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Subject: Another Important Water Aricle, in Friday's Herald

All: I can understand Cal Am's motivation to abandon the regional project in favor of the one [the company](#) proposes in its place: profit. Marina Coast Water District was to own the abandoned project; Cal Am is to own its proposed one. The county is a different matter. I could never understand its motivation to support Cal Am. Then, when the two got together to propose to the CPUC a settlement agreement allowing Cal Am to use ratepayer money to pay the county's expenses on the abandoned project while keeping secret what the expenses were for, I suspected the reason the county came to support Cal Am is that Cal Am knows the secrets and would share them with the world if the county did not support the company's proposed desal project in favor of the regional one. The county has been Cal Am's strongest and most important supporter by allowing Cal Am to disregard both the county desal ordinance requiring public ownership of a [local](#) desal plant and the state Agency Act prohibiting the exportation of groundwater from the Salinas Valley. Cal Am's project crosses both these red lines, with the county's blessing. The county is now using attorney-client privilege to prevent public disclosure of its secrets. As Marina Coast and Water Plus have long pointed out, the county does not have any attorney-client privilege to lose because it lost the privilege years ago when it revealed to Cal Am the unredacted information documenting its expenses on the regional project. That revelation enabled Cal Am to bribe the county to support its project, which the county continues to do till this day, as the article below makes clear. --Ron

California Public Utilities Commission judge grants emergency stay on release of secret regional desal invoices

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

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San Francisco >> A fleeting victory in the long-running battle to force the unveiled release of Monterey County Water Resources Agency legal invoice records from the defunct regional desal project didn't last long.

On Wednesday, California Public Utilities Commission judge Robert Mason granted the county's motion for an emergency stay of his own order to release an unredacted version of the invoice records at the heart of a revisited settlement agreement between the county and California American Water over the project. The ruling came five days after Mason ordered Cal Am to release the unredacted records by Wednesday.

Mason agreed with the county's argument, backed by Cal Am, that a previous Public Utilities Commission judge had promised the parties to the proceeding would have an opportunity to argue in formal briefings over a year-old motion from Marina Coast Water District seeking release of the records along with reconsideration of the commission's 2015 approval of the settlement agreement allowing Cal Am to charge its Monterey district customers \$1.9 million to cover the county's spending on the project.

Cal Am, the county and Marina Coast are still in court arguing over the regional project, which has already been declared void by a judge, and a damages trial is set for early next year.

The agreement also provides that the county will support Cal Am's current desal project and not attempt to enforce its public ownership ordinance.

County Counsel Charles McKee said the judge's ruling was "the right decision" and "allows a thoughtful process" to play out, noting previous CPUC rulings in support of keeping the records confidential.

“Failure to grant the stay would have caused the release of confidential attorney-client communications without the client having the opportunity to protect its rights,” McKee said.

In its emergency stay motion, the county argued that disclosure of unredacted records would release the genie from the bottle and could cause irreparable harm through the loss of attorney-client privilege and the potential “rapid and wide dissemination in the era of the internet” of the details, including confidential settlement discussions and personal financial information involving county water agency employees and attorneys.

Cal Am agreed with the county’s argument, noting that no party to the proceeding including the commissioners have seen the unredacted records other than county water agency and Cal Am officials, though a redacted version has been made available.

In response, Marina Coast argued that the unredacted records should be disclosed to help the commission and the public determine if they are “just and reasonable” and should be reimbursed by Cal Am customers. The district pointed out that the genie was never in the bottle in the first place because the county water agency previously showed the unredacted records to Cal Am in an effort to justify its spending on the regional project, thereby waiving attorney-client privilege.

In addition, the district argued the agreement between the county and Cal Am was a “sham” intended to “shield imprudent behavior from commission scrutiny at the expense of Cal Am ratepayers and to gain an unfair advantage over (Marina Coast) in Superior Court litigation related to the demise of the (regional project).”

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