

# CHAPTER 1

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## Introduction and Background

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## 1.1 Introduction

The California American Water Company (CalAm) is proposing to construct and operate the Monterey Peninsula Water Supply Project (MPWSP, or proposed project) in the Monterey Bay area. CalAm is proposing the MPWSP to develop water supplies for CalAm's Monterey District service area (Monterey District). Part of the project's implementation includes obtaining permits and authorizations from various federal, state, regional, and local agencies. The California Public Utilities Commission (CPUC) is the lead State agency for the project. Given that a portion of the project is proposed to occur within Monterey Bay National Marine Sanctuary (MBNMS or Sanctuary), the National Oceanic and Atmospheric Administration's (NOAA's) MBNMS is considering authorizing MPWSP activities within MBNMS.

The California Environmental Quality Act (CEQA) requires that state, regional, and local agencies analyze and disclose potentially significant environmental effects for activities that involve governmental approval through the development of an Environmental Impact Report (EIR). The National Environmental Policy Act of 1969 (NEPA) requires that Federal agencies analyze and disclose the impacts of major Federal actions, including those projects regulated or approved by the agency, significantly affecting the quality of the human environment through an Environmental Impact Statement. This Environmental Impact Report and Environmental Impact Statement (EIR/EIS) has been prepared in accordance with CEQA (Cal. Pub. Res. Code §21000 et seq.) and the CEQA Guidelines (Cal. Code Regs., Tit. 20, Div. 6, Ch. 3, §15000 et seq.), and with NEPA (42 U.S.C. §4321 et seq.) and its implementing regulations (40 CFR Parts 1500-1508). For the purposes of this document, the CEQA lead agency for the MPWSP is the California Public Utilities Commission (CPUC); the NEPA lead agency is MBNMS.

This EIR/EIS has been prepared to analyze and disclose potentially significant environmental effects associated with the construction and operation of the MPWSP proposed by CalAm (also referred to throughout this document as the “proposed project”<sup>1</sup>). This EIR/EIS provides the primary source of environmental information for the lead, responsible, and trustee agencies to consider when exercising any permitting or approval authority related to implementation of CalAm’s proposed project or alternatives.

The MPWSP would involve the construction and operation of various facilities and improvements, including a subsurface seawater intake system, a desalination plant, desalinated water storage and conveyance facilities, and expanded Aquifer Storage and Recovery (ASR) facilities. See Chapter 3, Description of the Proposed Project, for a full description of the proposed facilities for the 9.6-million-gallon-per-day (mgd) desalination plant. CalAm’s application for the proposed project also includes an option that would meet all of the project objectives by combining a reduced-capacity desalination plant (6.4 mgd) with a water purchase agreement for 3,500 acre-feet per year (afy) of product water from another source, the Pure Water Monterey Groundwater Replenishment (GWR) Project. The CPUC does not consider this option a true alternative to the proposed project as defined under CEQA because consideration of this option would not be based on whether it would avoid or substantially lessen the environmental impacts of the proposed project (CEQA Guidelines §15126.6). Rather, it is a variation of CalAm’s proposed project, the implementation of which would be based on CalAm’s ability to secure water from the GWR project, instead of a comparison of the significant impacts of the 9.6 mgd option and the 6.4 mgd option. However, for ease of analysis, the 6.4 mgd option is described and analyzed in Chapter 5, Alternatives Screening and Analysis as Alternative 5. See Sections 5.4.7 and 5.4.8 in Chapter 5 for a full description of the proposed facilities for the 6.4 mgd option (with two intake options). The Monterey Regional Water Pollution Control Agency (MRWPCA) certified the Final EIR and approved the GWR Project in October 2015; the GWR Project is described in Section 4.1 of Chapter 4, Environmental Setting (Affected Environment), Impacts, and Mitigation Measures and is one of the projects included in the cumulative scenarios.

This EIR/EIS also evaluates a No Action/No Project alternative, alternatives with different seawater intake systems, and two additional complete desalination project alternatives being proposed by other entities. The analysis in Chapter 5 concludes that the proposed MPWSP is the environmentally superior/preferred alternative among the alternatives that produce at least 9.6 mgd of water; Alternative 5a combined with the GWR Project is the environmentally superior/preferred alternative if the GWR Project is able to produce water in a timely manner.

This chapter describes the roles of the lead agencies and provides the proposed project and proposed action’s objectives, the purpose and need for agency actions, background information on the proposed project’s setting, and an overview of the environmental review process and the decisions to be made on the proposed project and proposed action.

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<sup>1</sup> The term “proposed project” is used when referring to CalAm’s proposed MPWSP. This term is used when discussing impacts resulting from implementation of all federal, state, and local permits, approvals, and authorizations. The term “proposed action,” more commonly used in NEPA documents, refers specifically to MBNMS’ four federal proposed actions described in Section 1.3.2.

## 1.2 Lead Agency Roles

### 1.2.1 California Public Utilities Commission

The CPUC is a constitutionally established<sup>2</sup> state agency charged with regulating investor-owned utilities in the transportation, energy, communications, and water industries. The Commission<sup>3</sup> consists of five commissioners who are appointed for six-year terms by the Governor. The commissioners are served by an Executive Director and a staff of professional engineers, economists, policy and industry analysts, attorneys, and administrative law judges (ALJs). The CPUC provides regulatory oversight in the areas of purpose and need, economic cost, ratemaking, safety and reliability, and customer service, among others. The CPUC makes decisions by vote of its commissioners at regularly scheduled public business meetings. More information on the CPUC is provided at: <http://www.cpuc.ca.gov>.

The CPUC regulates the construction and expansion of water lines, plants, and systems by such private water service providers pursuant to Certificates of Public Convenience and Necessity (Pub. Util. Code §1001) and requires that water service providers charge their customers “just and reasonable rates.” (Pub. Util. Code §§451 and 454). More specifically concerning Certificates of Public Convenience and Necessity, “No . . . water corporation . . . shall begin the construction of . . . a line, plant, or system, or of any extension thereof, without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require such construction.” (Pub. Util. Code §1001.) The CPUC may issue a Certificate of Public Convenience and Necessity as requested, refuse to issue it, or issue it for only part of a project, and may attach terms and conditions to the exercise of the rights granted by the Certificate of Public Convenience and Necessity to the extent that, in the CPUC’s judgment, the public convenience and necessity so require. (Pub. Util. Code §1005.)

CalAm is a public utility under the CPUC’s jurisdiction, and has applied to the CPUC for a Certificate of Public Convenience and Necessity under Public Utilities Code Section 1001 to build, own, and operate all elements of the MPWSP, and also for permission to recover present and future costs for the proposed project by short-term rate increases.

### 1.2.2 Monterey Bay National Marine Sanctuary

MBNMS was designated in 1992 as a federally protected marine area off of California's central coast. It stretches from Marin to Cambria, encompasses a shoreline length of 276 miles and 4,601 square nautical miles of ocean, and extends an average distance of 30 miles from shore. Its mission is to “understand and protect the coastal ecosystem and cultural resources of Monterey Bay National Marine Sanctuary.” Its goals include:

<sup>2</sup> State of California Constitution, Article XII.

<sup>3</sup> The CPUC refers to the state agency as a whole, while the “Commission” refers to the decision-making body consisting of the five commissioners.

- enhancing resource protection through comprehensive and coordinated conservation and management tailored to the specific resources that complements existing regulatory authorities;
- supporting, promoting, and coordinating scientific research on sanctuary resources, and monitoring those resources to improve management decision-making in the sanctuary;
- enhancing public awareness, understanding, and ecologically sound use of the marine environment; and
- facilitating multiple uses of the sanctuary, so long as those uses are compatible with the Sanctuary's primary objective of resource protection, and so long as they are not otherwise prohibited.

As federal lead agency, MBNMS has joined in the preparation of this EIR/EIS for purposes of NEPA compliance and consideration of authorizations for CalAm's proposed project. The authority for MBNMS actions is outlined in Section 1.3.2. Two additional federal agencies (the US Army Corps of Engineers and the US Army) have been invited to act as Cooperating Agencies under NEPA due to their discretionary approval authority over some components of CalAm's proposed project. A complete list of federal agencies and approval authorities is provided in Chapter 3, Table 3-8.

### **1.3 Project Objectives and Purpose and Need**

The MPWSP is needed to replace existing water supplies that have been constrained by legal decisions affecting the Carmel River and Seaside Groundwater Basin water resources. In 1995, the California State Water Resources Control Board (SWRCB) directed CalAm to reduce and eventually terminate surface water diversions from the Carmel River in excess of its legal entitlement of 3,376 acre-feet per year (afy). SWRCB Order 95-10 directed CalAm either to obtain appropriate rights to the water that was being unlawfully diverted, or to obtain water from other sources. In the meantime, to reduce diversions from the Carmel River to the greatest practicable extent, the order directed CalAm to implement conservation measures to offset demand and to maximize its use of the Seaside Groundwater Basin to serve existing customers. (See Chapter 2 for more information on Order 95-10 and the subsequent Cease and Desist Order, SWRCB Order 2009-0060).

In 2006, the Monterey County Superior Court adjudicated the rights of various entities to use groundwater resources from the Seaside Groundwater Basin. In its decision, the Court established the adjudicated water rights of all the users of the Seaside Groundwater Basin, for the purpose of avoiding long-term damage to the basin. The adjudication substantially reduced the amount of groundwater available to CalAm (from approximately 4,000 afy to 1,474 afy). (See Section 2.2.4 in Chapter 2, Water Demand, Supplies, and Water Rights, for more information on the Seaside Groundwater Basin adjudication.)

The need for the proposed MPWSP is predicated on the following:

1. SWRCB Order 95-10, which requires CalAm to reduce and terminate surface water diversions from the Carmel River in excess of its legal entitlement of 3,376 afy;
2. SWRCB Order 2009-0060, which requires CalAm to terminate the diversions in excess of its legal entitlement by December 2021; and
3. The Monterey County Superior Court's adjudication of the Seaside Groundwater Basin, which effectively reduced CalAm's pumping from the Seaside Groundwater Basin from approximately 4,000 afy at the time of the adjudication to CalAm's adjudicated right of 1,474 afy.

### 1.3.1 CalAm's Project Objectives

The primary objectives of the proposed MPWSP are to:

1. Develop water supplies for the CalAm Monterey District service area to replace existing Carmel River diversions in excess of CalAm's legal entitlement of 3,376 afy, in accordance with SWRCB Orders 95-10 and 2009-0060;
2. Develop water supplies to enable CalAm to reduce pumping from the Seaside Groundwater Basin from approximately 4,000 to 1,474 afy, consistent with the adjudication of the groundwater basin, with natural yield, and with the improvement of groundwater quality;
3. Provide water supplies to allow CalAm to meet its obligation to pay back the Seaside Groundwater Basin by approximately 700 afy over 25 years as established by the Seaside Groundwater Basin Watermaster;
4. Develop a reliable water supply for the CalAm's Monterey District service area, accounting for the peak month demand of existing customers;
5. Develop a reliable water supply that meets fire flow requirements for public safety;
6. Provide sufficient water supplies to serve existing vacant legal lots of record;
7. Accommodate tourism demand under recovered economic conditions;
8. Minimize energy requirements and greenhouse gas emissions per unit of water delivered; and
9. Minimize project costs and associated water rate increases.

The secondary objectives of the MPWSP are to:

1. Locate key project facilities in areas that are protected against predicted future sea-level rise in a manner that maximizes efficiency for construction and operation and minimizes environmental impacts;
2. Provide sufficient conveyance capacity to accommodate supplemental water supplies that may be developed at some point in the future to meet build out demand in accordance with adopted General Plans; and
3. Improve the ability to convey water to the Monterey Peninsula cities by eliminating the hydraulic lowpoint in front of the Naval Postgraduate School, by improving the existing interconnections at satellite water systems and by providing additional pressure to move water over the Segunda Grade.

## 1.3.2 MBNMS Purpose and Need for Proposed Actions

Four federal proposed actions are addressed in this document and consist of the following:

1) authorization of a Coastal Development Permit to be issued by the City of Marina for CalAm to drill into the submerged lands of the Sanctuary to install a subsurface seawater intake system; 2) authorization of a Central Coast Regional Water Quality Control Board (RWQCB) issued National Pollutant Discharge Elimination System (NPDES) permit or other discharge authorization to allow for the discharge of brine into the Pacific Ocean and MBNMS via an existing ocean outfall pipe; 3) issuance of a special use permit to CalAm for the continued presence of a pipeline<sup>4</sup> conveying seawater to a desalination facility; and 4) issuance of a special use permit to CalAm for the use of Sanctuary sediments to filter seawater for desalination.

The purpose of these proposed actions is to authorize otherwise prohibited activities to occur within MBNMS, to ensure that the State and Federal permits and the proposed project comply with MBNMS regulations, and to ensure that MBNMS resources are protected by requiring terms and conditions that may be necessary. The MBNMS proposed action was prompted by CalAm's request for National Marine Sanctuaries Act (NMSA; 16 U.S.C. §1431 et seq.) authorization and permits to construct, operate, maintain, and decommission subsurface seawater intake facilities under the Sanctuary and to allow brine discharges through an existing ocean outfall facility within the Sanctuary; both activities would be associated with CalAm's proposed desalination plant. Therefore, the need for MBNMS action is to respond to CalAm's request in accordance with NMSA regulations and to protect Sanctuary resources. Since MBNMS has federal authority to issue authorizations, impose additional conditions of approval, or to deny authorizations for CalAm's proposed project, it qualifies as the lead federal agency under NEPA. As part of its review, MBNMS has coordinated with other government agencies that have jurisdiction over CalAm's proposed project. MBNMS actions needed to approve CalAm's project include two authorizations and two special use permits as described below. While the ability to issue authorizations and special use permits is delegated to the MBNMS Superintendent, the ultimate NOAA decision-maker for approval of the EIS and Record of Decision for NEPA is the Assistant Administrator for the National Ocean Service.

### 1.3.2.1 Authorizations

The NMSA regulations identify activities that are prohibited in the sanctuaries and establish a system of permits or authorizations to allow the conduct of certain types of activities that are otherwise prohibited. Each sanctuary has unique regulatory prohibitions codified within a separate subpart of Title 15, Code of Federal Regulations, Part 922 (i.e., 15 CFR Part 922). Subpart M contains the regulations specific to MBNMS. Section 922.132 of the regulations lists activities that are prohibited or otherwise regulated within the Sanctuary. Among the listed prohibitions, the following prohibited activities relate to the proposed project and qualify for authorizations, pursuant to Section 922.132(e):

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<sup>4</sup> The Applicant proposes to use subsurface intakes (slant wells) to supply the desalination plant with source water. The well casings, or pipes, would extend seaward of MHW and would require a Special Use Permit to be present within MBNMS. The proposed slant wells would draw ocean water through the seafloor sediments, which would pre-filter the seawater for use at the desalination plant.

1. Discharging or depositing from within or into the sanctuary any material or other matter, except as specified in A – F of this section. (15 CFR § 922.132(2)(i)).
2. Drilling into, dredging, or otherwise altering the submerged lands of the sanctuary; or constructing, placing, or abandoning any structure, material, or other matter on or in the submerged lands of the sanctuary (15 CFR § 922.132 (4)).

One of the federal decisions to be made by MBNMS is whether or not to authorize two separate state permits (or approvals) that would allow CalAm’s proposed drilling into the submerged lands (for installation of the proposed subsurface slant wells) and discharge of brine produced during the desalination process into the waters of the sanctuary.

The term “authorization” is a specific approval tool described in the NMSA regulations at 15 CFR Section 922.49, which provides, in part, that:

A person may conduct an activity prohibited by subparts L through P, or subpart R, if such activity is specifically authorized by any valid Federal, State, or local lease, permit, license, approval, or other authorization issued after the effective date of MBNMS designation, provided that:

- (1) The applicant notifies the Director of the Office of Ocean and Coastal Resource Management, NOAA, or designee, in writing, of the application for such authorization;
- (2) The applicant complies with the provisions of Section 922.49;
- (3) The Director notifies the applicant and authorizing agency that he or she does not object to issuance of the authorization; and
- (4) The applicant complies with any terms and conditions the Director deems reasonably necessary to protect sanctuary resources and qualities.

Upon completion of the review of the application and information received with respect thereto, the Director shall notify both the agency and applicant, in writing, whether he or she has any objection to issuance and what terms and conditions he or she deems reasonably necessary to protect sanctuary resources and qualities.

### **1.3.2.2 Special Use Permits**

NOAA has the authority to issue Special Use Permits for specific activities in national marine sanctuaries in the NMSA to establish conditions of access to, and use of, any sanctuary resource or to promote public use and understanding of a sanctuary resource. Section 310(d) of the NMSA allows NOAA to assess fees for those permits. Currently under consideration are two new Special Use Permit categories of activities: 1) the continued presence of a pipeline conveying seawater to a desalination facility; and 2) the use of MBNMS sediment to filter seawater for desalination. In addition to the two authorizations listed above, the other decision to be made by MBNMS is whether or not to issue Special Use Permits. The authority to issue Special Use Permits is delegated to the Superintendent.

## 1.4 Project Setting and Background

CalAm, the project applicant, is a privately owned public utility that has served the Monterey Peninsula since 1966. CalAm's Monterey District encompasses most of the Monterey Peninsula, including the cities of Carmel-by-the-Sea, Del Rey Oaks, Monterey, Pacific Grove, Sand City, and Seaside, and the unincorporated areas of Carmel Highlands, Carmel Valley, Pebble Beach, and the Del Monte Forest. The water supply challenges facing CalAm and the Monterey Peninsula are substantial and have been well-documented in a number of venues including the SWRCB, the Monterey County Superior Court, the CPUC, and the California Legislature. Water sources consist primarily of surface water from the Carmel River and groundwater from the Seaside Groundwater Basin. Because of its geography and rainfall patterns, the area is prone to severe droughts. Rainfall is the primary source of water and groundwater recharge within coastal Monterey County.

### 1.4.1 The Coastal Water Project

In 2004, CalAm filed Application A.04-09-019 seeking a Certificate of Public Convenience and Necessity from the CPUC for the Coastal Water Project (also referred to as the Moss Landing Project). The Coastal Water Project was intended to replace existing Carmel River water supplies for the CalAm Monterey District service area that are constrained by legal decisions described in Section 1.3, above. In general, the Coastal Water Project involved producing desalinated water supplies, increasing the yield from the Seaside Groundwater Basin ASR system, and building additional storage and conveyance systems to move the replacement supplies to the existing CalAm distribution system. The Coastal Water Project was sized to meet existing water demand and did not include supplemental supplies to accommodate growth. The Coastal Water Project proposed to use the existing intakes at the Moss Landing Power Plant to draw source water for a new 10 mgd desalination plant at Moss Landing, to build conveyance and storage facilities, and to make improvements to the existing Seaside Groundwater Basin ASR system. (Refer to Chapter 3, Description of the Proposed Project, for more information on the existing ASR system.)

On January 30, 2009, the CPUC published a Draft EIR analyzing the environmental impacts of the Coastal Water Project, as well as the environmental impacts of two project alternatives, the North Marina Project<sup>5</sup> and the Regional Project. The CPUC published the Coastal Water Project Final EIR (SCH No. 2006101004) in October 2009 and certified the EIR in December 2009 (Decision D.09-12-017). A year later, in Decision D.10-12-016, the CPUC approved implementation of the Regional Project alternative.

The Regional Project would have been implemented jointly by CalAm, Marina Coast Water District (MCWD), and Monterey County Water Resources Agency (MCWRA), and would have

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<sup>5</sup> The North Marina Project alternative included most of the same facilities as the previously proposed Coastal Water Project and, like the previously proposed Coastal Water Project, would only provide replacement supplies to meet existing demand. The key differences between this alternative and the previously proposed Coastal Water Project were that the slant wells and desalination plant would be constructed at different locations (Marina State Beach and North Marina, respectively), and the desalination plant would have a slightly greater production capacity (11 mgd versus 10 mgd).



been built in two phases. It included vertical seawater intake wells on coastal dunes located south of the Salinas River and north of Reservation Road; a 10-mgd desalination plant in North Marina (Armstrong Ranch); product water storage and conveyance facilities; and expansions to the existing Seaside Groundwater Basin ASR system. The second phase of the Regional Project, which was evaluated at a programmatic level of detail, included water to meet demand under buildout of the service-area cities' general plans and water for areas of North Monterey County.

The Coastal Water Project Draft EIR and Final EIR are available for review during normal business hours at the CPUC, 505 Van Ness Avenue, San Francisco, California.

## 1.4.2 The Monterey Peninsula Water Supply Project

After the CPUC approved the Regional Project, CalAm withdrew its support for that project in January 2012. On July 12, 2012, in Decision D.12-07-008, the CPUC closed the Coastal Water Project proceeding.

In April 2012, CalAm submitted Application A.12-04-019 (CalAm, 2012), asking the CPUC's permission to build, own, and operate a desalination facility for water supply. This project is the MPWSP. The MPWSP incorporates many of the same elements previously analyzed in the Coastal Water Project EIR, including a modified version of the North Marina Alternative that would include a desalination facility and subsurface slant wells at new locations. The MPWSP would include many of the same Aquifer Storage and Recovery (ASR) systems and most of the conveyance and storage facilities that were evaluated for the North Marina Alternative in the Coastal Water Project Final EIR. There are, however, changes to some of the project facilities.

The MPWSP includes the following proposed facilities, all of which are described in detail, and locations shown on figures, in Chapter 3:

1. A seawater intake system, which would consist of 10 subsurface slant wells (eight active and two on standby) extending offshore into the submerged lands of Monterey Bay at the CEMEX sand mining facility in the City of Marina, and a Source Water Pipeline;
2. A 9.6 mgd desalination plant located on a CalAm-owned parcel on Charles Benson Road, which would produce an average of 9.5 mgd of desalinated water supplies. Other facilities would be located with the plant, including pretreatment, reverse osmosis (RO), and post-treatment systems; backwash supply and filtered water equalization tanks; chemical feed and storage facilities; brine storage and conveyance facilities; and other associated non-process facilities;
3. Desalinated water conveyance facilities, including pipelines, pump stations, clearwells, and Terminal Reservoir; and
4. An expanded ASR system, including two additional injection/extraction wells (Wells ASR-5 and ASR-6) and three ASR pipelines (ASR Conveyance Pipeline, ASR Recirculation Pipeline, and ASR Pump-to-Waste Pipeline).

### 1.4.3 Environmental Review: Context for this Draft EIR/EIS

The previous MPWSP Draft EIR was issued on April 30, 2015, for a 60-day review period. The MPWSP Draft EIR is available for review during normal business hours at the CPUC, 505 Van Ness Avenue, San Francisco, California.

In a letter dated July 9, 2015, the CPUC Energy Division<sup>6</sup> extended the public comment period on the Draft EIR until September 30, 2015 for three reasons:

1. To address a possible conflict of interest associated with one of the CPUC's environmental subconsultants, Geosciences;
2. To provide access to the data, models, and assumptions used by Geosciences in the hydrogeologic modeling work; and
3. To seek comments from the public on the advisability of recirculating the Draft EIR as a joint state/federal environmental review document (EIR/EIS) that complies with both CEQA and NEPA requirements, in coordination with the Sanctuary.

Approximately 150 comment letters from various federal, state, and local agencies, special interest groups, and individuals were received during the 5-month Draft EIR public review period. In September 2015, after considering the Draft EIR comments and based on conversations with the Sanctuary and internal CPUC deliberations, the CPUC Energy Division announced that the Draft EIR would be modified and recirculated as a joint EIR/EIS in coordination with MBNMS; the groundwater modeling would be peer-reviewed and updated by a new groundwater modeling consultant; and the recirculated document would further consider as alternatives the two other active desalination proposals at Moss Landing: the Monterey Bay Regional Water Project (aka DeepWater Desal) and the People's Moss Landing Water Desalination Project (the People's Project).

On August 26, 2015, NOAA's Office of National Marine Sanctuaries started the NEPA process by issuing a Notice of Intent (NOI) to prepare an EIS for the project (80 Fed. Reg. 51787). The NOI solicited input on the issues to be analyzed in depth related to the portion of the proposed project within the Sanctuary's boundaries. On September 10, 2015, MBNMS held a NEPA scoping meeting for the project; the scoping period closed on October 2, 2015. A summary of EIS scoping comments is provided in **Appendix A**.

To address questions about the accuracy and credibility of the groundwater modeling work that was the subject of the potential conflict of interest comments, the CPUC made the groundwater data files available for public review, and the CPUC employed the Lawrence Berkeley National Laboratory to conduct an independent evaluation of that data and the results of that evaluation are provided in **Appendix E1**.

Per CEQA Guidelines Section 15088.5(f)(1), regarding the treatment of comments when recirculating a substantially revised, complete EIR, the CPUC need not provide individual

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<sup>6</sup> Energy Division handles CEQA work for the CPUC, even on non-energy projects like this one.

responses to comments received on the April 2015 Draft EIR, and such responses are therefore not provided in this EIR/EIS. Instead, the comments received on the April 2015 Draft EIR by September 2015 will become part of the administrative record of this proceeding, and key substantive comments and themes of comments received on the April 2015 Draft EIR have been addressed in the appropriate sections of this EIR/EIS. See Section 1.5, Environmental Review Process, for details about the CPUC's and the Sanctuary's joint CEQA/NEPA process for the proposed project. Under Section 15088.5(f)(1), new comments must be submitted on this Draft EIR/EIS and it is only these new comments that will be responded to in a Final EIR/EIS.

## 1.4.4 Revisions Made in This EIR/EIS

On March 14, 2016, CalAm filed an Amended Application with the CPUC (CalAm, 2016) in response to feedback from the community and resource agencies, the findings made in the April 2015 Draft EIR alternatives analysis regarding pipeline alignments, and increased technical knowledge and experience resulting from the installation and operation of the test slant well.<sup>7</sup> The updated project description provided in Appendix H of CalAm's Amended Application reflects modifications to facilities analyzed in the 2015 Draft EIR. These modifications are included in this EIR/EIS project description (Chapter 3). The most substantial modifications include:

1. Revised slant well layout at CEMEX:
  - a. Revised slant well configuration: two sites with three slant wells each and four sites with a single well. (The previous configuration had the 10 slant wells grouped at three sites.)
  - b. Six single-story electrical control cabinets. (The previous configuration included one electrical control building for all wells.)
  - c. Well Sites 1 through 6 would include the following aboveground facilities: one wellhead vault per slant well, mechanical piping (meters, valves, and gauges), an electrical control cabinet, and a pump-to-waste vault. At all but Site 1, the new permanent slant wells and associated aboveground infrastructure would be built on a 5,250- to 6,025-square-foot concrete pad located above the maximum high tide elevation on the inland side of the dunes (no concrete pad would be constructed at Site 1). Wellheads and mechanical piping would be located aboveground. (With the exception of the electrical control building, the previous configuration located all of the wellhead facilities below grade.)
2. Revised alignments for the roughly 21 miles of conveyance pipelines.

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<sup>7</sup> In October 2014, MBNMS finished its NEPA review of the construction of the test slant well and the operation of the pilot program. In November 2014, the City of Marina and the California Coastal Commission completed their CEQA review. The test slant well is permitted to operate until February 2018 and it is not part of the proposed project being evaluated in this EIR/EIS. If the MPWSP with subsurface slant wells at CEMEX is not approved and implemented, the test well will be removed as analyzed and approved pursuant to the CEQA and NEPA reviews of the test slant well project. However, if the proposed subsurface slant wells at CEMEX are ultimately approved as part of the proposed project, CalAm would convert the test slant well into a permanent well and operate it as part of the proposed seawater intake system. The conversion and long-term operation of the well has not been covered under previous approvals and is evaluated in this EIR/EIS as part of the proposed project.

- a. The “New” Transmission Main (product water pipeline south of Reservation Road that was evaluated in the April 2015 DEIR as an Alternative Pipeline) becomes the proposed pipeline.
  - b. The Transfer Pipeline evaluated in the April 2015 DEIR has been eliminated, since it is no longer necessary due to the alignment of the New Transmission Main and the New Monterey Pipeline.
3. The “New” Monterey Pipeline (product water pipeline connecting Seaside and Pacific Grove) is discussed in the Chapter 4 cumulative analysis for each topical area to which its impacts are relevant, since the CPUC in Decision 1609021 on September 15, 2016, authorized CalAm to build the Monterey Pipeline and Monterey Pump Station, subject to compliance with a Mitigation Monitoring and Reporting Program.
  4. The ASR Pump Station has been eliminated. The Monterey (Hilby) Pump Station, like the new Monterey Pipeline discussed above and for the same reason, is discussed in the Chapter 4 cumulative analysis for each topical area where relevant.
  5. The preferred method of returning water to the Salinas Valley now includes a new 5-mile-long pipeline to the city of Castroville, with connections to the Castroville Community Services District (CCSD) and Castroville Seawater Intrusion Project (CSIP) distribution systems. Returning the water via the existing CSIP pond is retained as a backup option. (Previously, Salinas Valley return flows would be returned to the existing CSIP pond at the MRWPCA Regional Wastewater Treatment Plant.)
  6. Revised construction assumptions, phasing, and schedule.

In addition to the project description changes, this EIR/EIS includes several other substantive revisions to the 2015 Draft EIR. These include some re-organization of the document, revised technical studies, and revisions to the analyses as a result of the revised technical studies, including:

1. MBNMS has authorizations and Special Use Permits it must consider granting, as the federal lead agency. These proposed actions are discussed in Section 1.3.2, above.
2. All topical sections (in Chapter 4) have been revised in response to the amended project description (Chapter 3).
3. Cumulative impacts are now addressed within each topical section in Chapter 4, rather than being addressed in a separate chapter.
4. The Variant (Reduced Project) is now referred to as Alternative 5 and is evaluated in Chapter 5, Alternatives Screening and Analysis, rather than in a stand-alone chapter. The DeepWater Desalination Project and the People’s Project are also addressed in Chapter 5, Alternatives Screening and Analysis.
5. New brine discharge modeling has been performed. It is included as Appendix D1 and reflected in Sections 4.3, Surface Water Hydrology and Water Quality, and Section 4.5, Marine Biological Resources.

6. New Ocean Plan Water Quality Compliance analysis has been performed; it is included as Appendix D3 and is reflected in Sections 4.3, Surface Water Hydrology and Water Quality, and Section 4.5, Marine Biological Resources.
7. Lawrence Berkeley National Laboratory has peer-reviewed the groundwater modeling performed for the April 2015 Draft EIR and it is included as Appendix E1.
8. New North Marina groundwater modeling has been performed. It is included as Appendix E2 and reflected in Section 4.4, Groundwater Resources and Chapter 5, Alternatives Screening and Analysis.
9. The coastal hazards analysis has been revised as a result of the re-located wells at the CEMEX sand mine property. That analysis is included as Appendix C2 and reflected in Section 4.2, Geology, Soils, and Seismicity.
10. Sensitive plant lists and calculations regarding energy consumption and air pollutant and greenhouse gas (GHG) emissions have been revised.

## 1.5 Environmental Review Process and Use of This Document

This EIR/EIS has been prepared in compliance with CEQA (Pub. Res. Code §21000 et seq.) and NEPA (42 U.S.C. §4321 et seq.). This EIR/EIS is a public document for use by the CPUC, MBNMS, other governmental agencies, and the public in identifying and evaluating the potential environmental consequences of the proposed project and proposed federal actions, identifying mitigation measures to lessen or eliminate adverse impacts, and examining feasible alternatives to the proposed project. The impact analyses in this report are based on a variety of sources; references for these sources are listed at the end of each technical section.

This EIR/EIS will be used primarily by the CPUC, as the CEQA Lead Agency, and by MBNMS, as the NEPA Lead Agency, to evaluate environmental impacts of the proposed project and its alternatives as part of the decision-making processes of these agencies. It is expected that the CPUC, the Sanctuary, and other responsible, trustee, and relevant agencies will use this EIR/EIS in deciding whether to approve the MPWSP or any alternative to, or of, the MPWSP. The analyses contained within this EIR/EIS would be used to determine any necessary regulatory permits, authorizations, or approvals.

### 1.5.1 Notice of Preparation, Notice of Intent, and Scoping

In accordance with CEQA Guidelines Section 15082, the CPUC issued a Notice of Preparation (NOP) for the MPWSP and circulated it to local, state, and federal agencies, Native American tribal organizations, as well as other interested parties, on October 5, 2012. The NOP solicited both written and verbal comments on the document's scope during a 30-day comment period and provided information on the forthcoming public scoping meetings. Comments were requested by November 5, 2012. The NOP provided a description of the MPWSP, a discussion of possible

alternative projects being considered, a map of the project location and the area, and a summary of the probable environmental effects of the project to be addressed.

In addition to the NOP, the CPUC published legal and display advertisements in the *Monterey Herald* on October 10, October 21 and October 24, 2012; in the *Carmel Pine Cone* on October 12, 2012; in the *Salinas Californian* on October 10 and October 25, 2012; and in Spanish in the *El Sol* on October 12, 2012.

During the CEQA scoping period, the CPUC held a series of three scoping meetings in Monterey County to discuss the proposed project and to solicit public input as to the scope and content of this EIR. Scoping meetings were held on October 24, 2012 in Carmel, and on October 25, 2012 in Seaside.

In accordance with Section 102(2)(C) of NEPA, the NOAA Office of National Marine Sanctuaries published a Notice of Intent (NOI) to prepare an EIS for the proposed project on August 26, 2015 (80 Fed. Reg. 51787). The NOI solicited input on the full spectrum of environmental issues and concerns relating to the scope and content of the EIS, including: the human and marine biological resources that could be affected, the nature and extent of the potential significant impacts on those resources, a reasonable range of alternatives, and mitigation measures. The NOI provided background information, explained the need for action, and disclosed its consultation obligations. The scoping period closed on October 2, 2015.

During the NEPA scoping period, MBNMS held a scoping meeting in Pacific Grove on September 10, 2015 to discuss the proposed project and to solicit public input as to the scope and content of the EIS.

**Appendix A** of this EIR/EIS contains a copy of the NOP and NOI, a description of public outreach efforts, a summary of comments received during the scoping process and a Draft EIR/EIS Distribution List.

## 1.5.2 Draft EIR/EIS and Public Review

This joint document constitutes the Draft EIR/EIS, as provided for in CEQA and NEPA, and is consistent with the February 2014 guidance issued by the Executive Office of the President of the United States and the California Governor's Office of Planning and Research entitled, NEPA and CEQA: Integrating Federal and State Environmental Reviews. This EIR/EIS is being circulated to local, state, and federal agencies as well as interested organizations and individuals who wish to review it. Notice of this Draft EIR/EIS was also sent directly to every agency, person, or organization that commented on the CPUC's NOP or the Sanctuary's NOI. The publication of this Draft EIR/EIS marks the beginning of a 45-day public review period that begins for CEQA as of the date the Notice of Completion is filed with the State Clearinghouse and, for NEPA, as of the date the Notice of Availability is published in the Federal Register by the U.S. Environmental Protection Agency (USEPA). All reasonable efforts will be made to begin CEQA and NEPA comment periods on the same day; nonetheless, in the event of a discrepancy, the duration of the comment period shall include the earliest of the start dates and the latest of the end dates.

During the review period, written comments may be mailed or hand delivered to:

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

Karen Grimmer, NEPA Lead  
Monterey Bay National Marine Sanctuary  
99 Pacific Avenue  
Building 455a  
Monterey, CA 93940

During the review period, written comments also may be submitted electronically:

by email to:

mpwsp-eir@esassoc.com

via the Federal e-Rulemaking Portal:

Go to  
<https://www.regulations.gov/docket?D=NOAA-NOS-2015-0105>

Click the “Comment Now!” icon, complete the required fields and enter or attach your comments.

Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and generally will be made available for public viewing without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible.

Commenters are requested to include their name and address with the comments. The focus of review should be on the sufficiency of this Draft EIR/EIS in identifying and analyzing the possible impacts on the environment and ways in which the potential significant effects of the proposed project or alternatives might be avoided or mitigated.

### 1.5.3 Final EIR/EIS

Following circulation of the Draft EIR/EIS and incorporation of public comments and responses to comments, a Final EIR/EIS will be published by the CPUC and submitted into the formal record of the Commission’s Certificate of Public Convenience and Necessity proceeding (A.12-04-019).

Concurrently, NOAA will submit the Final EIR/EIS to the USEPA and will publish a Notice of Availability in the Federal Register.

### 1.5.4 Use of this EIR/EIS in Decision Making

#### 1.5.4.1 CPUC Consideration of the EIR/EIS and Proposed Project

A CPUC Administrative Law Judge (ALJ) will review the Final EIR/EIS and submit a proposed decision to the Commission concerning certification of the EIR/EIS and approval of the MPWSP. Pursuant to CEQA Guidelines Section 15090, as CEQA Lead Agency, the CPUC must certify

that the Final EIR/EIS complies with CEQA and reflects the CPUC's independent judgment and analysis prior to approving the MPWSP or an alternative.

If the CPUC certifies the Final EIR/EIS, it will then decide whether or not to grant the Certificate of Public Convenience and Necessity for the MPWSP, as proposed or modified. In addition to environmental impacts addressed during the CEQA process, the Certificate of Public Convenience and Necessity process will consider any other issues that have been established in the record of the proceeding, including but not limited to economic issues, social impacts, specific routing and alignments, and the need for the project. During this process the CPUC will also take into account testimony and briefs from parties who have formally intervened in A.12-04-019, as well as the formal record of any hearings held by the ALJ in this case. The five CPUC Commissioners will ultimately cast a vote on whether to approve the proposed decision prepared by the ALJ. One or more Commissioners may also prepare alternate proposed decisions that differ from the proposed decision of the ALJ. Whichever proposed decision – original or alternate – garners at least a majority vote of the CPUC Commissioners will become the decision of the Commission. This decision is subject to review within the CPUC and in court.

Should the CPUC decide in favor of the MPWSP, as proposed or as modified, the CPUC must make findings on each significant environmental impact. As to each such impact, the lead agency must find that either (1) the environmental effect has been reduced through mitigation measures to a less-than-significant level, essentially “eliminating, avoiding, or substantially lessening” the expected impacts, or (2) the residual significant adverse impact that cannot be mitigated to less than-significant level is outweighed by project benefits. This latter finding is called a Statement of Overriding Considerations. If the CPUC makes a Statement of Overriding Considerations, it would be included in the record of the project approval and would be mentioned in the notice of determination.

The ALJ may also deny the proposed project, but decide in favor of an alternative that may require further action on the part of other parties and public agencies. The Commission's final decision may therefore include an order for CalAm to return to the Commission at a later time for approval of either a specific project or some form of water purchase agreement, either of which would resolve at a minimum the water supply issues raised by SWRCB Order 95-10 and the Seaside Basin adjudication.

In addition, state law requires lead agencies to adopt a mitigation monitoring and reporting program for those changes to a project that it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment. CEQA does not require that the specific reporting or monitoring program be included in the EIR. Throughout this EIR/EIS, however, proposed mitigation measures have been clearly identified and presented in language that will facilitate establishment of a monitoring program. All adopted measures will be included in a mitigation monitoring and reporting program to verify compliance.



### 1.5.4.2 MBNMS Consideration of the EIR/EIS and Proposed Action

This EIR/EIS will be used by MBNMS, along with other information developed in the formal record (including interagency consultations in compliance with the Endangered Species Act, Marine Mammal Protection Act, Magnuson Stevens Act, and the National Historic Preservation Act, among others), to decide whether or not to authorize a Coastal Development Permit to be issued by the City of Marina under their certified Local Coastal Program, to authorize a NPDES permit to be issued by the Central Coast RWQCB, and to issue two special use permit to CalAm. The decision-making authority for the Record of Decision under NEPA is NOAA's Assistant Administrator for the National Ocean Service (NOAA 216-6A).

### 1.5.4.3 Other Agencies' Consideration of the EIR/EIS and Proposed Project

Several other agencies will rely on information in this EIR/EIS to inform their decisions over the issuance of specific permits related to project construction or operation. In addition to the CPUC, state agencies such as the SWRCB, the Regional Water Quality Control Boards (Regional Water Boards), California State Lands Commission, California Coastal Commission, Department of Parks and Recreation, Department of Transportation, California Department of Fish and Wildlife, and State Historic Preservation Office would be involved in reviewing or approving the proposed project. On the local level, the City of Marina would be reviewing and approving an application for a Coastal Development Permit for the slant wells consistent with their certified Local Coastal Plan. On the federal level, agencies with potential reviewing or permitting authority include NOAA Fisheries, the U.S. Army, the U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service (USFWS). A complete list of agencies and required permits or other approvals is included in Chapter 3, Description of the Proposed Project, Table 3-8.

## 1.6 Organization of EIR/EIS

The remaining chapters of this EIR/EIS are organized as follows:

**Chapter 2** (Water Demand, Supplies, and Water Rights) provides background information on CalAm's existing water supply system; describes the water demand and supply information and assumptions included in CalAm's application; provides supplemental information about water supply and demand, and factors affecting them in the area that would be served by the proposed project; and addresses the topic of water rights as it pertains to project feasibility.

**Chapter 3** (Description of the Proposed Project) describes the components of the MPWSP proposed by CalAm, including construction, operations and maintenance. The information in this chapter is intended to provide a common basis for the analysis of environmental impacts.

**Chapter 4** (Environmental Setting [Affected Environment], Impacts, and Mitigation Measures) is divided by issue area or topic. Each issue area section describes the regional and local environmental setting (the "affected environment"); describes the Sanctuary and sanctuary resources; summarizes applicable laws, regulations, plans, and standards (the "regulatory

framework”); identifies the thresholds and other criteria evaluated to determine whether a potential impact would be significant; summarizes the analytical methodology used; analyzes direct, indirect, and cumulative effects; identifies mitigation measures to address adverse effects; and explains the residual impacts that would remain after the implementation of all recommended mitigation measures.

**Chapter 5** (Alternatives Screening and Analysis) describes the alternatives screening process, identifies several alternatives to the proposed project that are being carried forward for full analysis, including the No Action alternative, and summarizes alternatives identified but removed from consideration. This chapter also includes the impact analysis for each alternative and a detailed comparison of the alternatives to the proposed project. An environmentally superior/preferred alternative is identified.

**Chapter 6** (Other Considerations) addresses other CEQA and NEPA issues, including significant unavoidable impacts, significant irreversible changes, short-term versus long-term uses, growth-inducing impacts, and project consistency with MBNMS Desalination Guidelines.

**Chapter 7** (Coordination, Consultation, and Report Preparation) outlines the federal agency consultation process conducted for the project and identifies the authors of the EIR/EIS.

**Chapter 8** (Index) includes an alphabetical list of key words and their associated page numbers within the EIR/EIS.

The Appendices include a scoping summary, a Draft EIR/EIS distribution list, technical reports and other supporting information.

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## References – Introduction and Background

California American Water (CalAm), 2012. Before the Public Utilities Commission of the State of California, A.12-04-019, Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates, Filed April 23, 2012.

California American Water (CalAm), 2016. Before the Public Utilities Commission of the State of California, A.12-04-019, Amended Application of California-American Water Company (U210W), Filed March 14, 2016.

Monterey County Superior Court, 2006. California American Water, Plaintiff, vs. City of Seaside, City of Monterey, et al., Case No. M66343, Decision. Filed March 27, 2006.

State Water Resources Control Board (SWRCB), 1995. Order No. WR 95-10: Order on Four Complaints Files Against The California-American Water Company, Carmel River, Monterey County. July 6, 1995.