

LAW OFFICES
BISHTON • GUBERNICK
SUITE 925
6701 CENTER DRIVE WEST
LOS ANGELES, CALIFORNIA 90045
(310) 337-4866

NORRIS J. BISHTON, JR.
JEFFREY S. GUBERNICK

FACSIMILE:
(310) 337-4860

December 20, 2018

Via email:
water_division@cpuc.ca.gov

Raminder Kahlon
Director, Water Division
CPUC
505 Van Ness Avenue
San Francisco, California 94102

Re: Protest re: Advice 107-W (U 338-W)
Protestants: Hamilton Cove Homeowners Association
and the 188 Owners of units

Dear Mr. Kahlon:

As stated in Advice Letter (“AL”) 107-W, Southern California Edison’s (“SCE”) Catalina water system serves “approximately 2,000 residential and commercial accounts on Catalina Island.” The 188 residential ratepayers owning condominiums at Hamilton Cove and the Hamilton Cove Homeowners Association (“HCHOA”), a commercial ratepayer with 30 service connections (collectively, the “Protestants”), hereby protest AL 107-W. Protestants represent a total of 228 service connections or 11% of SCE’s water service connections.

Protestants are represented by the law firm of Bishton • Gubernick. In SCE’s last GRC, Protestant’s attorneys represented the “City of Avalon, the Chamber of Commerce, Catalina Island’s principal landowners and condominium associations and campgrounds”.¹ Norris. J. Bishton, Jr. of Bishton • Gubernick is President and a director of HCHOA and has been since 1998. Mr. Bishton also served on the Board of the Santa Catalina Island Conservancy (“Conservancy”) for 18 years. These positions have allowed Mr. Bishton to gain considerable insight into Santa Catalina Island’s (the “Island”) water problems.

Since Decision 14-10-048 was issued on October 20, 2014, Protestants have continued to work with other stakeholders on the Island in an effort to solve the Island’s water problems. This group has grown to include the following:

¹ Decision 14-10-048 Issued October 20, 2014.

Raminder Kahlon
Director, Water Division
CPUC
December 20, 2018
Page 2

- a) The City of Avalon, represented by Council Members Ole Olson and Pam Albers;
- b) The Santa Catalina Island Conservancy (which owns 88% of the Island);
- c) The Santa Catalina Island Company (which owns 11% of the Island and operates hotels, restaurants and other commercial businesses both in Avalon and in the Two Harbors Area);
- d) The Catalina Island Chamber of Commerce and Visitors Bureau (most of the Island's commercial ratepayers are members);
- e) Guided Discoveries (which represents the seven campgrounds on the Island);
- f) The University of Southern California ("USC"), which has a substantial operation on the northwestern portion of the Island;
- g) Catalina Island Medical Center (which operates the only medical facility on the Island); and
- h) Catalina Express (which operates the principal ferry service to the Island).

This group will be referred to herein as the "Catalina Water Stakeholders" or "CWS."

Protestants believe that CWS, of which HCHOA is a member, represents the interests of both the residential and commercial ratepayers on the Island. CWS members have participated in the preparation of this Protest and it is anticipated that CWS members will file documents joining this Protest.

Purpose of the Protest

SCE submitted AL 107-W seeking California Public Utilities Commission ("Commission" or "CPUC") approval of the following:

- 1. SCE's update to the currently authorized sales forecast and proposed rate increase for water service on Santa Catalina Island (Catalina); and

Raminder Kahlon
Director, Water Division
CPUC
December 20, 2018
Page 3

2. A pilot program to decouple future water sales from the revenue requirement.

Some but not all of the relief requested is unjust and unreasonable. Protestants do not object to the rate increase sought for the year 2019 based upon adjusting the currently authorized sales forecast and rate design while retaining the current revenue requirement. In addition, Protestants also do not object to allowing SCE to periodically update its sales forecast.

Protestants strongly object to the proposed decoupling of future water sales from the revenue requirement as unjust and unreasonable.

Protestants seek to have the Commission do the following:

- a) order SCE to propose a revised Rule 14.1 and a revised Schedule 14.1 because they fail to take into consideration water produced by desalination, they underlie the relief requested and they are unjust and unreasonable;
- b) suspend the Catalina Water Lost Revenue Memorandum Account (“CWLRLMA”) and the Catalina Water Rationing Memorandum Account (“CWRMA”) until such time as the revised Rule 14.1 and Schedule 14.1 are approved by the Commission;
- c) require SCE to file a General Rate Case (GRC) when it seeks to collect its CWLRLMA or its CWRMA, when it seeks to add past capital expenditures to its Rate Base and when it seeks approval of future capital expenditures to be added to its Rate Base, because such relief requires consideration in a formal procedure and is inappropriate for the advice letter process;
- d) require SCE to develop a detailed water action plan to be included in its next GRC, addressing how it plans to provide a sustainable water supply which will accommodate reasonable growth in service connections over the next five years; and
- e) require SCE to file a GRC at a minimum of every three years.

Background

For 22 years, starting in 1983, SCE did not seek a rate increase. Then in 2005, it filed a Draft Advice Letter which resulted in Resolution 4665 issued November 1, 2007,

Raminder Kahlon
 Director, Water Division
 CPUC
 December 20, 2018
 Page 4

increasing rates 198%.² **Ratepayers were caught totally by surprise and did not protest.** SCE then filed Application 10-11-009 on November 15, 2010, seeking to increase revenue from \$3,978,000 to \$7,118,000, an increase of \$3,170,000.³ This time ratepayers protested. After protracted proceedings and extensive negotiations, which included what is now the Office of Ratepayer Advocates (“ORA”) and The Utility Reform Network (“TURN”), the GRC was finally resolved by Decision 14-10-048 issued October 20, 2014, approving a settlement (the “2014 Decision”). The 2014 Decision approved a \$4,130 million annual revenue requirement (“\$4.13 RR”), a rate design intended to collect 49% of the \$4.13 RR from residential ratepayers and 51% from non-residential ratepayers, and a sales forecast of 127,700,000 gallons (“127.7 MG”).

SCE initiated Stage 1 of its Mandatory Water Conservation and Rationing Plan (the “Water Rationing Plan”) on June 1, 2013, triggering its CWLRMA and CWRMA, **both of which remain in effect today** despite the fact that ratepayers severely reduced their water consumption.

Table I
Recorded to Authorized
Forecast Sales
Comparison 2011- 2017
In Millions of Gallons (MG)

YEAR	RECORDED WATER SALES	PERCENT OF AUTHORIZED 127.7MG
2011	120.9	95%
2012	122.5	96%
2013	120.5	94%
2014	100.9	79%
2015	71.8	56%
2016	72.1	56%
2017	78.8	62%

Commercial activity on the Island is primarily related to tourism. Non-residential ratepayers could not reduce their water usage as much as residential ratepayers, so current usage is 40% Residential and 60% Non-residential.

² Resolution No. W-4665 at p. 1.

³ ALJ Barnett Proposed Decision at p. 1.

Raminder Kahlon
Director, Water Division
CPUC
December 20, 2018
Page 5

Protestant HCHOA achieved even greater reductions, starting in 2008 in reaction to the first giant rate increase, and then in reaction to the drought.

Table II
HCHOA Water Use
Reductions 2007-2017

YEAR	PURCHASED MG	PERCENT OF WATER USED IN 2007
2007	9.321	BASE
2008	6.522	70%
2009	5.103	55%
2010	2.913	31%
2011	3.241	35%
2012	3.292	35%
2013	3.176	34%
2014	2.510	27%
2015	1.608	17%
2016	1.664	18%
2017	1.026	11%

In simple terms, ratepayers responded and continue to respond in a major positive way to the drought.

SCE could have proposed a reduction in its sales forecast to reflect the reduction in water sales due to the drought and rationing at any time since June 1, 2013, including during the negotiations leading to the settlement approved by the 2014 Decision. SCE did nothing. As a result, the CWLRMA has grown to \$5,500,000 and it continues to grow.⁴ The CWRMA has grown to over \$4,300,000 and it continues to grow. In addition, SCE wants to add \$9,330,000 to its Rate Base for capital expenditures it placed in service since 2012.⁵ (SCE intends to seek these amounts in a separate filing or filings.) These amounts for the past total \$19,130,000 or **463%** of the \$4.13 RR. **This amounts to \$9,565 per ratepayer**, and these amounts accrue interest. **All for water purchased in the past and used by some individuals who may no longer be ratepayers.**

⁴ AL 107-W at pp. 6-7.

⁵ AL 107-W at p. 4.

Raminder Kahlon
Director, Water Division
CPUC
December 20, 2018
Page 6

For the future, SCE is going to propose a Capital Improvement Plan costing \$30,000,000, which represents **726%** of the \$4.13 RR. **This amounts to an additional \$15,000 per ratepayer.**

The grand total SCE will be seeking is \$49,130,000, plus its annual operating expenses, plus an ROI on its Rate Base.

Who will pay for this? There will not be a substantial increase in ratepayers in the future to shoulder the money SCE seeks. This is absolute certainty, unless there is an increase in the water supply to permit reasonable growth.

Table III
Service Connection
2010- 2017

YEAR	CONNECTIONS PER ANNUAL REPORTS ⁶	GROWTH FROM PRIOR YEAR
2010	1971	
2011	1978	.36%
2012	1980	.10%
2013	1968	-.61%
2014	1977	.46%
2015	2007	1.52%
2016	1999	-.40%
2017	2001	.10%

Since 2010, service connections have grown only 1.52%. Growth is limited by the lack of a sustainable water supply and buildable land. **SCE has not added one drop of water to the Safe Annual Yield since 1990.**

Occupancy on the Island is seasonal. As an example, only 20 of the 188 units at Hamilton Cove are occupied full time. One hundred five Owners rent their units to short term renters. Total actual occupancy, including permanent residents, short term renters and owners, amounts to only one-third of the time the units could be occupied. The same is true of many residential units in Avalon. Additionally, there are less than 800 hotel rooms for overnight visitors.

⁶ It is uncertain if SCE included active fire protection connections in some years. They are included in 2016 and 2017.

Raminder Kahlon
Director, Water Division
CPUC
December 20, 2018
Page 7

The water system on the Island is not a single system. Rather it is six systems, or, more accurately, one large system that serves the City of Avalon and six small systems that serve the rest of the Island. The systems are described in detail in **Appendix A**. It is important that the Commission understands the configuration. The system has two sources of water: (1) wells that draw from seven of the eleven significant aquifers; and (2) two desalination plants located in the City of Avalon. The first plant was paid for by the developers of Hamilton Cove in the 1980s. The second was recently installed with a contribution of \$500,000 each from the City of Avalon and Los Angeles County. The intake wells are inadequate for the capacity of the two plants. There is also inadequate storage capacity, which limits the production of the two plants.

Drought conditions requiring rationing are based on the level of a single reservoir which is not reflective of the condition of the other aquifers being utilized. **Desalination does not figure in the equation.** With the exception of one well, all of the wells are alluvial. No water is drawn from the reservoir and there is no treatment other than chlorination.

The Island has serious water issues.

Proposed 2019 Rate Increase

SCE seeks to raise rates for 2019 and subsequent years. The proposed rates would be based on 2007 ratepayers, the current \$4.13 RR, a sales forecast of 92.5 MG and a rate design principal of 40 percent Residential and 60% Non-residential. **Protestants support this rate increase. It should have been requested long ago.** Had that been done, ratepayers would not be facing a \$5,500,000 CWLRMA. Protestants will want this fact considered by the Commission when and if SCE seeks to recover the CWLRMA.

SCE projects the effect of the increase as rather modest for the average ratepayer.⁷ That in no way reflects the impact on the ratepayers using much more than average. The purpose of the increase is to collect the full \$4.13 RR. The average shortfall for the years 2015, 2016 and 2017 is \$1,295,681 per year, or 31% of the \$4.13 RR. The larger users are going to be hit hard. The Commission should consider some sort of phase-in to lessen the impact.

It is tough to get current ratepayers to rationalize paying more for less water, particularly after they stepped up to accomplish the rationing brought about by the

⁷ AL 107-W at p. 15.

Raminder Kahlon
Director, Water Division
CPUC
December 20, 2018
Page 8

drought. Drought is not new to the Island. Development of desalination was sought by SCE, first installed in the 1980s and then used sporadically. Sufficient desalination capacity to deal with droughts should have been in place and fully functioning long ago. Between available ground water, adequate desalination capacity and a conservative approach to water usage, drought should not seriously impact the Island.

Consumption Adjustment Mechanism

SCE proposes to implement an annual Consumption Adjustment Mechanism (“CAM”) as a pilot.

The CAM will use the most recent year’s sales data to update the sales forecast for the following year. The sales forecast update will use the recorded sales data for the period of October 1st of the previous year through September 30th of the current year. The sales forecast update will also consider changes to other economic and environmental factors shown to affect water sales, such as visitor counts and water rationing stage, to improve the accuracy of the water sales forecast. To determine the rate changes, the CAM sales forecast update will be input into the rate design model from the last authorized decision. Rate design model parameters such as the Residential and Non- Residential revenue allocation will be updated as necessary to align with current usage patterns and policy objectives. The sales forecast update and adjusted rates will then serve as the new adopted quantities for the subsequent year.⁸

SCE proposes to submit a Tier 2 Advice Letter in November of each year providing the actual recorded consumption amounts from October 1st of the previous year through September 30th of the current year, along with an updated sales forecast by classification and by tier for the subsequent year. Upon approval of the Tier 2 Advice Letter, SCE would then file a Tier 1 Advice Letter to implement the new rates. The revised consumption and production data will become the new adopted quantities for the subsequent year.⁹

Protestants support the CAM proposed by SCE as described above **on the condition that the CWLRMA and CWRMA are suspended**, as more fully discussed below. Assuming the Commission approves the 2019 Rate Increase described above, which

⁸ AL 107-W at p. 26.

⁹ AL 107-W at p. 29.

Raminder Kahlon
Director, Water Division
CPUC
December 20, 2018
Page 9

adjusts the sales forecast to 92.5 MG, future CAM adjustments should not be drastic. This is requested as a pilot program which should be reviewed in the future.

Water Revenue Adjustment Mechanism (“WRAM”) with a Modified Cost (MC) Balancing Account (BA)

SCE proposes to establish a WRAM/MCBA to true-up the difference between the authorized revenue requirement and recorded sales revenues as well as variable production costs. The WRAM/MCBA will record any volumetric (quantity) revenue over- or under-collections resulting from variations in sales compared to the adopted forecast, and any changes in variable production costs related to the variation in sales.¹⁰

Protestants strongly oppose the establishment of a WRAM/MCBA.

The purpose of a WRAM is to promote conservation and the efficient use of available water. As seen above, Island ratepayers have greatly exceeded conservation goals. Water conservation is the way of life on the Island. Approving a WRAM will not result in increased conservation.

Approval of a WRAM or WRAM/MCBA requires that there be a water management plan in place. The Island desperately needs such a plan and Protestants seek the Commission’s assistance in getting such a plan in place.

Moreover, WRAMs were never intended to provide water utilities an easy method by which to collect lost revenue or, in effect, an easy way to increase the revenue requirement by collecting for costs not included in the revenue requirement. Unfortunately, that is the real purpose for the WRAM/MCBA sought by SCE.

Protestants have described the challenges that need to be met in the future. WRAM/MCBA might be appropriate for a smoothly running water utility with little variation from year to year. It would be a disaster for the Island.

The Commission needs to be involved in solving the problems SCE and ratepayers face going forward. Protestants are unaware of the Commission approving a WRAM/MCBA like the one sought by AL 107-W for any other water utility. There may be a time in the future when a WRAM or a WRAM/MCBA might be appropriate, and

¹⁰ AL 107-W at p. 20.

Raminder Kahlon
Director, Water Division
CPUC
December 20, 2018
Page 10

SCE can request it then. As pointed out above, approval of the 2019 Rate Increase and the requested CAM will begin the process of solving the Island's many water problems.

Rule 14.1, Schedule 14.1, CWLRMA and CWRMA

Protestants request that SCE be ordered to propose a revised Rule 14.1 and Schedule 14.1 and that the CWLRMA and the CWRMA be suspended until such time as the revised Rule 14.1 and Schedule 14.1 are approved by the Commission. **The Commission should be alarmed that a water utility with an annual \$4.13 RR has accumulated \$5,500,000 in its CWLRMA and \$4,300,000 in its CWRMA.**

Rule 14.1 and Schedule 14.1 use the level of the water in a reservoir as a gauge to determine when rationing is required for the entire Island. At best, the level of the reservoir is only indicative of the aquifer underneath the reservoir. Even when the reservoir is above the minimum of 600 acre feet, SCE retains Stage 1 rationing so that lost revenue continues to accrue in its CWLRMA. SCE has two desalination plants. Currently, their production is not taken into consideration when a decision is made that rationing is required. Rule 14.1 and Schedule 14.1 need to be rethought and revised.

Approval of the 2019 Rate Increase and the requested CAM should eliminate the need for the CWLRMA. SCE will have an easy method to adjust rates to fluctuations in annual consumption. As for the CWRMA, the only guidance as to what costs to accrue is that they be "incremental costs associated with the implementation of mandatory conservation and water rationing moratoria through Schedule 14.1."¹¹ SCE seems to believe that this covers any and all costs even remotely connected to the drought, including, based on preliminary information provided by SCE, the following:

West End Emergency: \$3.23M (SCE labor, contract water hauling, temporary water supply, transportation expenses, SCE Incident Management Team response, materials and services expense).

"Non-Routine" O&M Expenses:

Water Rationing Plan \$637,000
\$313,000 code enforcement
\$13,000 flow restrictors, fabrication, install/removal
\$48,000 devices
\$38,500 public outreach
\$52,000 SCE labor

¹¹ Advice 74-W, CPUC Sheet No. 582-W.

Raminder Kahlon
Director, Water Division
CPUC
December 20, 2018
Page 11

Less \$174,000 in fines
\$354,000 - other water hauling (e.g., Blackjack, airport)
\$144,000 - well rehab & maintenance
\$137,000 - SCE Groundwater Sustainability Program (labor for
monitoring wells, plus expenses)
\$45,000 -Thompson Reservoir level surveys

The Commission will have to deal with what is meant by “implementing of mandatory conservation and water rationing” when SCE files to recover its CWRMA. Does that mean any cost caused directly or indirectly by the drought or occurring during a drought? Until such guidance is available, the CWRMA should be suspended.

Future Filings

Confronted in 2010 with the many problems that exist with regard to the Island’s water system, Administrative Law Judge Barnett recommended that SCE proceed by way of a GRC rather than the then pending AL. SCE accepted Judge Barnett’s recommendation and filed a GRC Application for Test Year 2011. **It took four years to resolve that GRC.** Water issues on Catalina Island are not simple.

Protestants do not want to repeat that ordeal. On the other hand, as described above, the amount of money SCE plans to seek in the future from ratepayers and the complexity of the overriding issue -- how to provide a sustainable water supply, the lifeblood of Catalina Island, at an affordable cost -- needs to be carefully and fully addressed by the Commission. Protestants believe that SCE should be required to next proceed with a GRC and to thereafter be required to periodically file a GRC every three years.

Specifically, Protestants request that the Commission require SCE to file a GRC when it seeks to collect its CWRMA or its CWRMA; when it seeks to add past capital expenditures to its Rate Base; and when it seeks approval of future capital expenditures to be added to its Rate Base.

A detailed water action plan is desperately needed. How are the challenges identified above going to be met? Protestants request that SCE be required to include in its next GRC a plan as to how it intends to provide a sustainable water supply which will accommodate reasonable growth in service connections over the next five years.

Protestants and the other members of CWS have been meeting with and trying to cooperate with SCE. This AL is an appropriate vehicle for the issues raised. Some issues

Raminder Kahlon
Director, Water Division
CPUC
December 20, 2018
Page 12

may be appropriate for a future AL. When given an opportunity to work with SCE prior to filing, as happened in connection with the current AL, CWS will cooperate with SCE to achieve a quick resolution of issues. To the extent SCE seeks a large sum of money from ratepayers, SCE should be required to proceed by way of a GRC.

Conclusion

The problems going forward are daunting. Protestants and the other members of CWS understand that SCE is in a difficult position. **Nevertheless, SCE chose to be the Island's water utility.** Solving the many problems will not be easy. Protestants and the other members of CWS would appreciate any assistance the Commission can provide.

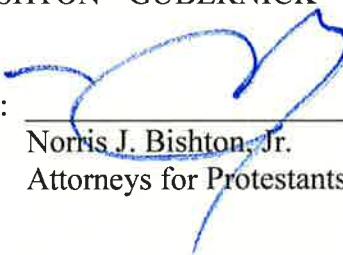
CWS will hold open meetings to allow all ratepayers to become informed as to what is transpiring.

Mr. Bishton and other members of CWS are willing to come to San Francisco to meet with Commissioners, Commissioners' staff and Water Division staff to discuss this protest.

HAMILTON COVE HOMEOWNERS ASSOCIATION,
a California mutual benefit corporation,
and the 188 Owners of units

By: 
Norris J. Bishton, Jr., President

BISHTON • GUBERNICK

By: 
Norris J. Bishton, Jr.
Attorneys for Protestants

cc: Gary A. Stern, Ph.D., Managing Director, State Regulatory Operations,
Southern California Edison Company – AdviceTariffManager@sce.com

Raminder Kahlon
Director, Water Division
CPUC
December 20, 2018
Page 13

Laura Genao, Managing Director, State Regulatory Affairs, c/o Karyn Gansecki,
Southern California Edison Company – Karyn.Gansecki@sce.com

Walker Matthews, Senior Attorney, Southern California Edison Company
Law Department – Walker.Matthews@sce.com

Catalina Water Stakeholders:

catalinacurtin@yahoo.com
rherrel@scico.com
ross@gdi.org
wfolsen@hotmail.com
jLuttjohann@CatalinaChamber.com
bart@hamiltoncove.com
JPDemyer@scico.com
gbombard@catalinaexpress.com
Tbudrovich@catalinaconservancy.org
jparet@cimedicalcenter.org
dave@cimi.org
smconner@usc.edu
palbers@cityofavalon.com
tkielpinski@catalinaconservancy.org

APPENDIX A

CATALINA ISLAND WATER SYSTEM

The Catalina Island Water System is depicted on the accompanying drawing. It is composed of six independent systems. Reading left to right:

West End System. This system serves the west end. The water source is the Howland's Landing Well. The Howland's Landing Well is linked to the Isthmus System, but does not have the capacity to supply the Isthmus System.

Isthmus System. This system serves the Isthmus area, USC and the Empire Landing area. The water sources are the Cottonwood and Sweetwater Wells, which pump to the Million Gallon Tank. (There is a pipe from these wells so that overflow from the wells goes to the Thompson Reservoir.) This System could be linked to the Avalon System to provide backup. It would take about a mile of pipe to do this.

White's Landing System. This system has its own well and serves the White's Landing Area and Camp Fox.

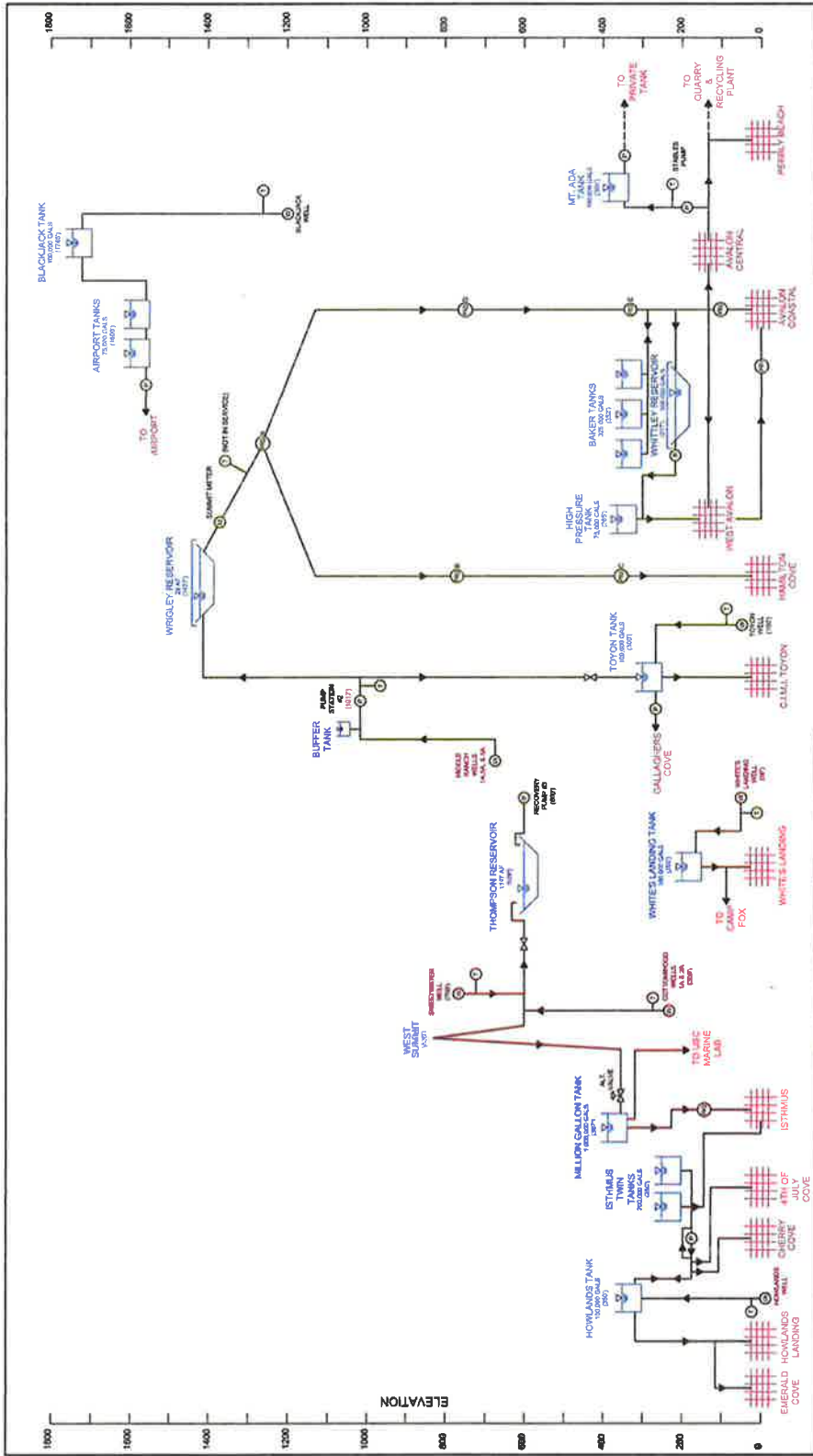
C.I.M.I. Toyon and Gallagher's Cove System. This system has its own well, the Toyon Well. However, it is linked to the Avalon System and can receive water from that system if needed.

Avalon System. This system serves ratepayers within the City of Avalon. Its sources of water are the three wells at Middle Canyon and the old and new Desalination Plants. Normally, only one of the three wells is producing at a time. The capacity of this system, other than for Hamilton Cove, is determined by the three Baker Tanks and the production of the Desalination Plants. (Hamilton Cove draws directly from the Wrigley Reservoir. It does not draw from the Baker Tanks. Desalination water never reaches Hamilton Cove.) In times of peak demand, water from the Desalination plants is fed directly to users. When that is not the case, desalination water can be pumped to the Baker Tanks. Production of desalination water is restricted because the intake wells are inadequate so that both plants cannot operate at the same time. In addition, storage is inadequate.

Airport System. This system serves only the airport. The water source is the Blackjack Well.

Additional Notes:

1. The Bullrush Canyon well pumps its water directly to the Thompson Reservoir. It should not be considered in any calculation of available water.
2. SCE has no information as to the capacity of any aquifer other than the Middle Canyon Aquifer.
3. In evaluating available water, each system must be evaluated separately.



SANTA CATALINA ISLAND
 WATER SYSTEM INFRASTRUCTURE PLAN
 EXISTING SYSTEM
 GRADIENT SCHEMATIC
 JUNE 2003
 CC-553-800-03
 FIGURE 2-1

D:\03\Projects\0310003 - 322 Catalina\DW\Present\031003-2-1.dwg
 Date: 04/22/2004 2:11pm
 User: mha