

From: Marc Del Piero <midelpiero@aol.com>

Sent: Saturday, September 15, 2018 9:56:49 AM

To: ronweitzman@redshift.com

Cc: Moore, Steven@Waterboards; Doduc, Tam@Waterboards; Jane Parker; Sara Rubin; Clyde Roberson; Steve Dallas; Bill Lee; Howard Gustafson; Jan Shriner; Tom Moore; Bruce Delgado; David Brown; Frank O'Connell; Gail Morton; Mark Stone; Marcus, Felicia@Waterboards

Subject: Re: A Whopper in Saturday's Herald

Ron - How truly embarrassing it must be for the CPUC members to have voted unanimously to support a utility that so easily lies to the public, to the media, and to governmental agencies including the SWRCB. It seems that the TRUTH is the first casualty of a situation like this.

In 1995, the five members of the SWRCB unanimously found that CalAm's management was illegally pumping over 10,000 acre feet annually from the Carmel River for profit without any appropriative rights. Small children might refer to this as "theft" or "stealing". CalAm's management's conduct was found to be in direct and inexcusable violation of California law, hence the SWRCB cutback order. During those hearings, CalAm's representatives repeatedly tried to influence the SWRCB with their massively disingenuous testimony. How their continuing violations get resolved remains to be seen. For the past 24 years they have flaunted their arrogant refusal to comply with that order of the SWRCB. Unfortunately, now they are playing the same game in an overdrafted, non-adjudicated groundwater basin.

CalAm owns a system that holds less than 6000 acre/feet of appropriative water rights on the Carmel River. That's all. In effect, CalAm owns an aging water utility with less than half the water needed for the residents to be served.

But, because the CPUC has repeatedly granted CalAm's rate increases, in spite of their repeated, decades long violations, CalAm now asserts that their right to use that water is worth over \$110 million. And that their aging system is worth over a billion dollars.

Moreover, CalAm holds NO groundwater rights in the overdrafted percolated groundwater basin of the Salinas Basin. NONE.

Yet, by their own admission, they intend to pump fresh groundwater from that basin into a desal plant in spite of the existence of irrigation and water supply wells owned by innocent senior rights holders that are being and will be polluted and damaged by CalAm's excessive beach well pumping cones of depression. Written objections by existing overlying landowners and senior appropriators that their senior water rights and fresh water resources are being irreparably damaged and wrongfully taken/lost by the inducement of seawater contamination (from CalAm's pumping of their well) have fallen on the deaf ears of the CPUC.

Those written objections to CalAm's violation and wrongful taking of third party senior groundwater rights by inducing seawater pollution remain unanswered.

CalAm is proposing to wrongfully pump/take groundwater resources (to which CalAm has no rights) from innocent overlying farmland owners, municipalities (Marina), and non-profit farmland trusts who have purchased prime coastal farmland and environmental lands with federal funds and state bond funds (pursuant to existing governmental programs) expressly appropriated to preserve their rare agricultural productivity and environmental habitats. The fresh water supplies/wells of those lands are part of the purchased resources that are mandated to be preserved and protected by those existing state and federal governmental programs, and CalAm is NOT allowed to benefit at the expense of taxpayer funded, legislatively authorized resource protection programs. The CPUC failed to address this conflict.

Due to their well cone of depression, CalAm's actions are intentionally violating and knowingly polluting a potable water supply (as designated in the RWQCB Basin Plan and the certified North Monterey County Local Coastal Plan) expressly to allow CalAm to advance an argument that it is creating "salvaged water". CalAm repeatedly has advised anyone who will listen that CalAm has been "directed" to follow this process of exploiting the near shore potable aquifer by the Office of the Chief Counsel of the SWRCB (CalAm reps have repeatedly testified to this, and pointed to the original SWRCB C. C. advice letter as the source of this "direction" to violate the 1968 SWRCB non-degradation resolution, when speaking to the Coastal Commission and the Mayors Select Committee.). The fact is that CalAm is not pumping ocean water into a desal plant.

CalAm has not offered any compensation for damages to overlying rights holders for use of their protected aquifers nor replacement water supplies for the senior rights holders/landowners/senior appropriators whose groundwater rights and aquifer storage capacity CalAm plans to wrongfully pollute and take. They have not even engaged the senior rights holders in conversations.

No "physical solution" can be had here. CalAm cannot frustrate the existing, voter-approved governmental freshwater aquifer protection/recharge/restoration projects. The existing senior rights holders are already paying continuing, voter-approved governmental assessments as part of ongoing (20+ years) governmental programs operating aquifer protection/recharge/conservation and restoration projects. The rights holders have beneficial entitlements to the freshwater that is produced in part to protect and recharge the same aquifer that CalAm wants to wrongfully pollute and exploit. Besides lacking water rights, CalAm's desire to exploit SV aquifers (and the existing, taxpayer funded, aquifer conservation and recharge/restoration/protection programs) is "too late" because the basin is in overdraft and CalAm cannot acquire any appropriate rights.

CalAm never pays for the real economic and environmental damages that they cause to others' water rights and water supplies.

The current situation is simply CalAm again flaunting the law of groundwater rights (and knowingly compromising future SGMA protections and mandates) by trading its' illegal taking of Carmel River water for an even more egregious illegal and wrongful taking of other people's percolated groundwater rights from the overdrafted Salinas Valley by polluting the aquifers with sea salt.

CalAm has never paid for the aquifer protection of the ongoing "governmental freshwater recharge and aquifer restoration assessment district projects". CalAm has not paid for, nor has a right to the conserved groundwaters flowing therefrom, including the Rubber Dam or the purple valve projects. The existing senior rights holders are paying for (and will continue to pay for) these protection and conservation programs. These on-going freshwater projects and governmental assessments are expressly to protect, preserve, conserve and recharge the senior rights holders' "near coastal, potable aquifers" that CalAm intends to exploit and knowingly pollute with saltwater contamination.

It is important to note that the County of Monterey holds NO percolated groundwater rights in the basin. Further, It is well established law that the affirmative conservation of groundwater resources/aquifers by senior rights holders does not effect an abandonment of those rights nor of the freshwater nor of the storage capacity in those aquifers.

Importantly, CalAm has not created one drop of new water since the SWRCB issued Order 95-10. Not one.

Yep, even in this age of "alternative facts", it must be truly embarrassing to be a public official who will be forever remembered as supporting a utility that finds it so easy to lie.

Marc Del Piero

On Sep 14, 2018, at 9:00 PM, Ron Weitzman <ronweitzman@redshift.com> wrote:

Jim, you could have asked Water Plus for appraisal information. We had two appraisals done, the later one in 2011. It valued Cal Am's fair market value at that time at \$94 million. Its rate base then was about \$102 million. Our appraiser used income and market methods of appraisal. The rate base corresponds to a replacement-cost estimate. In our case, that estimate was higher than a weighted average of the other two (\$94 million). Recently, the rate base has risen to \$134 million (as of January 2017). That excludes additions to the rate base Cal Am expects from removal of the San Clemente Dam, construction of the Monterey Pipeline, and any desal plant the company might build in the next few years. Taking all that into account, the total is a far cry from \$1 billion, which is a hoot if there ever was one. Different from Cal Am, I've attached our 2011 appraisal letter. The \$17 million appraisal cited there is the remainder of a \$94 million valuation after subtracting what was then considered to be a \$77 million Cal Am liability for the cost of removing the defunct San Clemente Dam.

It's painful even to think about how much Cal Am ownership has hurt local ratepayers. --Ron

Cal Am's Monterey district appraised by Cal Am at \$1.044 billion

<image001.jpg>Rich Svindland of California American Water gives a presentation at a public water meeting at the Oldmeyer Center in 2012. (Vernon McKnight/Herald Correspondent)

By **[Jim Johnson](#)**, *Monterey Herald*

POSTED: 09/14/18, 4:19 PM PDT | UPDATED: 2 HRS AGO

Monterey >> California American Water has released an appraisal indicating its Monterey district is worth an estimated \$1.044 billion as of the end of June, essentially setting the company's own perceived value of the local system subject to a public buyout effort.

On Friday, the local water provider issued a summary fair market valuation from independent expert MR Valuation Consulting that outlined the rationale for establishing a value for the local system's assets, and which made it clear that the appraisal was being done "in anticipation of a potential condemnation action."

Cal Am is facing a public buyout effort aimed at its Monterey district system backed by Public Water Now, which has initiated a fall ballot initiative known as Measure J that would require the Monterey Peninsula Water Management District to conduct a feasibility study of a potential acquisition attempt. If a potential buyout is found to be feasible, the water management district would be required to move ahead with the acquisition. Cal Am has indicated the system is not for sale so the attempt would likely involve eminent domain or condemnation, which would likely be settled in the courts.

Cal Am manager of external affairs Catherine Stedman said the company has never before released an appraisal of its Monterey district, only publicly stating the value was likely in the "hundreds of millions of dollars," and said the current appraisal was an attempt to inform voters.

"We want voters to have concrete information on what it could cost if Measure J is successful," Stedman said.

According to the report, the fair market value analysis assumed a willing seller and a willing buyer, both with no particular necessity to do so.

Under the analysis, Cal Am's Monterey district assets were valued at about \$430.1 million, "certain" water rights at \$111.5 million, construction in progress at \$119.7 million, regulatory assets at \$170.7 million, and the remaining value not already included in the district's assets of the Monterey Peninsula Water Supply Project including desalination plant at \$212 million.

The district includes 45 hydraulic zones, 192 water facilities, 35 well sites, 75 pumping stations, 75 tank sites, six water treatment plants and one dam over a 425-square-mile area.

The analysis excluded a dozen area satellite water and wastewater systems owned and operated by Cal Am, as well as any severance damage analysis.

Cal Am attorney Joe Conner, who has experience with eminent domain cases involving privately owned utilities, said “condemning authorities” or those entities seeking to acquire a water system through eminent domain often underestimate the systems’ value. At the same time, Conner acknowledged private companies do sometimes settle for less than their system’s appraised value.

“There are occasionally business reasons for a company to take less,” he said. “Each case stands on its own.”

Conner said the full appraisal report will not be released, at least not yet, and Cal Am as his client would need to decide if and when that would occur.

Peninsula water district general manager Dave Stoldt, whose agency estimated Cal Am’s purchase price at about \$200 million in 2011, said the eminent domain process overseen by the courts is so complex with so many variables that it’s difficult to assess what Cal Am’s system could end up costing.

“There are various ways to judge value,” Stoldt said. “It’s going to be a process.”

Public Water Now did not respond to a request for comment by The Herald’s deadline.

Jim Johnson can be reached at 831-726-4348.