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Comments on Adequacy of DEIR for MPWSP
(note: questions to be answered in italics)

Topics: Reliability, Legality, Transparency, and Objectivity Issues for unproven technology

The MPWSP is filled with uncertainties. The DEIR is filled with deficiencies.

Reliability

There are no operating slant wells for seawater intake anywhere in the world. Yet the project calls for investing several hundreds of millions of dollars for the MPWSP project, with this questionable, experimental technology as the sole intake system for the desal plant to intake 24.1 million gallons per day (mgd). The Desal plant is proposed to supply over 62% of the Peninsula's water needs. The stated back up system is to build two additional (expensive!) experimental, questionable slant wells, in case something fails. Additional back up slant wells are not a true alternative if the unproven technology fails.

Questions: *What happens if the unproven slant wells fail 2 or 5 years after desalination begins? Won't it require a whole new system to be designed, vetted, approved, constructed, tested and brought on line? What will the Peninsula do for water during the interim? Isn't the true back up plan to go back to over-drafting the Carmel River? What happens to the proposed intake system in the event of an 8.0 or larger earthquake?*

Legality and Transparency

The location of the proposed wells at the coastal margin of the Salinas Valley Aquifer Basin, which is in overdraft, and therefore subject to The Monterey County Water Resources Agency Act (Agency Act) which require that no net exportation of groundwater from the basin be allowed.

Cal AM has no senior water rights, and is currently in two separate litigations with Marina Coast Water District and Salinas Valley AgLand Trust over it's right to even be conducting its slant well testing -which was dumping 2.88mgd of brackish (i.e aquifer) water into the sea until it was voluntarily halted due to a 1 foot drop in the nearby monitoring well, demonstrating a possible significant impact on the Groundwater Basin. At this writing,The Hydrogeologic Working Group (HWG) is reviewing the data and presenting evidence to the California Coastal Commission (CCC) for compliance of permit issues. I will have more to say about the HWG later.

No Question: I am confident that there will be numerous public comment and questions from the aggrieved parties on the legal water rights and degradation issues by competent attorneys and intelligent others and so will defer any questions to them on these aspects of the DEIR.

However, Monterey County has a long standing ordinance, Ordinance 10.72 on Desalination Treatment Facilities, which states that any regional desalination plant will require public ownership with a local lead agency. CalAM is a private, for profit entity, and the PUC is not a local lead agency. A PUC ALJ ruled in the spring of 2015 in a secret negotiation with Monterey County and CalAM, that the ordinance could be waived, the records destroyed, and the proceedings sealed, to allow the MPWSP to proceed.

Questions: *Why was waiving of the County ordinance prohibiting private ownership of a regional desal plant allowed to happen by the CPUC? How is it legal? Why was it sealed?*

Validity

This section examines truncated data collection time lines, and questions the lack of peer review, by true outside experts. Given the experimental and untested nature of the intake system, and its potential for degradation to the Salinas Valley Basin in overdraft, it is critical for ample time to collect data on the actual impacts of the slant well. Hence we have the test well, which is tossing 2.88 million gallons daily out to sea, in preparation for drawing 24.1mgd during operation of the desal plant. In the permit application and subsequent hearing before the CCC in November of 2014, CalAm testified that the testing would be conducted for 18-24 months. However the DEIR was presented with zero data from the slant well and the FEIR is scheduled for consideration before the CPUC about 6-9 months since the pump began on April 22, 2015 (and was interrupted on June 5 and has not resumed as of this writing, June 28.)

Questions: *How can the CPUC make valid judgments about the Environmental Impacts of the experimental and unproven slant well technology intake system, and the possible resulting degradation to the over drafted basin, based on data collection periods that are only 40-70% of the time stated on the CCC test permit? Is it legal? Is it ethical?*

THE CPUC is comprised of 5 commissioners who will be making judgements to approve or disapprove the MPWSP. In reviewing their biographies listed on the CPUC website, (cpuc.ca.gov) I find no reference to any experience or expertise in geology, hydrogeology, hydrology, marine biology, or any water sciences whatsoever, which are the major systems of environmental impact that this project encumber. This is a complex, novel, unproven, large utility project, and the commissioners will need to evaluate the validity of the claims of neglect, deficiency and inadequacy which are sure to be levied against the DEIR (including my own.)

Clearly, they are accomplished professionals in their respective fields. Too, they have powers of analysis and experience beyond their fields of expertise. They also have numerous projects on their docket to evaluate. The DEIR is large, cumbersome, complex in places, and upwards of 4,000 pages in length when including the numerous appendices. CPUC has chosen the services of ESA to manage the work, including analysis from ESA, and subcontracting other analysis in the document. There is much to praise in the document, it is a huge and complicated undertaking,

However, in reviewing the documents and listening to presentations of various experts in various fields, with various agendas, over the last 60 days on the Monterey Peninsula, I find some serious deficiencies and concerns. It appears to me that inconvenient facts, that might have lethal consequences for the viability of the project have simply been ignored. Exhibit A is that the DEIR document states there are no operational wells within 5000 feet of the test slant well. Yet

Salinas Valley AgLand Trust claims operational wells on their property within 5000 feet and further claims they were never contacted by ESA during the 2-3 years while the DEIR was being created. This easily verifiable fact represents a deep flaw in the document, and *calls into question the objectivity and investigatory skills of ESA*, that they would ignore or overlook such an inconvenient and critical truth. Exhibit B is failing to reveal the inconvenient truth of the County ordinance prohibiting private ownership of a regional desalination plant, as discussed earlier in this document. These are by no means the only examples, but I think sufficient to make my point.

One mitigation for this significant impact on the process itself would be to hire an independent, impartial (i.e "no skin in the game") expert firm or state agency for peer review. But if you hire them, it seems to me they then "have skin in the game." Hmmm.

Questions: *How can interested parties be sure that adequate impartial expertise has been applied to the process of analyzing the environmental impacts? What are the standard protocols for peer review in such a complex process for novel technologies? What steps can be taken to ensure impartiality of such a process?*

Further Conflict of Interest Concerns

I am aware that the Hydrogeologic Working Group (HWG) are the considered experts on site, in the field, in terms of the subsurface intake, and technological and groundwater modeling aspects of this project. However recently (June 2015), it has come to the attention of the public, that Dennis Williams, chief hydrologist for the HWG, who also happens to be President of Geosciences Support Systems, which holds a subcontract on the DEIR as expert consultants for the slant well, is also a major patent holder for new slant well technology. Though he is quoted in the local paper (Monterey Herald, Sunday, June 21) denying that he will gain financial benefit if this slant well intake system is built as the first in the world for the MPWSP, it is unclear how he can make such claims with a straight face. The conflict of interest is clear for all to see.

Question: *In the wake of the revelations of Dennis Williams, and his conflicting roles as slant well patent holder, chief hydrologist of the HWG, and president of the company that is subcontracted by ESA to evaluate the hydrogeology impacts on groundwater from slant well intake, how can the public possibly be assured that cronyism is not the driving force behind the accelerated, data deficient, fact selective, process that the MPWSP is turning into?*

Final Questions: *Do the questions and comments raised in this document about conflicts of interest, lack of transparency, lack of peer review, truncated data collection times, lack of back up systems different from the same unproven technology, or absence of analysis of emergency plans if something causes a major failure and shut down of a desal plant which will deliver 62% of CalAM's Monterey customers needs, raise to a level to trigger recirculation of the DEIR? Why or Why Not?*