

## Agenda Info Item 7505

### MONTEREY WATER ISSUES:

No alternative water source in 10 years?; Cal Am still pumping Carmel River beyond the legal limit

Monterey Herald – 7/3/05

By Virginia Hennessey, staff writer

"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 this week, 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.

That's 10,730 football fields, lined up end zone to end zone, covered 1 foot deep in water.

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.

New group effort

Also, there appears to be a new group effort toward a regional desalination plant. Mayors from

### Agenda Info Item 7505

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.

### The steelhead issue

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 its 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.

## Agenda Info Item 7505

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.

Ubiquitous 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.

### Fish and frogs

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 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

### Agenda Info Item 7505

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.

What about the voters?

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

### Agenda Info Item 7505

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.

"95-10 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

Agenda Info Item 7505

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." #

<http://www.montereyherald.com/mld/montereyherald/news/local/12047660.htm>

## **CAL AM ISSUES:**

**Agency: Cal Am should cut rates; Ratepayers shouldn't shoulder costs for failed dam, says PUC**

**Monterey Herald – 7/6/05**

**By Joe Livernois, staff writer**

California American Water's request for a rate increase of nearly 50 percent would turn into a 6 percent decrease if an arm of the state Public Utilities Commission has its way.

The PUC's Office of Ratepayer Advocates is recommending that much of the rate increase should be denied because the company is attempting to charge customers some \$4 million for the unsuccessful attempt to add a dam to the Carmel River, an idea rejected by area voters.

"Commission policy holds that shareholders properly bear the risk of abandoned projects," according to a massive report from the Office of Ratepayer Advocates. Ratepayers "still should not be liable for any of Cal Am's preliminary costs on this project because Cal Am failed to exercise reasonable managerial skills."

The advocacy office also told the Public Utilities Commission that Monterey Peninsula water customers should not yet be forced to pay for Cal Am's efforts to retrofit an existing dam on the river, the San Clemente Dam. That proposed \$45 million project would fix a reservoir that is neither in use nor useful, said Dan Sanchez, a branch manager for the Office of Ratepayer Advocates.

ORA is an independent division of the PUC, created to investigate utility proposals on behalf of consumers. Its report comes as the commission prepares to start deliberations on Cal Am's proposed 46 percent price increase over the next three years.

In ORA's view, Cal Am rates should go down instead of up. The agency said that could be done by eliminating the Carmel Dam costs and other high-priced items and reducing administrative costs.

Later this month, the PUC will begin settlement meetings with Cal Am in an effort to negotiate new rates. Public hearings are tentatively scheduled to begin July 27.

### **Cost of construction**

A Cal Am official said he was "not surprised" by ORA's recommendations.

"We put our best case forward and it is their job to pick it apart," said Kevin Tilden, vice president for external affairs at Cal Am. "The average ratepayer should feel real good about the process and how it works."

Tilden said Cal Am believes the cost of planning a new Carmel River dam was "appropriate and we should be reimbursed for them."

Cal Am's application for rate increases during the next three years initially sought to raise water bills by more than 100 percent. But an administrative law judge earlier this year ruled that it was too early to allow the company to start collecting costs of developing its proposed Moss Landing desalination plant. The judge said the company should instead return to the PUC for cost recovery after it firms up its desalination plans. A detailed environmental review on those plans is expected to be released within days.

Elimination of the desalination costs reduced the Cal Am proposal significantly, but ORA takes Cal Am to task for other costs it wants to pass on to its customers.

"Ratepayers are frustrated and angry to continually be billed for projects that never materialize," according to the ORA report.

The report also states Cal Am pursued a new Carmel River dam even after voters rejected a similar proposal submitted to voters 10 years ago.

"Cal Am should have known that its proposal was highly unlikely to be approved, but nevertheless proceeded to incur costs" for the dam, according to ORA.

"Cal Am's management and board of directors made the decision to take on this project instead of pursuing another alternative. Asking captive Cal Am ratepayers to cover the costs incurred on a project they didn't want and had



already paid for once is unacceptable. Shareholders properly bear the risk for utility projects and are compensated for taking on this risk in the company's rate of return."

In regard to a retrofit of the San Clemente Dam, ORA suggested Cal Am keep track of the money it spends on the project and return to the PUC later to recover its costs.

"At this time, the... project scope has not been defined and ratepayers will not be placed at risk prematurely for a project where ratepayers will receive no benefits."

### **Recovery of costs**

In addition to its request to recover basic operating costs typical in most rate applications to the PUC, Cal Am's rate application this year includes 16 different "special requests" to include recovery of miscellaneous costs, including its dam expenses.

"I don't think I've seen such a complicated rate case," Sanchez said.

Cal Am is separately seeking permission from the PUC to consolidate its Monterey division operations with a system it operates in Felton, a mountain community northeast of Santa Cruz.

Residents in Felton are voting on a proposal to replace Cal Am with a publicly owned water agency.

The Monterey Peninsula Water Management District board is pursuing a ballot measure to ask Peninsula residents if they are willing to finance a study of a similar action locally.

For information about the state Office of Ratepayer Advocates, go to:

[www.ora.ca.gov](http://www.ora.ca.gov). #

<http://www.montereyherald.com/mld/montereyherald/12065034.htm>

# Mañana Woods to Seek Annexation

by Annie Luxmore

**A**fter suffering through two episodes of water contamination and years of litigation against four major oil companies, the Mañana Woods Mutual Water Company may soon dissolve. The decision is currently pending LAFCO (Local Agency Formation Commission) approval, and the San Lorenzo Valley Water District is in a pre-planning effort aimed at connecting homes in Mañana Woods to District lines.

The San Lorenzo District is an independent government agency managed by an elected board of directors.

The District entered into an agreement with the residents of Mañana Woods, a 115-home community outside of Scotts Valley, and several oil companies

— including BP, Shell, Conoco Phillips and Chevron — to take over water service for the residents.

The gasoline additive MTBE was found in the Mañana Woods Well in 1998, just six years after the cleanup of a benzene infiltration.

While the residents quickly installed a temporary granulated activated carbon filtration (GAC) system, a more modern and efficient \$2 million plant, paid for by the oil companies, recently came online.

As part of the settlement of the state and federal litigation, the oil companies will cover the cost of connecting Mañana Woods to the San Lorenzo Valley Water District system.

"We felt that it was really difficult, especially having the contamination, to really keep going," said Sue Roth, President of the

Mañana Woods Mutual Water Company. "It's a huge job for normal citizens to operate."

## A Reliable Supply

According to Roth, Mañana Woods chose the San Lorenzo Valley District, rather than the Scotts Valley District, because of their ample water supply. Residents will continue to receive water from their existing well; however, water will be available from the San Lorenzo distribution system should Mañana's current well ever fail for any reason.

"Scotts Valley only has one source of water, the Santa Margarita aquifer," said Roth. "The San Lorenzo Valley has groundwater, spring water and Loch Lomond."

The decision is also part of the settlement agreement. The Central Coast Regional Water

Quality Board requires the continued pumping of the Mañana Woods well at a minimum rate of 250 gallons per minute.

This provision assures that any contamination in the aquifer doesn't drift to another area of the aquifer and be inadvertently pumped by another agency and distributed without the necessary treatment.

## Connection May Take More than Six Months

The San Lorenzo District has sent an application to LAFCO to expand its borders to include Mañana Woods. According to Mueller, LAFCO has yet to process their application.

"We won't hear for four to six months and then there will be a 30-day to 60-day appeal period," he said. "Following LAFCO's approval, the Mañana Woods residents will hold an internal vote

and then San Lorenzo moves in."

Mueller said he is reasonably confident that LAFCO will approve the annexation.

"We do expect that to go through," Mueller said.

Built into the agreement is a 60 to 90-day transition period, where the District will prepare to take over service.

Besides running new distribution lines, the District will install meters at homes that don't have them. Currently, residents all pay one flat fee. After they join the District, payment will be based on metered water use.

The entire process will likely not be complete until January.

"We are really looking forward to this," said Roth. "And what I really want to stress is that there is no financial impact on the San Lorenzo Valley Water District — the oil companies will be picking up the cost." □

**DESALINATION PLANT LOCATION ALTERNATIVE:  
Marina site makes desal option list; One Cal Am alternative  
would be near wastewater plant  
Monterey Herald – 7/13/05  
By Virginia Hennessey, staff writer**

As an alternative to Moss Landing, California American Water is giving at least some thought to building its proposed desalination plant near the wastewater treatment plant north of Marina.

The previously undisclosed Marina option is one of six potential approaches Cal Am will unveil when it files its "proponent's environmental assessment" with the state Public Utilities Commission on Thursday. That filing will activate Cal Am's application to build a desalination plant to meet the state's mandate that it reduce pumping of the Carmel River.

Until now, the water company had focused almost exclusively on Moss Landing property owned by Duke Energy, adjoining Duke's power plant.

The company's principal proposal involves using Duke's seawater intake and outfall valves from its cooling system and providing 11,730 acre-feet of desalted water annually. With the exception of 1,000 acre-feet to replenish the Seaside Basin aquifer, the water would be just enough to replace the water that Cal Am has been pumping without legal authority from the Carmel River.

Cal Am General Manager Steve Leonard and consultant Guy Phillips said Tuesday that the first alternative proposal is a larger regional desalination plant at the same location in Moss Landing, providing water for the needs of North Monterey County, Castroville, Salinas, Fort Ord and the Peninsula. Environmental studies to be released Thursday apply to this larger alternative.

The second alternative, Phillips said, would build the smaller plant at the Moss Landing site, but instead of using a 30-inch pipe to deliver water to the Peninsula, it would use a 36-inch pipe to facilitate future expansion in case other jurisdictions opt to buy into the operation.

The third and fourth alternatives involve the use of "horizontal directional drilling," which pulls water from beneath the sand of the seafloor or beach rather than pumping seawater directly through an intake valve.

One of those alternatives would place the plant at the same location in Moss Landing, but the water would be pumped from an undersea location off the Marina coast and piped to the plant for desalination. The resulting brine would be returned to the ocean through Duke's outfall.

The other horizontal drilling option would place the plant on vacant land west of the Monterey Regional Water Pollution Control Agency's wastewater treatment plant north of Marina. Phillips said a specific site on the sprawling Armstrong Ranch property has not been identified.

Water for this option would be taken from the seafloor off the Marina coast. The brine would then be pumped to Duke for outfall.

Leonard said Cal Am discussed the possibility of using the nearby wastewater treatment plant's outfall to the bay, but the pollution control district wanted to retain its entire capacity.

"It seems logical," to use the wastewater outfall, Leonard said. "But this is Monterey County. You've never heard 'water' and 'it makes a lot of sense' used in the same sentence here."

Keith Israel, general manager of the pollution control district, said discussions with Cal Am were very preliminary. He said the district wants to retain its outfall capacity, "because you never know what will happen in the future."

The sewage-treatment district has discussed partnerships with Peninsula water agencies for increased use of recycled water for irrigation purposes and possibly, after additional treatment, for injection into the Seaside Basin.

Cal Am's fifth option, required for review by state law, is to do nothing, an unrealistic option given the state's order that Cal Am reduce Carmel River pumping by 10,730 acre-feet per year and the National Marine Fisheries Service's mandate that the company stop having disturbing endangered species on the river.

Cal Am did not include the former National Refractories site in Moss Landing as an alternative site, Leonard said.

While the company and Monterey County once identified the spot as a preferred site for desalination, "the plant never lived up to the promise it had," Leonard said.

The location was leased in 2004 by the Pajaro-Sunny Mesa Community Services District, which has proposed a competing desalination plant at the site.

Leonard said the desalination options involving horizontal directional drilling are not on the top of Cal Am's alternatives list because the technology carries risks. The process has been used successfully in the oil business, but has never been used for undersea wells for desalination.

The technology application is being studied in Long Beach, however, and "the jury might come in and look at it as a positive alternative as we move forward," he said.

Horizontal directional drilling is a costlier process, but is favored by some environmentalists because it reduces damage to marine life. Use of well water also reduces pretreatment costs, Leonard said, "because you don't have things swimming around in it."

Locating desalination plants next to power plants, however, carries the benefit of potential energy-cost savings. #

<http://www.montereyherald.com/mld/montereyherald/12121298.htm>