government to collect a fee or tax. Furthermore, the Proposed Decision fails to comply with its own precedent:

*This Commission does not dispute or seek to dispute the authority or right of any local government entity to impose or levy any form of tax or fee upon utility customers or the utility itself, which that local entity, as a matter of general law or judicial decision, has jurisdiction to impose, levy, or increase. Any issue related to such local authority is a matter for the Superior court, not this Commission (D.89-05-063).*

The Proposed Decision alleges that proposed fees are not justified when the record described in the decision speaks otherwise. The Proposed Decision seems punitive and would significantly undermine two programs that are critical to water management on the Monterey Peninsula. We urge you to reject the ALJ decision as proposed.

Sincerely,

Dennis Mar  
President

cc: CPUC Public Advisory

