Decision PROPOSED DECISION OF ALJ HAGA (Mailed 8/7/2020)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates.	Application 12-04-019

DECISION DENYING COMPENSATION TO PUBLIC TRUST ALLIANCE FOR CONTRIBUTION MADE TO DECISION 19-01-051

Intervenor: Public Trust Alliance	**For contribution to Decision (D.) 19-05-025[1] (including all necessarily preceding process)**
Claimed: $212,981.89	**Awarded:** $0.00 [1]
Assigned Commissioner: Liane M. Randolph	**Assigned ALJ:** Robert Haga

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	Decision 19-05-025 corrected an error, eliminating remaining doubt as to whether the Commission might continue to hold Application (A.) 12-04-019 open for further consideration as costs are transferred to ratepayers. The Decision certified and applied a combined Final EIR/EIS, and recited overriding considerations justifying certain environmental injuries and conversion of public assets to private use by an economic monopoly. While some settlement concepts were approved, the Commission could not adopt the Comprehensive Settlement Agreement.

[1] Decision (D.) 19-05-025 is an Order Correcting Error in D.19-01-051.

	D.18-09-017 recognizes that Cal-Am continues to be subject to other obligations including the Cease and Desist Order Approved by the State Water Resources Control Board and other limits imposed by additional water governance authorities including the California Coastal Commission (currently scheduling appeal hearings in the Autumn).

B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812[2]:

	Intervenor	CPUC Verification
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	June 6, 2012	Verified
2. Other specified date for NOI:	8/15/12 ALJ e-mail setting 8/22/12 date	Unverified
3. Date NOI filed:	8/22/12	Verified
4. Was the NOI timely filed?		No
Showing of eligible customer status (§ 1802(b) or eligible local government entity status (§§ 1802(d), 1802.4):		
5. Based on ALJ ruling issued in proceeding number:		Multiple Administrative Law Judge rulings in A.15-07-019 determined Public Trust Alliance failed to adequately show eligible customer status and had not shown significant financial hardship D.19-06-030 confirmed those rulings.
6. Date of ALJ ruling:		August 9, 2016 February 21, 2017 September 7, 2017, and September 27, 2017

[2] All statutory references are to California Public Utilities Code unless indicated otherwise.

	Intervenor	CPUC Verification
7. Based on another CPUC determination (specify):	Deferred to time of claim in practice adopted during resolution of A.04-09-019 and its continuation in A.12-04-019	Unverified
8. Has the Intervenor demonstrated customer status or eligible government entity status?		No
Showing of "significant financial hardship" (§1802(h) or §1803.1(b)):		
9. Based on ALJ ruling issued in proceeding number:		Multiple Administrative Law Judge rulings in A.15-07-019 determined Public Trust Alliance failed to adequately show eligible customer status and had not shown significant financial hardship D.19-06-030 confirmed those rulings.
10. Date of ALJ ruling:		August 9, 2016 February 21, 2017 September 7, 2017, and September 27, 2017
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		No
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.19-05-025	D.19-01-051
14. Date of issuance of Final Order or Decision:	May 28, 2019	February 5, 2019
15. File date of compensation request:	July 25, 2019	July 26, 2019
16. Was the request for compensation timely?		No

C. Additional Comments on Part I: *(use line reference # as appropriate)*

#	Intervenor's Comment(s)	CPUC Discussion
7	ALJ Ruling Determining Eligibility of Intervenor Compensation for Public Trust Alliance in A. 04-09-019 was issued 12/9/2010 and analyzed the Articles and bylaws of our parent organization, Resource Renewal Institute, for eligibility finding, and used these same materials for the "comparative value" test for determining financial hardship at the claim stage of that proceeding. Application 12-04-019 involved the same Monterey County circumstances after the withdrawal of Cal-Am from the previously approved "Regional Project." A Ruling finding Financial Hardship was issued 9/12/2012 and we were then given advice on how to prepare our Request so that our contributions could be considered at that time. Although the Ruling was memorialized on a prior-filed form (and indicated an outdated estimate for cost of participation), we can think of no circumstantial changes that could trigger withdrawal of that eligibility treatment. The initial Ruling also clarified how Compensation is paid to the Resource Renewal Institute for later distribution to Public Trust Alliance personnel.	Based on multiple Administrative Law Judge rulings in in A.15-07-019 (dated 08/09/16, 02/21/17, 09/07/17, and 09/27/17) and the Commission's order in D.19-06-013, Public Trust Alliance has failed to adequately show eligible customer status and has not shown significant financial hardship, as required by Pub. Util. Code §§ 1801-1812. Intervenor compensation in support of A.12-04-019 and D.19-01-051 hereby is denied.
2	The Docket Office had rejected our NOI without explanation or notice and ALJ Weatherford notified us and other affected intervenors setting a due date for amended NOI's for 8/22/12, and, consistent with Commission policy when a "rebuttable presumption" of	Based on D.19-06-030, the Public Trust Alliance does not satisfy the intervenor compensation requirements set forth in Public Utilities (Pub. Util. Code) §§ 1801-1812.

#	Intervenor's Comment(s)	CPUC Discussion
	eligibility is "referenced," made no eligibility findings at that time, choosing to evaluate "substantial contribution" at the time of Request.	
9	Financial hardship found in 9/12/2012 ALJ Ruling.	Based on D.19-06-030, the Public Trust Alliance does not satisfy the intervenor compensation requirements set forth in Public Utilities (Pub. Util. Code) §§ 1801-1812.

PART II: SUBSTANTIAL CONTRIBUTION

A. Did the Intervenor substantially contribute to the final decision (*see* § 1802(j), § 1803(a), 1803.1(a) and D.98-04-059):

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
1. We represented, without conflicts, fundamental public interests that appeared to be treated as "expendable" by most other parties. In the interim between "resolving" A. 04-09-019 and launching A.12-04-019, Public Trust Alliance supported DRA in defending public interests during a phase of the proceeding when it was assumed by most that the Commission would simply over-rule DRA in favor of positions advocated by the regulated industry. We perceived an "atmosphere" where some lawyers wanted their assumptions "counted" as "litigation." Indeed, mainstream California media were reporting a critical need for "cultural change" at the CPUC. They reported that the public was being excluded from CPUC process as attorneys dominated technical	In D.12-11-031 (issued 12/5/2012, well after A.12—04-019 was underway), the Commission closed A.04-09-019 and granted in part and denied in part Cal-Am's Petition for modification of Decision 12-07-008 and Noted: "The Modification Sought by Cal-Am and the Responses of DRA and the Public Trust Alliance." The Decision noted Public Trust Alliance's general procedural concerns, and more specifically, our apprehension that meaningful intervenor input would be extremely unlikely at this key juncture since there had been negative action on all applicable NOI's. D 12-11-031 at Notes 10-12 at 6. The modifications to D.12-11-031 allowed tracking some expenses in memorandum and surcharge accounts and leaving "legal costs" and other pre-construction expenses for the Regional Project during other intervals subject to either additional Applications or Superior Court resolution (a procedure leading in turn to subsequent unreimbursed Public Trust Alliance	Unverified – references in support of contribution occurred outside the proceeding for which recovery is being requested.

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
discussions of how public services could be provided at "affordable" cost. "Process" seemed to work best for them and their clients if local facts weren't allowed to intrude. Moving parties presented the CPUC with what appeared an "Application" for authority to implement a project which had somehow already been "approved" elsewhere and the public had to act fast to escape an inevitable crisis. The utility was just defending its "rights." The major driving force was an ever-looming economic crisis that the local business community had been warning about for decades. Public Trust Alliance first brought its problem-solving expertise to the Cease and Desist Order Proceeding at the SWRCB and continued at the CPUC. We were disappointed that most parties seemed to think the "problem" could best be solved without reference to the Public Trust Doctrine. But we contributed to opening a path showing how the Doctrine could be used to help negotiate a publicly owned desalination plant operated by the City holding actual water rights (the Regional Project). While the doctrine couldn't be stretched to accommodate the Cal-Am owned infrastructure, the continuing multi-party process did indeed open the way to identifying an alternative project that could be	advocacy in these additional forums). Totally uncompensated, PTA assisted Marina Coast Water Agency in presenting my professional declaration (relying institutional analysis expertise – not legal) finding that no discernable "public benefit" came from a CEQA suit challenging MCWD's damage claim related to Cal-Am's withdrawal from the Regional Project. Quite to the contrary, there was substantial waste of public resources and unhealthy feelings generated. The Monterey Superior Court then awarded nearly a million dollars in attorneys' fees to the firm making the CEQA claim. The assessment of substantial "legal fees" sought in A.13-05-017 by Monterey County further strained the credibility of County officials, the CPUC and many of the professionals who work for it. Attorneys' invoices already disclosed in Commission data requests as evidence of reasonableness were strategically filed under seal. Parties and Commission staff had to be reminded that they couldn't actually go so far as to try to own the process and then merely say, "Trust us" to the public. It was quickly obvious to us that we didn't live in a "post trust" or "post fact" world (still being revealed to utility leadership, etc.). Perhaps the uncompensated Amicus Letter in support of Marina Coast's position prepared by the Public Trust Alliance for the Supreme Court in 2016 was helpful in the very appropriate remand to the CPUC of the matters involved there.	

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
consistent with California public trust values and, simultaneously, "in the public interest" for CPUC purposes.		
2. We employed a strategic "responsive" advocacy strategy: no opening brief in the "legal feasibility" phase, by which we passively "yielded" advocacy "space" for "initial definition" to be provided by officially designated trustees (who bear non-delegable public duties under the California Constitution, but who apparently chose not to identify themselves here). We made no attempt to misleadingly "own" the transition toward public trust "consistency," which is a publicly held asset that could never fully "belong" to an educational and advocacy organization like the Public Trust Alliance. We simply used our standing as direct beneficiaries of the California public trust as the basis for our "intervention." The Doctrine is the Public's legal "shield," not any particular beneficiary's "sword." Other established practices such as reversal of burdens of persuasion and proof of the traditional ones associated with grantor and grantee serve to protect public assets from inappropriate private claims. Of course, our strategy initially ceded "confidence" to others who apparently assumed that the	Our public trust concerns meshed well with Planning and Conservation League's "Contingencies and Alternatives" approach. We enthusiastically supported their joint motions to consider climate change and declining "demand," but for different reasons: California's public waters are not in the same category of "things intended for sale" as oil or electricity. We feel our support was important to the innovations pushed by the environmental stakeholders (Planning and Conservation League's Claim language on this topic is incorporated here) Hurricane Sandy had not yet even come ashore when environmental documentation for the MPWSP was first alleged to be substantially complete. Climate related atmospheric events could never be analyzed according to the benign assumptions that had held for decades before that event. Insurance and public infrastructure costs in coastal zones would likewise have to change in the same manner. Along with the increased wildfires associated with electricity transmission, there had to be some recognition of a "new normal." On the institutional landscape, in the years since then, elections changed the composition of many Boards and Commissions; groundwater legislation was approved and implemented; the State reacted to a drought emergency. A changing consciousness has arrived,	Unverified – no references to documents in this proceeding are provided as support for this section, such as filing date, document title, page reference.

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
"Public Trust" had already been superseded by modern environmental law and need not be addressed here. Our strategy may have been interpreted to mean that we accepted a false "accounting scheme" in which advocacy work to support the "shield" concept of the Public Trust could not "show up" on any economic ledger. This particularly related to the requirement to READ and REVIEW other parties' testimony and evidence to evaluate the probity of evidence introduced to reflect the transformation of their own assumptions into "fact."	and California Communities are far less likely to be convinced by what are sounding like more tired arguments.	
3. Governance Concerns: Part of our award in A.04-09-019 came from balancing concerns about Mayors with their own private interests as decision makers and their constituents, the utility ratepayers, who would be paying the actual costs of development and operations of the system. Some or all of these might also bear a disproportionate share of environmental effects. We found that many of the traditional practices for managing public trust resources mapped into fairer representative decision-making at a local level. This was	Unfortunately, the utility and local decisionmakers insisted on choosing to exercise their options of being "unreasonable." The obvious consequence is another unimplementable project proposal very similar to Donald Trump's border wall. The economics and politics are mirrored as well by the "exclusive" lifestyle choice available to the "wealthy few" and widespread poverty of "the many." The inevitable social tensions that arise from this inequality are broadly unsustainable, especially at a time when so much work needs to be done in transforming the economy to be less dependent on carbon fuels in a relatively short time period. Many are noticing that there is more than enough "work" that actually needs	Unverified – no references to specific documents in this proceeding are provided as support for this section, such as filing date, document title, page reference.

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
expressed in some of the "Regional Project" Settlement Agreements in terms of "value engineering," and the concept of "environmental justice." The Monterey Peninsula Water Management District seemed to endorse these practices. Public Trust Alliance continued its governance advocacy in A.12-04-019 in repeated trips to testify before the Water Authority Governance Committee to offer suggestions for better representing ratepayers by recognizing changing circumstances and incorporating those changed understandings in value engineering and being more sensitive about privatizing public resources. That could actually be understood as a reasonable approach as opposed to the selected approach of comparing different versions of a very expensive technology and choosing the slightly cheaper one. The biggest benefits could come from comparing desalination and non-desalination options	to be done to fund and construct this positive future than to wallow and allow the smaller retro group to continue privatizing dwindling public resources for themselves. Economics, the "dismal science," itself has been changing in recent times to acknowledge that the "tragedy" is NOT INHERENT in the commons, rather, it tends to occur in "institutionally unsupported" commons. Lawyers, even if they may know very little about engineering and hydrology, are often very well-versed in how their own Bar Associations protect high compensation rates. Without the privileged position of legal fees, bankruptcy could never be a viable business strategy. And it is in economic transitions, where values are changing, that public trust analysis becomes most important: When market prices become unreliable indicators of public values, the public trust doctrine's focus on USE VALUES keeps the focus on enduring public values rather than temporary financial gains for a few private actors. The "actual cost" estimates that ratepayers will have to pay for each alternative become most important: in general terms, the figures of $1.2 Billion for the desalination plant and $175 Million for the MontereyOne Expansion become ever more important.	
3. At the initial evidentiary hearings, we presented testimony and exhibits indicating how the Common Law Public Trust Doctrine persists in State Resource Governance and how public	Testimony and Exhibits presented by the Public Trust Alliance were incorporated into the record for the April, 2013 Evidentiary Hearings. But, perhaps because our basic approach suggested consideration of contingencies and alternatives to a privately owned and	Unverified – no references to specific documents in this proceeding are provided as support for this section, such as filing date,

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
trust advocates could substantially collaborate with other parties to more quickly resolve uncertainties and actually "solve" community problems affecting shared public resources.	operated desalination plant, there seemed little incentive for project proponents to consider or understand the points we were making. As long as wide swaths of evidence can be "excluded", there can be no truly "reasonable" analysis.	document title, page reference.
4. We collaborated with other parties during multiple "settlement negotiations" but were discouraged, and, largely disabled, by the shared understanding that "applicants" don't ever have to settle under Commission Rules.	PTA is recorded as joining multiple requests for extensions of time and participating in meetings and conference calls but finally declining to sign on to the comprehensive agreement sponsored by "Settling Parties" because it would result in an inappropriate privatization of public trust assets. The market distortions and unfairness inherent in asymmetric "settlement" conditions tend to result in generally lower benefits and higher costs. This became more generally widely known in the embarrassing results of the "ancillary" A.13-05-017.	Unverified – no references to documents in this proceeding are provided as support for this section, such as filing date, document title, page reference. And, references in support of contribution occurred outside the proceeding for which recovery is being requested.
5. Collaborated with other parties to create and commence work on a "Phase 2" process evaluating incorporation of a wastewater treatment / ASR component of the MPWSP and on negotiating the required Water Purchase Agreement. From these basic discussions, a new **alternative** to the originally proposed MPWSP was eventually "discovered" (Monterey One Expansion) and gained its own very effective supporting constituency.	Public Trust Alliance is recorded as joining all joint motions in this direction except for the Settlement Agreement urging construction of the Desalination Plant and promisng not to impede any steps toward its completion. Adjustments in interpretation of the Cease and Desist Order may have aided in creating space for the more enlightened understanding that emerged from these discussions.	Unverified – no references to documents in this proceeding are provided as support for this section, such as filing date, document title, page reference.
6. Similar to one goal of public defenders in criminal proceedings (not, in this note, to inappropriately confuse the	Reflected in Record (e.g., Warburton testimony in cross examination by Marina Coast Water Agency November 3, 2017 evidentiary hearing). But since	Unverified – no references to documents in this proceeding are

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
planning and policy objectives of CPUC proceedings with the "verdicts" reached in criminal courts), Public Trust Alliance presented frequent additional opportunities for project proponents to explain their project, the underlying "facts" which might justify it, and further, why it might be a good idea for the broader community. But due to the legalistic assumptions shared by most of the participants, there were few if any substantive responses during these proceedings.	participants guiding the proceedings were largely legally trained, and compensated at "legal profession pay scales," there was no incentive to upset inappropriately settled expectations with frank or open discussion. The "conversation" was dropped and excluded. The "environmental justice" argument raised by the City of Marina is a strong one as they defend their future water supply and receive no benefits at all from the proposed project. They were joined by several other community groups during the "environmental" phase and will be presenting them to a very receptive Coastal Commission fairly shortly. The proposed intake wells at the Cemex Site also bring industrial facilities to an area recently purchased for park and recreation uses. The extended efforts of project proponents to exclude testimony and evidence of Community Values is certainly problematic moving forward and can't be "settled away" in legitimate Commission Process.	provided as support for this section, such as filing date, document title, page reference.
7. Continually attempted to interact in a collaborative manner with all other parties (even when this was sometimes personally difficult for me…) but this was made far more challenging because of ever present lawyers and "exparte" rules that had few "islands" for extended periods. My feeling overall is that resulted in unnecessary waste of public resources and poor possibilities for positive agreements.	A general air of sincere commitment to actual communication might stimulate more reasonableness at California Public Utilities Commission proceedings.	Unverified – no references to documents in this proceeding are provided as support for this section, such as filing date, document title, page reference.

B. Duplication of Effort (§ 1801.3(f) and § 1802.5):

	Intervenor's Assertion	CPUC Discussion
a. Was the Public Advocate's Office of the Public Utilities Commission (Cal Advocates) a party to the proceeding?[3]	YES	Yes
b. Were there other parties to the proceeding with positions similar to yours?	YES and NO	Yes
c. If so, provide name of other parties: **All** parties on the service list were working toward a legally feasible and ecologically sustainable new water supply for the Cities on Monterey Peninsula, though each party had its own agenda because of perceived individual circumstances. This is a deal waiting to happen!		Verified
d. Intervenor's claim of non-duplication: For the first several years of this proceeding, NO OTHER PARTY reflected our conflict-free position with respect to public trust interests. We very deliberately yielded most other research and advocacy on other dimensions and issues to the other parties better situated to advocate them. But The Public Trust Alliance continues to hold the line that there **is** still a public trust doctrine in California and trust assets cannot legally be alienated by improper delegation or mere business implication. Planning and Conservation League led a very skillful environmental strategy and we frequently followed on paths they opened. But there is a reasonable settlement that doesn't involve a catastrophically "expensive" desalination plant and that is revealed in actual cost data and scientific evidence (coincidentally public trust values…). The more conflicted early groups allowed the inappropriate early settlement proposal. California's Constitution, Codes, Regulations and common law all enumerate a unique status for water as a public asset, quite distinct from its "environmental" values. "Deals" surrendering public values are much "easier" if "public trust" is confused with some species of "environmental" interest. While environmental law is a relative newcomer to California Jurisprudence, "public trust" has been an established tradition in applicable law since before statehood. This Spring's refusal by the California Supreme Court to depublish the appellate opinion in Baykeeper 2 indicates a clear intention NOT to yield to the most recent reprise of academic speculation by legal business aficionados. This has happened before and will again. But not this time.		Unverified

[3] The Office of Ratepayer Advocates was renamed the Public Advocate's Office of the Public Utilities Commission pursuant to Senate Bill No. 854, which the Governor approved on June 27, 2018.

C. Additional Comments on Part II: *(use line reference # or letter as appropriate)*

#	Intervenor's Comment	CPUC Discussion
a	Public Advocate "participated" but sometimes, subservient to Commission authority, acted in a manner approving alienation of public trust assets and values through settlement rather than defending these public interests as required by the California Constitution and other laws and regulations. Settlement offers were sometimes low, early and unnecessary.	Unverified
b	We felt handicapped because it is not reasonable to "solve public trust" problems in a needlessly adversary setting (nor can it be either efficient or fair at the problem-definition stage). Of course that doesn't stop ambitious lawyers from trying to develop the PUC space (or clients represented by ambitious lawyers) into an adversary nightmare. This is especially true in the climate change and water fields where understandings of both science and law are changing, and "expertise" is more and more expensive. While business is "cheaper" where public rights are undefended, democratic institutions are in increasing peril when there is no reality check as opposed to the traditional reversal of burdens of persuasion and proof to protect public trust interests in any "public trust" analysis. California would be in a much deeper "environmental crisis" without the public trust doctrine and that is why it is so	Unverified

#	Intervenor's Comment	CPUC Discussion
	discouraging to see it be treated as "tradable" by organizations that haven't adopted it into their cultures.	

PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness (§ 1801 and § 1806):

	CPUC Discussion
a. Intervenor's claim of cost reasonableness: The orders of magnitude of estimated "costs" are increasingly relevant: In a description of a recent meeting with Bill Monning, PWN activists used estimates of $1.2 Billion for the desalination plant and $175 Million for the Monterey One expansion. "Science" can only add slight precision to these figures and the choice of the more expensive alternative would still have to be "justified." Here, the environmental impacts of the harms necessarily accompanying the desalination option (disposal of brine in a Marine Sanctuary, industrialization of a hard-won local park, destruction of a public water supply and use of carbon-produced electricity in an era of climate change, not to mention inflicting these impacts on a community NOT receiving ANY BENEFITS of the development) make the desalination choice unreasonable and mean-spirited. There is more than ample room for reasonable accommodation for the "value" of assistance offered in helping the community reach a healthy decision about water development. My choices put me nearer the lowest limit I could reasonably claim.	Unverified – applicant provided: 1) only 2012 timesheet for Michael Warburton (no timesheets for 2013-2019); 2) no support for Other Fees; and 3) no support for Costs. Therefore, it is impossible to determine reasonableness of amount of claim.
b. Reasonableness of hours claimed: Lower estimates were made in our NOI at the beginning of this proceeding, but we had no idea how hard our suggestions and scientific evidence would be resisted. Efficient use of expertise A single advocate and expert minimizes the overall time needed to familiarize an "organization" with a complex problem, but it creates the risk that entire sectors of necessary work may be neglected for periods of time. Because I was working with a well qualified attorney in A.04-09-019, I had no interactions with the I-Comp office during that application or the claim process, and because that attorney had retired before A.12-04-019 started, I had to learn about that aspect of PUC process when I was also learning about the culture of exparte communications during a critical time period in the development of CPUC policy. It was 2019 when I realized the NOI on which the finding of "hardship" was	Unverified – applicant provided only 2012 timesheet for Michael Warburton (no timesheets for 2013-2018), therefore, it is impossible to determine reasonableness of hours claimed.

	CPUC Discussion
written on the form I filed July 6, 2012. Needless to say, my perception of the public disadvantage that exists in CPUC process was forged in quite a crucible! Four different members of the California Bar volunteered their assistance at different stages of this proceeding and other satellite proceedings I felt forced to sign onto as a party because the industry effort was so widespread in making this desalination plant a legal reality. The "Reality" campaign was not only broad, but it was long-lived as well. Each of our attorneys had to "relearn" the process and culture-scape before their assistance could really make a difference. My own encounter with the "digital divide" and the asymmetry between "non-profit" and industrial "IT" was laughable at times. I didn't even know about template forms for a long time and it was actually YEARS before I read the Decision where the CPUC "declined to be bound by a good faith standard" in dealing with intervenors. Of course I learned to appreciate the reasons and history of that one, but I also wasted a lot of good faith effort. And I'm proud to say every attorney I worked with had a very high ethical standard and didn't share any "professional secrets" that might have given me any unfair advantage in this rarified world. One place where efficiency and advocacy both get murky was one of our areas of principal concern: the California Public Trust Doctrine. Is it just another quaint antecedent of "modern environmental law" that we really don't need to talk about? That argument has a long history with repeated expressions of surprise from jurists from the time Gaius through Justinian and Lazurus and McLothlin. Just this last Spring, the California Supreme Court declined to depublish Baykeeper 2 even at the suggestion of a highly compensated legal professional. The California Public Utilities Commission is not a California Court, AND THAT'S A GOOD THING, though one might not know it from talking to lawyers who practice there. But there is certainly some upside potential for innovative advocacy. I tried my best to be efficient, and strove at all times not to be "the one" seeking extension to dot some personal "i." This proceeding probably needed the time, and I feel it accomplished a great deal. But I have recorded far less time than I actually spent on most tasks because I am trying to be "reasonable." Preparing responsive and productive filings in such ritualized form is truly an art! I've done my best even if it may not appear possible. My Attorneys navigated my uncertainty with the I-Comp program and made their best efforts at negotiations and requests for further information. We all made our best efforts to be straight forward and open and I think I'm convinced that was the right strategy. But they said that given the treatment in A.15-07-019, I really shouldn't be too hopeful and it wasn't	

	CPUC Discussion
really worth their time to work on a request…	
c. Allocation of hours by issue: I've retained the issue code I proposed in the original NOI and the organization of work along the way. But I've found that I've had to add a new category: "Procedural investigation", to account for the time allocated to strategizing which particular type of expertise to apply to a given task. This was especially in the area of accounting as I tried to understand the advice letter process and evaluate the "porosity" of different accounts and how and under what authorities and conditions various balances were accumulated and distributed (an entire area I didn't expect to become involved with, but it turned out to be key in gaining a useful understanding of what was happening between proceedings. The process of a filing a separate request after the termination of a proceeding for the following resolution was simply too cumbersome for application. I'm simply not claiming reimbursement for those fairly substantial efforts. As is usual, I'm in quite a dither coming up on filing and (as of now) have not even checked out the tables that I remember seeing a year ago… Issue Key 1. Environment 2. Public Trust 3. Uncertainty 4. Procedural Investigation 5. Intervenor Compensation work Allocation by issue (still being estimated)	Unverified – applicant provided only 2012 timesheet for Michael Warburton (no timesheets for 2013-2019), therefore, it is impossible to determine reasonableness of hours claimed by issue.

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Hours**	**Rate $**	**Total $**
Michael Warburton	2012	61	$332.15	D.01-06-78 ALJ281	$20,261.15			$0.00
Michael	2013	83	$338.79	ALJ287	$28,119.57			$0.00

CLAIMED						CPUC AWARD		
Warburton								
Michael Warburton	2014	64	$347.53	ALJ303	$22,241.92			$0.00
Michael Warburton	2015	73	$347.53	ALJ308	$25,369.69			$0.00
Michael Warburton	2016	65	$351.94	ALJ329	$22,876.10			$0.00
Michael Warburton	2017	83	$359.47	ALJ345	$29,836.00			$0.00
Michael Warburton	2018	86	$367.91	ALJ352	$31,640.26			$0.00
				Subtotal: $180,344.69				***Subtotal: $0.00***
OTHER FEES								
OTHER HOURLY FEES: Half-time for qualifying trips (one way over 120 miles)								
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Hours**	**Rate**	**Total $**
Michael Warburton	2012	14	$166.07	1/2	$2,324.98			$0.00
Michael Warburton	2013	21	$169.39		$3,557.19			$0.00
Michael Warburton	2014	21	$173.76		$3,648.96			$0.00
Michael Warburton	2015	21	$173.76		$3,648.96			$0.00
Michael Warburton	2016	21	$175.97		$3,695.37			$0.00
Michael Warburton	2017	21	$179.73		$3,774.33			$0.00
Michael Warburton	2018	21	$183.95		$3,862.95			$0.00
Michael Warburton	2019	14	$188.27		$2,635.78			$0.00
				Subtotal: $23,499.56				***Subtotal: $0.00***
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Hours**	**Rate**	**Total $**

CLAIMED						CPUC AWARD		
Michael Warburton	2012	10	$166.07		$1,660.70			$0.00
Michael Warburton	2019	22	$188.27		$4,141.94			$0.00
				Subtotal: $5,802.64				***Subtotal: $0.00***
COSTS								
#	**Item**	**Detail**			**Amount**	**Amount**		
1.	Michael Warburton	6,670 miles @ .50/ mi			$3.335.00			$0.00
				Subtotal: $3,335				***Subtotal: $0.00***
				TOTAL REQUEST: $212,981.89				***TOTAL AWARD: $0.00***

*We remind all intervenors that Commission staff may audit the records and books of the intervenors to the extent necessary to verify the basis for the award (§1804(d)). Intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenor's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.

**Travel and Reasonable Claim preparation time are typically compensated at ½ of preparer's normal hourly rate

C. Attachments Documenting Specific Claim and Comments on Part III:
(Intervenor completes; attachments not attached to final Decision)

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	**Excel table hours (partial)**
3	**Qualifications**

D. CPUC Comments, Disallowances, and Adjustments

Item	Reason
[1]	Public Trust Alliance is not eligible for intervenor compensation because it failed to demonstrate customer status and significant financial hardship (CPUC's Discussion in Part I (C)). In the event Public Trust Alliance were an eligible customer, the claim herein fails to adequately document the requested hours,

Item	Reason
	issues, and contributions, and thus would fail on those grounds as well.

PART IV: OPPOSITIONS AND COMMENTS
Within 30 days after service of this Claim, Commission Staff or any other party may file a response to the Claim (*see* § 1804(c))

A. Opposition: Did any party oppose the Claim?	Yes

If so:

Party	Reason for Opposition	CPUC Discussion
California-American Water	Claims that PTA: 1) is not eligible to receive an award; 2) fails to provide time records that identify, for each specific task performed and associated issue; 3) failed to make a substantial contribution to this proceeding because it did not show an order or decision adopted that considered any contention or recommendation made by PTA; 4) claimed fees and costs that are not substantiated or reasonable.	Verified
Public Trust Alliance Reply to California-American Water	Cal-Am's Response does not address "where we are." Public Trust Alliance personnel endeavored to produce cognizable filings that would prevent inappropriate alienation or privatization of public trust assets.[4]	Explanation is noted

B. Comment Period: Was the 30-day comment period waived (*see* Rule 14.6(c)(6))?	No

If not:

Party	Comment	CPUC Discussion
	No comments filed.	

[4] *See* Public Trust Alliance reply comments at 7.

FINDINGS OF FACT

1. Public Trust Alliance has not demonstrated customer status and significant financial hardship.

2. Because Public Trust Alliance is not eligible to claim intervenor compensation and insufficient records were provided to assess claim on the merits the Commission has not evaluated Public Trust Alliance's contribution to D.19-01-051.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, fails to satisfy all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. Public Trust Alliance's intervenor compensation claim is denied.

2. The comment period for today's decision is not waived.

3. Application 12-04-019 is closed.

This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX

Compensation Decision Summary Information

Compensation Decision:		**Modifies Decision?**	No
Contribution Decision(s):	D1901051		
Proceeding(s):	A1204019		
Author:	ALJ Haga		
Payer(s):	N/A		

Intervenor Information

Intervenor	Date Claim Filed	Amount Requested	Amount Awarded	Multiplier ?	Reason Change/Disallowance
Public Trust Alliance	7/26/19	$212,981.89	$0.00	N/A	Failure to demonstrate customer status and significant financial hardship.

Hourly Fee Information

First Name	Last Name	Attorney, Expert, or Advocate	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Michael	Warburton	Expert	332.15	2012	$0.00
Michael	Warburton	Expert	338.79	2013	$0.00
Michael	Warburton	Expert	347.53	2014	$0.00
Michael	Warburton	Expert	347.53	2015	$0.00
Michael	Warburton	Expert	351.94	2016	$0.00
Michael	Warburton	Expert	359.47	2017	$0.00
Michael	Warburton	Expert	367.91	2018	$0.00
Michael	Warburton	Expert	376.54	2019	$0.00

(END OF APPENDIX)

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