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**Efficacy of Intergovernmental Cooperation in California: California  
American Water Desalination Plant Case Study**

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Efficacy of Intergovernmental Cooperation in California: California American Water

Desalination Plant Case Study

Submitted by

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for

EMPA 396 Graduate Research Project in Public Management

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### **Abstract**

Competition for water resources, as well as the rights to control and sell water resources, have a long history in the state of California. Public managers from multiple levels of governance have been instrumental in regulating this competition since before statehood, and are caught between often adversarial public and private interests when called upon to make decisions that are in everyone's best interests. This capstone is about an ongoing case in the small city of Marina, on the Monterey Bay, which highlights this very situation. Using a grounded theory approach, I gathered primary data from key informant interviews, evaluated video recordings of committee meetings, compared and contrasted against precedent found via literature review, and synthesized these multiple data sources with the goal of better understanding the cause of conflicts and how they were resolved or not resolved based on three dimensions of intergovernmental relations: intergovernmental cooperation, intergovernmental communication, and intergovernmental resolutions. The research concludes with data-driven recommendations as calls to action.

## Chapter 1: Introduction

“We shouldn’t elect a President. We should elect a magician.”

--Will Rogers (W. Rogers, personal communication, undated)

As we are all aware, California is a large state. I will save you the statistics on how it compares to other countries and their economies; suffice to say that running it smoothly is a monumental task. More specifically, those who take responsibility for doing so may not realize what they are getting themselves into. This is applicable from state-level agencies on down to tiny municipalities, who must find a way to work in tandem and perform what could aptly be described as magic: please the public, while supporting and giving fair representation to businesses and the economy, all while adhering to a rigid yet nebulous hierarchy of regulation, communication, and cooperation with other state agencies large and small. Sometimes things go well and sometimes they could have gone better.

In the Monterey Bay area, a struggle over water resources has been unfolding since 2012 (MPWSP, 2012), with roots as far back as 1995 and begun in earnest in 2006 (NOAA, 2006), if not earlier. It is on the beach near the small, sleepy city of Marina and within the Marina Coast Water District (MCWD) that the California American Water Company (Cal Am) intends to build a desalination plant to serve much of the surrounding Monterey County with reclaimed ocean water. The residents of Marina, unhappy with the chosen location and armed with negative environmental impact data aplenty (Stanford University, 2017), as well as seemingly feasible alternatives, came out in force to oppose the project. Public managers were once again caught in

the middle of a dispute in which an unpopular but effective solution that is already available could address a water shortage and offending their constituents.

Decision made impacting the current status (which is still pending, with most recent events [California Coastal Commission, 2020] swinging the pendulum in favor of not going ahead with the project) have been influenced, ruled upon, or voted upon by several government organizations with a vested interest and varying responsibilities with regard to such cases. These include the State Water Resources Control Board (SWRCB), California Department of Water Resources, California Public Utilities Commission (CPUC), the Central Coast Water Quality Control Board (CCWQCB), and the Monterey County Board of Directors. The directly-related inputs, decisions, grants, and rulings span at least 11 years with an average of three per year since 2012 and 11 in 2017 and 2018 alone (Monterey Peninsula Water Supply Project, 2020). They are a mix broad and specific and span a wide spectrum with regard to which side they support. A transparent explanation for these decisions is sometimes lacking. In short, there is a great amount of red tape and it can be difficult to see past it.

With all of this in mind, I recognized that there may be an opportunity for California public managers to improve transparency, streamline the decision process and information flow, and, perhaps most importantly, present a more unified stance to the public and private entities.

### **Background of the Problem**

It appeared in this case that there was a breakdown in communication and struggle for primacy between the various bodies and councils who have influenced the decisions made, as well as lack

of transparency with the public, which may be improved upon or, at least, better delineated for future conflicts.

### **Statement of the Problem**

Coordination, responsibility, and precedence of various levels of state government in California, specifically with regard to intragovernmental dispute resolution and transparency, is potentially suboptimal and potentially ineffective based on a study of the case regarding the Cal Am desalination (desal) plant in Marina.

### **Purpose of the Study**

This study should provide a detailed explanation of existing contradictions, ambiguities, and instances lacking transparency to be addressed and, ideally, changed to ensure more consistent conflict resolution in this situation and similar situations in the future.

### **Significance of the Study**

The conflict over the desal plant is entirely dependent upon the public administration process to be resolved. Many elements and theories on effectiveness of public management have been present and relevant, and the outcomes so far have demonstrated various aspects of public administration in action, even if not apparent to those involved. My aim is to provide observers and the stakeholders—both the public administrators involved and the private entities concerned—with an objective and candid look at how the process has played out from a public administration scholar's perspective. I hope that my insights will, at least, be valuable and, at best, provide some ideas for improvement as needed.

## **Research Question and Hypotheses**

How effective has coordination between involved state governing bodies been in the Cal Am desalination plant conflict?

I hypothesize that further research into the role of each government body involved, via key informant data, similar case studies, and public survey will make apparent areas deserving of further study, as well as indicate specific improvements to be recommended immediately.

## **Theory of Change/Main Assumption**

If intergovernmental overlaps are reduced, if there was clearer intergovernmental communication, if intergovernmental resolutions were informed by precedents, then the Cal Am desal plant case would have already been resolved.

Sub-Assumption 1: If intergovernmental overlaps were reduced, then the Cal Am desal plant case would have already been resolved.

Sub-Assumption 2: If intergovernmental communication was clearer, then the Cal Am desal plant case would have already been resolved.

Sub-Assumption 3: If intergovernmental resolutions were informed by precedents, then the Cal Am desal plant case would have already been resolved.

## **Limitations**

First and foremost, reliance upon social science as a primary research instrument risks introduction of personal bias from key informant responses. This is further exacerbated by a lack



of equal representation of views; e.g., key informants willing to participate are all public servants. While this may seem to be the point—gathering insights from experts in public service about public service—it only reflects views from within the sphere of public service, and not from without. The University of Warwick’s Elizabeth Dowler has stated, “What people seem generally to think or believe influences their behaviour—and plays a vital role in shaping events. Policy-makers, especially those responsible for information policy, face significant challenges in assessing public perceptions and in shaping policy that takes information needs into account and responds adequately to key concerns.” (Dowler et al., 2006)

To attempt to mitigate this, I sought views of others involved in the decision process, to include influencers, both public and private, as well advocates, opponents, or others, and noted their statements on record regarding the situation. While the number of sources was limited, the quality of information provided was ample.

### **Expected Impact of the Research**

Findings of this study could serve to identify both shortfalls and areas of excellence. Both contain useful information upon which to model changes to precedence and procedure. Additionally, the results of this study could serve as a baseline for further research into the effectiveness of intragovernmental cooperation, intergovernmental communication, intergovernmental resolutions, and interactions with citizens and the private sector.

## **Chapter 2: Literature Review**

This literature review is focused upon government efficacy in resolving disputes between the public and private interests, particularly in instances in which several government bodies provide input. While my preference is to stay focused in the state of California, with a secondary focus on water desalination plants, the body of literature on this specific intersection is lacking, especially so with regard to scholarly analysis (Ellison, 1998). As such, the overall theme of the articles referenced is broad and tangentially related to the specific topic, but each provides relevant tidbits which have been extracted and synthesized into a study organized by three main themes.

Recurrent and relevant themes, especially within the U.S., include intergovernmental relations in California and the U.S., intergovernmental communication and networking, and intergovernmental dispute resolution and precedents. This contrasts against places such as Spain, which has implemented national-level policy to address deficiencies in months (Caparrós-Martínez et al., 2016) rather than delegate to regional authorities. Absent federal intervention, which fell out of favor a century ago with the rise of New Federalism, I am left looking at writings on state- and local-level topics.

### **Theme 1: Intergovernmental Cooperation in California and the U.S.**

On the topic of intergovernmental relations in California and in other states in the U.S., it is common to see the somewhat quixotic notion that the decision to build a desalination plant provides a “template for regional water planners that wish to compare ocean desalination with other water management strategies” (Briscoe, 2009). These strategies include the ever-popular

increased conservation—as passive and neutral a government response as could be devised—or the more popular water re-use strategy, which is, in fact, central to that of Monterey County (Central Coast Regional Water Quality Control Board, 2018). However, such methods are questionable in their application long-term, which was the driving force behind the desal plant's initial approval and remains hotly debated in Monterey County today. Moreover, the proverbial bells have already been rung, and the conflict over the desal plant remains.

A 1983 assessment reaffirmed my initial hypothesis that having several different bodies at several different levels of government has led to delays and compromises on initial plans in order to see legislation passed (Andrews and Fairfax, 1983). That said, it has been demonstrated that various government bodies are capable of working together effectively (Kamieniecki & Ferrall, 1991), leaving the question of why water desalination remains difficult to implement in general.

A potential answer is found in a UC Irvine publication from 2008, which argues a regional aspect to how public management is handled in California, driven by bias stemming from distrust of technology—particularly ones that pit environmental concerns, real or imagined, against compromises with and/or dependence upon technology—along with a NIMBY approach to insulate regions from making compromises that benefit others as well. This is not unique to California; prior scholarly research, even at the highest levels, is always careful to include the disclaimer that desalination relies on questionable science (World Health Organization, 2011) despite facing critical shortages in many places and direct, immediate threat of life-threatening drought. This has fueled fragmentation of government bodies and caused them to work against

each other under the guise of putting their own compartmentalized interests first, losing sight of the big picture and effectively stalling necessary processes (Bollens, 2008).

## **Theme 2: Intergovernmental Communication and Networking**

A Rand study from 1984 sheds some light on a system of compartmentalization leading to a breakdown in communication with potential for serious ramifications, as well as some ideas for resolving it (Landi et al, 1984). Though focused at the international level between the two key players in the Cold War for crisis situations, similarities can be drawn to the intrastate and intragovernmental scale. The key findings centered around open and *easily accessible* lines of communication as critical. While this may point out the seemingly obvious, a cursory look amongst the various government bodies in California shows strong insulation of both scope and responsibility (discussed in-depth later), ripe for a breakdown in the exchange of information. And these problems had been discussed in-depth prior, with the coordination of programs to provide a comprehensive, centralized response to needs within a state being recognized as far back as states were vested with such power under the rise of New Federalism (Van Horn & Van Meter, 1977).

Prioritizing management of one's own government domain at the cost of intergovernmental relations is explored in a 1988 *International Journal of Public Administration* article, which highlights the three key differences between the two as what the focus and strategy are, as well as the effectiveness of (or lack thereof) of communication networks (Mandell, 1988). Meanwhile, states' effective use of Superfund money is questioned and found relatively ineffective per a 2003 publication, which also points out the lack of state-level evaluation mechanisms for the same thing (Cline, 2003).

**Theme 3: Intergovernmental Dispute Resolution and Precedents**

A particularly enlightening paper (Duff et al., 2017) examines the impetus for water desalination in three Mediterranean states with similar concerns but widely divergent public attitudes: Texas, California, and Florida. In California, lawmakers have only approved desal reactively rather than proactively and in defiance of public perceptions of environmental concerns. Texas, contrarily, has embraced ocean water reclamation as a necessity with much less controversy and is leading the way in legislation, especially at the local level. Florida fell somewhere in between, with tacit public support akin to Texas but lagging legislation, even more lagging than California. Of note in Florida, however, was the presence of effective and binding meso-level mandates when needed. This sharply contrasts what has been seen thus far in the Marina case, in which some of the greatest scrutiny has been directed at a meso-level organization (namely, the CCWQCB) for unnecessarily overcomplicating the decision process with red tape (Central Coast Water Quality Control Board, 2017).

Looking outside of the desal world, a rarely explored solution of mediation was effective in other states when policy of necessity ran up against environmental concerns, with hazardous waste storage as the practice examined in Virginia, Massachusetts, and Wisconsin (Richman, 1985). Key factors for success were state endorsement of mediation proceedings and the agreement to the results as binding. This was reinforced in a 2007 article looking at local mediation, which found that an emphasis on ad hoc mediation proceedings focused heavily on conflict management and negotiation were effective in minimizing the adversarial nature of such conflicts, particularly with regard to brute force bargaining (Godschalk, 1992), with explanation

in greater detail in an entire Richman book dedicated to relatively hostile negotiations (Richman, 2019).

Such mediation has been effective in California as well, as evidenced by a case over land use in Fresno which had come to a head in 2002 as the result of conflict in prior guidance (Cartier, 2003). This mirrors the situation in Marina well. Finally, a dense article from the Minnesota Law Review answers how—at least in theory—such processes can take place while without running afoul of prior-established legal frameworks (Reynolds, 1987).

## **Summary**

My research into the body of literature further provides insights into the varying scholarly and practitioner perspectives on my theory of change that streamlined coordination, better lines of communication, as well as fusing precedents could lead to effective resolutions. A few frameworks within which this could happen have been identified: intervention by meso-level government entities, conflict resolution via arbitration or mediation, or even a softer appeal for acceptance of technology in cases of necessity to sway public opinion. Such intervention by other levels of government as an effective means of resolution in Florida somewhat counters my assumption that a reduction in government overlaps would have already resolved the issue. Ideas to make this happen based broadly on principles have been explored and evaluated. While effective in other countries, federal intervention is unlikely here and would run counter to legal precedent spanning the past century.

The recurrent theme was a focus on amicably *resolving* conflicts, which, while obviously the goal, has taken a backseat to the unwillingness to compromise on seemingly irreconcilable stances in Marina: either the plant gets built and desalination happens, or it does not and other

methods are used to make up the difference in the short term while the long-term remains in question. Additionally, environmental concerns persist everywhere, though some regions put a greater weight on the social impact than the environmental one. The weight is such in Marina and much of Monterey County that it has been the deciding factor in elections. The reason for such strong environmental concerns was inconclusive and not explored in any of the pieces examined, or any found. In summary, means of resolution exist, as do real-world examples of it happening. These have shown to be within the letter of the law. However, Marina's unique circumstances have prevented a decision to do so from being informed as such, so the conflict remains.

## Chapter 3: Research Methods

### Introduction

This capstone research project sought to examine the roles of intergovernmental cooperation, communication, and precedents in the resolution (or non-resolution) of the Cal Am desalination plant conflict. In order to meet this goal, a slightly unorthodox method of data collection was necessary, relying primarily on direct input from experienced public managers which can be applied to this specific case. This was not an exclusively ground theory approach, however, as input from others intimately familiar with the case was also leveraged. Based on these data, generalized conclusions of efficacy in the process were drawn and specific means for potential to drive resolution or conduct future study were pinpointed.

### Research Question

How effective has coordination between involved state governing bodies been in the Cal Am desalination plant conflict?

### Sub-Questions

**Assumption 1:** If intergovernmental overlaps were reduced, the Cal Am desal plant case could have been resolved already.

**Assumption 2:** If intergovernmental communication was clearer, the Cal Am desal plant case could have been resolved already.

**Assumption 3:** If intergovernmental resolutions were informed by precedents, the Cal Am desal plant case could have been resolved already.



### **Research Plan Overview: Quantitative Analysis**

Research was based on answers from key informants to a tailored interview questionnaire. Informants were approved based on experience as public managers or familiarity with the Cal Am desal plant process. Emergent “camps,” that supported or denounced specific action for resolution were to be stove piped and given in recommendations, with relative strength of support for each noted, though none were provided. The key dependent variable was be the measure of perceived effectiveness based on prior documented decisions in cases or situations applicable to public management.

### **Specific Research Methodology**

1. Responses will be compared to trends in scholarly research identified in Chapter 2 for how the “big picture” ground theory applies in this specific case.
2. Responses that directly pertain to survey questions will be transcribed and key/recurrent phrases identified using word cloud or similar method

*Note:* Interview questions are tailored to force all answers to either directly verify or challenge assumptions.

### **Procedure and Population Sampling Strategy**

#### **Primary Research Instrument: Structured Interviews (Key Informants)**

*Note:* Questions presented to key informants are included in Appendix C.

Key informants selected are experienced public administration professionals with intimate knowledge of the various levels of government in California and their interoperability. I initially planned for as few as two, and as many as eight (via cascading structured interviewing)

to be provided a short series of open-ended questions prior to the interview. Six people in a variety of public management areas responded. They were be provided with the option of interviewing in any manner with which there were comfortable, with live interview preferred and written response offered as an alternative. Two agreed to interviews and four gave written responses. A sample of the elicitation message is as follows:

“Hello [Name],

I am a candidate in Golden Gate University’s Executive Master of Public Administration program and also a resident of Marina. I am currently drafting my capstone project proposal, which will be done at the end of this month, and will then move onto the capstone itself, working through May and June.

The topic I have chosen to cover is a look at the interoperability of the various levels and bodies of government involved in the recent dispute over building a Cal Am Water desalination plant in Marina. As a central figure and experienced public manager yourself, I would like to request a brief interview to gather your input and for inclusion in my analysis. I would like to ask six to eight open-ended questions, which I am honestly still putting together, that will focus on your insights throughout the process so far and possibly how you see public administrators involved as it progresses. I can deliver them in any format you choose, though a face-to-face interview over Zoom, WebEx, or the chat client of your choosing would be preferred. I can also e-mail them to you beforehand if you would like. I am planning to conduct my key informant interviews in early May—or sooner if you would prefer—and at your convenience.”

These interviews were conducted at the informants’ convenience, with a one-week date range blocked off solely for this purpose. Responses were compiled and scrutinized for similarities, differences, and trends. Responses were not weighted in conclusions or

recommendations due to the equally valid yet varied credentials of each source. Relevant quotes were only included in context and with consent.

### **Additional Research Instrument: In-Depth Review of Public Records and Recordings**

In addition to those available for formal interview, several other key players have gone on record repeatedly at public forums and via press release. Their insights were critical to capture as well when relevant, even if not given specifically in response to a tailored set of questions.

Attribution with context is provided for impartiality and all quotes are taken from public proceedings under Brown Act authority.

### **Secondary Research Instrument: Literature Review**

Results of secondary research into related literature that supported or challenged the assumptions as covered in Chapter 2 of this paper were compared against applicable information gained in structured interviews as well as public records and recordings.

### **Data Processing and Analysis**

Data processing consisted of compilation and sorting based on key phrases and recurring trends between key informant responses, public statements, and case analyses. Any strong opinion from key informants was set aside and compared to normalized data at the end. I predicted trends to be fairly conclusive, which they were. An initially planned tertiary collection method to use an open, public survey, was not employed thanks to ample primary data and secondary procured. Input regarding dependent variables was irrelevant using the data collection methods named.

### **Internal and External Validity**

The study was designed specifically to gauge expert perception of process, with a secondary focus on layman perception. Unfortunately, due to the unique circumstances of this very specific case, external validity was limited with only tangential similarities observable, though they were consistent given similar independent variables. However, this study sought primarily to serve as initial research, and as such is intended as a baseline more so than validation of existing research.

### **Limitations**

The most apparent limitation was the small sample size, which was necessary due both to the form of research performed and the limited resources available to me. I offset the quantity with quality, however, with a strong focus on data gleaned from experts. In addition, the scope of externalities remains unknown due to the very recent and ongoing nature of the primary case being studied.

### **Summary**

My intent with this project was to seek areas for process improvement, as available, to benefit future public management decisions that impact the people of the state of California. I started from prior research and expertise to design effective elicitation materials and depended heavily on input from experienced public managers for input. This study centered on a particular case that is timely, relevant, and indicative of the decision process between intragovernmental bodies in the state. Compared and contrasted against other available research, I identified the weaknesses and strengths, and recommended areas for improvement for incorporation in future such decisions.

## Chapter 4: Results and Key Findings

### Sources

Key findings are based upon synthesis of data from two primary sources with available additional and secondary data. The first of these primary data is transcription of answers given to my key informant interview questionnaire (see Appendix B) via face-to-face video chat interviews with two experienced public managers, totalling 140 minutes. The second are written responses from experienced public managers who could not meet face-to-face, and instead provided written responses to the questionnaire. The number of key informants totalled four. One is a utilities industry expert, two are previous members of local leadership intimate with the Marina/Cal Am conflict, and one is a public manager in the same region of California experienced with intergovernmental process. Responses were candid and given under condition that informants' personal information would be kept confidential; as such, no further identification is given in this paper. Records of names and dates interviewed, as well as raw questionnaire responses, will be kept on file should verification be necessary.

### **Responses to Sub-Question 1: If intergovernmental overlaps are reduced, how will it impact resolution of the Cal Am desal plant case?**

One of the first themes discovered in responses is that such a large project is typically going to move very slowly. The current timeline of over eight years is common, with a similar project in San Diego cited as taking 20 before finally entering operation. While this is not surprising, and is somewhat necessary, all four key informants stated their impression that California in particular has a longer and more cumbersome process than other states. Additionally, three—including both members of local leadership intimate with the Marina/Cal Am conflict—cited a strong tendency of local public leadership to heavily favor political goals in

their stances and decisions, and to veer into other bodies' affairs to meet them. In direct response to the question, the utilities industry expert is quoted as saying, "This could have been resolved already if people had stuck to their roles."

In a similar theme, two stated that due to overlap and the inability to enact resolution, there is a fair chance mediation or higher-level intervention, perhaps as high as the governor's office, will have to force parties to the table to come up with a compromise. One cited an outright lack of clear leadership from local or meso-level bodies, stating that, "A leader needs to step up," while another emphasized that state-level leadership was occupied with other priorities and not willing to engage the situation. The utilities industry experts pointed out that, "These things are often resolved by the Office of the Governor."

**Responses to Sub-Question 2: If intergovernmental communication is clearer, how will it impact resolution of the Cal Am desal plant case?**

A strong theme from all respondents was also the importance of personalities, personal values, and votes when addressing conflicts of this nature. Similar to the previous question, they emphasized that people's unwillingness to remain focused on their specific functions was stalling resolution. According to one, "They should be able to [resolve the situation] if they stick to the framework." Perhaps more poignantly and in the theme of politics and voting, one of the local leaders intimate with the conflict stated that, "Everyone in the 2018 Monterey County elections were chosen based on their stance in favor of Ballot Measure J." Measure J was a grassroots-led inclusion in the November, 2018 election from Cal Am's opponent, Public Water Now, which sought to require a buy-out of Cal Am by the Monterey Peninsula Water Management District if an Environmental Impact Report (EIR), currently ongoing and to be completed by August 3,

2020, supports it. It passed with 55.81% support, though specifics for its implementation are not available as of the time of writing. (Monterey Peninsula Water Management District, 2020)

In addition, two informants cited an unwillingness to compromise between the sides as a serious concern, both in this and similar situations. One thought there would be a likelihood that, if some form of mediation meant to lead to an immediate, binding resolution was introduced, one or both sides would treat such an attempt in an adversarial manner, meaning little willingness for concession. According to the same source, those in elected positions necessarily must not budge in the public eye, which supports the previous statement from another source about the importance of choosing a side, such as with Measure J, and sticking with it. Were communications clearer and some means of compromise introduced, it could lead to swift resolution. One source stated, “It absolutely could have been resolved, but it would require honest communication and compromise.”

**Responses to Sub-Question 3: If intergovernmental resolutions are informed by precedents, how will it impact resolution of the Cal Am desal plant case?**

The theme of a lengthy process remained in responses related to this, with three stating this clearly and providing further comment. One pointed out that, “People will always split hairs,” (regarding a lack of willingness to compromise), dragging the process out. Another less sanguine respondent pointed out that, “These things often aren’t resolved until people ‘term out.’” Of the two who addressed the Marina/Cal Am conflict specifically, both were dubious of the parties involved being willing to compromise at all. Two did not provide comment on the grounds that they are not familiar enough with the particular situation and two others remained generalized in their responses; however, none expressed support for the idea that a resolution could be had without forcing compliance by one or both sides.

The recognition of this situation as a quagmire was also a common theme. While one has already been cited as not expecting a resolution without a change in leadership, two others commented that, even should a resolution be found, it is likely to be further challenged. In fact, one mused that a stopgap resolution would simply add another problem to be resolved, which might last longer than the resolution itself lasts. As one of the utilities industry experts put it, when discussing what might happen should a near-term resolution be found, “The world isn’t perfect, so expect more delays anyway.”

### **Other Findings from Primary Sources**

While these three questions were presented directly, the option for elaboration or personal input was also available, and all respondents took the opportunity to add more information. Those with intimate knowledge of the Marina situation were most vocal and heavily critical of the unwillingness for compromise, especially from the public and its advocates. One pointed out that the MCWD originally had the opportunity to build a desal plant, and their inaction—coupled with a legal fiasco in the county at the time—is why the Monterey County Board of Supervisors had intervened and awarded the decision for Cal Am to step in. Short-sightedness and an unwillingness to accept necessary steps for growth in the aging county as a whole by the citizens of Marina were also given by both. As one put it in their response, “The issues here [for Marina] are not logic, but retribution,” in reference to the small town at the edge of the area’s metroplex being chosen by the county board to deal with unsightly or unpopular projects, such as the CEMEX Lapis Plant or a disproportionate volume of state-imposed low income housing.

### **Additional Findings**



Outside of sources available for direct interview, several in public management or intimately involved with the Marina desal plant case have spoken on public record relevant to this situation and with data relevant to my hypothesis. Pursuant to this, included is information gleaned from transcription of public minutes and hearings bearing directly on the case which informs my research.

The most recent forum to bring all players into the same room was the November 14, 2019, California Coastal Commission hearing which centered on hearing open testimony regarding the commission's report, released on October 28 (California Coastal Commission, 2019) and recommending denial of building permits to Cal Am. This was, from a policy standpoint, based upon further review of newly available evidence pursuant to Coastal Act Section 30260. (California Coastal Commission, 2020) This meeting represented a sharp turning point in the conflict, with a sudden, authoritative, and precise recommendation from the commission to deny Cal Am building permits. The words of the commission's report were read aloud by their water reclamation expert, Tom Luster, who opened with the very understated, "...this proposed project involves some complex and difficult issues." (California Coastal Commission, 2019)

The Coastal Commission's report did an excellent job of reinforcing that there is always another avenue to be pursued in public discourse, pursuant to my third hypothesis of precedent. The crafted statement first provided a veiled statement of Cal Am's shortfalls, as he said, "This project is about ensuring there is a new and needed water supply source for the Monterey Peninsula area," followed almost immediately by, "[Cal Am, under order from state water board] is to develop a new source of replacement water by the summer of 2021." It was looking likely

Cal Am could not meet this requirement based on the lack of coordination (first hypothesis) with public managers and the public at large.

Continuing, he pointed out that, “Commission staff believes the project is inconsistent with the Coastal Act...related to environmentally-sensitive habitat areas, coastal hazards, protection of groundwater, and placing a building on coastal waters.” That particular section of the Coastal Act, cited later in a presentation, is Section 30260, which states that feasible alternatives must be considered. This was made clear shortly thereafter, when he spelled it out with, “Basically, one of the key questions before the commission is whether the proposed desalination project, despite its acknowledged impact upon coastal resources, because there is no other feasible way to provide the Monterey Peninsula with the water it needs. Our staff recommendation is that an alternative does exist that would provide sufficient water and would have far fewer environmental impacts...” and immediately followed with the merits of the alternative project, Pure Water Monterey, that Measure J supports.

Further statements applauded this decision, with nearly three and half hours of supportive testimony from officials, advocates, and the public at large. However, the Coastal Commission has since not made any binding decision despite follow-on meetings in both March and July, 2020. Had my hypotheses truly been validated, with improvements in communication, coordination, and application of precedents, or was there still something missing?

Additional information came in the form of repeated and unwavering praise for the public’s involvement, lending credence to the dimension of politicking I had hoped to minimize. As he wrapped up the commission’s report, Luster stated that Cal Am’s plan, “...[raises] environmental justice concern...low-income rate payers [in Castroville, Seaside, and Marina] would be disproportionately affected by the [Cal Am project’s] rate increase...and are concerned

the higher water rates could force them out of their currently affordable communities.” This was the last statement made by the commission before giving its official recommendation to deny Cal Am’s coastal building permit for the desal plant, though it was echoed repeatedly by both the public and the commissioners in their closing statements.

With regard to the adversarial nature of the conflict and its effects on hampering both communication and coordination, plenty of blatant evidence has been provided, further supporting my supposition that a breakdown in communication is a key factor in the inability to resolve this conflict. Criticisms run the gamut from outright accusations of cronyism at the CPUC, as stated by George Riley, the Monterey Peninsula Water Management Board of Directors District 2 Representative, who is on record as saying, “The PUC mission is very clear: it’s to protect the investor-owned utility [Cal Am] for future earnings.” (Central Coast Hearing, 2019)

A bit more nuanced was Bruce Delgado, Mayor of Marina and a central figure in the conflict, who has said, “20 elected officials, including three mayors, representing a majority of the Monterey Peninsula have sent letters...opposing the Cal Am project...they represent 90,000 people on the peninsula.” While a neutral observation on its own, he promptly followed with, “The cities of Carmel and [Pacific Grove] combined, 40,000 people, have not sent letters opposing Cal Am,” (Central Coast Commission Hearing, 2019) drawing a clear line in the sand about whose side each city was on. First-hand accounts and statements found in research overwhelmingly supported not only a lack of, but an unwillingness to, consider communication and/or compromise as shown by both interview and archive data.

### **Findings from Secondary Sources**

It was first important to gauge the flow of the process by scouring records of public decisions pertinent to this project. A brief list follows:

- 1995: The decision to limit water draw from Carmel River, a primary source for the southern area of the county, was enacted. It was enforced starting in 2009 and the county had to find another source in short order.
- 2011: A wide-reaching investigation in Monterey county led to the shutdown of the Regional Water Plant, further necessitating immediate action.
- 2012: The Cal Am MPWSP (desal plant) was approved by the County Board of Supervisors following MCWD problems
- 2017-2019: 15 further decisions from five vested public boards were passed regarding permits and plans. Also in this time were multiple legal challenges from Marina and its advocates, a trip from the mayor of Marina directly to the Governor—who has not acted upon the situation—and the 2018 Monterey County elections, which approved Measure J. The public review period of this measure is slated to end on August 3, 2020. The most recent decision directly impacting the project, made by the federally-mandated state oversight body of the California Coastal Commission, is to recommend denying building permits to Cal Am on environmental grounds in November, 2019; however, no final decision was reached.
- June, 2020: The project remains stalled and undecided pending further Coastal Commission review through meetings in both March and July.

Additionally, the findings from the literature review mostly supported my hypotheses on the impacts of improved cross-organizational flow, communication, and regard for precedent, with one of 14 sources refuting the benefits of streamlining (though under different circumstances),

and one somewhat inconclusive. Specific insights have already been covered in Chapter 2 of this paper.

### **Chapter 5: Conclusions, Recommendations, and Areas for Further Research**

My conclusions are based on whether or not my theory of change was validated or challenged by primary data findings combined with secondary sources, particularly the literature review. To recap, what was immediately apparent was that a great deal of the conflict is concentrated at the local level *in addition to* those at higher levels of government. My goal to keep the study focused on formal process among various levels quickly devolved into recognition of animosity and personal values at the more local level, which prompted many of the answers I was provided and thereby is a heavy focus of these conclusions. It must also be noted that this is a unique situation with decades of history informing current attitudes and goals of all parties involved, so a comprehensive look at *everything* leading up now would be impossible for such a short and focused project.

First, it quickly became apparent that a slow, convoluted process is not only normal, but expected. It could take up to 20 years from inception to completion based on the last project of this nature in the state (the Claude Lewis Carlsbad Desalination Plant, opened in 2015). This contrasts with other areas of the country, namely the similarly Mediterranean states of Texas and Florida, primarily in regional attitudes more than administration of decisions. This is further supported by the finding that, at the local level, the process has been greatly hindered by personalities, leading to an unwillingness to accept a ready solution or put the greater good of the county first. The effectiveness of grass roots campaigns in swaying opinions and decisions cannot be understated: Ballot Measure J was a highlight of the 2018 election.

To this point, the two sides of this very binary situation—either the desal plant gets built or it does not—are entrenched in their positions and not willing to budge. This is not likely to change unless a change is forced and one side must “lose” entirely. In fact, it could take many

more years with new leaders or a catastrophe to force any action whatsoever. When action is taken, any attempt to force compromise would also likely not please anyone due to the deeply entrenched nature of the sides.

Finally, due to the adversarial position the sides have taken, if action is to be forced it may require mediation. It should be noted that this mediation need not happen at the local level. In fact, a more formal process at a higher level of government would likely be more effective to supersede the personal issues and politics locally. Should some form of mediation be employed, its decision would need to pass rigorous legal review or face a new string of the same series of lawsuits it already has, including those unresolved from last year. Any decision would also need to be binding nature, and recognized as a starting point by all involved bodies of government. Lastly, a public manager needs to step up and accept the consequences of losing either popular support or the benefits the business brings to their area rather than try and keep both sides happy by taking no action. That leader needs to be directly involved, as the tendency to deviate from one's mandated mission by several bodies has only led to further complication, confusion, and lack of communication.

### **Recommendations**

By combining conclusions with background information, I have come up with the following options regarding taking action (or not) to address the ongoing lack of resolution in the Marina/Cal Am desal conflict. These are given in order of feasibility to enact an outcome that will mitigate the identified lack of intergovernmental cooperation and communication, as well as use precedents. The following recommendations are cross-cutting issues that, when mitigated, will allow for better intergovernmental cooperation, communication, and precedent usage

leading to effective resolutions that are acceptable to a broader range of stakeholders from the government, citizens, and the private sector.

### **Recommendation 1: Mediation**

Based on the established unwillingness to communicate and coordinate effectively, and in order to force resolution in such adversarial situations, mediation has repeatedly come up as the most effective—and often only effective—means. Ideally, this mediation would take the form of intervention by a meso-level state government body in the same arena, such as the CCRWQCB, to strip the personal and political motivations from the *process*. That said, however, such personal and often emotional factors would need to be considered in any *decision*. A second option would be for an affiliated body such as the Coastal Commission, which handles state issues that conflict with federal mandate, to address the situation and intervene (which the Coastal Commission seems to be doing, though mediation has not been suggested). Note these are not the only candidates, but the ideal ones based on their knowledge of the situation and stake in it that would not be affected politically. I put preference in representation from government bodies in the interest of good public management, though a private entity would also suffice as long as it is far enough removed from the conflict and vested with sufficient authority. What is critical to the efficacy of mediation will be for it to pass close legal scrutiny—cited specifically during the turning point Coastal Commission meeting in November, 2019, which specifically cited Section 30610—and, most importantly, be binding in nature. While this will not preclude legal challenge, it would greatly diminish its validity and reduce or remove the other identified issue of too many government bodies weighing in.

### **Recommendation 2: Meso-level Intervention**



Rather than approach with formal mediation, giving a body above the county level final say would bring the same benefit of objectivity. The same weight for personal and political motivations would need to be considered, and applicable to all recommendations given in this list. This is less ideal than mediation, however, as it would leave the door open to challenge—though less authoritative challenge than it has at the local level, both in the Marina/Cal Am dispute and historically—which a clear-cut method like mediation does not. This is also a second choice because it lacks the immediacy of mediation, and could further lengthen an already long process. Once again, this process is currently underway via the Coastal Commission.

### **Recommendation 3: State-level Intervention**

While this method—theoretically, decree by the Office of the Governor—would have the benefits of both of the above while also lacking the same downsides, it is lower in recommendation due to its lack of feasibility. Proponents in the conflict *have* approached the Governor directly, and he took no action. From a public management standpoint, he has no obligation to, as it has been demonstrated that there are plenty of entities between that can and should be addressing it. This conflict simply does not appear to have reached that level for action. Were it to, however, this could bring a swift resolution. How to sufficiently bring it to the Governor's attention is outside of the scope of this paper.

### **Recommendation 4: Judicial Intervention**

The interplay of judicial decisions in this process has been impactful and the right decision could certainly force an end. However, the judicial typically process lacks the permanency of a binding resolution and open to challenge or elevation to higher courts over years. This is listed because a well-thought and decision would make challenge difficult, but

again, the challenge is in the feasibility of coming to such a decision. As with the previous recommendation, the precedent here has already been set in this conflict and the judicial decisions already on record have not brought an end to it; indeed, they have added a further level of complication and means for personal politics to be injected. As a public manager, this would put reliance on a body outside of our scope, making it public non-management.

#### **Recommendation 5: Accept Current Conditions**

A recurrent theme from key informants was that while it is slow and convoluted, the process will eventually work itself out or be superseded by some outside force. Public engagement may wane, private interests may find the benefits not worth the cost, or any number of other factors could come into play. Just as with the previous recommendation, this equates to public non-management and falls outside of the goal or scope of this capstone research.

#### **Areas for Further Research**

This research covered a specific, real-world case study. Its scope was very limited as both a means to keep findings concise and due to resource constraints. It is also among the first, if not the first, study of its nature into the interplay of three key facets of public administration in such circumstances. This leaves the breadth and scope of options for further research open to many possibilities. Given here are several ideas that have potential to build meaningfully upon what has been found, as well as to take it into new directions as applicable.

First, and perhaps most obvious, would be to apply this study as a baseline for similar studies. Communication, cooperation, and regard for precedent are going to be factors in several public management decisions, in addition to the interplay thereof. Additionally, a keeping this sort of study databased with similar ones could build models for predictions and eventual

theories. This may need to wait until the issue is resolved, but the situation is primed and only waiting for a decision now.

In addition, a comparison and/or contrast aspect could also be explored, with the same similarity of details scrutinized to see what is different. While the scope has been limited, the variables examined within that scope in this particular case have been thoroughly reviewed, leaving the option for additional detailed *or* general analysis both as options. With that in mind, similar cases could take many forms, with some characteristic variabilities listed here:

- Cases in other places: This could vary as narrowly as to include similar projects in California, or as widely as in other regions of the world.
- Cases pertinent to other resources: Water is not the only resource fought over. Others include electricity, waste removal and treatment, and internet access. Even clean air and perceptions on the state's obligation to provide it is becoming a topic of contention in light the annual wildfires plaguing California.
- Cases of similar public projects: One of the key reasons for conflict was public dissatisfaction with a private entity being in charge of the project. A deep look at a similar publicly-run project could yield more refined data without that variable.
- Cases of public-private partnership projects: A PPP co-op venture, should one happen, could also yield different insights in the same vein and perhaps a middle ground between the previous two ideas.
- Cases lacking adversarial, or less adversarial, key stakeholders: Another central aspect of the Cal Am/Marina case—frequently referred to as a “fight” from proponents on the city's side—is the strongly adversarial nature of the conflict.

Lastly, further study into this case and the areas focused upon, at a later time to assess effectiveness once all is said and done in a “lessons learned” format, could be very beneficial in ultimately validating or invalidating the theory of change presented. The timeline of the project in keeping up with real world events unfortunately made this impossible, as this can only be gleaned once the situation has been resolved. Further study is not limited to this list, however, and hopefully a baseline for synthesis of public management principles in this sort of case format has been established.

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**Appendix B: Structured Interview Questions (Key Informant)**

**Preface:** I am Roger Gillespie, an Executive Master of Public Administration candidate at Golden Gate University. My research thesis focuses on the efficacy of intergovernmental cooperation in California. I can be reached via e-mail at [rgillespie@my.ggu.edu](mailto:rgillespie@my.ggu.edu) or by phone at (831) 687-8881.

Since 2012, permitting California American Water (Cal Am) to build an ocean water desalination plant in Marina has had approximately 26 decisions, including feasibility studies, plan drafts, permits, and grants. These decisions have been challenged the city, judicial freezes, state-level bodies recommending denial of permits, and deferment on making any final and binding decision to allow or disallow construction of the project.

This interview seeks to gain insight from experienced public managers regarding the effectiveness of the intergovernmental decision process and what might spur resolution.

**Informed consent statement:** Answers will be kept secure, and it should only take approximately 20-30 minutes of your time. Thank you!

1. What is your role in your organization?
2. If overlaps between and among CPUC, CCRWQCB, Monterey County Board of Supervisors, etc. were reduced, do you think the Cal Am desal plant case would have already been resolved? Please elaborate.
3. In your opinion, which agency's perspective do you think should inform the final resolution?

4. In your opinion, is there a possibility for a collective intergovernmental resolution?
5. If communications between and among CPUC, CCRWQCB, Monterey County Board of Supervisors, etc. was clearer, do you think the Cal Am desal plant case would have already been resolved?
6. How did CPUC, CCRWQCB, Monterey County Board of Supervisors, etc. work to reach collective intergovernmental decisions?
7. If resolutions are informed by precedents, do you think the Cal Am desal plant case would have already been resolved? Please elaborate.
8. Do you think the resolution process in the San Diego desalination plant case, where precedent was used, would help resolve the Cal Am desal plant case? Please elaborate.
9. Any additional comments you would like to make regarding this process?

I appreciate any referrals for potential respondents.