

Section 14.3

State Government Agencies

California Coastal Commission, Dan Carl, Central Coast District Manager, 04/15/09

- S_CCC-1 This comment recommending exploration of additional water supply project components and adherence to local land use policies is acknowledged. Chapters 5 and 8 both discuss the large number of water supply project components that have been considered as part of the CWP, and Section 4.10, Land Use, Agriculture, and Recreation, discuss the CWP's compliance with local plans and policies (including local coastal plans).
- S_CCC-2 Subsequent to the release of the Draft EIR, additional feasible mitigation has been identified for the Moss Landing and North Marina Projects that would effectively reduce the potentially significant impact associated with greenhouse gases to a level that would be less than significant. Please refer to Master Response 13.8, Greenhouse Gases.
- S_CCC-3 The Draft EIR did not include the 2009 Pacific Institute report referenced in the comment because the Draft EIR was published in January 2009. Based on this comment, as well as G_TOMP-14 and G_LanWat-21, the EIR has been updated to include the finding of the Pacific Institute, 2009 report. We note that sea level rise is likely faster than previously predicted, but during the lifetime of the project, the rise during a one percent flood event is predicted to be lower than the ground elevations at Moss Landing. Therefore, the impact conclusions remain the same and no mitigation has been added. Based on the comment, edits to the Sea Level Rise have been made. Please see G_LanWat-21 for the text changes related to Sea Level Rise in Section 4.1 and Section 6.1, Surface Water Resources.
- S_CCC-4 The comment concurs with the Draft EIR's assessment that the North Marina Project is environmentally superior to Moss Landing due to the use of a subsurface intake system. The comment also asserts that if additional evidence is presented that demonstrates that the cooling intake is appropriated, the Coastal Commission would evaluate whether there are additional feasible technological measures approaches (i.e. screening systems, variable speed pumps, etc.) to reduce impacts to marine life to a less-than-significant-level. The Draft EIR has analyzed and imposed all feasible mitigation measures on the project. Refer also to the Master Response 13.11, CEQA Evaluation of Once-Through-Cooling, under the "Use of Existing OTC" subheading.
- S_CCC-5 As described in Section 3.1.2 of the EIR, one of the primary objectives of the Coastal Water Project is to satisfy CalAm's obligations to meet the requirements of SWRCB Order 95-10. Order 95-10 requires CalAm to develop a replacement supply for any diversions from the Carmel River in excess of its legal entitlement of 3,376 afy. The Seaside Basin Adjudication requires CalAm to reduce its use of the Seaside Basin from approximately 4,000 afy to 1,494 afy. As discussed in

Chapter 2, Project Background, a total of 12,500 afy is needed to meet regulatory replacement requirements within the CalAm service area. The proposed CWP therefore would involve reducing the Carmel River and Seaside Basin withdrawals to the levels within the legal entitlements and this may not involve completely offsetting the withdrawals.

As described in Chapter 3, the proposed project would include construction and operation of a desalination facility at Moss Landing or in North Marina as means to diversify and create a reliable drought-proof water supply, which is one of the CWP objectives. The EIR describes the proposed project and the resulting environmental impacts including effects to water quality, groundwater levels, and biological resource habitat (see Sections 4.1 through 4.3 of EIR). The project aims to reduce the current Carmel River and Seaside Basin withdrawal rates to the legally entitled levels mentioned above, therefore the existing withdrawal apparatus would continue to be utilized.

S_CCC-6 The comment states that although the EIR describes the Phase 2 Regional Project as the only proposed project evaluated in the EIR that is characterized as growth inducing, the EIR is unclear about future water demand in the service area and the role of any desalination facility in meeting the demand of future planned growth; that the EIR has not evaluated measures to reduce demand, which should be part of a comprehensive water supply solution; and that the EIR is not clear about whether or how the description of future service area demands is relevant to the desalination proposal. The comment states that since the “two desalination plant proposals” are to replace existing demand, and future growth would increase demand, it is unclear how the benefits of the proposed projects -- reduced withdrawals from the Carmel River system and Seaside Basin -- are to be permanently guaranteed.

The EIR describes the proposed CWP (also referred to as the Moss Landing Project) and an alternative to the CWP, the North Marina Project, in Chapter 3. The impacts of the CWP and North Marina Project are evaluated in Chapter 4. Both of these projects would replace existing water supply to which CalAm no longer has legal rights pursuant to SWRCB Order WR 95-10 and the Seaside Basin adjudication. The supply components to meet the 12,500 afy of needed replacement supply are shown in **Table 3-2**; as shown in this table, the desalination plant would provide 10,900 afy of the 12,500 afy. The other components that would supplement the desalination plant are also shown in **Table 3-2**.

The EIR describes the Regional Project, an alternative to the CWP that emerged from a community-based process, in Chapter 5, and evaluates its impacts in Chapter 6. The Regional Project consists of two phases, Phase 1 and Phase 2, and, as the name suggests, would include service to some areas outside the CalAm service area (in addition to the CalAm service area). As with the CWP and North Marina Project, Phase 1 of the Regional Project would provide 12,500 afy

replacement water supply for the CalAm service area. The Phase 1 Regional Project desalination plant would also provide 1,700 afy to the Marina Coast Water District to replace a portion of the previously approved supply (the Regional Urban Water Augmentation Project [RUWAP]) for development approved under the Fort Ord Reuse Plan. The supply components to meet the 15,200 afy critically-dry-year demand needed for Phase 1 were shown in **Table 5-2** of the EIR. Subsequent to release of the Draft EIR, additional refinements have been made to the Regional Project, as described in the **Master Response 13.4, Changes to Proposed Desalination Facility and Regional Project Description**. As discussed in the master response and shown in revised **Table 5-2** (in revised Chapter 5), the desalination plant would provide 8,800 afy of the needed normal weather demand within the CalAm service territory and 10,900 afy to help meet critically-dry weather demand within the CalAm service territory. The other components that would supplement the desalination plant, as refined subsequent to the Draft EIR, are also shown in revised **Table 5-2**. As with the CWP and North Marina Project, the EIR analyzes Phase 1 of the Regional Project at a project level of detail. As with the CWP and the North Marina Project, the Phase 1 Regional Project would not be growth inducing because it would replace existing supplies in the CalAm service area to which CalAm does not have a legal right and would replace a previously evaluated and approved supply for MCWD. Refer to the response to comment CalAm-22.

Phase 2 of the Regional Project would provide water to meet future demands in the CalAm service area (projected to be approximately 4,500 afy) and North County (projected to be approximately 5,900 afy). The supply components to meet the 10,400 afy needed for Phase 2 are shown in **Table 5-4** of the EIR. As shown, an expanded desalination plant would provide 4,400 afy of the projected demand. That is, this 4,400 afy of desalinated water -- and the water provided by other Phase 2 components -- would be in addition to the replacement water supply provided for the CWP (or North Marina Project) or Phase 1 of the Regional Project. The other components that would supplement the desalination plant to meet the projected future demands are also shown in **Table 5-4**. Although it is not clear which “two desalination plant proposals” the comment is referring to, the comment seems to mean the CWP and North Marina Project, or possibly the CWP and Phase 1 of the Regional Project. These projects would provide replacement supply, whereas Phase 2 of the Regional Project would provide additional supply, including an expanded desalination facility, to meet the projected additional, future demands. Provision of water to replace CalAm’s unlawful diversions from the Carmel River system and withdrawals in excess of CalAm’s adjudicated right to the Seaside Basin is the most basic purpose of the CWP, and providing water supply to meet future growth (under Phase 2 of the Regional Project) would not interfere with providing that replacement supply. The EIR analyzed the Phase 2 Regional Project and determined that it would be growth inducing.

The components of the Phase 2 Regional Project are more conceptual in nature and therefore were analyzed at a programmatic level of review. Additional CEQA analysis likely will be needed prior to approval of Phase 2 project components if and when they are formally proposed (as discussed in Master Response 13.3, The Use of this Environmental Impact Report). Alternatives to the components included in the Phase 2 Regional Project, potentially including an alternative that includes increased conservation in place of some portion of the physical water supply, could be considered and evaluated at that time. The purpose of the CWP EIR is to examine impacts associated with, and alternatives to, the CWP, whose primary objective is to supply water to replace certain existing water supplies and continue to meet existing demand. Phase 2 of the Regional Project was included in the EIR for informational and long-term water supply planning purposes. CEQA requires evaluation of alternatives to the proposed project, but does not require an examination of alternatives to an element of an alternative such as the Phase 2 Regional Project.

The water demands to be met by the CWP (or North Marina Project) and the Regional Project and how the demands were determined is described in Chapter 2, Water Demands and Supply. Existing and projected future demands for the CalAm service area are described in Section 2.3; the determination of replacement supply to meet existing demands is described in Section 2.3.1 of the EIR. The determination of future demands for the CalAm service area is described in Section 2.3.2. As described, the estimates of future development provided (to MPWMD) by representatives of each jurisdiction, which provided the basis of the demand projections, were based on the jurisdictions' adopted general plans. Thus, the process to determine demand was designed to ensure that growth that would be supported by an additional water supply was consistent with adopted land use plans -- including local coastal program plans where applicable -- consistent with the interest expressed in this comment. The future water demands outside the CalAm service area that would be met by the Regional Project are described in Section 2.5, Regional Water Demands, and shown in **Table 2-6**. These include water for the MCWD territory (refer to the response to Comment G_CalAm-22 for more detailed information on the Phase 1 supply component for MCWD), and 5,900 afy for North County (also shown in **Table 2-6**), based on previous planning studies, which is included in the Phase 2 Regional Project. Chapter 8, Growth Inducement Potential and Secondary Effects of Growth analyzes the growth inducement potential of the CWP and North Marina Project and Phase 1 and Phase 2 of the Regional Project. As noted above, the analysis concluded that the CWP, North Marina Project, and Phase 1 Regional Project would not be growth inducing and that the Phase 2 Regional Project would be growth inducing.

Regarding the commenter's concern that measures to reduce demand be considered, please refer to Master Response 13.14, Unaccounted-for Water and Conservation.

- S_CCC-7 Subsequent to the release of the Draft EIR, additional feasible mitigation has been identified that would effectively reduce the potentially significant impact associated with greenhouse gases to a level that would be less than significant. Please refer to Master Response 13.8, Greenhouse Gases.
- S_CCC-8 The comment notes that natural variability in source water quality would have an effect on treatment and maintenance, and the EIR should provide additional information on the effects the variability will have on facility costs. CEQA, however, directs the focus of the analysis contained in an EIR to be on physical changes (CEQA 15131(a)). The CPUC will consider project costs under a separate phase of the application process, and the commenter is directed to the Master Response 3.2 for an explanation of that part of the CPCN approval process.
- S_CCC-9 The comment notes that the EIR did not evaluate the impacts of the Moss Landing Project in the event that once-through-cooling at MLPP ceases and the proposed desalination plant would be required to operate as a stand-alone facility. According to the commenter, CalAm may be required to conduct additional studies related to entrainment issues to update and comprehensively identify impacts and mitigation. Refer to the Master Response 13.11, CEQA Evaluation of Once-Through-Cooling, under the “Use of Existing OTC” and “Possible Discontinuance of OTC” subheadings.
- S_CCC-10 The comment notes that the feasibility of a 3 millimeter screen at the Moss Landing intake to reduce entrainment issues is not proven and that the Coastal Commission will evaluate results from studies. The Draft EIR did not include different size mesh screens. Refer to the Master Response 13.11, CEQA Evaluation of Once-Through-Cooling, under the “Use of Existing OTC” subheading.
- S_CCC-11 Please see the Master Response 13.12, Public Versus Private Ownership.
- S_CCC-12 Comment S_CCC-12 has been noted. This response coincides with the response provided for comment L_MCRMA-8, which asserted a similar concern. In general, projects are required to undergo comprehensive environmental review under the California Environmental Quality Act (CEQA) through the environmental impact report (EIR) process. The complexity of the project and involvement of multiple regulatory agencies requires a subsequent permitting process that is separate from the environmental review process. Consistency analysis is required to determine whether the proposed Project is consistent with the coastal resources planning and management policies in Chapter 3 of the California Coastal Act of 1976 (CCA), Public Resources Code Division 20. This analysis also considers consistency with LCPs. A more detailed consistency review of the Moss Landing Project, North Marina Project, or the Regional Project under the applicable Local Coastal Programs and the Coastal Act would be required for approval of coastal development permits when an actual project is chosen and the project proceeds to the permitting phase. This review often requires more detailed information than

might be provided during CEQA. Early and thorough CEQA review that provides some of the information necessary may expedite the review process, however it is not required. The responsibility to conduct the consistency review of the project with LCPs belongs to the entity that administers the Local Coastal Program (Ford, 2009). The California Coastal Commission is charged with the responsibility to conduct the consistency review of the project with the Coastal Act as a condition for approval of a coastal development permit (Luster, 2009). Furthermore, a coastal development permit application can only be considered complete after other local and state permits and approvals are received (CCC, 2004).

Several state, regional, and local agencies have jurisdiction over coastal development permit approval. The following discussion identifies applicable regulations and LCPs and the entity that they are administered by:

Plan/ Policy	Jurisdiction/ Permitting Agency
California Coastal Act	California Coastal Commission
Monterey County Coastal Implementation Plan, Part 2 (North County Coastal Implementation Plan)	Monterey County Planning and Building Department
North County Land Use Plan (LUP) (Coastal)	Monterey County Planning and Building Department
Monterey County Coastal Implementation Plan, Part 4 (Carmel Area Coastal Implementation Plan)	Monterey County Planning and Building Department
Carmel Area LUP	Monterey County Planning and Building Department
Monterey County Coastal Implementation Plan, Part 6 (Appendices)	Monterey County Planning and Building Department
City of Marina LUP/LCP	City of Marina
City of Sand City LUP/ LCP	City of Sand City

SOURCE: Monterey County, 2009.

It is important for the appropriate administrative agency to conduct the review due to variables of a project. For example, the California Coastal Commission may review and apply the Coastal Act policies differently depending on project components such as public versus private ownership or co-location with existing facilities (CCC, 2004).

A comprehensive list and review of all of the policies from the applicable LCPs is not included in Section 4.10 of the EIR as part of the environmental review process because a full consistency review with LCPs is not required under CEQA because it is within the scope and responsibility of the agency that administers the LCP. Once the environmental review process is complete and a project has been approved, consistency review is a task that is implemented during the permitting phase by the agency that administers the LCP. In the EIR, the analysis of consistency with plans and policies was evaluated based on a criterion in Appendix G of the CEQA Guidelines, which states a project would have a significant impact

if it would “conflict with any applicable land uses plan, policy, or regulation of an agency with jurisdiction over the project, including, but not limited to the general plan, specific plan, local coastal plan, or zoning ordinance adopted for the purpose of avoiding or mitigating an environmental effect.” Therefore, policies included in the analysis were streamlined to focus on policies that direct avoid or mitigate an environmental effects related to land use, recreation, and agriculture within the coastal zone.

- S_CCC-13 This comment in support of subsurface intakes is acknowledged.
- S_CCC-14 The comment notes that the Coastal Commission’s immediate permit review would include studies and analysis needed to determine cumulative impacts caused by both a standalone and co-located facility. Refer to the Master Response 13.11, CEQA Evaluation of Once-Through-Cooling, under the “Use of Existing OTC” and “Possible Discontinuance of OTC” subheadings.

**California Department of Public Health, State of
California Health and Human Services Agency,
Jan R. Sweigert, P.E., District Engineer, Monterey
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04/08/09**

S_CDPH-1 As noted in Chapters 3, Project Description; 4.1, Surface Water Resources; and 6.1, Surface Water Resources (Regional Project), of the EIR, the new water supply treatment, storage, and conveyance facilities and recycled water project components would be subject to the CDPH requirements such as the Permit to Operate a Public Water System and Title 22 requirements. The Groundwater Replenishment Program, a component of Phase 2 of the Regional Project described in Chapter 5 of the EIR and analyzed at a program level in the document would also be subject to the CDPH regulations when and if that project is proposed in the future. The project applicant would be responsible for compliance with the applicable CDPH requirements for the groundwater replenishment program.

California Regional Water Quality Control Board, Central Coast Region, Roger W. Briggs, Executive Officer, 04/15/09

- S_RWQCB-1 Comment noted.
- S_RWQCB-2 The comment notes that the EIR should include an analysis of potential impingement, entrainment, and discharge effects if OTC is phased out of MLPP. Refer to the Master Response 13.11, CEQA Evaluation of Once-Through-Cooling, under the “Possible Discontinuance of OTC” subheading.
- S_RWQCB-3 As described under Impact 4.1-3 in the EIR, CalAm operates its Monterey Public Water System on a permit issued by the CDPH pursuant to California Health & Safety Section 116525. Because the proposed project would modify a substantial portion of the System's source water, which would have a different method of treatment than the existing water supply, CalAm would apply to the CDPH to amend its existing permit. (California Health & Safety Code Section 1165509(a).) As part of the water supply permit application, CalAm would submit a technical report that would provide a detailed description of source water, water quantity, assessment of vulnerability to contamination, source water quality analysis, and treatment and design information.
- The USEPA recognizes RO membrane treatment as a best available technology for water treatment and for meeting future water quality regulations. The RO system membrane performance would be continuously monitored through the feed source water, permeate (product water) conductivity, and the differential pressure through the membranes. If the permeate salinity (i.e., total dissolved solids levels) exceeds the design level, the membranes would be cleaned to recover their original performance capabilities. In addition, an average of 10 percent to 15 percent of the membrane elements would be replaced every year, thereby maintaining the product water quality at steady levels.
- S_RWQCB-4 This comment in support of subsurface intakes and of mixing discharge brine with wastewater from the MRWPCA outfall is acknowledged.
- S_RWQCB-5 The comment states that there is a typographic error in the Regulatory Setting section of the Chapter 4.2, *Groundwater Resources*, of the DEIR. The comment points out that the document mentions the Central Valley rather than the Central Coast Basin Plan as a source of additional information with respect to groundwater protection for the area. Comment noted. The text in Regulatory Setting section of Chapter 4.2 has been modified as indicated below.

Additional information regarding the Basin Plan for the Central ~~Valley~~
Coast RWQCB is provided specific to groundwater resources.

References

California Coastal Commission, Seawater Desalination and the California Coastal Act, Chapter 6-Other Regulations and Permits, page 89 et al., March 2004.

Pacific Institute, California Climate Change Center, *The Impacts of Sea-Level Rise on the California Coast*, Final Paper, prepared by Matthew Heberger, Heather Cooley, Pablo Herrera, Peter H. Gleick, and Eli Moore, May 2009.

Personal Communication, KMB w/ John Ford, Planner, Monterey County Planning and Building Department, 0830 June 18, 2009, (831) 796-4890.

Personal Communication, KMB w/ Tom Luster, California Coastal Commission (415. 904.5248), 1045 June 22, 2009.