



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Monterey Bay National Marine Sanctuary
99 Pacific Street, Bld. 455
Monterey, California 93940

June 30, 2015

Andrew Barnsdale
California Public Utilities Commission
c/o Environmental Science Associates
550 Kearny Street, Suite 800
San Francisco, CA 94108

Subject: Comments on the Draft Environmental Impact Report Prepared by the California Public Utilities Commission for the Monterey Peninsula Water Supply Project

Dear Mr. Barnsdale:

NOAA's Monterey Bay National Marine Sanctuary (MBNMS) staff have reviewed the Draft Environmental Impact Report (DEIR) prepared by the California Public Utilities Commission (CPUC) pursuant to the California Environmental Quality Act (CEQA) to analyze the potential environmental impacts of the Monterey Peninsula Water Supply Project as proposed by the California American Water Company (CalAm) and dated April 2015.

The California-American Water Company (CalAm) is proposing the Monterey Peninsula Water Supply Project (MPWSP) for the purpose of developing replacement water supplies for CalAm's Monterey District service area. The MPWSP would consist of several components: a seawater intake system composed of 10 slant wells; a 10,627 acre foot per year (AFY) (9.5 million gallons per day) reverse osmosis desalination plant; a brine discharge system; desalinated water storage and conveyance facilities including water conveyance pipelines and storage facilities; and an aquifer storage and recovery (ASR) system. The subsurface slant wells would be located in the City of Marina, in the active mining area of the CEMEX sand mining facility.

An Environmental Impact Statement (EIS) will be necessary to fully evaluate this project. MBNMS will be the federal lead agency under the National Environmental Policy Act (NEPA) on this project. Given this, the nature of our comments are multi-faceted. In summary, our office:

- 1) Recommends a streamlined approach to avoid public confusion, reduce duplication and ensure consistency of the environmental review of this proposed project by combining state and federal environmental documents for a final EIR/EIS, and
- 2) Identifies current deficiencies contained in the CEQA DEIR document, and
- 3) Highlights additional issues that will need to be evaluated via the federal NEPA process

First, in the interest of clarity and efficient review of this project, we urge CPUC to consider merging the state CEQA documents with the forthcoming federal NEPA Draft Environmental Impact Statement. Combining these two documents which describe and evaluate the environmental impacts from the proposed project would create one synthesized document that could cover the elements of both CEQA and NEPA. A joint document would ensure consistency and facilitate review and general understanding of the project reducing the burden placed upon the public by simplifying the time and effort that would be otherwise required for public review. Part of the intent of NEPA guidelines is to accommodate this State-Federal partnership when possible.

Second, with regard to the current CEQA DEIR document, MBNMS staff believe a number of changes need to be made to the Environmental Impact Report. These specific comments, attached herein under

the heading: *Attachment A- CEQA Deficiencies*, are meant to bolster the document and highlight remaining voids and aid in production of the Draft EIS.

Lastly, we have identified an initial list of subject areas and other information needed to comply with NOAA's requirements under NEPA (see '*Attachment B – NEPA Issues Needing Evaluation in Upcoming DEIS*').

MBNMS staff fully anticipates coordinating closely with the CPUC on the upcoming environmental reviews. Should you have any questions related to our comments in this letter, please contact the MBNMS Resource Protection Coordinator, Ms. Karen Grimmer at (831) 647-4253.

Sincerely,



Paul Michel
Superintendent

Enclosure(s)

Attachment A – CEQA Deficiencies

Attachment B – NEPA Issues Needing Evaluation in Upcoming DEIS



Attachment A – CEQA Deficiencies.

- A subsection should be added to the introduction of Chapter 4 (Environmental Setting, Impacts, and Mitigation Measures), documenting which issues were not addressed in the EIR and justification for the significance determination. Examples of issues not covered include: Commercial and Recreational Fishing, and Marine Transportation.
- *Section 4.8, Land Use, Land Use Planning and Recreation* – Additional discussion is needed regarding offshore/nearshore and beach recreational uses, as well as access to MBNMS. At a minimum, relevant information from the Test Slant Well EA should be incorporated.
 - Table 4.8-1 should have a brief reference to MBNMS coastal recreational resources which is available in the Test Slant Well EA.
 - Impact 4.8-1 analysis should include some reference to coastal access and if there is no impact, please indicate that.
- There are tables in each issue area section of Chapter 4 (Environmental Setting, Impacts and Mitigation Measures) that outline applicable State, regional and local policies and regulations. Each table should be amended to add relevant federal policies, plans and regulations i.e. Endangered Species Act, Marine Mammal Protection Act, etc. Also, the regulatory framework subsections should be modified (e.g., marine resources) to accurately describe applicable federal regulations. Specifically:
 - Pg. 4.3-18, *State Marine Sanctuary Regulations*- Inaccurately describes the WQPP MOA in this section, please remove. Within this section is a sentence about MLPA. It should have its own section.
 - 4.5.2 Regulatory Framework – delete language about WQPP MOA and insert NMSA.
 - Pg. 4.17-3 incorrectly states that there are no federal regulations governing mineral and energy resources that apply to this project. The NMSA should be referenced here.
 - Pg. 7 -24 and pg. 7 -44, Section 7.6.1.3 Regulatory Considerations – refers to “NOAA Fisheries Monterey Bay National Marine Sanctuaries (MBNMS) authorization”. NOAA Fisheries is a distinctly separate branch of NOAA and has nothing to do with NMSA authorizations. Please delete the reference to NOAA Fisheries.
- *Marine Resources Section 4.5* –
Section 4.5.1.3 states that consideration of special status species is given only to those with moderate or high probability of occurrence in the study area. We request consideration be given to ALL special status species that may occur in the study area. (Table 4.5-1 lists Low to High potential for occurrence within study area)
Please add the following Special Status Species to Table 4.5-1 and associated narrative (from the CalAm Water Slant Test Well Project EA):
 - Marine Mammals:
 - Killer whale (*Orcinus orca*) – Federally endangered
 - Short-finned pilot whale (*Globicephala macrorhynchus*) – Not listed
 - Baird’s beaked whale (*Berardius bairdii*) – Not listed
 - Beaked whales (*Mesoplodon spp.*) – Not listed
 - Cuvier’s beaked whale (*Ziphius cavirostris*) – Not listed
 - Northern elephant seal (*Mirounga angustirostris*) – State fully protected
 - Northern fur seal (*Callorhinus ursinus*) – Not listed, but considered vulnerable
 - Harbor porpoise (*Phocoena phocoena*, San Francisco-Russian River stock, Monterey Bay stock, and Morro Bay stock) – Not listed



Fish:

- River lamprey (*Lampetra ayresii*) – State species of special concern
- White sturgeon (*Acipenser transmontanus*) – Federally endangered
- Longfin smelt (*Spirinchus thaleichthys*) – State threatened
- Eulachon (*Thaleichthys pacificus*, Southern DPS) – Federally threatened and state species of special concern
- Cowcod (*Sebastes levis*) – Federal species of concern and considered overfished
- Bocaccio (*Sebastes paucispinis*) – Federal species of concern and considered overfished and state critically endangered
- Basking shark (*Cetorhinus maximus*, N. Pacific subpopulation) – State endangered

Invertebrates:

- Black abalone (*Haliotis cracherodii*) is a federally endangered marine invertebrate known to occur in MBNMS.

- Pg. 4.5-42 states that shear stress from brine discharge is “highly unlikely” but admitted that there will be some mortality or “lethal damage”. It is not quantified and yet determined to be less than significant with no mitigation based on similar discharge velocities modeled in a study (Foster et al, 2013) commissioned by the State Water Resources Control Board for the recent Ocean Plan amendment. We request that this impact be better described and quantified as to the types of larval organisms at risk and percent estimated mortality of the population.
- *Section 4.11*, We request that geochemical speciation modeling for the release of GHG from degassing be conducted to determine its true potential impact.
- *Chapter 5, Cumulative Impacts* – There are several issues related to the analysis that need to be clarified/strengthened:
 - Marine cumulative impacts need to be analyzed and documented, rather than dismissed on the basis of brine plumes from individual discharges not overlapping.
 - Marine cumulative impacts need to be analyzed using ETM and APF related to open ocean intake options and sheer stress mortality from brine discharges for all of Monterey Bay.
- *Chapter 6*, The “Variant” should be considered a full alternative and moved to Chapter 7 unless the reason can be better described.
 - How will comments received on the Pure Water Monterey DEIR (a major component of the Variant) be evaluated? There is significant concern from resource agencies regarding use of the source water from the Reclamation Ditch, Tembladero Slough and Blanco Drain. This must be resolved before the Variant can be a viable alternative.
- *Chapter 7*, Please update the alternatives analysis:
 - Intake options – there is an extensive discussion of seawater intake options, but appears to be missing discussion of the open water intake proposed by the People’s Moss Landing Project. The intake referenced as being People’s in Table 7-2 (Intake 5) is not the current People’s proposed project and is not consistent with the description of People’s provided on page 7-13.
 - Update Section 7.6.1.1 and page 7-25 regarding the recently approved Ocean Plan amendment.



Attachment B – NEPA Issues Needing Evaluation in Upcoming DEIS

- Socioeconomics – NOAA NEPA guidance states that effects to be studied include economic, social, or health impacts. This section may be broadened to add tourism, research and education activities.
- Environmental Justice – Under NEPA, this includes EO 12898, Minority and Low-Income Populations, EO 13045, and Protection of Children from Environmental Health or Safety Risks.
- Commercial and Recreational Fishing, which could be affected by the brine discharge, must be addressed.
- Marine Transportation -- NEPA requires analysis of economic effects so evaluation of potential effects on marine transportation (commercial vessel traffic) would be required. In the event that there is no potential for impacts, this finding would need to be documented in the EIS.
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- Military & Homeland Security Uses - Potential interference with U.S. Coast Guard, U.S. Army, U.S. Air Force and U.S. Navy operations should be evaluated. In the event that there is no potential for impacts, this finding would need to be documented in the EIS.
- A subsection will be added titled “Effects found to be less than significant” and will document why certain issues were not addressed in the EIS.
- Other EIS requirements to comply with NOAA’s NEPA guidelines:
 - Letter to reviewer
 - “About this Document” (1 page)
 - Recommended Citation
 - Agency Consultation – new appendix to document consultation with other agencies and persons.
 - EIS Distribution List – new appendix
 - Index – new appendix
- Significance criteria – The DEIR uses generic criteria based on CEQA Guidelines Appendix G. MBNMS may use more specific, quantifiable criteria, similar to those used in other sanctuary EIR/EIS documents. Simply as an example, the MBARI cable EIR/EIS listed the following criteria for marine biology:
 - Any substantial loss or degradation to the functional habitat value...that cannot recover within 1 year of project completion;
 - Any substantial impedance of fish or wildlife migration or passage routes that lasts for more than 48 hours.
- Alternatives - NOAA NEPA guidance states that the alternatives analysis should include reasonable alternatives not within the jurisdiction of the lead agency; this may result in our inclusion in the DEIS of alternatives CPUC has left out of the DEIR.



- Some additional modifications and reorganization will be necessary to meet NOAA NEPA guidelines. Examples include:
 - Format
 - Additions to the Executive Summary, Chapters 1 and 3
 - Potentially including Chapter 6 as an Alternative in Chapter 7
 - Incorporation of test slant well water quality results
 - Other NEPA specific requirements

