

CALENDAR ITEM

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W 26699

D. Simpkin

GENERAL LEASE – RIGHT-OF-WAY USE

APPLICANT:

California American Water Company

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Pacific Ocean, Monterey Bay, near the city of Marina, Monterey County.

AUTHORIZED USE:

Construction, operation, and decommissioning subject to a Lease Termination and Abandonment Agreement to be considered at a future Commission meeting, of a temporary exploratory test slant water well.

LEASE TERM:

3 years, beginning December 17, 2014.

CONSIDERATION:

\$450 per year, with an annual Consumer Price Index (CPI) adjustment.

SPECIFIC LEASE CONDITIONS:

Insurance:

Liability insurance in an amount no less than \$2,000,000 per occurrence.

Surety:

Surety bond or other security in the amount of \$1,000,000.

BACKGROUND:

PROJECT DESCRIPTION:

California American Water Company (CalAm or Applicant) proposes to construct, operate, and decommission a temporary exploratory test slant water well, including up to four monitoring well clusters and related infrastructure, at the CEMEX sand mining facility along Monterey Bay in the city of Marina. Drilling would originate at the test wellhead vault, which would be located approximately 650 feet inland from the existing shoreline. The test well would slant downward from the wellhead vault, extend approximately 1,000 feet into Monterey Bay, and

CALENDAR ITEM NO. 71 (CONT'D)

terminate approximately 290 feet below the seafloor. The Project would be completed in a 24- to 28-month period.

The only portion (approximately 230 feet) of the Project within the jurisdiction of the California State Lands Commission (Commission or CSLC) lies below the seafloor. No development would occur directly on the beach, on the seafloor, or in ocean waters within the Commission's leasing jurisdiction.

PRIOR REGULATORY ACTIONS:

- **City of Marina (City)**. On September 3, 2014, the Marina City Council denied Coastal Development Permit (CDP) No. 2012-05 for CalAm's slant test well project and directed City staff to prepare an Environmental Impact Report. The City had prepared, but did not adopt, a Mitigated Negative Declaration (MND) pursuant to the California Environmental Quality Act (CEQA).

- **California Coastal Commission (CCC)**. The Marina City Council's denial of the CDP was subsequently appealed (Appeal Number A-3-MRA-14-0050) to the CCC. On November 12, 2014, the CCC: (1) found that the appeal presented a substantial issue with respect to the grounds on which the appeal had been filed under section 30603 of the California Coastal Act (Coastal Act) (Pub. Resources Code, § 30000 et seq.) regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act; and (2) approved CDP No. 9-14-1735 and adopted findings on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. The CCC found that "approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment."

- **Monterey Bay National Marine Sanctuary/National Oceanic and Atmospheric Administration (MBNMS/NOAA)**. On October 29, 2014, the MBNMS/NOAA signed a Finding of No Significant Impact (FONSI) regarding the environmental resources within MBNMS and adjacent shoreline areas for CalAm's proposed Project. The MBNMS found that the Project would not significantly impact the quality of the human environment and that all beneficial and adverse impacts of the Project had been addressed to reach the conclusion of no significant impacts. Therefore the MBNMS found that preparation of an Environmental Impact

CALENDAR ITEM NO. **71** (CONT'D)

Statement (EIS) for this Project was not necessary. The proposed project described in the Environmental Assessment (EA) was evaluated for consistency with the National Marine Sanctuaries Act (16 United States Code [USC] 1431 et seq.), sanctuary goals and objectives, and MBNMS permitting regulations. The environmental impacts of the permitted action are described in the EA, pursuant to the National Environmental Policy Act (42 USC 4321 et seq.) and related implementing regulations.

ENVIRONMENTAL CONSULTATION:

Prior to the actions taken by the Marina City Council and CCC, CSLC staff consulted with City, CCC, and/or other agency staffs on multiple occasions regarding the Project.

- August 3, 2012: CCC staff contacted CSLC staff via email regarding the Project.
- September 20, 2012: CalAm and California Department of Fish and Wildlife hosted a regulatory agency briefing. At that time, the Project was planned for a different location on the beach and more of the Project was within the CSLC's jurisdiction.
- June 10, 2013: CalAm hosted an agency coordination meeting regarding the Project. CSLC staff participated by telephone.
- August 1, 2013: CSLC staff and CCC staff received a Project Referral from the City requesting comments on the Project, and CSLC staff and CCC staff each submitted comments on August 29, 2013.
- October 2013: The City released an Initial Study for the Project but did not request comments at that time.
- February 28, 2014: CSLC staff received a second Project Referral from the City requesting additional comments on the October 2013 Initial Study for the Project and submitted its comments on March 20, 2014.
- May 19, 2014: CSLC staff received the proposed MND from the City, which was released for a public review period from May 19 through June 17, 2014, and submitted its comments on June 17, 2014.
- June 27, 2014: CSLC staff received the MBNMS EA but did not submit comments because staff's prior concerns were adequately addressed.
- July 10, 2014: CSLC staff received the Marina Planning Commission Staff Report for the Project, but did not submit comments because the report incorporated staff's prior comments and there were no potential environmental impacts to land within the Commission's jurisdiction.

CALENDAR ITEM NO. 71 (CONT'D)

- September 3, 2014: CSLC staff received the Marina City Council Agenda and Staff Report for the Project, but did not submit comments because the report incorporated staff's prior comments and there were no potential environmental impacts to land within the Commission's jurisdiction.
- October 31, 2014: CSLC staff received the CCC staff report on the Project and appeal to the CCC for a CDP, but did not submit comments because the report and the appeal had already incorporated staff's prior comments and there were no potential environmental impacts to land within the Commission's jurisdiction.
- November 10, 2014: CSLC staff discussed the Project with CCC staff via a teleconference meeting.
- November 12, 2014: The CSLC is a non-voting member of the CCC and the CSLC Executive Officer participated in the CCC meeting where the CDP was heard and approved. Additionally, CSLC staff received the CCC staff report Addendum, but did not submit comments because the addendum did not alter the analysis related to the Commission's jurisdiction.

OTHER PERTINENT INFORMATION:

1. The Applicant has a right to use the upland adjoining the lease premises.
2. The Applicant's proposed project seeks to determine the feasibility of using a subsurface intake system at the project site or nearby for use in a potential future desalination facility. The environmental review for this separate desalination project, the Monterey Peninsula Water Supply Project, is being conducted by the California Public Utilities Commission. The information gained from the Applicant's project may also be useful in analyzing other potential future desalination projects. The Applicant's project includes the construction, operation, and decommissioning subject to a Lease Termination and Abandonment Agreement to be considered at a future Commission meeting of a temporary exploratory test slant water well (test well) and associated monitoring wells. Approximately 230 feet of the proposed test well will be located within sovereign land under Monterey Bay. Other components of the project, including disposal piping, electrical supplies, monitoring wells, and other infrastructure will be located on the upland, which is outside the Commission's jurisdiction and therefore does not require Commission authorization. The Applicant has requested a short-term lease from the Commission to construct, operate and decommission the test well. The proposed lease before the Commission is for a slant test well only and does not authorize the drilling of additional wells or the use of the well in any future desalination project.

CALENDAR ITEM NO. 71 (CONT'D)

3. The test wellhead vault will be located approximately 650 feet from the existing shoreline and outside the Commission's jurisdiction. The test well will extend from the wellhead vault approximately 1,000 feet waterward into Monterey Bay and approximately 290 feet below the seafloor. The test well will be drilled using a dual rotary closed system drilling method with a 20-inch diameter casing and 14-inch diameter well screen. The project is estimated to be completed in 24 to 28 months.
4. Discharge water pumped from the test well will be sent to an existing 60-inch diameter ocean outfall operated by the Monterey Regional Water Pollution Control Agency (MRWPCA), which is under lease with the Commission.
5. Upon completion of the pumping and tests, the Applicant intends to decommission and seal the test well pursuant to requirements of the California Well Standards Bulletin 74-81 and the Monterey County Environmental Health Bureau. The slant well components will be removed to at least 40 feet below ground surface. The decommissioning of the slant test well will require future Commission consideration of a Lease Termination and Abandonment Agreement, which will detail the Applicant's obligations and responsibilities for any abandoned facilities, including but not limited to, Lessee's commitment to respond to any claims arising from any abandoned facilities; removal of any remaining facilities to the extent that they become a public safety hazard at any time in the future; and the Applicant's obligation to provide sufficient financial assurance to guarantee faithful performance of the Lease Termination and Abandonment Agreement.
6. The CCC prepared an environmental document pursuant to its certified regulatory program (Cal. Code Regs., tit. 14, § 15251, subd. (c)), and granted CDP No. 9-14-1735 for this project on November 12, 2014.

Staff has reviewed the CCC's environmental document and determined that the conditions, as specified in the California Code of Regulations, Title 14, section 15253, subdivision (b), have been met for the Commission to use this document for its compliance with CEQA.

7. A lawsuit was filed by the Marina Coast Water District (MCWD) against the CCC in the Superior Court for the County of Sacramento on November 24, 2014, alleging in part, that the CDP is inadequate under CEQA and that the CCC lacked authority to issue the CDP (Case 2014-80001983). The MCWD requested that the court issue a stay, but one has not been issued as of the date of this staff report.

CALENDAR ITEM NO. **71** (CONT'D)

8. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq.; however, the Commission has declared that all lands are “significant” by nature of their public ownership (as opposed to “environmentally significant”). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code section 6370 et seq., use classifications for such lands have not been designated. Therefore, the finding of the project’s consistency with the use classification as required by California Code of Regulations, Title 2, section 2954 is not applicable.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that California Coastal Commission (CCC) Appeal No. A-3-MRA-14-0050, CDP 9-14-1735, and Addendum 1 dated November 11, 2014 (collectively, the “environmental document”), prepared for this Project by the CCC pursuant to its certified regulatory program (Cal. Code Regs., tit. 14, § 15251, subd. (c)), is a substitute document as provided by the California Code of Regulations, Title 14, section 15252, subdivision (a), and that the California State Lands Commission has reviewed and considered the information therein.

Find that the conditions described in the California Code of Regulations, Title 14, section 15253, subdivision (b), have been met for the California State Lands Commission acting as a responsible agency to use the environmental document to comply with the requirements of the California Environmental Quality Act. (Cal. Code Regs., tit. 14, § 15096.)

Determine that the Project, as approved, will not have a significant effect on the environment.

AUTHORIZATION:

Authorize issuance of a General Lease – Right-of-Way Use to California American Water Company beginning December 17, 2014, for a term of 3 years, for the construction, operation, and decommissioning subject to a Lease Termination and Abandonment Agreement to be considered at a future Commission meeting of a temporary exploratory test slant water

CALENDAR ITEM NO. **71** (CONT'D)

well as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$450 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$2,000,000 per occurrence; and surety in the amount of \$1,000,000.

EXHIBIT A

W 26699

LAND DESCRIPTION

A strip of tide and submerged lands, 350 feet wide, in the Pacific Ocean, near the town of Marina, County of Monterey, State of California, lying 175 feet on each side of the following described center line:

BEGINNING at a point having CCS83, Zone 4 coordinates of North (y) = 2154711.69 feet and East (x) = 5739571.62 feet; thence N 88° 22' 31" W, 950.00 feet to the POINT OF TERMINUS of said center line.

EXCEPTING THEREFROM any portions lying landward of the ordinary high water mark of said Pacific Ocean.

The sidelines of said strip to be lengthened or shortened as to begin at the ordinary high water mark of said Pacific Ocean and terminate at the lines perpendicular to said terminus of said center line.

The BASIS OF BEARINGS of this description is the California Coordinate System of 1983 (CCS83), Zone 4.

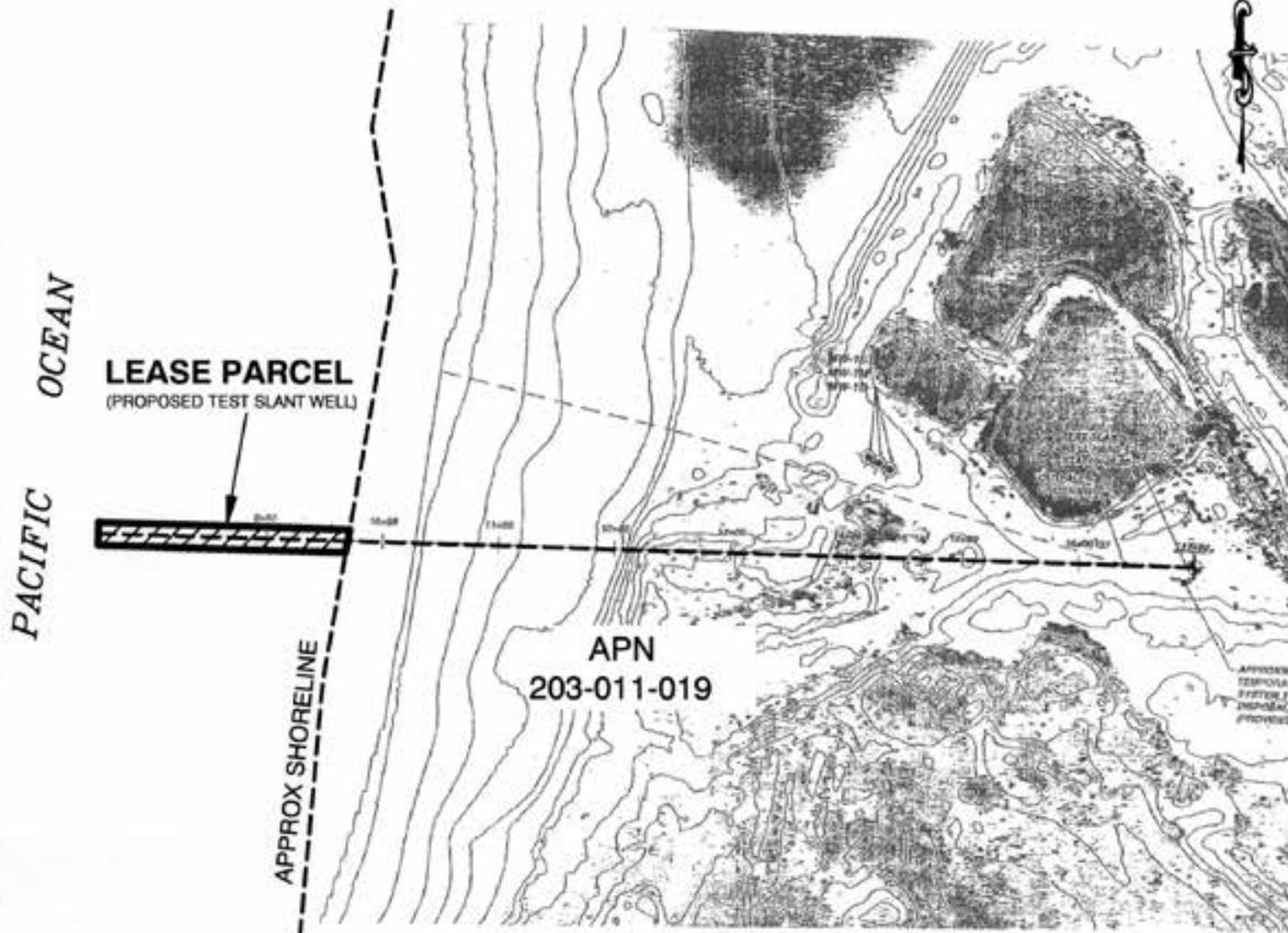
END OF DESCRIPTION

Prepared 12/11/2014 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE



PACIFIC OCEAN, NEAR THE CITY OF MARINA

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

W 26699
 CALIFORNIA AMERICAN
 WATER
 APN 203-011-019
 GENERAL LEASE -
 RIGHT-OF-WAY USE
 MONTEREY COUNTY



SITE

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.