

CAL AM ISSUES:

Keep water rates apart, judge says; PUC urged to reject Felton, Peninsula consolidation

Monterey Herald – 8/3/05

By Virginia Hennessey, staff writer

Monterey Peninsula residents should not have to subsidize the water rates of residents in Felton, an administrative law judge with the state utilities commission said Tuesday.

Judge James McVicar recommended the California Public Utilities Commission reject California American Water's application to consolidate rate structures of the company's Monterey and Felton districts, saying the consolidation was "not in the public interest" and "almost universally opposed by ratepayers in both districts who are its supposed beneficiaries."

McVicar's recommendation will go before the commission for a full vote in the fall. Kevin Tilden, Cal Am's vice president, said he expects the commission to closely follow McVicar's recommendations.

Consolidation would reduce Felton's rates but increase Monterey's by about 1.5 percent, on top of other large rate increases the company is seeking for its Peninsula customers.

"We get the revenue either way, whether (Felton) is lumped with another district or not," Tilden said. "We thought it was better for Felton ratepayers in the long term." Cal Am had not made much of a case for how the consolidation might benefit Peninsula ratepayers.

Cal Am originally proposed the consolidation as a means of reducing the "rate shock" of a 44.2 percent rate hike that was approved in Felton in 2002.

The sting would be lessened by spreading the rates of that small community in the Santa Cruz Mountains among the ratepayers in the larger Monterey district, the company argued.

Little support

The utilities commission initially rejected the idea, but ordered Cal Am to come back with a formal application for consolidation so merits of the idea could be fully studied.

In the meantime, McVicar wrote, "Whatever public support there may have been for consolidation with Monterey as a solution has now evaporated completely."

Monterey residents complain that they should not have to subsidize Felton, McVicar said, and Felton "is even more vigorous in its opposition," arguing that it wants nothing to do with Monterey's water woes or the potential costs of Cal Am's proposed desalination plant in Moss Landing.

In fact, an overwhelming majority of Felton residents want nothing to do with Cal Am. By a 3-1 margin last week, Felton's voters passed an \$11 million bond to finance a public takeover of the Cal Am system. Cal Am has made it clear the community will have to sue for condemnation and take the system through eminent domain, because it is not for sale.

McVicar said his decision did not take into consideration the community's desire to acquire Cal Am's system. He also did not leave the community unscathed.

When the utilities commission approved the 44.2 percent rate hike for Felton in 2002, it ordered the company to delay billing it to ratepayers there. Instead the rate increase has been accumulating while the consolidation issue was considered.

On Thursday, McVicar said the company should raise rates in Felton by 30 percent, leaving the remaining 14.2 percent of the increase to be folded into Cal Am's current rate application, which asks the commission to approve a rate increase of more than 100 percent for the mountain community.

FLOW goes with decision

Members of Felton Friends of Locally Owned Water (FLOW), who campaigned to take over Cal Am's Felton system, said they were happy with McVicar's decision and somewhat relieved that some of the accumulating rate increase would be billed before more interest builds up in the balancing account.

"I think we're really pleased with this decision," said FLOW member Larry Ford, who said the group's first steering committee meeting since the July 26 takeover vote would be held today.

"I think we'll congratulate ourselves but face down what our challenges are now," he said.

Ford said the group would continue to protest Cal Am's applications for additional rate hikes.

The Monterey Peninsula Water Management District was one of several agencies and groups that formally protested Cal Am's consolidation application. Dave Berger, general manager of the district, said McVicar's proposed decision was consistent with the district's position

"Our staff analysis was that the effect of that consolidation would be to create a \$6.5 million subsidy from the customers of Cal Am in Monterey to the customers in the Felton district over 15 years without any detectable benefit to the Monterey customers," he said.

Tilden pointed out that McVicar placed the blame for Felton's rate shock not on Cal Am, but on "long intervals between authorized increases" by Cal Am's predecessor, Citizens Utilities.

Tilden said that company had not applied for a rate increase since 1977 and Cal Am's current rate increases are needed to repair and update the neglected system there.

Tilden said Cal Am's consolidation application was in keeping with a statewide trend, favored by the utilities commission, to reduce utility costs by consolidating small districts.

Such consolidations at the commission are guided by four criteria. McVicar said Cal Am's application met only one criterion, and could actually increase Cal Am's costs in the two districts by forcing it to adopt a complicated accounting system to keep certain costs segregated.

"While there may be water district consolidations that offer substantial benefits and are in the public interest," McVicar wrote, "the record here shows that consolidating Felton with Monterey is not one of them."#

<http://www.montereyherald.com/mld/montereyherald/news/12291059.htm>

**DESALINATION PLANT IN THE WORKS:
Partnership formed for Moss Landing water facility
Contra Costa Times – 8/7/05
By Virginia Hennessey**

The developer of the country's largest desalination plant has entered into a management agreement with the Pajaro-Sunny Mesa Community Services District to build and manage a similar plant in Moss Landing.

Officials from Poseidon Resources Corp. reached agreement with the Pajaro-Sunny Mesa board of directors Wednesday night and said they hope California American Water, which has proposed a competing desalination plant in Moss Landing, will cooperate with the partners to develop a single plant to serve the region's needs.

Under terms of the agreement, Poseidon would operate the plant. Pajaro-Sunny Mesa, a public agency that has delivered water to North Monterey County residents for 25 years, would own it. The memorandum of understanding adds heat to the competition between Cal Am and Pajaro-Sunny Mesa.

Cal Am Vice President Kevin Tilden was stunned at the news.

"Interesting. All news to me," said Tilden. "You could blow me over with a feather."

Cal Am has proposed a plant on Duke Energy property but has no lease for the site and no public partner, as required by Monterey County ordinance. It has, however, completed initial environmental studies and filed applications for its pilot plant and the proposed project. The company maintains that the county ordinance on public ownership is illegal.

Pajaro-Sunny Mesa has a 99-year lease for its plant at the former National Refractories site and provides public ownership, but has not begun its environmental studies.

District counsel Marc del Piero said he was in discussions with Duke Energy to use water from its cooling system for desalination, rather than using the intake and outfall system at National Refractories, to avoid additional impact on the Monterey Bay.

In a letter addressed to Pajaro-Sunny Mesa General Manager Joe Rosa last month, David Gillespie, Duke's vice president, indicated Duke was "prepared to facilitate the development of a desalination project that has broad community support by engaging in discussions with developers like (Pajaro-Sunny Mesa) and others," but did not want to be in a position of favoring one project over another.

Cal Am officials have often criticized Pajaro-Sunny Mesa for lacking the "technical, managerial and financial" abilities necessary to develop and operate a plant that would deliver more than 20,000 acre-feet of water to the county each year.

Poseidon, a Delaware corporation headquartered in Stamford, Conn., owns and operates five desalination plants in Mexico, where it is the largest provider of water infrastructure.

It is also developing major desalination plants in Huntington Beach and Carlsbad. Its pilot plant in Carlsbad has been operating for more than two years while the company completes the environmental review process for a plant that will produce 56,000 acre-feet of desalted seawater per year, the largest such plant in the United States.

Poseidon's operation in San Diego County pulls water from the cooling system at the Carlsbad Power Plant.

The plant proposed by Pajaro-Sunny Mesa and Poseidon would produce up to 28,000 acre-feet annually, at a cost of from \$1,200 to \$1,300 per acre-foot, according to the agreement reached Wednesday.

Cal Am has projected the costs of its desalted water at from \$1,600 to \$1,800 per acre-foot.

The agreement reached Wednesday, which is to be followed by a more detailed management agreement in 150 days, says the project can provide water to Pajaro-Sunny Mesa's and Cal Am's service areas, Monterey Peninsula cities, unincorporated areas of the county and agricultural areas served by the Pajaro-Valley Water Management Agency in North Monterey County, which is severely impacted by seawater intrusion.

Del Piero stressed that the district's proposed project with Poseidon will produce water to replace historic and "nonpermitted" water use on the coast and in North County, not to facilitate growth.

North Monterey County has an overdraft of 11,000 acre-feet per year, he said. The Seaside Basin's overdraft was recently set at from 2,000 to 3,000 acre-feet annually. And 10 years ago, the State Water Resources Control Board ruled that Cal Am had no legal right to 10,730 acre-feet it was pumping from the Carmel River each year. The company has been ordered to find a new source for that water.

Those amounts total close to 25,000 acre-feet annually. If the county and local municipalities want additional water for future growth, del Piero said, "that's a decision that needs to be made by the cities and Cal Am."

Poseidon President Walter Winrow said his company has discussed potential partnerships with Cal Am in the past, and he hopes to work with it here.

Under the terms of Wednesday's agreement, Pajaro-Sunny Mesa and Poseidon "acknowledge that it is the intention of the parties to reach an agreement with the California American Water Co. ... in order to facilitate the development of a single desalination facility in the Moss Landing area."

Del Piero told the Pajaro-Sunny Mesa board Wednesday the project would likely be financed by bonds or certificates of participation. The district can also opt to have Poseidon provide financing.

Poseidon owns the project in Carlsbad and is contracting with cities there to provide water. That area faces a similar difficulty to that of the Monterey Peninsula in that it has been ordered to sharply reduce pumping from the Colorado River.

Peter MacLaggan, vice president of Poseidon, is in charge of the company's operations there. While operating its pilot plant, he said Wednesday, the company worked closely with the Scripps Institution of Oceanography to study impacts to the area's marine environment. Scripps' scientists, he said, found no significant impact.

While completing its environmental impact report, Poseidon has maintained operation of the plant for public education purposes, hosting school groups, local residents and politicians who are allowed to sample the water. MacLaggan said 98 percent of respondents in a taste survey said the water tasted as good as or better than their current water source.

In a test of the effect of the brine that is discharged into the ocean after the desalting process, the company's pilot plant includes fish tanks filled with local species swimming in water representing a "worst-case scenario" of ocean water after the plant's brine discharge. None of the fish have died, he said.

Winrow said Poseidon will similarly seek input from local marine scientists. He and MacLaggan met Wednesday with Kenneth Coale, director of Moss Landing Marine Laboratories, who said he looked forward to participating in the process and would provide to Poseidon a list of marine scientists throughout the Monterey Bay area. #
<http://www.contracostatimes.com/mld/cctimes/living/science/12324985.htm>

**MONTEREY SUPPLY ISSUES:
Still no new water source in Monterey Peninsula
Contra Costa Times – 8/7/05
By Virginia Hennessey**

"In California, whiskey is for drinking and water is for fighting over." --
Mark Twain

Twain could have been talking about the Monterey Peninsula.

Ten years ago last month, the state water board ordered California American Water to reduce pumping on the Carmel River and develop a new water source.

Now, tens of millions of dollars and two threatened species later, the Peninsula still has no new water source and Cal Am continues to pump 10,730 acre-feet beyond its legal limit from the river each year.

Why the lack of progress?

- Environmentalists allege greediness on the part of Cal Am and the Monterey Peninsula Water Management District, which was formed in 1978 in part to augment the drought-plagued water supply and has also failed in that mission. They say both pushed projects that provided water for growth beyond what the state Water Resources Control Board required in its order known as "95-10."
- Business and development interests blame a slow-growth majority that dominated the water district board until 2003.
- Cal Am and the water district point to voters, who turned down ballot measures to pay for a district-sponsored desalination plant in Sand City in 1993 and a New Los Padres Dam in 1995.
- And nearly all, including former Democratic Assemblyman Fred Keeley, cite a lack of political will, a sense of urgency on the part of the district, Cal Am and local politicians.

But the political environment is changing. The slow-growth majority on the water board was replaced and the new chairman is former Cal Am general manager Larry Foy.

Also, there appears to be a new group effort toward a regional desalination plant. Mayors from all Peninsula cities and Salinas, as well as representatives from various water agencies, met and agreed that a regional solution involving desalination is in order.

Still, there is controversy: a growing concern that the regional process has been conducted behind closed doors; the huge cost of a desalination plant; and disputes between Cal Am and North County's Pajaro-Sunny Mesa Community Services district over their competing proposals to build the desalination plant, which could include enough water for growth. Any of those could be enough to unleash a public backlash.

Interestingly, no one is blaming the State Water Resources Control Board for failing to enforce 95-10.

Victoria Whitney, chief of the board's water rights division, said her office has done a good job monitoring Cal Am's progress toward a new water source. She declined to say whether Cal Am has been diligent and its delays legitimate.

"At this point, we haven't received inquiries from anybody regarding doing anything other than what we've been doing," she said.

Translation: There has been no public outcry to the state board.

Under state law, anyone pumping surface water, or water in a defined streambed, must have a permit. For hundreds of years, Cal Am and its predecessors pumped from wells in Carmel Valley. They assumed it was groundwater, which is free to property owners "overlying" the source.

In July 1987, the Carmel River Steelhead Association filed a complaint with the state water board alleging that Cal Am's diversions from the river were unauthorized and were destroying the river ecosystem. Complaints from the Sierra Club, the Residents Water Committee and the state Department of Parks and Recreation followed.

On July 6, 1995, the state board ruled that Cal Am was pumping water from a subterranean stream associated with the river and, therefore, subject to state jurisdiction. The board ruled that Cal Am had no "valid basis of right" to 10,730 feet of the 14,106 acre-feet it had been pumping annually.

It ordered Cal Am to limit pumping to its rightful 3,376 acre-feet, maximize pumping from the Seaside Basin and to develop a new water source.

Recognizing that the river was the Peninsula's major water source, the board has allowed Cal Am to continue pumping 11,285 acre-feet a year from the river while it looks for a new source.

The ruling was stunning. There is no other water system in the state that has suddenly lost its prime source of water, Steve Leonard, Cal Am's general manager, said. In any other district, he said, ratepayers and water purveyors would choke at an order to reduce consumption by 20 percent, let alone the 76 percent represented by the 3,376 acre-foot lawful limit.

Voters apparently were not impressed. A few suspected that 95-10 was a backdoor collusion between the state and the water district to convince voters to support the district's New Los Padres Dam, which called for a 24,000-acre-foot reservoir providing water for growth.

Four months after 95-10 was issued in 1995, voters turned down the ballot measure that would have funded the dam, saying it was too costly and provided for too much growth.

Later that month, Cal Am conducted its first survey to gauge public sentiment for a dam that it would initially finance.

In November 1996, Cal Am filed its application for the Carmel River Dam, structurally the same dam as the New Los Padres, also holding back 24,000 acre-feet. Cal Am said the dam included no water for growth, that excess water would have been returned to the river for habitat and used for firefighting purposes.

Water activist David Dilworth doesn't buy into Cal Am's contention.

"That 'no growth' element could have been removed by a simple 4-3 vote on the board of the water district," he said.

It was two river animals that, for all intents and purposes, put an end to the notion of further harnessing the river. In 1996 and 1997, the federal government declared the red-legged frog and the steelhead trout as threatened species under the Endangered Species Act.

As a result, Cal Am and its ratepayers spend thousands of dollars each year on mitigation efforts, though the company has not altered its river pumping. Time may be running out. Eight years after the endangered listings, the National Marine Fisheries Service sent Cal Am a letter demanding that it mitigate its illegal "take of tens of thousands of federally listed ... steelhead every year" or face a potential \$330 million in fines annually.

If the species declarations closed the lid on a new dam, Assemblyman Fred Keeley, a dam opponent, hammered it shut. In 1998, he introduced legislation that would require the California Public Utilities Commission to develop an alternative to a dam, also known as Plan B. The bill was signed into law by Gov. Pete Wilson.

Four years and hundreds of public meetings later, the utilities commission completed Plan B. It called for a desalination plant in Moss Landing, supplemented by injection of excess winter runs from the Carmel River into the Seaside Basin aquifer, also known as aquifer storage and recovery.

After spending more than \$4 million on its dam plan -- money for which it is now asking ratepayer reimbursement -- Cal Am embraced Plan B and began pursuing its Moss Landing desalination project in February 2003.

The delay in development of Plan B is cited by some as a key reason why the Peninsula is still waiting for a water project.

"My inclination would be to blame Fred Keeley," said Bob McKenzie, a political consultant who often represents private companies on water issues. He also participated in the public process to develop Plan B.

"It started out as a good idea, but after four or five meetings, Fred reluctantly told us he couldn't go along with what we'd agreed to, which was to augment the water supply (for growth). That's when the language of 95-10 slipped into Plan B."

Keeley denied that, saying the intention was clear from the outset that the purpose of Plan B was to comply with 95-10.

"It is clear a dam on the Carmel River is never going to be built. Plan B can be permitted, Plan B can be approved, it can be paid for, the capital formation can happen," he said. "It will be every bit as expensive as the dam, but the dam can't be built."

What's needed now, he said, is the political will to make it happen. While local politicians are signaling a consensus on a regional desalination plant, a full-scale power struggle has broken out over who will control the water.

"It's absolutely about power and who is controlling the water source," said Keeley, who is now the assessor and tax collector for Santa Cruz County. Many, inside the water bureaucracy and outside, blame voters.

While "Cal Am can't find its you-know-what with both hands," said McKenzie, Peninsula residents and politicians have never found a water issue they can't debate until they are blue in the face.

Said Foy, water board chairman and Cal Am veteran: "It's like motherhood and apple pie. They always seem to be for any project until a dollar value is put in front of them. Then they don't vote for it."

Former Cal Am attorney Jan Driscoll, who now handles matters for the company as a private attorney in San Diego, said the vote on the district's New Los Padres Dam was bewildering.

"That was really something that nobody foresaw," she said. "It was astounding."

McKenzie said he was reminded of the Peninsula's uniqueness on a recent trip to Phoenix. In a local newspaper, he saw a story about how the city was going to address current and future water needs by building a 22-mile pipeline that could carry 360 million gallons of water a day to the city's limits from Lake Pleasant and the Central Arizona Project "I kept reading to hear when were the public hearings and who did they talk to who opposed this, and it wasn't there," he said. "They just decided, 'We need it, so we'll start tomorrow.'"

Environmentalists such as Molly Erickson, former chairwoman of the water district board of directors, say voters would approve a project if it provided water only to comply with 95-10. Erickson is a staunch supporter of the district pursuing a small desalination plant in Sand City and supplementing it with the aquifer injection program to meet demands of 95-10.

"The community has never had a project put forward that it could support," she said. "You have to give the voters the opportunity to solve the river issue, then ask them if they want growth."

Leonard, Cal Am's general manager, said it may be naive to assume that meeting the mandates of 95-10 will forever solve the Peninsula's problems.

"Ninety-five-10 also says 'Go use the Seaside basin.'" he said. "Well, our study and the district's study show that canteen is slowly receding."

The Cal Am chief said he's focusing on the future rather than where to place blame for past mistakes.

"... I guess it's 'shame on all of us' for not getting it done," he said. "This problem is not getting smaller. Whether it's our project or some other project, there needs to be some leadership shown and forward motion made."

Foy, Leonard's predecessor and water board chairman, said consensus on the regional desalination plant provides a historic opportunity for the region.

"It's the first time we've seen the stars politically aligned," he said. "If we don't take advantage, this may pass and it'll take a long time before we see it again." #

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