

## CHAPTER 27 ENHANCE WAER RIGHTS

Attachment - Enhance Water Rights - 30287, 30309, 59132 1 Justification provided in response to DR PPM-004

**2012 GRC**

**Capital Project Justification**

**District: Dominguez, East Los Angeles and Hermosa Redondo**

**Project Completion Year: 2015**

**Project Category: Non-Specific**

**Project ID/WO: 00030287 (Dominguez), 00030309 (East Los Angeles) & 00059132**

**Project Description: Enhance Central Basin and West Basin Water Rights**

**Estimated Final Cost: \$225,000 (30287), \$135,000 (30309) & \$90,000 (59132)**

**Name of Preparer: John Tootle**

**Job Title: Corporate Counsel**

**Background:**

**Cal Water Rancho Dominguez Districts and its East Los Angeles District (collectively referred to as "Districts") pump groundwater from the adjudicated West and Central Groundwater Basins (together referred to "Basins"). The Districts current hold extraction rights in the Basins. Cal Water District and other pumpers (together referred to "Pumpers") joined to amend the adjudication (Amendments) to allow banking, storage, and transfer of water within the Basins. Amendments would benefit Cal Water and its ratepayers. Amendments would allow flexibility pumping groundwater rights and to participate in storage programs to hedge against cost increases. Even though most Pumpers supported the Amendments, contentious litigation occurred over the Amendments. Costs incurred are associated with the litigation.**

**Trial court decisions and issues to approve the Amendments have been appealed and the appeal Courts have found that the trial courts have the jurisdiction within the adjudication to implement storage, banking and transfer rights, which will expand or create new rights for the Districts.**

**Adjudicated rights are real property assets. Once the trial court approves the Amendments, Districts will close the projects. Districts anticipate that the Amendments will be approved in 2013-2014 timeframe.**

**Estimated Cost:**

**00030287 - \$225,000**

**00030309 - \$135,000**

**00059132 - \$90,000**

**Cal Water estimates roughly 90% of the final costs will be attorney fees.**

**Costs are allocated to the districts based on proportion of water rights.**

## CALIFORNIA WATER SERVICE COMPANY GENERAL RATE CASE APPLICATION 12-07-007

Rebuttal Testimony – Central and West Basin Water Rights Adjudication  
Litigation Dominguez PID 30287, Hermosa-Redondo PID 59132, and East Los Angeles PID 30309 (WTR-RGHT), Dated April 30, 2013 Witness John Tootle, Corporate Counsel

1 WTR-RGHT Question No. 1

2  
3 Please state your name, title and qualifications.

4  
5 Response to WTR-RGHT Question No. 1

6  
7 My name is John Tootle, and I am Corporate Counsel with Cal Water. My  
8 qualifications are attached hereto.

9  
10 WTR-RGHT Question No. 2

11  
12 Can you provide a background on the issues between Cal Water and  
13 DRA's differences as to recording, accounting and ratemaking for costs  
14 associated with the Adjudications of the Central and West Coast Water Basins?  
15

16 Response to WTR-RGHT Question No. 2

17  
18 Yes, the Central and West Coast Groundwater Basins (referred to  
19 individually as the Basin, respectively or collectively as the Basins), cover  
20 approximately 270 square miles and 160 square miles, respectively, in the  
21 central and southwestern part of the Los Angeles Coastal Plain. Cal Water's  
22 districts own the following acre-feet (AF) of adjudicated water rights (Water  
23 Rights);  
24

25	East Los Angeles	11,774 AF	Central Basin
26	<u>Dominguez</u>	<u>6,480 AF</u>	Central Basin
27	Central Basin Rights	18,254 AF	
28	Dominguez	10,162 AF	West Basin
29	Hermosa-Redondo	3,071 AF	West Basin
30	<u>Palos Verdes</u>	<u>999 AF</u>	West Basin
31	<u>West Basin Rights</u>	<u>14,232 AF</u>	
32	Total	32,486 AF	Combined

33  
34 Adjudicated water rights allow Cal Water to pump groundwater rather than  
35 purchase import water from a member agency of the Metropolitan Water District  
36 of Southern California (Met). Groundwater pumping costs include capital costs,  
37 operating expense and replenishment tax; however, over time, groundwater  
38 pumping will have been a less costly source of water for the utility and its  
39 ratepayers. Cal Water ratepayers have saved significantly due to Water Rights.

## CALIFORNIA WATER SERVICE COMPANY GENERAL RATE CASE APPLICATION 12-07-007

---

Rebuttal Testimony – Central and West Basin Water Rights Adjudication  
Litigation Dominguez PID 30287, Hermosa-Redondo PID 59132, and East Los Angeles PID 30309 (WTR-RGHT), Dated April 30, 2013 Witness John Tootle, Corporate Counsel

1           The Central and West Groundwater Basins were adjudicated in 1965 and  
2 1961, respectively<sup>1</sup>, and have been amended. Each adjudication order and  
3 amendments are commonly referred to as a “Judgment.” Pursuant to each  
4 Judgment, the Court retains jurisdiction over each groundwater Basin and  
5 groundwater pumping from each Basin.

6           Current litigation is to amend each Basin to provide for groundwater  
7 storage (Storage) and the right to pump stored groundwater (Amendments). Cal  
8 Water’s direct participation in the litigation is being capitalized as non-specific  
9 project costs. Since the Amendment litigation will have taken several years,  
10 these Projects are included in Cal Water’s carryover. DRA recommends  
11 disallowance of all carryover non-specific projects, including these Projects.

### WTR-RGHT Question No. 3

14           Does Cal Water agree with DRA Recommendation?

### Response to WTR-RGHT Question No. 3

18           No, DRA Recommendation does not comply with property law, general  
19 accounting principles, past accounting practices or Commission ratemaking  
20 policy and procedures. If Cal Water were not to participate in the Amendments,  
21 Cal Water would have higher water costs, which the ratepayers would pay in the  
22 future. Total disallowance would unjustly enrich ratepayers at the sole expense  
23 of Cal Water, who has paid these costs and violate Commission’s traditional  
24 cover cost ratemaking practices.

### WTR-RGHT Question No. 4

28           Can you summarize the Amendments (Amendments) to the Central and  
29 West Basin Judgments?  
30

### Response WTR-RGHT Question No. 4

31           Yes, these Amendments are primarily to establish rules to utilize the  
32 vacated storage space within each Basin. Under the terms of the Amendments,  
33 Cal Water may receive the ability to store additional water in the Basins along  
34 with other rights (Amended Water Rights).  
35

36           It has been determined that there is significant vacant space to store water  
37 within each Basin (Storage Capacity). Storage Capacity may be used in many  
38  
39

---

<sup>1</sup> *California Water Service Company, et al. vs. City of Compton, et al. case no 506, 806 August 22, 1961*

**CALIFORNIA WATER SERVICE COMPANY  
GENERAL RATE CASE APPLICATION 12-07-007**

---

Rebuttal Testimony – Central and West Basin Water Rights Adjudication  
Litigation Dominguez PID 30287, Hermosa-Redondo PID 59132, and East Los  
Angeles PID 30309 (WTR-RGHT), Dated April 30, 2013 Witness John Tootle,  
Corporate Counsel

1 different ways; however, there must be rules, so water stored is extracted by the  
2 party storing the water, and the stored water along with its extraction does not  
3 affect the adjudicated native safe yield - our Water Rights.

4 The Amendment would allow Cal Water to purchase additional imported  
5 water supplies, during wet years, at a lower rate, store the water in the Basin and  
6 extract during a dry year or when imported water rates have increased.

7 Furthermore, Cal Water may be allowed to extract stored water in the West from  
8 its Central Basin wells. This would also provide Cal Water with additional  
9 operating flexibility to meet its water supply needs.

10 These Amended Water Rights clearly expand Cal Water's ability to use  
11 the Basins and in essence represent the acquisition of further rights with the  
12 Basins.

13 The costs associated with acquiring the Amended Water Rights) will  
14 benefit Cal Water and its ratepayers in the long-term and should be capitalized.

15  
16 WTR-RGHT Question No. 5

17  
18 Are water rights a real property right?

19  
20 Response to WTR-RGHT Question No. 5

21  
22 Yes, water rights are a real property right<sup>2</sup>. Water rights are similar to land  
23 and have historically been attached to ownership of land. In the case of the  
24 Central and West Basin, these water rights are now adjudicated rights. Simply,  
25 these water rights allow a holder to extract groundwater from the Basins,  
26 pursuant to the terms of each Judgment. Each Judgment limits, who may extract  
27 groundwater as well as how much groundwater may be extracted in a given year.  
28 Judgments generally do not restrict the use of extracted groundwater, which  
29 under California's Constitution must be used "reasonably and beneficially." The  
30 Judgments do restrict groundwater use to within the boundaries of each  
31 groundwater Basin.

32  
33 WTR-RGHT Question No. 6

34  
35 How should water rights generally be recorded and accounted for in utility  
36 books and records?

37  
38 Response WTR-RGHT No. 6

39  

---

  
2

**CALIFORNIA WATER SERVICE COMPANY  
GENERAL RATE CASE APPLICATION 12-07-007**

---

Rebuttal Testimony – Central and West Basin Water Rights Adjudication  
Litigation Dominguez PID 30287, Hermosa-Redondo PID 59132, and East Los  
Angeles PID 30309 (WTR-RGHT), Dated April 30, 2013 Witness John Tootle,  
Corporate Counsel

1 Water Rights are long-term, capital and non-depreciable assets. Water  
2 rights are included in land and land rights. The Uniform System of Accounts for  
3 (Class A) Water Utilities, effective January 1, 1955 (USOA) lists Account 306  
4 “Land and Land Rights.”

5 Since adjudicated water rights are in perpetuity, the water rights should  
6 not be amortized. As an example, Dominguez ratepayers in 2012 benefited from  
7 lower water costs associated with pumped water, which originated from one of  
8 the first California Spanish Land Grant (1769).

9 Water rights may be acquired through transfer, if permitted, or water rights  
10 may be acquired through adjudication – legal process. In this case, Water Rights  
11 were acquired through adjudication. Since the Court retains jurisdiction over the  
12 Basins, according to each Judgment, the adjudication is never ended as water  
13 rights are amended from time-to-time.

14 Proper recording is as a capital asset. Cal Water has followed this  
15 recording and accounting method since these Basins were adjudicated in 1965  
16 and 1961, respectively. Furthermore, Cal Water (formerly Dominguez) has filed  
17 numerous rate case proceedings, and the Commission has allowed the full  
18 authorized rate of return on costs, primarily legal costs, that have been  
19 capitalized in connection with these Judgments.

20  
21 WTR-RGHT Question No. 7

22  
23 Do you have any further comments and conclusions?  
24

25 Response to WTR-RGHT Question No. 17

26  
27 Yes, in its Cal Water Antelope Valley Results of Operations, DRA stated  
28 that Cal Water should have filed for a memorandum account associated with  
29 costs in connection with the Antelope Valley Groundwater Adjudication. DRA did  
30 not make the same recommendation here

31 Cal Water has typically not filed for memorandum account treatment in  
32 these cases because cost are being accumulated in a capital project, which DRA  
33 may can review during and after the close of the capital project. Cal Water  
34 efforts have been to lower its cost of water and to ensure Cal Water has a  
35 reliable water supply. In Southern California groundwater is consider a more  
36 reliable supply than Met imported water.

37 Cal Water should not be penalized for its attempts to reduce water costs,  
38 in a manner, which Cal Water has followed for fifty years.  
39

40 WTR-RGHT Question No. 18  
41

**CALIFORNIA WATER SERVICE COMPANY  
GENERAL RATE CASE APPLICATION 12-07-007**

---

Rebuttal Testimony – Central and West Basin Water Rights Adjudication  
Litigation Dominguez PID 30287, Hermosa-Redondo PID 59132, and East Los  
Angeles PID 30309 (WTR-RGHT), Dated April 30, 2013 Witness John Tootle,  
Corporate Counsel

1 Does this conclude your Rebuttal Testimony?

2

3 Response to WTR-RGHT Question No 18

4

5 Yes



1 JOHN S. TOOTLE

2 QUALIFICATONS

3  
4 **EXPERIENCE**

5 1986-2000 Chief Financial Officer, Treasurer, Secretary, DOMINGUEZ SERVICES CORPORATION  
6 (Dominguez). Responsibilities included overseeing financial, treasury, corporate and regulatory activities  
7 of Dominguez. I testified before the California Public Utilities Commission on ratemaking, cost of  
8 capital and rulemaking matters. In June 2000, Dominguez merged with CALIFORNIA WATER  
9 SERVICE COMPANY (Cal Water).

10 2000-2013 Corporate Counsel, Cal Water. Responsibilities include overseeing and advising on legal  
11 activities of Cal Water. In addition, I consult on accounting, tax and regulatory matters. I have testified  
12 before the California, Hawaii and New Mexico regulatory commissions.

13 **EDUCATION**

14 Bachelors of Arts, Occidental College, Economics  
15 Price Waterhouse accounting program, Cornell University  
16 Masters of Science, Loyola Marymount University, Computer Sciences  
17 Doctor of Jurisprudence, University of West Los Angeles

18 **LICENSES**

19 Certified Public Accountant, California, License No.29182  
20 Attorney, California, Bar No. 181822