

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

In the Matter of the Application of California-American Water Company (U 210 W) for a Certificate of Public Convenience and Necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs in Connection Therewith in Rates.

Application 04-09-019
(Filed September 20, 2004;
Amended July 14, 2005)

**REVISED DIRECT TESTIMONY OF ROBIN CORT
(PHASE 2 REGIONAL PROJECT COST ISSUES)**

[This testimony has been revised to strike the language on page 5 through page 22, line 24, pursuant to the ALJ's ruling issued July 21, 2009. MCWD reserves the right to offer testimony similar to that which is stricken upon a showing that the testimony is relevant to Issues A, E, F, and H identified for hearing in the scoping ruling of March 26, 2009.]

FRIEDMAN DUMAS & SPRINGWATER LLP
MARK FOGELMAN
DERRICK N.D. HANSEN
STEFANIE A. ELKINS
San Francisco, CA 94105
Telephone: (415) 834-3800
Facsimile: (415) 834-1044
Email: mfogelman@friedumspring.com
Email: dhansen@friedumspring.com
Email: selkins@friedumspring.com

Attorneys for
MARINA COAST WATER DISTRICT

Revised, August 20, 2009

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

	<u>Page</u>
I. Introduction	1
II. Qualifications	1
III. Purpose of Testimony	3
IV. Draft EIR Evaluation of 13-mgd Regional Desalination Facility	4
V. Conclusion	22

EXHIBITS

RC-1: Resume of Robin Cort, Ph. D.

1 **BEFORE THE PUBLIC UTILITIES COMMISSION**
2 **OF THE STATE OF CALIFORNIA**

3
4 In the Matter of the Application of California-
5 American Water Company (U 210 W) for a
6 Certificate of Public Convenience and
7 Necessity to Construct and Operate its Coastal
8 Water Project to Resolve the Long-Term Water
9 Supply Deficit in its Monterey District and to
10 Recover All Present and Future Costs in
11 Connection Therewith in Rates.

Application 04-09-019
(Filed September 20, 2004;
Amended July 14, 2005)

12 **DIRECT TESTIMONY OF ROBIN CORT**

13 **I. Introduction**

14 Q1. Please state your name and business address.

15 A1. My name is Robin Cort, Ph.D. My business address is 2001 North Main Street,
16 Suite 400, Walnut Creek, CA 94596.

17 Q2. By whom are you employed and in what capacity?

18 A2. I am employed by RMC Water and Environment as a Senior Project Manager.

19 **II. Qualifications**

20 Q3. What are your responsibilities?

21 A3. I am responsible for managing preparation of CEQA and NEPA documentation
22 and for permitting of water resources projects.

23
24 Q4. Briefly describe your education background

25 A4. B.S., 1975, Biology, Stetson University

26 Ph.D., 1982, Ecology, Stony Brook University
27
28

1 Q5. Have you had any other formal training?

2 A5. I have completed the Federal Highway Administration course in Environmental
3 Impact Statements and Related Documents
4

5 Q6. Please describe your professional experience

6 A6. I have 27 years experience in the preparation of environmental documentation in
7 compliance with the National Environmental Policy Act (NEPA) and California
8 Environmental Quality Act (CEQA) regulations. I have specialized in
9 environmental compliance and permitting for water resources projects, including
10 water supply, water recycling, and wastewater facilities. I am experienced with
11 facilities planning, alternatives development and analysis, permitting,
12 implementation and monitoring of mitigation programs. I was employed by
13 Parsons for over 24 years, and have been working for RMC Water and
14 Environment since 2007.
15

16 I have worked in water resources in Monterey County since the early 1980s, when
17 I was the Deputy Project Manager for the Monterey Wastewater Reclamation
18 Study for Agriculture (MWRSA), a 5-year study to determine feasibility and safety
19 of irrigating food crops with reclaimed water. This study laid the groundwork for
20 the Castroville Seawater Intrusion Project, which delivers recycled water to 12,000
21 acres of agricultural lands surrounding Castroville.
22

23 I am a member of the Association of Environmental Professionals and the Water
24 Environment Federation. My resume is attached to this testimony as exhibit RC-1.
25

26 Q7. Have you testified before any regulatory agencies?

27 A7. I have presented CEQA documentation for water resources projects before various
28 local agencies and special districts.

1 **III. Purpose of Testimony**

2 Q8. What is the purpose of this direct testimony?

3 A8. The purpose of my testimony is to respond to specific questions regarding the
4 CEQA documentation for the Phase 1 Project of the Regional Water Supply
5 Project, an alternative to the California-American Water Company (Cal-Am)
6 Coastal Water Project, and its discussion in addressing the construction of a 13-
7 mgd Regional Desalination Facility.

8
9 Q9. Why do you need to address the DEIR’s discussion of the construction of a 13-mgd
10 Regional Desalination Facility in your Phase 2 testimony?

11 A9. I believe I am required to address the statements contained on page 12, lines 5
12 through 14, of the direct testimony of CAW witness Kevin Thomas, who contends
13 that the DEIR did not adequately address the 13-mgd desalination facility. I note
14 that this portion of Mr. Thomas' testimony was not stricken by the June 22, 2009
15 ruling of Assigned Administrative Law Judge Minkin striking other portions of Mr.
16 Thomas' testimony. In addition, I believe I am required to address these points in
17 my testimony because the adequacy and the substance of the DEIR’s discussion of
18 the 13-mgd facility impacts issues A, E, and F enumerated in the Scoping Memo.
19 More specifically, the testimony is relevant to the question of “[w]hich project or
20 alternative most effectively or feasibly meets the established need and serves the
21 present or future public convenience and necessity.” It is relevant to the question
22 of whether “project alternatives [are] infeasible” and whether there are other ways
23 that the Regional Project can feasibly meet project goals without a surface water
24 treatment plant. Finally, it is also relevant to “the cost of the proposed and
25 alternative projects, and the proposed and alternative projects’ impact on
26 community values.”

1 **IV. Draft EIR Evaluation of 13-mgd Regional Desalination Facility**

2 Q10. Is the environmental document as written adequate to allow construction of a 13-
3 mgd Regional Desalination Facility?

4 A10. Yes. The Draft EIR for the CalAm Coastal Water Project was prepared by ESA
5 with the intent of evaluating the physical impacts of a 13-mgd Regional
6 Desalination Facility. Although Phase I of the Regional Project includes the
7 construction of a 10-mgd Desalination Plant on property optioned to the Marina
8 Coast Water District (MCWD) at North Marina, the Full Regional Project includes
9 a 13-mgd facility. The ultimate 13-mgd capacity of the desalination plant is
10 evaluated throughout the Draft EIR, and the only aspect of the ultimate capacity
11 that is not considered is the potential growth inducing impact of a 13-mgd facility,
12 if the larger desalination facility is combined with Surface Water Treatment. If the
13 13-mgd Regional Desalination Facility is used only to serve existing demand, all of
14 the impacts are fully addressed in the Draft EIR. Eric Zigas, the project manager
15 for ESA, has confirmed that the 13-mgd project is evaluated in the Draft EIR, and
16 citations to the evaluation of impacts in the Draft EIR are provided in the table
17 below.

18
19 Where the Phase 2 Regional Project in its entirety has no significant impacts, the
20 impact statements generally do not call out the impacts of the 13-mgd Regional
21 Desalination Facility separately, but the definition of the Phase 2 Regional Project,
22 as described on Page 5-31 of the Draft EIR, clearly includes “Expansion of the
23 plant capacity from 10 mgd (Phase 1 Project) to 13 mgd”. The Phase 1 Regional
24 Desalination Facility includes five vertical seawater wells. The Phase 2 Regional
25 Desalination Facility would add five vertical brackish wells, for a total of 10 wells.
26 Analysis in the Draft EIR includes both scenarios; and impacts associated with
27 Regional Desalination Facility Expansion to 10 wells are clearly identified.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Impact No.	Impact Summary Description and Statement	Page # in DEIR
6.1-5	Increased runoff from new impervious surface: “The Phase 2 Project, and therefore, the Regional Project as a whole, would also result in a Less than Significant Impact.”	6.1-15
6.1-6	Changes in river flow from surface water diversion: Not applicable to desalination; this impact addresses flow diversions from the SRDF.	6.1-15
6.1-7	Facilities in flood hazard area could change flood flow: “the proposed intake wells and regional desalination plant (expansion) would not impede or redirect flood flows... The Phase 2 Project, and therefore, the Regional Project as a whole, would also result in a Less than Significant Impact.”	6.1-17
6.1-8	Risk of flooding due to a tsunami: “The Phase 2 Project, and therefore, the Regional Project as a whole, would also result in a Less than Significant Impact.”	6.1-18
6.1-9	Facilities subject to flooding due to sea level rise: “The Phase 2 Project, and therefore, the Regional Project as a whole, would also result in a Less than Significant Impact.”	6.1-18
6.1-10	Risk of flooding from failure of dam or levee: “The Phase 2 Project, and therefore, the Regional Project as a whole, would also result in a Less than Significant Impact.”	6.1-19
6.1-11	Effect on water quality of increased recycled water use: Not applicable to desalination; this impact addresses expanded use of recycled water.	6.1-19

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Impact No.	Impact Summary Description and Statement	Page # in DEIR
6.1-12	Reduced wastewater discharge from water recycling: Not applicable to desalination, this impact addresses expanded use of recycled water.	6.1-20
6.1-13	Water quality impacts of blending recycled water: Not applicable to desalination, this impact addresses expanded use of recycled water.	6.1-20
Groundwater Resources		
6.2-1	Desalination wells construction effects on water quality “Operating the ten wells continuously would maintain a barrier that could prevent future seawater intrusion of the 180-foot Aquifer... The Phase 2 Project, and therefore, the Regional Project as a whole, would also result in a Less than Significant Impact.” Well development water of the five Phase 1 and the additional five Phase 2 desalination plant water supply wells could be discharged to local storm drains... The Phase 2 Project and therefore, the Regional Project as a whole, would also result in a Less than Significant impact with Mitigation.”	6.2-5 6.2-6 6.2-8
6.2-2	Increased groundwater storage and water levels in SGB: “The Phase 2 Regional Project, and therefore, the Regional project as a whole, would also have a beneficial impact.”	6.2-9

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Impact No.	Impact Summary Description and Statement	Page # in DEIR
6.2-3	<p>Effect of lower groundwater levels on nearby wells:</p> <p>“Modeling this Phase 2 scenario shows that the ten seaward and inland well pumping continuously in the 180-foot aquifer would create an extraction barrier or trough parallel to the coast... The Phase 2 Project and therefore, the Regional Project as a whole, would also have a Less than Significant Impact.”</p>	6.2-14
6.2-4	<p>Extraction impacts on SVGB groundwater resource:</p> <p>Regional Desalination Facility Expansion... impacts and level of significance is similar to the CWP, Impact 4.2-5 and Phase 1 Regional Water Supply Program, as discussed above... The Phase 2 Project and therefore, the Regional Project as a whole, would also have a Less than Significant Impact.”</p>	6.2-15
6.2-5	<p>Wells located where groundwater extraction is prohibited:</p> <p>“As shown in Figure 6.2-2, many of the proposed desalination wells are located within Territory B... and within the depth interval prohibited for use by Ordinance Number 3709.”</p> <p>Figure 6.2-2 shows locations for both seawater and brackish wells.</p> <p>“These wells could not be constructed without relocating them or obtain prior approval... However, that would not be a physical, adverse change to the physical environment, and therefore it would not present a significant impact... The Phase 2 Project and therefore, the Regional Project as a whole, would also have a Less than Significant Impact.”</p>	6.2-16 6.2-17 6.2-18

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Impact No.	Impact Summary Description and Statement	Page # in DEIR
Marine Biological Resources		
6.3-1	<p>Brine discharge impacts on marine habitat:</p> <p>The Regional Desalination Facility Expansion is evaluated in detail starting on page 6.3-3:</p> <p>“the desalination facility would produce 13 mgd of product water with 13 mgd of brine with salinity as high as 60 ppt at the point of discharge. The 13 mgd of brine would be discharged via the MRWPCA outfall...”</p> <p>In summary, the project discharge from the proposed regional desalination facility could adversely affect the marine biological resources in Monterey Bay... the project discharge would result in less than significant impacts to receiving water quality with the implementation of Mitigation Measures 5.1-4e and Mitigation Measure 6.1-4... The Phase 2 Project, and therefore the Regional Project as a whole would result in a Less than Significant Impact with Mitigation.”</p>	<p>6.3-3</p> <p>6.3-6</p>

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Impact No.	Impact Summary Description and Statement	Page # in DEIR
Biological Resources		
6.4-1	<p>Impacts on sensitive species:</p> <p>“Construction of the (Phase 1) subsurface intakes and pipelines could affect species...Application of Mitigation Measure 4.4-1 would reduce these impacts to less than significant....The proposed locations of the five brackish vertical wells does not appear to affect species identified as rare, threatened or endangered or special status.</p> <p>The Phase 2 Project and therefore, the Regional Project as a whole, would also have a Less than Significant Impact.”</p>	<p>6.4-9</p> <p>6.4-10</p>
6.4-2	<p>Impacts on riparian and other sensitive habitat:</p> <p>“Construction of the (Phase 1) subsurface intakes and pipelines could affect sensitive natural communities, Application of Mitigation Measure 4.4-2 would reduce these impacts to less than significant... Regional Desalination Plant Expansion... No impact on sensitive natural communities.”</p>	6.4-10
6.4-3	<p>Impacts on wetlands:</p> <p>“Construction of the (Phase 1) subsurface intakes and pipelines could affect sensitive natural wetlands. Application of Mitigation Measure 4.4-3 would reduce these impacts to less than significant.</p> <p>Regional Desalination Plant Expansion... No impact on wetlands.”</p>	<p>6.4-11</p> <p>6.4-12</p>

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Impact No.	Impact Summary Description and Statement	Page # in DEIR
6.4-4	Impacts on migratory fish or wildlife: “The Phase 2 Project and therefore, the Regional Project as a whole, would result in a Less than Significant Impact.”	6.4-12
6.4-5	Conflicts with local biological protection ordinances: “Significance After Mitigation: The Phase 2 Project and therefore, the Regional Project as a whole, would result in a Less than Significant Impact.”	6.4-13
6.4-6	Operational impacts on aquatic species in Salinas River: Not applicable to desalination, this impact addresses flow diversions from the SRDF.	6.4-14
6.4-7	Construction impacts on aquatic species in Salinas River: Not applicable to desalination, this impact addresses flow diversions from the SRDF.	6.4-15
Geology, Soils, & Seismicity		
6.5-1	Damage from earthquakes and ground shaking: “Significance After Mitigation: The Phase 2 Project and therefore, the Regional Project as a whole, would also result in a Less than Significant Impact.”	6.5-4
6.5-2	Damage from high shrink-swell and corrosivity: “Significance After Mitigation: The Phase 2 Project and therefore, the Regional Project as a whole, would result in a Less than Significant Impact.”	6.5-5

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Impact No.	Impact Summary Description and Statement	Page # in DEIR
6.5-3	Coastal erosion impacts on subsurface components: Not applicable to vertical wells; this impact addresses potential coastal erosion effects on North Marina Project source slant wells.	6.5-6
6.5-4	Damage from landslides: “Significance After Mitigation: The Phase 2 Project and therefore, the Regional project as a whole, would also result in a Less than Significant Impact.”	6.5-6
6.5-5	Damage from liquefaction: “The proposed Desalination Facility Expansion Source water wells and conveyance pipelines are potentially located in or cross areas identified as having a moderate to high risk for liquefaction. The implementation of Mitigation Measures 4.5-1 would reduce the impact to less than significant.”	6.5-10
Hazards and Hazardous Materials		
6.6-1	Exposure to hazardous materials during construction: “Regional Desalination Facility Expansion. Implementation of Mitigation Measures 4.6-1a through 4.6-1e would reduce the potential impact of exposure to hazardous materials during drilling of wells and excavation for project pipelines to a less than significant level.”	6.6-6
6.6-2	Accidental hazardous materials release in construction: “The Phase 2 Project, and therefore, the Regional Project as a whole, would also result in a Less than Significant impact.”	6.6-7

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Impact No.	Impact Summary Description and Statement	Page # in DEIR
6.6-3	Construction hazardous materials within ¼ mile of school: “The Phase 2 Project, and therefore, the Regional Project as a whole, would also result in a Less than Significant impact.”	6.6-7
6.6-4	Increased risk of wildland fire: “The Phase 2 Project, and therefore, the Regional Project as a whole, would also result in a Less than Significant impact.”	6.6-8
6.6-5	Potential accidental release of chemicals: “Expansion of the Regional Desalination from 10 mgd to 13 mgd would require a corresponding increase in the amount of chemical usage as described in Chapter 4.6. However, as discussed in Impact 4.6-5 in Chapter 4, with compliance with existing state and federal regulations regarding hazardous materials storage and management, the potential for environmental impacts due to the accidental release of hazardous materials associated with project operations is less than significant.”	6.6-9
6.6-6	Hazardous materials within ¼ mile of school: “The Phase 2 Project, and therefore, the Regional Project as a whole, would also result in a Less than Significant impact.”	6.6-10

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Impact No.	Impact Summary Description and Statement	Page # in DEIR
Traffic and Circulation		
6.7-1	<p>Increased vehicle trips during construction:</p> <p>“Regional Desalination Facility Expansion. Infrastructure associated with this project would include stand-alone facilities (e.g., vertical brackish subsurface intake wells) and pipelines... impacts would be comparable to those described in Section 4.7, Traffic, for stand-alone facilities and pipeline installations... The Phase 2 Project, and therefore, the Regional Project as a whole, would result in a Less than Significant impact.”</p>	<p>6.7-3</p> <p>6.7-4</p>
6.7-2	<p>Lane width reduction during pipeline construction:</p> <p>“The new pipelines associated with the ... Regional Desalination Facility... would follow alignments described for the North Marina Project... Traffic would be delayed as it travels past the construction zone, but implementation of Mitigation Measure 4.7-2..., in conjunction with Mitigation Measure 4.7-1..., would reduce the potential impact to less than significant.”</p>	6.7-4
6.7-3	<p>Demand for construction worker parking:</p> <p>“The Phase 2 Project, and therefore, the Regional Project as a whole, would also result in a Less than Significant impact.”</p>	6.7-5
6.7-4	<p>Potential traffic safety hazards:</p> <p>“The Phase 2 Project, and therefore, the Regional Project as a whole, would also result in a Less than Significant impact.”</p>	6.7-6

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Impact No.	Impact Summary Description and Statement	Page # in DEIR
6.7-5	Access disruption: “The Phase 2 Project, and therefore, the Regional Project as a whole, would also result in a Less than Significant impact.”	6.7-6
6.7-6	Disruption to transit and railroad service: “The Phase 2 Project, and therefore, the Regional Project as a whole, would also result in a Less than Significant impact.”	6.7-7
6.7-7	Damage to haul routes from construction vehicles: “The Phase 2 Project, and therefore, the Regional Project as a whole, would also result in a Less than Significant impact.”	6.7-7
6.7-8	Operations and maintenance traffic: “The Phase 2 Project, and therefore, the Regional Project as a whole, would also result in a Less than Significant impact.”	6.7-8
Air Quality		
6.8-1	Construction air quality impacts: “impacts from construction of Phase 1 and Phase 3 of the Regional Project are considered to be significant and unavoidable.”	6.8-3
6.8-2	Project operational emissions: “The Phase 2 Project would also result in a less than significant impact.”	6.8-4
6.8-3	Cumulative construction PM10 emissions: “cumulative impacts on regional air quality from overlapping activities during construction of the Regional Project (Phase 1 and Phase 2) and other projects would also be significant and unavoidable and would be cumulatively considerable.”	6.8-4 & 6.8-5

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Impact No.	Impact Summary Description and Statement	Page # in DEIR
Noise and Vibration		
6.9-1	<p>Construction noise impacts:</p> <p>“given that there are no sensitive receptors in the vicinity of the ... Treatment Plant site(s), impacts to sensitive receptors associated with construction of these Phase 1 and Phase 2 facilities would be less than significant with implementation of Mitigation Measures 4.9-1a through 4.9-1d.</p> <p>At 2,500 feet from the drill sites, mitigated short-term noise levels would be approximately 46 dBA, which would reduce the nighttime noise nuisance to a level that would be less than significant. This impact conclusion would also apply to any nighttime well drilling activities that would be associated with the Phase 2 Project.</p>	<p>6.9-4</p> <p>6.9-5</p>
6.9-2	<p>Operational noise impacts:</p> <p>“Because there are no sensitive receptors in the vicinity of the water treatment plant sites, ... noise impacts to nearby sensitive receptors would be less than significant.</p> <p>...implementation of Mitigation Measure 4.9-2 would reduce this impact by requiring the well heads and other stationary noise sources to be housed within an enclosure designed to reduce noise levels by at least 20 dBA. This impact would be mitigated to less than significant.”</p>	<p>6.9-6</p> <p>6.9-7</p>

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Impact No.	Impact Summary Description and Statement	Page # in DEIR
6.9-3	<p>Construction vibration impacts:</p> <p>“Phase 1 and 2 pipelines not analyzed in Section 4.9 would result in less than significant impacts with implementation of Mitigation Measure 6.9-3. All other Phase 1 and Phase 2 components would be less than significant.”</p>	6.9-8
Land Use, Recreation, and Agriculture		
6.10-1	<p>Disruption of established community:</p> <p>“There would be a less than significant permanent division of an established community as a result of operation of the (Expanded) Regional Desalination Facility and brackish wells. However, construction, particularly associated with installation of the pipelines, may temporarily disrupt adjacent land uses...”</p>	6.10-11
6.10-2	<p>Conflict with land use plans:</p> <p>“brackish intake wells... may be considered coastal dependent uses; therefore the Regional Project is consistent with priority use requirements under the California Coastal Act.</p>	6.10-12
6.10-3	<p>Impacts to farmland:</p> <p>“construction of the ... Regional Desalination brackish intake wells, may temporarily conflict with established agricultural resources. Incorporation of Mitigation Measures 4.10-3 and 6.10-3 would reduce this impact to a less than significant level.”</p>	6.10-15

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Impact No.	Impact Summary Description and Statement	Page # in DEIR
6.10-4	Conflict with agricultural zoning or Williamson Act: “The proposed location of the brackish intake wells could potentially overlap areas of farmland that are under Williamson Act contract... Identification of farmland under Williamson Act contract and proper facility siting would limit the impacts to existing Williamson Act contracts (see Mitigation Measures 6.10-3).”	6.10-16 & 6.10-17
6.10-5	Increased use of parks: “The Phase 2 Project, and therefore, the Regional Project as a whole, would also result in a Less than Significant impact.”	6.10-17
6.10-6	Impacts on existing parks: “The Phase 2 Project, and therefore, the Regional Project as a whole, would also result in No Impact.”	6.10-18
Public Services and Utilities		
6.11-1	Damage or interference with existing utilities: “Utility lines of various sizes are likely to be located along or across proposed pipeline alignments and the sites of the regional desalination plant,... and may be present at the sites of the seawater and brackish water intake wells... Integration of product water from the new desalination plant... would not interrupt water supply service... The Phase 2 Project, and therefore, the Regional Project as a whole, would also result in a Less than Significant impact.”	6.11-5

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Impact No.	Impact Summary Description and Statement	Page # in DEIR
6.11-2	<p>Construction period demand for emergency services:</p> <p>“With mitigation, the Phase 2 Project, and the Regional Project as a whole, would also result in a Less than Significant impact.”</p>	6.11-7
6.11-3	<p>Impacts on landfill capacity and diversion rates:</p> <p>“Construction activities associated with the expansion of the ... regional desalination facility would generate C&D wastes, while operation and maintenance of the facilities would generate additional residual wastes. ... With mitigation, the Phase 2 Project, and the Regional Project as a whole, would also result in a Less than Significant impact.”</p>	6.11-8
6.11.4	<p>Impacts on wastewater treatment facilities:</p> <p>Regional Desalination Plant Expansion. Operation of the desalination plant involves use of clean-in-place (CIP) chemical solutions. ...</p> <p>Given the uncertainty about the CIP washwater and the treatment plant’s future capacity, the Phase 2 components would have a potentially significant impact on the plant, which would be reduced to a less than significant level by implementation of Mitigation Measure 4.11-4...”</p>	6.11-8 6.11-9
Aesthetic Resources		
6.12-1	<p>Temporary visual impacts during construction:</p> <p>“...because the visual effect of construction activity would be short lived; the resulting aesthetic impact would be less than significant.”</p>	6.12-6

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Impact No.	Impact Summary Description and Statement	Page # in DEIR
6.12-2	<p>Permanent visual impacts:</p> <p>“Expansion of the Regional Desalination plant to increase capacity would not involve substantial changes to the visible structure. ... five vertical brackish intake water wells ... could potentially be visible from State Route 1, and detract from views of the California Coastal Zone. ... Mitigation Measure 4.12-2c ... ensures that aesthetics and visibility are taken into consideration in the actual placement of the wells to minimize their prominence in the landscape and their proximity to roads, viewpoints and residences. Implementation of Mitigation Measures 4.12-2a through 4.12-2c would reduce impact 6.12-2 to a less than significant level.</p>	6.12-9
6.12-3	<p>Light and glare impacts from facilities:</p> <p>“The Phase 2 Project, and therefore, the Regional Project as a whole, would also result in a Less than Significant impact.”</p>	6.12-10
Cultural Resources		
6.13-1	<p>Impacts on know archaeological resources:</p> <p>“Ground disturbing activities for construction of the Phase 2 Regional Desalination Facility Brackish Wells could adversely affect known and unknown potentially important cultural resources. This is a potentially significant impact, mitigable to less than significant levels with the implementation of Mitigation Measures 4.13-1a-f, 4.13-2a, and 4.13-2b.”</p>	6.13-3

Impact No.	Impact Summary Description and Statement	Page # in DEIR
6.13-2	Unanticipated archaeological discoveries: “The Phase 2 Project, and therefore, the Regional Project as a whole, would also result in a Less than Significant impact.”	6.13-14
Energy		
6.14-1	Energy use for construction: “The Phase 2 Project, and therefore, the Regional Project as a whole, would also result in a Less than Significant impact.”	6.14-3
6.14-2	Operational energy use: “Electrical power would be used to operate ... the Phase 2 regional desalination plant. ...the Monterey Regional Waste Management District and MCWRA have or will have additional electrical generation capacity more that (sic) sufficient to meet the demand required for the total Regional Project.	6.14-4

~~V. Conclusion~~

~~Q11. What do you conclude from this analysis in the DEIR?~~

~~A11. As can be seen from the summary of information presented above, each and every impact category in the Draft EIR included an evaluation of the expanded 13-mgd Regional Desalination Facility. The Draft EIR contains the information necessary to allow decisionmakers to move forward with construction of a 13-mgd desalination facility to serve current water demand.~~

CEQA case law is very clear that a lead agency can legitimately choose to approve only a portion of a larger project analyzed in an EIR. In *Dusek v. Anaheim Redevelopment Agency* (4th Dist. 1985) 174 Cal.App.3d 1029 [219 Cal.Rptr. 346],

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

the Court of Appeal found that the agency did not abuse its discretion by adopting a project defined more narrowly than that originally proposed. The courts have also made it clear that “[t]he CEQA reporting process is not designed to freeze the ultimate proposal in the precise mold of the initial project; indeed, new and unforeseen insights may emerge during investigation, evoking revision of the original proposal” (*Kings County Farm Bureau et al. v. City of Hanford* (5th Dist. 1990) 221 Cal.App.3d 692 [270 Cal.Rptr. 650]).

Implementation of a 13-mgd desalination project, whose impacts were fully evaluated in the Draft EIR, is thus a legitimate option for consideration

Q12. Does that conclude your Direct Testimony?

A12. Yes, it does.