

M E M O

TO: Board of Directors

FROM: District Manager

SUBJECT: CALIFORNIA AMERICAN WATER COMPANY  
SETTLEMENT AGREEMENT

DATE: May 30, 2008

**RECOMMENDATION:**

It is recommended that the Board of Directors review this memo and approve the attached resolution.

**BACKGROUND:**

Since 2002 the citizens of Felton have been engaged in a process to acquire local control of their investor owned water utility California American Water Company (Cal-Am). On February 8, 2007 at a special meeting of the Board of Directors of San Lorenzo Valley Water District, your Board approved Resolution No. 17 (06-07), Determining the Public Interest and Necessity for Acquisition of the Real Property and Business Enterprise Owned by California American Water Company Within It's Felton Service Area. This action was generally known as the Resolution of Necessity. On February 21, 2007 the District filed an eminent domain action in the Superior Court of the State of California for the County of Santa Cruz to acquire Cal-Am's Felton District.

Cal-Am vigorously contested the District's right to take their Felton District by eminent domain. One week prior to the right-to-take trial scheduled for March 17, 2008 Cal-Am waived all of its right-to-take defenses. In doing so, the only issue remaining to be resolved at the evaluation trial scheduled to commence on June 2, 2008 was the fair market value of Cal-Am's business and property.

The District's appraisal indicated that the fair market value of Cal-Am's business and property was \$7,600,000.00. The value of Cal-Am's business and property was broken down into "operating" and "non-operating" assets. Operating assets included all of the property, equipment, and facilities that made up the Felton water utility. Non-operating assets consisted of approximately 250 acres of water shed property. The District's fair market value of Cal-Am's was property was as follows:

|                      |   |                       |
|----------------------|---|-----------------------|
| Operating Assets     | = | \$5,355,000.00        |
| Non-Operating Assets | = | <u>\$2,245,000.00</u> |
| Grand Total          |   | \$7,600,000.00        |

Cal-Am's appraisal asserted that the fair market value of all of its Felton assets was \$25,635,000.00. Their figure breaks down as follows:

|                      |   |                       |
|----------------------|---|-----------------------|
| Operating Assets     | = | \$19,800,000.00       |
| Non-Operating Assets | = | <u>\$5,835,000.00</u> |
| Grand Total          |   | \$25,635,000.00       |

A private mediation session was agreed to by the District and Cal-Am in an attempt to resolve this matter prior to trial. The mediation session was conducted on May 27, 2008. At the conclusion of the mediation session both parties agreed to a Settlement Agreement with the following general terms:

1. The District will acquire all operating and non-operating assets of Cal-Am's Felton District.
2. The District will make a cash payment to Cal-Am in the sum of \$10,500,000.00.
3. The District will assume responsibility for the \$2,900,000.00 outstanding balance on the existing Kirley Street Treatment Plant Loan.
4. Cal-Am will donate to the District all of its non-operating assets, including the approximately 250 acres of watershed property.
5. The Felton Watershed property will contain a restriction on commercial timber harvesting and be retained solely for the purpose of water production and supply.

A copy of the complete Settlement Agreement is transmitted under separate cover.

The majority of the financial obligations relative to the proposed Settlement Agreement will be funded by Measure W. In July 2005 Felton voters approved an \$11,000,000.00 ballot initiative (Measure W) to provide funds for the proposed acquisition. Available net proceeds from Measure W are estimated at approximately \$9,000,000.00. Approval of the proposed Settlement Agreement would require the District to fund approximately \$1,500,000.00. Initially it is recommended that the District fund this amount from existing District reserves to complete the transaction.

**RECOMMENDATION:**

It is recommended that the Board of Directors review this memo and approve the attached resolution.

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James A. Mueller  
District Manager

JAM/bsb

SAN LORENZO VALLEY WATER DISTRICT

**RESOLUTION NO. xx (07-08)**

**SUBJECT: CALIFORNIA AMERICAN WATER COMPANY SETTLEMENT AGREEMENT**

WHEREAS, since 2002 the citizens of Felton have been seeking to obtain local control of their water system; and

WHEREAS, on February 21, 2007 the San Lorenzo Valley Water District filed an eminent domain action in the Superior Court of the State of California for the County of Santa Cruz to acquire the California American Water Company (Cal-Am) Felton District, (Case No. 156413); and

WHEREAS, a valuation trial to determine the fair market value of Cal-Am's Felton Water System was scheduled to commence on June 2, 2008; and

WHEREAS, a mediation session was agreed to by the District and Cal-Am in an attempt to avoid the valuation trail and resolve their matter; and

WHEREAS, at the conclusion of the mediation session both parties agreed to a Settlement Agreement; and

WHEREAS, the Settlement Agreement dated May 27, 2008, a copy of which by reference is incorporated herein, sets forth the terms and conditions of a binding settlement for all claims and defenses asserted in this case.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the San Lorenzo Valley Water District that the Settlement Agreement between the District and California American Water Company dated May 27, 2008 relative to Superior Court Case No. 156413 is hereby accepted and approved.

Further, be it resolved that the District Manager, and other authorized legal counsel for the District, are hereby authorized and directed to undertake all necessary required actions to effectuate said Settlement Agreement on behalf of the San Lorenzo Valley Water District.

\* \* \* \* \*

PASSED AND ADOPTED by the Board of Directors of the San Lorenzo Valley Water District, County of Santa Cruz, State of California, on the 5th day of June 2008, by the following vote of the members thereof:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

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Brandon Barchi, District Secretary  
San Lorenzo Valley Water District