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July 20, 2015

**Via U.S. Mail and Electronic Mail**

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**Via Electronic Mail Only**

Cynthia Walker, Deputy Director, CPUC Energy Division  
Email: [ciw@cpuc.ca.gov](mailto:ciw@cpuc.ca.gov)

**Re: Response to CPUC Extension of MPWSP DEIR Comment  
Period**

Dear Ms. Borak and Ms. Walker:

We are writing on behalf of California Unions for Reliable Energy ("CURE") in response to the CPUC's extension of the DEIR comment period for the Monterey Peninsula Water Supply Project ("MPWSP"). On July 1, 2015, we submitted an extensive comment letter, which discussed flaws in the DEIR. The CPUC then extended the deadline twice; the second time until September 30, 2015. The CPUC noted several reasons for the extension in a Notice to all Parties,<sup>1</sup> including a conflict of interest with Geosciences, CPUC's sub-contractor; public access to data, models, and assumptions used by Geosciences in its hydrogeology modeling work; and potential recirculation of the DEIR as a joint EIR/EIS.

For at least four reasons, the CPUC should withdraw the DEIR completely and recirculate a new document. For the Commission to have a legally valid EIR, it

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<sup>1</sup> [http://www.cpuc.ca.gov/Environment/info/esa/mpwsp/pdf/Cal-Am\\_Longer\\_150708.pdf](http://www.cpuc.ca.gov/Environment/info/esa/mpwsp/pdf/Cal-Am_Longer_150708.pdf).  
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must: (1) hire a new consultant to re-do the groundwater work performed by Geosciences; (2) correct the deficiencies we outlined in our July 1 comments on the DEIR; (3) develop a joint EIR/EIS with the NEPA lead agency that includes a detailed analysis of alternatives; and (4) include updated test slant well information in the EIR/EIS.

First, regarding the Geosciences conflict of interest, the CPUC stated in its Notice to all Parties that it is “considering options to independently evaluate the accuracy and credibility of that work, including but not limited to entering into a contract with a neutral third party to review that work; and/or opening up that work to review by the parties to this proceeding, or by the public at large.”<sup>2</sup> However, in order to adequately ensure that the groundwater work is free of any conflicts, the CPUC must completely withdraw the work performed in chapter 4.4 of the DEIR and have it re-done by a new consultant, rather than just having a third party or the public review the work. Using the Geosciences work, even if reviewed by a third party, would result in a fatally tainted EIR.

Second, we identified many deficiencies in our comments on the DEIR. The DEIR failed to include a complete, stable, and accurate project description because it failed to identify the MPWSP’s decommissioning phase and failed to describe important design aspects that are dependent on the test slant well results. The DEIR also failed to adequately establish the environmental setting for biological resources and hazards within MPWSP disturbance areas. In addition, the DEIR failed to adequately analyze and mitigate impacts related to ocean water quality, worker and public health, biological resources, air quality, other jurisdictional waters, and decommissioning activities. The DEIR proposed mitigation measures that are deferred, unenforceable, or otherwise inadequate. And finally, the DEIR failed to adequately analyze all feasible alternatives. These fatal flaws render the DEIR inadequate under CEQA and must be corrected in a revised and recirculated environmental document.

Third, Monterey Bay National Marine Sanctuary is the appropriate lead agency under NEPA. Both the NEPA regulations<sup>3</sup> and CEQA Guidelines<sup>4</sup> provide that the CPUC should prepare a joint EIR/EIS with the Sanctuary. Withdrawing the DEIR while a joint EIR/EIS is prepared would allow both agencies to develop

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<sup>2</sup> [http://www.cpuc.ca.gov/Environment/info/esa/mpwsp/pdf/Cal-Am\\_Longer\\_150708.pdf](http://www.cpuc.ca.gov/Environment/info/esa/mpwsp/pdf/Cal-Am_Longer_150708.pdf).

<sup>3</sup> 40 CFR 1506.2.

<sup>4</sup> CEQA Guidelines Sections 15222 and 15226.

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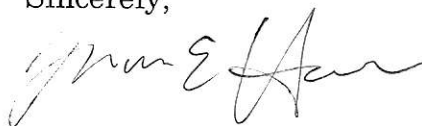
the required analysis of alternatives, which was lacking in the DEIR. These alternatives include the People's Moss Landing Water Desalination Project and the Monterey Bay Regional Water Project ("Deepwater"), which are both undergoing CEQA and NEPA review as well. Indeed, Deepwater is properly developing a joint EIR/EIS with the Sanctuary as the lead agency.<sup>5</sup> The CPUC should do the same for the MPWSP.

Fourth, withdrawing the DEIR would allow the CPUC to include new information in the EIR/EIS regarding the test slant well. According to a June 10 groundwater report from the Hydrogeologic Working Group, groundwater in the area near the test slant well dropped significantly in a short period of time.<sup>6</sup> In a July 3 letter to Cal-Am, the Coastal Commission determined that the water level decrease was caused in part by the pump test. The Coastal Commission required Cal-Am to stop further testing and submit an application for a permit amendment to allow restart of the test. This information should be included in the EIR/EIS, along with any other pertinent data from the test slant well that was not included in the DEIR, as we discussed in our DEIR comments.

The CPUC is in a precarious situation. The legally sound approach is to withdraw the DEIR. The CPUC should also continue to accept public comments on the specific questions discussed in the Notice to all Parties. The CPUC should then recirculate a joint EIR/EIS after resolving the issues discussed above, in order to comply with CEQA and NEPA.

Thank you for your consideration of this letter.

Sincerely,



Laura E. Horton

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<sup>5</sup> [http://www.soquelcreekwater.org/sites/default/files/documents/Reports/DWD\\_NOP-NOI%20June 2015\\_Final-1.pdf](http://www.soquelcreekwater.org/sites/default/files/documents/Reports/DWD_NOP-NOI%20June%202015_Final-1.pdf).

<sup>6</sup> [http://www.montereybaypartisan.com/wp-content/uploads/2015/06/ltr\\_HWG-CCC\\_10-Jun-15.pdf](http://www.montereybaypartisan.com/wp-content/uploads/2015/06/ltr_HWG-CCC_10-Jun-15.pdf).  
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