



MARINA COAST WATER DISTRICT

11 RESERVATION ROAD • MARINA, CA 93933-2099

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DIRECTORS
KENNETH K. NISHI
President

WILLIAM Y. LEE
Vice-President

THOMAS P. MOORE
HOWARD GUSTAFSON
DAN BURNS

Agenda

Special Board Meeting, Board of Directors Marina Coast Water District

11 Reservation Road, Marina, California
Monday, April 19, 2010, 6:00 p.m.

This meeting has been noticed according to the Brown Act rules.

Mission: Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.

Vision: The Marina Coast Water District will be the leading public supplier of integrated water and wastewater services in the Monterey Bay Region.

1. Call to Order

2. Roll Call

3. Closed Session

- A. Pursuant to Government Code 54956.9
Conference with Legal Counsel – Existing Litigation
(Subdivision (a) of Section 54956.9)
Ag Land Trust v. Marina Coast Water District and Does 1-100, Monterey County
Superior Court Case No. M105019 (First Amended Petition for Writ of Mandate
and Complaint for Declaratory Relief)

6:15 p.m. Reconvene Open Session

- 4. Possible Action on Closed Session Items** *The Board will report out on any action taken during Closed Session, and may take additional action in Open Session, as appropriate. Any closed session items not completed will be discussed at the end of the meeting.*

5. Pledge of Allegiance

- 6. Oral Communications** *Anyone wishing to address the Board on matters not appearing on the Agenda may do so at this time. Please limit your comment to three minutes. The public may comment on any other items listed on the agenda at the time they are considered by the Board.*

7. Action Items

A. Consider Adoption of Resolution No. 2010-24 to Approve a Professional Services Agreement with Denise Duffy & Associates for Environmental Services Related to the Regional Water Supply Project

Action: The Board of Directors will consider approving a Professional Services Agreement with Denise Duffy & Associates for environmental work related to the Regional Water Supply Project.

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B. Reconsider the Vote on Adoption of Resolution No. 2010-20

The President of the Board will entertain a motion to take from the table the motion made and seconded on April 13 to reconsider the vote on Resolution No. 2010-20. If the tabled motion is taken from the table, the Board will vote on the motion to reconsider Resolution No. 2010-20. If the Board votes to reconsider Resolution No. 2010-20, the Board will proceed with reconsideration of Resolution No. 2010-20.

- Resolution No. 2010-20 contains Findings, with a Statement of Overriding Considerations and adoption of mitigation measures identified and proposed in the Final EIR as certified by the CPUC on December 17, 2009, in Decision D.09-12-017, and tailored to MCWD's role as a responsible agency, as set forth in the Findings and the Mitigation Monitoring and Reporting Plan attached to the Findings, and based thereon.
- Resolution No. 2010-20 conditionally approves MCWD's participation in the Regional Desalination Project pursuant to
 - a Water Purchase Agreement between Marina Coast Water District, California American Water Company, and Monterey County Water Resources Agency,
 - a related Settlement Agreement between MCWD, MCWRA, CAW and various other interested parties to settle California Public Utilities Commission Proceeding A.04-09-019, "In the Matter of the Application of California-American Water Company (U 210 W) for a Certificate of Public Convenience and Necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs in Connection Therewith in Rates."
- Resolution No. 2010-20 authorizes the President and the General Manager and Secretary to execute the Water Purchase Agreement and the Settlement Agreement pursuant to the resolution and conditional approval.
- Resolution No. 2010-20 directs the General Manager and staff to take all other actions that may be necessary to effectuate and implement the resolution and conditional project approval.

In considering a Motion to Reconsider, the Board will review and consider the Final EIR and the Addendum released by the CPUC's consultant on March 24, 2010, and will entertain and consider comments from the public, together with such other information as was presented on April 13, 2010, and such information as may be presented at the meeting on April 19.

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8. Budget Workshop

- A. Receive District Draft FY 2010-2011 Budgets, Rates, Fees and Charges for the Marina and Ord Community Service Areas and Provide Direction Regarding Preparation of the Final Budget Documents

Action: The Board of Directors will receive a brief presentation on the Draft FY 2010-2010 Budget and hold a workshop for discussion and providing direction regarding preparation of the final documents.

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9. Directors Comments

10. Adjournment *Set or Announce Next Meeting(s), date(s), time(s), and location(s):*

*Regular Meeting: Tuesday, May 11, 2010, 6:45 p.m.,
11 Reservation Road, Marina*

Marina Coast Water District
Agenda Transmittal

Agenda Item: 7-A

Meeting Date: April 19, 2010

Submitted By: Carl Niizawa
Reviewed By: Jim Heitzman

Presented By: Carl Niizawa

Agenda Title: Adopt Resolution No. 2010-24 to Approve a Professional Services Agreement with Denise Duffy and Associates for Environmental Services Related to the Regional Water Supply Project

Detailed Description: The Board of Directors is requested to authorize a Professional Services Agreement with Denise Duffy and Associates for environmental services related to the Regional Water Supply Project.

The National Environmental Policy Act (NEPA) is a United States environmental law that is the federal equivalent but not identical to the California Environmental Quality Act (CEQA). As the EIR for the Regional Project was completed under the CEQA rules, additional environmental work is needed to meet NEPA guidelines. NEPA environmental document must be completed before the Regional project is eligible for any federal funding, such as Title XVI grants from the Bureau of Reclamation. The NEPA document also can be used to satisfy the California CEQA Plus requirements needed to apply for low-interest loans from the State of California State Revolving Fund (SRF) program. The potential financial benefits to the Project from federal grants and low interest SRF loans are substantial, with potential savings of several hundred million dollars when compared to other financing methods. The NEPA document is one of the keys needed to access those potential benefits.

The most urgent reason for the need to authorize the first three tasks of NEPA at today's Board meeting is that one of the fundamental aspects of NEPA is a requirement for biological surveys that focus on special-status plants. The spring blooming season has begun and now is the appropriate time to conduct focused botanical surveys for special-status plants in accordance with regulatory agency protocol and guidelines. If initiation of the surveys is delayed, even by a week, it is highly likely that the survey will miss a few of the listed plant species that have shorter blooming times. Missing this survey window would result in having to wait until next spring to conduct the survey for those species and would therefore delay completion of NEPA by a year.

The overall NEPA process is very long and may take up to one year to complete. Since construction done before the completion of NEPA is generally not eligible for federal grants, delay of the initiation of the NEPA work may limit the portion of the project eligible for federal grants. Note that preparation of the NEPA document is one of the items specifically included in the reimbursement agreement between CAW and MCWD (Section 3.3.2 of the Reimbursement Agreement). This initial phase of work is tasked not to exceed \$165,000.

Denise Duffy & Associates is uniquely qualified to provide services of this nature to MCWD and was competitively successful with MCWD last environmental consultant selection process.

Prior Committee or Board Action: None.

Board Goals/Objectives: *2007/2008 Strategic Plan, Goal No. 2 – To meet 100% of current and future customers' needs and make timely improvements and increase infrastructure and level of services and human resources to meet needs of expanding service areas in an environmentally sensitive way.*

Financial Impact: ☒ Yes ☐ No

Funding Source/Recap: The entire cost will be reimbursed by CAW through an agreement that was approved by the MCWD Board of Directors by Resolution No. 2010-12 adopted on February 24, 2010.

Material Included for Information/Consideration: Resolution No. 2010-24.

Staff Recommendation: The Board authorizes a Professional Services Agreement with Denise Duffy & Associates for environmental services related to the Regional Water Supply project.

Action Required: ☒ Resolution ☐ Motion ☐ Review
(Roll call vote is required.)

Board Action

_____ Resolution No _____ Motion By _____ Seconded By _____

Ayes _____ Abstained _____

Noes _____ Absent _____

Reagendized _____ Date _____ No Action Taken _____

Resolution No. 2010-24
Resolution of the Board of Directors
Marina Coast Water District
Authorizing a Professional Services Agreement with
Denise Duffy & Associates for
Environmental Services Related to the Regional Water Supply Project

April 19, 2010

RESOLVED by the Board of Directors ("Directors") of the Marina Coast Water District ("District"), at a special meeting duly called and held on April 19, 2010, at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the District needs to conduct environmental work to timely meet the seasonal needs of the NEPA environmental documentation needed for federal funding support of the Regional Water Supply project; and,

WHEREAS, Denise Duffy & Associates has been a qualified local environmental consultant providing fine work for the District, and has been competitively selected for environmental work based on qualifications.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District does hereby authorize the General Manager and/or Deputy General Manager to execute a Professional Services Agreement with Denise Duffy & Associates for environmental services related to the Regional Water Supply project and to take all actions and execute all documents as may be necessary or appropriate to give effect to this resolution, the total dollar amount not-to-exceed \$165,000.

PASSED AND ADOPTED on April 19, 2010 by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes: Directors _____

Noes: Directors _____

Absent: Directors _____

Abstained: Directors _____

Kenneth K. Nishi, President

ATTEST:

Jim Heitzman, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2010-24 adopted April 19, 2010.

Jim Heitzman, Secretary

Marina Coast Water District
Agenda Transmittal

Agenda Item: 7-B

Meeting Date: April 19, 2010

Submitted By: Lloyd Lowrey
Reviewed By: Jim Heitzman

Presented By: Jim Heitzman

Agenda Title: Reconsider the Vote on Adoption of Resolution No. 2010-20

The President of the Board will entertain a motion to take from the table the motion made and seconded on April 13 to reconsider the vote on Resolution No. 2010-20. If the tabled motion is taken from the table, the Board will vote on the motion to reconsider Resolution No. 2010-20. If the Board votes to reconsider Resolution No. 2010-20, the Board will proceed with reconsideration of Resolution No. 2010-20.

- Resolution No. 2010-20 contains Findings, with a Statement of Overriding Considerations and adoption of mitigation measures identified and proposed in the Final EIR as certified by the CPUC on December 17, 2009, in Decision D.09-12-017, and tailored to MCWD's role as a responsible agency, as set forth in the Findings and the Mitigation Monitoring and Reporting Plan attached to the Findings, and based thereon.
- Resolution No. 2010-20 conditionally approves MCWD's participation in the Regional Desalination Project pursuant to
 - a Water Purchase Agreement between Marina Coast Water District, California American Water Company, and Monterey County Water Resources Agency,
 - a related Settlement Agreement between MCWD, MCWRA, CAW and various other interested parties to settle California Public Utilities Commission Proceeding A.04-09-019, "In the Matter of the Application of California-American Water Company (U 210 W) for a Certificate of Public Convenience and Necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs in Connection Therewith in Rates."
- Resolution No. 2010-20 authorizes the President and the General Manager and Secretary to execute the Water Purchase Agreement and the Settlement Agreement pursuant to the resolution and conditional approval.
- Resolution No. 2010-20 directs the General Manager and staff to take all other actions that may be necessary to effectuate and implement the resolution and conditional project approval.

In considering the Motion to Reconsider, the Board will review and consider the Final EIR and the Addendum released by the CPUC's consultant on March 24, 2010, and will entertain and consider comments from the public, together with such other information as was presented on April 13, 2010, and such information as may be presented at the meeting on April 19.

Recommended Actions: District Counsel recommends that the Directors take the following actions:

1. Move to take from the table the motion to reconsider Resolution No. 2010-20, as follows: "I move to take from the table the motion to reconsider the vote on Resolution No. 2010-20."

2. Vote to take from the table the motion to reconsider the vote on Resolution No. 2010-20.

3. Review Resolution No. 2010-20 and attached Findings, including a Statement of Overriding Considerations and the Mitigation Monitoring and Reporting Plan attached to the Findings.

3. Review and consider the Final EIR as certified by the CPUC on December 17, 2009, in Decision D.09-12-017 and the Addendum released by the CPUC's consultant on March 24, 2010.

4. Receive public comment and such other information as may be presented for the reconsideration of Resolution No. 2010-20.

5. Discuss the motion for reconsideration and the substance of Resolution No. 2010-20.

6. Vote on whether to reconsider Resolution No. 2010-20.

7. Vote not to reconsider to have Resolution No. 2010-20 come into full force, effective from the time Resolution No. 2010-20 was passed on April 5, 2010.

Summary: The Board adopted Resolution No. 2010-20 at the Board's special meeting held on April 5, 2010. At the meeting, the Board received a letter submitted on behalf of the Ag Land Trust that claimed the Agenda for the April 5, meeting violated by Brown Act by failing to adequately state the actions that would be taken under Agenda Item 5-A by adopting Resolution No. 2010-20. District Counsel disagreed and continues to disagree with the claim. Nevertheless, District Counsel recommends a Motion for Reconsideration to avoid a dispute over the Brown Act issue and to provide an additional opportunity for interested persons to present their views to the MCWD Board on the substance of Resolution No. 2010-20.

A motion to reconsider was properly made at the meeting on April 13, 2010, by a Director who had voted for Resolution No. 2010-20. The Board then duly tabled the motion to reconsider.

If the motion to Reconsider is taken from the table, voted on and lost, the vote which it proposed to reconsider, and any action authorized by the resolution being considered, comes into full force, effective from the time the first vote was taken. (Robert's Rules of Order Newly Revised, 109th Ed., 2000, p. 312). If the motion to Reconsider is adopted, the question of whether to adopt Resolution No. 2010-20 will be before the Board again in the exact position it occupied the moment before it was voted on originally.

Prior Committee or Board Action: The Board adopted Resolution No. 2010-20 on April 5, 2010, and has previously adopted Resolution Nos. 2009-18 and 2009-19 approving District participation in the Coastal Water Project/Regional Project CPUC proceedings and appropriating funds for District participation. The Board authorized a Reimbursement Agreement with California American Water Company on February 24, 2010, by Resolution No. 2010-12.

Board Goals/Objectives: *2007/2008 Strategic Plan, Mission Statement – Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.*

Financial Impact: ☒ Yes ☐ No

Resolution No. 2010-20 conditionally obligates and benefits MCWD as set forth in the Water Purchase Agreement and the Settlement Agreement.

Funding Source/Recap: An allocation of Private Activity Bonds has been obtained from the California Pollution Control Finance Authority in the amount of \$340 million to fund the entire Project, to allow financing on a tax-exempt basis. MCWD and MCWRA propose to issue bonds through one offering, bifurcated to specifically identify and separate each agency's liability. Revenue will come from grants and the charges for water produced by the Regional Desalination Project.

Material Included for Information/Consideration: Resolution No. 2010-20; and, letters received at the April 5 and 13, 2010 Board meetings. The Findings, Mitigation Monitoring and Reporting Plan, Water Purchase Agreement, Settlement Agreement, were previously transmitted.

Action Required: ☐ Resolution ☒ Motion ☐ Review
(Roll call vote is recommended.)

Board Action

☐ Resolution No ☐ Motion By ☐ Seconded By ☐

Ayes ☐ Abstained ☐

Noes ☐ Absent ☐

Reagendized ☐ Date ☐ No Action Taken ☐

Resolution No. 2010-20
Resolution of the Board of Directors
Marina Coast Water District
Adopting Findings and Mitigation Monitoring and Reporting Plan, and
Conditionally Approving Regional Desalination Project

April 5, 2010

RESOLVED by the Board of Directors ("Directors") of the Marina Coast Water District ("MCWD"), at a special meeting duly called and held on April 5, 2010, at the business office of the District, 11 Reservation Road, Marina, California as follows:

WHEREAS, the Directors find as follows:

AUTHORITY

1. This resolution is adopted pursuant to the County Water District Law, Sections 30000 and following, of the California Water Code, and pursuant to the California Environmental Quality Act ("CEQA"), codified at Sections 21000 and following of the Public Resources Code, and the CEQA Guidelines codified at Title 14, Sections 15000 and following of the California Code of Regulations.

PURPOSE

2. By conditionally approving MCWD's participation in a Regional Desalination Project through a Water Purchase Agreement by and among MCWD, the Monterey County Water Resources Agency ("MCWRA") and California American Water Company ("CAW"), and a Settlement Agreement between MCWD, MCWRA, CAW and various other interested parties in California Public Utilities Commission ("CPUC") Proceeding A.04-09-019, the Directors intend to augment urban water supplies for the region, including MCWD's service area, through a fiscally and environmental responsible project.

BACKGROUND

3. MCWD. MCWD provides water service within a service area that includes the City of Marina, lands in the vicinity of the City of Marina, and the former Fort Ord.

3.1 MCWD acts on behalf of persons served within the MCWD service area to furnish water for beneficial use, to protect the groundwater underlying MCWD, and to conserve the water supply for future as well as present use.

3.2 MCWD has a history and a policy of cooperating with other regional agencies to augment and protect water supplies and to address regional environmental issues.

4. MCWRA. MCWRA's jurisdictional boundaries are coextensive with the external boundaries of the County of Monterey, and within those boundaries, MCWRA is responsible under the Monterey County Water Resources Agency Act, among other things, to increase, and prevent the waste or diminution of the water supply, including the control of groundwater

extractions as required to prevent or deter the loss of usable groundwater through intrusion of seawater and the replacement of groundwater so controlled through the development and distribution of a substitute surface supply, and to prohibit groundwater exportation from the Salinas Basin.

5. CAW. California American Water Company is a regulated public utility providing water service in California under the jurisdiction of the CPUC. CAW provides water service in various areas within California, including a service area on the Monterey Peninsula adjacent to MCWD service area and within the jurisdiction of MCWRA.

6. Application 04-09-019. On September 20, 2004, CAW filed Application No. 04-09-019 seeking approval of the Coastal Water Project (as defined in Application 04-09-019) from the California Public Utilities Commission ("CPUC"). Application No. 04-09-019 was amended on July 14, 2005, and the application remains pending before the CPUC.

6.1 Application A.04-09-019 requests the issuance of a Certificate of Public Convenience and Necessity ("CPCN") to construct and operate a desalination project, the "Coastal Water Project," to provide water for CAW's service area on the Monterey Peninsula.

6.2 MCWD, MCWRA and CAW are active parties in the CPUC proceedings for Application No. 04-09-019. The CPUC proceedings are hereinafter referred to as "A. 04-09-019".

7. Water Purchase Agreement. The proposed Water Purchase Agreement by and among MCWD, MCWRA and CAW concerns the regional desalination water supply project element of "Phase I of the Regional Project" as described in the CPUC's Final EIR for the Coastal Water Project, described in section 8 of these findings. This project is referred to in the Water Purchase Agreement and hereafter in this resolution as the "Regional Desalination Project."

7.1 The Water Purchase Agreement, to which CAW, MCWD, and MCWRA would be parties, sets forth terms under which the Regional Desalination Project could be implemented.

7.2 Under the Water Purchase Agreement, MCWRA would construct, own, and operate a series of wells that would extract brackish water and a portion of the pipeline and appurtenant facilities (collectively, "Intake Facilities") that would convey the brackish water to a desalination plant and related facilities that would be owned and operated by MCWD (collectively, "MCWD Facilities").

7.3 The MCWD Facilities would include a pipeline and connection to discharge brine from the desalination plant to connect to the regional outfall facilities owned and operated by the Monterey Regional Water Pollution Control Agency ("MRWPCA"), pursuant to an "Outfall Agreement" dated January 20, 2010, between MCWD and MRWPCA.

7.4 The Water Purchase Agreement would be attached to a settlement agreement for A.04-09-019.

8. Settlement Agreement. On November 5, 2009, the CPUC ordered that its A.04-09-019 proceedings be held in temporary abeyance so that the parties could devote their resources to settlement discussions.

8.1 Certain parties to the CPUC proceedings, including CAW, MCWD, and MCWRA (collectively, the "Settling Parties"), have prepared a "Settlement Agreement" which provides for settlement of the CPUC proceeding pursuant to the terms of the Water Purchase Agreement.

8.2 In order for the Regional Desalination Project to proceed pursuant to the Water Purchase Agreement, the CPUC must approve a settlement on such terms and issue CAW a CPCN to construct and operate the CAW facilities that are part of the Regional Desalination Project.

8.3 Pursuant to Article 12 of the CPUC's Rules of Practice and Procedure, the Settling Parties must present the Settlement Agreement, the Water Purchase Agreement, and any other related agreements to the CPUC for approval by means of a Motion to Approve Settlement.

8.4 Upon motion by the Settling Parties, the CPUC can approve the proposed settlement, disapprove the proposed settlement, or disapprove the proposed settlement with suggested revisions.

8.5 If the CPUC disapproves the proposed settlement with suggested revisions, the Settling Parties would have the opportunity to accept the CPUC's suggested revisions, at which point the CPUC would either approve the revised version of the proposed settlement, or disapprove the revised proposed settlement and reinstate its A.04-09-019 proceedings.

8.6 If the CPUC approves the proposed settlement or approves a revised version of the proposed settlement, the CPUC will issue a decision approving the settlement and issuing the CPCN to CAW.

8.7 The CPUC's decision approving settlement and issuing the CPCN would constitute the lead agency's approval of the Regional Desalination Project under CEQA.

8.8 MCWD intends to jointly file a motion with the Settling Parties for the CPUC to approve the Settlement Agreement, Water Purchase Agreement, and any other related agreements.

8.9 In order to request CPUC approval of the Settlement Agreement, MCWD intends to execute the Settlement Agreement and Water Purchase Agreement, in conjunction with MCWRA and CAW, contingent on final approval of the CPUC ("Conditional Project Approval").

8.10 If the CPUC approves the settlement proposal, MCWD intends that the contingency will be satisfied, the condition to final approval will be removed, MCWD's action will become final, and the Water Purchase Agreement and Settlement Agreement will become effective upon approval by the CPUC.

8.11 If the CPUC disapproves the settlement proposal with revisions, MCWD intends to evaluate the proposed revisions and, if acceptable, jointly file a second motion with the Settling Parties for approval of the revised settlement proposal, following reconsideration and review of the Final EIR and re-adoption of findings and mitigation measures ("Second Conditional Project Approval").

8.12 If the CPUC approves the settlement proposal with revisions, MCWD intends to reaffirm its Second Conditional Project Approval following reconsideration and review of the Final EIR and re-adoption of findings and mitigation measures.

CEQA COMPLIANCE

9. In Decision D.03-09-022, the CPUC designated itself as the lead agency for environmental review of the Coastal Water Project under CEQA.

9.1 On January 30, 2009, the CPUC, acting as Lead Agency under CEQA in A.04-09-019, issued a Draft Environmental Impact Report ("DEIR," State Clearinghouse No. 200610104) analyzing the potential environmental impacts of a project designated the "Coastal Water Project" and alternatives to it. The CPUC duly received and analyzed extensive public comment on the DEIR. MCWD, MCWRA, and CAW provided comments on the DEIR.

9.2 On December 17, 2009, in Decision No. 09-12-017 which was issued in Application 04-09-019, the CPUC, as Lead Agency, duly certified a Final Environmental Impact Report which includes a description and analyzes the environmental impacts of an alternative project variously referred to in that Final Environmental Impact Report as the "Regional Alternative" and the "Regional Project" and "Phase I of the Regional Project." The principal element of that alternative project is a regional desalination water supply project, with other smaller elements.

9.3 On March 24, 2010, an addendum to the Final EIR ("Addendum") was released, which responds to comment letters that had been inadvertently omitted from the Final EIR and includes an errata to the Final EIR. The term "Final EIR" as used in this resolution includes the addendum.

9.4 The Final EIR designates MCWD as a responsible agency under CEQA.

9.5 Pursuant to CEQA Guidelines Sections 15096, 15162, 15164 and 15063 and in consultation with other affected agencies and entities, MCWD, as a responsible agency for approval of the Regional Desalination Project, has reviewed and considered the Final EIR before taking action on the Water Purchase Agreement and the Settlement Agreement.

9.6 The Directors reviewed and discussed the Final EIR at a meeting on November 17, 2009, and discussed the certified Final EIR at meetings in February (excepting the Addendum) and March 2010, and during their meeting on April 5, 2010, and provided the opportunity for the public to give comments on the Final EIR during the April 5 meeting.

9.7 The Directors have reviewed and considered the Final EIR and Addendum in their entirety and the entire record of proceedings before MCWD, as defined in the Findings

attached hereto as Attachment A, and find that the Final EIR and Addendum are adequate for the purpose of approving MCWD's approval and implementation of the Regional Desalination Project pursuant to the Water Purchase Agreement and Settlement Agreement, and MCWD hereby relies upon the contents of those documents and the CEQA process for its CEQA compliance.

9.8 MCWD intends to conduct all future activities under the Water Purchase Agreement and the Settlement Agreement in accordance with the Final EIR; or, alternatively, and if needed to comply with CEQA, MCWD would amend, supplement or otherwise conduct new environmental review prior to directly or indirectly committing to undertake any specific project or action involving a physical change to the environment related to the implementation of the Regional Desalination Project pursuant to the Water Purchase Agreement and the Settlement Agreement.

9.9 The Directors have determined that the Regional Desalination Project will result in the following benefits: (1) diversify and create a reliable drought-proof water supply; (2) protect the Seaside basin for long-term reliability; (3) address CAW's obligations to find alternative water sources to reduce diversions from the Carmel River; (4) protect listed species in the riparian and aquatic habitat below San Clemente Dam; (5) protect the local economy from the effects of an uncertain water supply; and (6) minimize water rate increases by creating a diversified water supply portfolio.

9.10 At the direction of the Directors, MCWD has made written findings for each significant effect associated with the MCWD Facilities and prepared a Statement of Overriding Considerations, which explains that the benefits of the Project outweigh any significant and unavoidable impacts on the environment and has prepared a Mitigation Monitoring and Reporting Plan ("MMRP"), which includes all mitigation measures designed to substantially lessen or eliminate the adverse impact on the environment associated with construction and operation of the MCWD Facilities, as well as a plan for reporting obligations and procedures by parties responsible for implementation of the mitigation measures. A copy of the Findings and Statement of Overriding Considerations is attached to this resolution as **Attachment A**. A copy of the MMRP is attached to the Findings.

9.11 The Directors intend to approve the Findings and Statement of Overriding Considerations and the MMRP.

ACTION

10. By this resolution, the Directors make and adopt appropriate Findings, Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Plan and conditionally approve MCWD's participation in the Regional Desalination Project pursuant to a Water Purchase Agreement between MCWD, MCWRA and CAW, and a Settlement Agreement between MCWD, MCWRA, CAW and various other interested parties to settle California Public Utilities Commission Proceeding A.04-09-019, "In the Matter of the Application of California-American Water Company (U 210 W) for a Certificate of Public Convenience and Necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit

in its Monterey District and to Recover All Present and Future Costs in Connection Therewith in Rates."

GENERAL MANAGER'S RECOMMENDATION

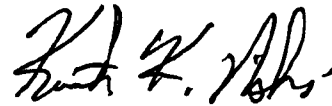
11. MCWD's General Manager recommends that the Directors conditionally approve MCWD's participation in the Regional Desalination Project by conditionally approving the Water Purchase Agreement and Settlement Agreement for execution in the form presented to the Board in open session on April 5, 2010.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District adopt the foregoing findings; and

1. The Directors hereby certify, pursuant to CEQA Guidelines §§ 15050(b) and 15096(f), that they have reviewed and considered the Final EIR as certified by the CPUC on December 17, 2009 in Decision D.09-12-017 and the Addendum that was released on March 24, 2010.
2. The Directors hereby approve and adopt the Findings attached hereto as **Attachment A**, which are incorporated herein, pursuant to CEQA Guidelines §§ 15091 and 15096(h).
3. The Directors hereby approve and adopt the Mitigation Monitoring and Reporting Plan identified in the Findings and attached to the Findings, pursuant to CEQA Guidelines § 15096(g).
4. The Directors hereby conditionally approve MCWD's participation in the Regional Desalination Project pursuant to the Water Purchase Agreement and the Settlement Agreement, contingent on final approval by the CPUC.
5. The Directors hereby authorize the President and the General Manager and Secretary to execute the Water Purchase Agreement and the Settlement Agreement pursuant to this resolution and conditional approval substantially in the form presented to the Board at the April 5, 2010, meeting, and direct the General Manager and staff to take all other actions that may be necessary to effectuate and implement this resolution and Conditional Project Approval.

PASSED AND ADOPTED on April 5, 2010, by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes:	Directors	<u>Gustafson, Moore, Lee, Nishi</u>
Noes:	Directors	<u>None</u>
Absent:	Directors	<u>Burns</u>
Abstained:	Directors	<u>None</u>



Kenneth K. Nishi, President

ATTEST:



Jim Heitzman, General Manager

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2010-20 adopted April 5, 2010.



Jim Heitzman, Secretary

Correspondence
Received April 5, 2010

LAW OFFICES OF
MICHAEL W. STAMP

Facsimile
(831) 373-0242

479 Pacific Street, Suite 1
Monterey, California 93940

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(831) 373-1214

April 5, 2010

Hand Delivery

Kenneth K. Nishi, President,
and Members of the Marina Coast Water District Board
Marina Coast Water District
11 Reservation Road
Marina, California 93933

Subject: Opposition to Regional Project Approvals, April 5, 2010 meeting

Dear President Nishi and Members of the Board:

The Ag Land Trust objects to any approval of or with regard to the Regional Project or of any the environmental documentation prepared to date.

The Ag Land Trust has raised objections to the project which have not been adequately addressed. We have made comments to the California Public Utilities Commission (CPUC) and the Marina Coast Water District (MCWD) on December 16, 2009, and March 16, 2010, which we restate here today as comments to the Marina Coast Water District on its proposed action tonight. Copies of those letters were provided to the MCWD at its March 16, 2010 meeting. In addition to comments provided by the Ag Land Trust in the past, which we incorporate here as part of this letter, we provide the following comments.

Brown Act Concerns

The agenda for tonight's Board meeting lists only the adoption of a resolution to approve a Water Purchase Agreement and a "related Settlement Agreement." The agenda fails to identify the other actions proposed in the staff report:

1. Review and consider the Final EIR and an addendum.
2. Approve and adopt a statement of overriding considerations.
3. Approve and adopt mitigation measures.
4. Approve MCWD's participation in the Regional Project.

The failure to specify or describe these other action items on the agenda violates the Brown Act, California's open meeting law (Gov. Code, § 54950.5 et seq.). The agenda description does not alert the public that these important actions would be discussed at the meeting. (See, e.g., Gov. Code §§ 54954.2 and 54956.)

The proposed additional steps include mandatory actions under CEQA that must be performed by the Board prior to taking action on the water purchase agreement and

settlement agreements. Under the Brown Act, the Board cannot take action on any of the environmental documents because they have not been noticed correctly to the public. Further, the proposed addendum to the EIR released in March 2010 has not been approved by any agency, and therefore cannot be relied upon by the MCWD. By releasing a draft addendum to the EIR, the California Public Utilities Commission has acknowledged that the Final EIR is flawed and incomplete. The Board cannot approve the MCWD's participation in the Regional Project because that action is not on the public agenda. The Board also cannot approve a Statement of Overriding Considerations because, despite it being a matter of great public interest, such a statement is not identified on the agenda as a matter for consideration.

The staff report to the Board incorrectly describes the proposed action as a "conditional" approval but that is not accurate. There is nothing "conditional" about the proposed MCWD approval. The sole "condition" would be an action by the CPUC to approve the settlement proposal. (Proposed Reso. No. 2010-20, § 8.10.) MCWD has no control over the CPUC's action.

Only the agenda for the April 5, 2010 special meeting was available on the MCWD website. The supporting materials – the staff report listing the proposed additional action items and all attachments, including the proposed resolution, findings, settlement agreement, water purchase agreement, and outfall agreement – were not available on the website.

Regional Project Concerns

The Regional Project would require the use of water rights which the project proponents do not own. The Salinas Valley Groundwater Basin is in very serious overdraft, and has been acknowledged to be in serious overdraft since the 1950s. The proposed Salinas Valley Water Project is not operational. All of the various components of the Salinas Valley Water Project must be fully operational for years before it can be effective or before its early results are known with any reliability. The SVWP is not operational. Even after its operations begin, it will take years before it would have any effect on the tens of thousands of acre feet of annual overpumping in the Salinas Valley Groundwater Basin. Further, even if in the future the Basin's recharge is ever in balance with the pumping from the Basin, which is highly in doubt and cannot be accurately measured, the seawater intrusion would remain. Technical experts agree that seawater intrusion is generally not reversed. Further, the SVWP under construction is significantly smaller than the project evaluated in the SVWP EIR. The project was significantly downsized after the cost projections from the original project came in far over budget.

The County Water Resources Agency does not measure or maintain accurate or detailed records of cumulative basin pumping, cumulative basin water usage, or

overpumping. At best, the Agency merely estimates amounts of recharge, pumping and seawater intrusion. The Agency records are vague on these important issues.

Monterey County requires all desalination plants to have a contingency plan for a backup water supply. There has not been an application made to the County for such permit, and the environmental review has failed to include an adequate analysis for any backup plan. The lack of an identified contingency plan for back up water supply is a key omission. The County requires that all desalination plants have such a plan in place. The reason for this requirement is to ensure that the water customers have a reliable water supply in the event of plant failure, or short term or long term shutdown in operations for any reason, or even operations that are not 100% of proposed production. The County requirement is a critical public health and safety requirement.

A document obtained from the City of Monterey claims that there has been an application to the County Environmental Health division for a backup plan. That document does not have an author identified on it. The document's claim regarding a backup plan claim is false because our Office made a public records request to the County Environmental Health, which produced the responsive records: a draft, unsigned, incomplete application. County Environmental Health informed our Office that there has not been a final complete application submitted and application fees have not been paid. County Environmental Health also stated that it would perform environmental review on the desalination plant application.

The document obtained from the City of Monterey asserts that the backup supply for the Regional Project would be the Carmel River and the Seaside Aquifer, as well as the Salinas Valley Groundwater Basin. Each of these three water sources is overdrafted or adjudicated. The intent of the Regional Project is to cease reliance on those water sources in order to reduce environmental harm. Any proposal to rely on those sources as a backup supply has not been analyzed or disclosed to the public. Any contingency plan should be carefully analyzed in a Regional Project EIR prepared by the appropriate lead agency.

Serious issues regarding brine disposal have not been analyzed adequately. An application for disposal of the Project's brine has not been made by any agency. The public will not know under what conditions the Monterey Regional Water Pollution Control Agency (MRWPCA) outfall pipe can be used for brine outfall, or whether that proposal will be acceptable, until the California Regional Water Quality Control Board reviews and acts on the permit application. This issue is critically important, and remains an unresolved issue.

It has been publicly acknowledged that there are problems and potential limitations with the use of the existing MRWPCA outfall system. There are serious questions as to the outfall pipe's existing capacity to accommodate the increased flow

that would be caused by the Regional Project's brine discharge. There are serious questions as to the potential sacrifice of existing outfall capacity that was intended or has been allocated for future development in the area, which would mean that as-yet-unused capacity would be allocated for brine instead. There are serious questions about the brine discharge's impacts on the existing stormwater capacity in the outfall, and what mitigations would be possible for such reduction in stormwater capacity. There is insufficient information regarding whether storage or operational modifications can be made to accommodate all outfall operating parameters. It is possible that brine discharge would exceed outfall capacity during high-flow periods.

The hypothetical and unconfirmed 85% seawater /15% groundwater ratio has significant implications for outfall capacity, as well. Depending on that ratio, the actual amount of brine discharge may be significantly larger than that analyzed in the EIR. Project proponents agree that they do now know the conditions associated with the brine acceptance. Further, it is unknown whether the California Regional Water Quality Control Board would support a request to adjust the MRWPCA's NPDES Permit to allow large volumes of brine to be added to the existing outfall. None of these issues have been adequately researched or disclosed in an EIR, as CEQA requires. The proponents envision further environmental analysis to be performed deferred, and performed, if at all, after the CPUC EIR certification. That approach is piecemealing, which CEQA prohibits. The EIR does not disclose and did not research the current and maximum capacity of the Outfall. MRWPCA does not have that information. That information has not been provided to the public for review. (See, for example, the Outfall Agreement which is proposed to be part of the Settlement Agreement.)

The MRWPCA outfall capacity exists to provide essential public health and safety reasons, to provide disposal of the sewage of the member agencies and areas. There is no analysis in the EIR of how adding new flows of brine disposal to the MRWPCA outfall could affect the ability of MRWPCA to continue to perform its existing public health and safety obligations. There is no analysis of what would happen during ordinary MRWPCA operations or during peak operations. The proposed approvals would give brine disposal priority use without an adequate planning analysis. The addition of brine disposal to the MRWPCA operations could cause potentially significant impacts.

In addition to the problem with capacity, another problem that has not been addressed is the chemical impact of the brine on the MCWRA outfall pipeline. A major constituent of brine is sulfates. Sulfates react with cement, and as a result eat away or destroy cement. The concrete outfall contains cement. The chemical reactions could destroy the concrete outfall pipeline. This could cause the outfall pipeline to fall apart, which would have potentially significant environmental and cost impacts. If the outfall pipeline would have to be rebuilt in the future, that would cause potentially significant environmental and cost impacts, as well.

There has been inadequate environmental review of the potential water quality impacts of the Regional Project. For example, the Regional Project's very significant pumping may cause potential impacts to the fertilizer and other commercial products used by the Salinas Valley agricultural industry. Those agricultural drains flow into the Salinas River and the Salinas Valley groundwater basin, and affect the water quality of the 180-foot and 400-foot aquifers. The change in aquifer movement and levels due to the project may cause water quality issues, such as if contaminants migrate in the aquifers due to the significant pumping of the Regional Project wells. The increased pumping may also cause concentration of existing nitrate contamination from commercial fertilizers. Migration of contaminants may affect other pumpers in the aquifer by reducing the water quality in their pumped water.

This project is within the boundaries of the North County Land Use Plan. The project violates several policies of that plan. The plan designates the land use of the Ag Land Trust property as Agricultural Preservation. Under the plan policies, such land shall be preserved for agricultural use to the fullest extent possible. Development of Agricultural Preservation lands is limited to accessory buildings for farm uses and other uses required for agricultural activities on that parcel. The proposed Regional Project wells and pipelines, and the lack of property rights including water rights for the project, are not consistent with that policy, and may threaten the agricultural viability of those lands.

Further, the project violates Land Use Plan policies on water supply and water quality, including policies 2.5.3.A.1 through 2.5.3.A.3, and policy 2.5.3.B.6. The County has failed to determine the long term safe yield of the area aquifers. It is not known whether the proposed project has an identifiable, available, long term water supply. By using coastal groundwater supplies for uses other than coastal priority agricultural uses, the project would violate policy 2.5.3.A.1. There is no safe yield identified for the Salinas valley area, which is in serious overdraft, or for the immediate project area which suffers from severe seawater intrusion. The County has deliberately not enforced its ordinances that would require cessation of coastal agricultural pumping by private property owners. The County has attempted to urge coastal agricultural pumpers not to pump because doing so causes further seawater intrusion. Under the County's longstanding rationale and arguments, the Regional Project's proposed reliance on coastal intake wells will expose the project area to further seawater intrusion. The EIR avoided the required analysis of these issues at this early stage, and its responses to comments from sister agencies on these issues were not in good faith. (See, e.g., Coastal Commission comments, and FEIR response at pp. 14.3.5-7.)

As a separate objection, the Regional Project proponents now propose slant wells for the project, even though there have not been adequate evaluation of that project feature possibility as part of the Regional Project configuration. The Regional Project proposed vertical wells in a specific location. The location and impacts of slant

wells for the Regional Project have not been researched and disclosed adequately under CEQA, or the alternatives to and mitigations for such wells.

The Final EIR cannot be relied upon for the reasons raised by the Ag Land Trust in past letters, and because it is incomplete due to its failure to include the comment letters, responses and other information provided in the unapproved draft addendum. Further, as raised in earlier letters, the CPUC has not acted to approve the project, and is not the proper lead agency under CEQA.

The proposed findings of overriding considerations are not adequate and are not supported by the evidence. There is no evidence in the EIR or anywhere else that the Regional Project will be "reliable," or provide "reliability," or provide protections from an "uncertain water supply." Similar sized plants that desalinate cold water are legendary for their lack of long term reliability, and their failure to operate at full capacity for any reliable period of time. Protection of listed species in the Carmel River habitat is in grave doubt because the Project's contingency (backup) plan will apparently include the use of Carmel River water, which could eliminate all potential benefits of the Project. As to the fifth claimed benefit -- "minimize water rate increases by creating a diversified water supply portfolio" -- the evidence shows that the Regional Project, rather than minimizing increases, instead would ensure very large increases in water rates by the Cal Am ratepayers on the Monterey Peninsula for the coming 34 years, and up to 94 years. Under the proposed Water Purchase Agreement those ratepayers would be locked into the rate increases no ability to challenge them before the CPUC, as is usual with rate increases.

There is nothing certain about the proposed Regional Project's water supply, nor does the Project increase the certainty over the current situation. MCWD would continue to rely on the deep aquifer to supply its customers, and on other aquifers for the needs of the former Fort Ord. The merits of a water supply solution was not the issue of the State Water Resources Control Board's Cease and Desist Order (CDO). At issue in the proposed CDO was the charge that there was no water supply solution and that Cal Am deliberately had not formulated one. Cal Am claimed at the hearing on the CDO that Order 95-10 authorized Cal Am to continue diverting water from the Carmel River while Cal Am studied water supply solutions (as opposed to implementing a solution). Cal Am did not have to defend the CDO. Cal Am could have reached a solution by consenting to a CDO that recognized the need to move forward. Cal Am did not do so and a CDO issued. Since that date, Cal Am has filed a lawsuit challenging the Board's CDO; Cal Am has filed a Motion for Preliminary Injunction to keep the Board from enforcing its Order; and Cal Am has filed an unsuccessful motion in the Court of Appeal with the intent of delaying resolution of the issues pertaining to the CDO.


Kenneth K. Nishi, President,
and Members of the Marina Coast Water District Board
April 5, 2010
Page 7

The environmental review to date does not include any consideration of the potential use of eminent domain to acquire any property interests for the Regional Project. Such use is clearly contemplated by the project proponents, because, for example, the proponents do not own and have not yet obtained water rights for the project or property rights for the proposed wells. The staff report for the Monterey County Water Resources Agency Board of Supervisors' meeting of April 6, 2010, states that project proponents "will obtain, through purchase or other legal means, all easements or other real property interests necessary to build, operate and maintain" the proposed wells. The contemplated use of "other legal means" includes eminent domain, which is a project under CEQA and which must be evaluated in the environmental review.

The MCWD and the MCWRA propose to adopt findings of overriding considerations for the Regional Project. Such an action would conflict with the Salinas Valley Water Project EIR, in which Monterey County Water Resources Agency committed that it and local agencies should "aggressively implement policies,... ordinances and programs that result in reducing potential environmental impacts to agriculture, water use, traffic, air quality, and biology." MCWD should strictly comply with environmental guidelines to reduce environmental impacts. Instead, MCWD proposes to adopt a proposed statement of overriding considerations with the intent that MCWD avoid its responsibilities to reduce to the fullest extent the potential environmental impacts to agriculture, water use, and air quality. The commitment to "aggressively implement" environmental policies is not consistent with MCWD's proposed statement of overriding considerations.

The CPUC is scheduled to act on the Coastal Water Project in summer 2010. The Marina Coast Water District should not jump ahead of the CPUC in selecting a project. If the MCWD does so, it would take away the ability of the CPUC to select freely among the three projects in reliance on the CPUC's EIR.

Very truly yours,


Molly Erickson

Attachments: see Exhibit Table

<u>EXHIBIT</u>	<u>DESCRIPTION</u>
A	Transcript from March 5, 2010 Public Utilities Commission hearing
B	<p>Decision Resolving Motion by California-American Water Company Regarding Designation of Lead Agency and Ratemaking Issues mailed September 5, 2003 (Public Utilities Commission proceeding, Application 97-03-052)</p> <p>Administrative Law Judge's Ruling Regarding Phase 2 Scheduling, filed February 12, 2010 (Public Utilities Commission proceeding, Application 04-09-019)</p> <p>Response to the Division of Ratepayer Advocates to the Motion of Marina Coast Water District and Monterey County Water Resources Agency for Leave to Intervene submitted March 5, 2010 (Public Utilities Commission proceeding, Application 04-09-019)</p> <p>Revised Schedule for Phase 2, dated September 4, 2009 (Public Utilities Commission proceeding, Application 04-09-019)</p>
C	North County Land Use Plan (excerpts)
D	California Regional Water Quality Control Board, Central Coast Region Executive Officer's Report to the Board for May 15-16, 2003
E	Introduction to the Pajaro Valley Groundwater Basin by the Pajaro Valley Water Management Agency (excerpts)
F	Final Report Evaluation of Seawater Desalination Projects Proposed for the Monterey Peninsula, dated February 20, 2008, prepared by GEI/Bookman Edmonston, Separation Processes Inc., and Malcolm-Pirnie Inc. and submitted to Monterey Peninsula Water Management District
G	<p>Salinas Valley Groundwater Basin 180/400 Foot Aquifer Subbasin from California's Groundwater Bulletin 118, last update February 27, 2004</p> <p>Salinas Valley Water Project Environmental Impact Report (excerpts)</p>
H	Staff Report for December 9, 2003 Board of Supervisors of the Monterey County Water Resources Agency hearing

I	<p>Nacimiento Non-O&M - FY 2010-2011; Budget Line Number 30 for the Monterey County Water Resources Agency</p> <p>Staff Report for July 22, 2003 Board of Supervisors of the Monterey County Water Resources Agency hearing</p>
J	<p>March 3, 2010 public records request from the Law Offices of Michael W. Stamp to County of Monterey and Monterey County Water Resources Agency</p> <p>March 19, 2010 response from Dave Kimbrough, Chief of Administrative Services, Monterey County Water Resources Agency to the Law Offices of Michael W. Stamp</p> <p>March 22, 2010 letter from the Law Offices of Michael W. Stamp to Leslie Girard, Assistant County Counsel, County of Monterey and Irv Grant, Deputy County Counsel, Water Resources Agency</p> <p>March 24, 2010 response from Dave Kimbrough, Chief of Administrative Services, Monterey County Water Resources Agency to the Law Offices of Michael W. Stamp</p> <p>March 30, 2010 letter from the Law Offices of Michael W. Stamp to Curtis Weeks, General Manager, Monterey County Water Resources Agency</p>
K	<p>March 24, 2010 public records request from the Law Offices of Michael W. Stamp to Planning Department, Environmental Health Division and Monterey County Water Resources Agency</p> <p>April 1, 2010 response from Monterey County Water Resources Agency to the Law Offices of Michael W. Stamp</p> <p>March 26, 2010 letter from the Law Offices of Michael W. Stamp to Environmental Health Division, County of Monterey</p> <p>April 2, 2010 letter from the Law Offices of Michael W. Stamp to Cheryl Sandoval, Environmental Health Division, County of Monterey</p> <p>Documents obtained from Monterey County Environmental Health Division by the Law Offices of Michael W. Stamp in response to March 24, 2010 public records request</p>

L	<p>Draft Minutes of the September 28, 2009 Monterey Regional Water Pollution Control Agency Board of Directors meeting</p> <p>Draft Minutes of the October 8, 2009 Monterey Regional Water Pollution Control Agency Board of Directors meeting</p> <p>Printout of the MRWPCA Service Area</p> <p>MRWPCA Update for Summer 2002 showing MRWPCA year of formation</p>
M	<p>Division of Ratepayer Advocates Data Requests Nos. 53 through 57</p>
N	<p>Special Board Meeting Agenda for the April 5, 2010 Marina Coast Water District Board of Directors</p> <p>Printout entitled About Marina Coast Water District</p> <p>Printout entitled MCWD Seawater Desalination Facility</p>
O	<p>Monterey County Weekly article dated April 1, 2010 entitled "Peninsula water district board divided on regional water project agreement"</p> <p>Monterey Herald article dated March 31, 2010 entitled "Water rates likely to double, says exec"</p> <p>Salinas Californian article dated March 30, 2010 entitled "Monterey Bay Regional Water Project Agreements released today"</p>
P	<p>November 2, 2009 letter from the Law Offices of Michael W. Stamp to Jim Heitzman, General Manager and Belinda Allen, Capital Projects Manager of Marina Coast Water District</p>
Q	<p>March 12, 2010 public records request to Alice Henault, Monterey County Water Resources from the Law Offices of Michael W. Stamp</p> <p>March 30, 2010 letter from Alice Henault, Monterey County Water Resources Agency</p> <p>April 1, 2010 facsimile from Alice Henault, Monterey County Water Resources Agency with responsive documents attached</p>

R	Comments to the Santa Cruz County Board of Supervisors on November 20, 2007 by Andrew T. Fisher, Professor of Earth and Planetary Science, University of California, Santa Cruz
S	Water Supply Assessment and Written Verification of Supply Proposed East Garrison Specific Plan Development prepared for the Marina Coast Water District by Byron Buck & Associates, dated June 3, 2004 (excerpts)
T	Special Meeting Agenda for the April 5, 2010 Monterey Peninsula Water Management District Board of Directors meeting Notice Regarding April 5, 2010 Special Meeting of the Monterey Peninsula Water Management District Board of Directors dated April 3, 2010
U	2010 Letter from Amy White, Executive Director, Landwatch to Mayor Chuck Della Sala and Members of the City Council of Monterey
V	Notice of Preparation Environmental Impact Report for the Coastal Water Project Proposed by California American Water Company, California Public Utilities Commission as Lead Agency, Application No. A.04-09-019
W	Monterey Herald article dated April 4, 2010 entitled Water Debate Deluge
X	State Water Resources Control Board Resolution No. 68-16 State Water Resources Control Board Central Coast Region Basin Plan (excerpts)
Y	Monterey County Water Resources Agency Act
Z	Staff Report for April 6, 2010 Board of Supervisors of the Monterey County Water Resources Agency hearing



April 4, 2010

Attention: Regina Doyle, Chair
Monterey Peninsula Water Management District Board of Directors
5 Harris Court, Building G
Monterey, CA 93942-0085

Regarding: Water Purchase Agreement for Regional Water Project

Dear Chair Doyle and MPWMD Board of Directors:

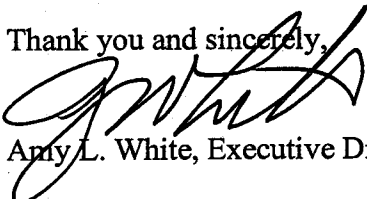
LandWatch Monterey County is pleased you are reconsidering your closed session March 25th vote on the Water Purchase Agreement for the Regional Water Project. Public participation is essential for a project that will ultimately provide 70% of the water for the Monterey Peninsula.

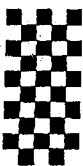
LandWatch believes this purchase agreement should be assessed independently of the Regional Water Project because a good project can be ruined by a flawed purchase agreement. Elected officials of Monterey County should work hard to ensure this agreement is fair and responsible for the rate payers. One way to ensure fairness for the ratepayers is to delay approval of this agreement until the Division of Ratepayer Advocates (DRA) releases its assessment of the agreement. The DRA is the state agency with the sole role of protecting the consumer, and they have already stated they believe this agreement is flawed.

LandWatch has the following concerns about the agreement. The agreement appears to indicate total project costs paid by Cal-Am ratepayers ranging from \$4,000 to \$7,000 per acre-foot while Marina Coast Water District would pay \$149 per acre-foot. This rate structure is inequitable and would act as a subsidy to non-Cal-Am users. Furthermore, during their extensive public outreach campaign, the proponents of the Regional Project listed the price at \$2,300 per acre-foot. This represents a large discrepancy and the implications should be examined before further action is taken on the agreements. Also, the price estimate in the agreement does not include the interest cost for construction financing which could be \$45 million or more. Finally, the public had a very limited amount of time to review the agreements.

LandWatch encourages this Board to delay action on this item until the DRA releases its analysis of the purchase agreement. Thank you for allowing LandWatch to comment.

Thank you and sincerely,


Amy L. White, Executive Director



April 3, 2010

Regina Doyle, Chair
Monterey Peninsula Water Management District
FAX: 644-9560

From: Amy Anderson
FAX: 626-3086

RECEIVED

APR - 2 2010

MPWMD

SUBJECT: WATER PURCHASE AGREEMENT

Dear Chair and Members of the Board of Directors:

I am glad to learn that the Board will be reconsidering its vote on the Water Purchase Agreement in open session. The lack of transparency in the development of the details of this plan is very troubling. The details have only been available since Tuesday.

I am in favor of a plan that reduces our overdraft of the Carmel River, that adopts measures that replenish the aquifer, that encourages conservation, and that replaces the overdraft water currently being used by residents. The expense of the water seems exorbitant, and the cost structure makes no sense to me. How were these numbers arrived at? They are much higher than those presented months ago by the Regional Project proponents. As Cal-Am ratepayers will be providing significant subsidies to non-Cal-Am users, and the details of the project do not assure that the water can be delivered because of some unresolved legal issues. This is very troubling.

There is no fixed price for water and no cost controls – this is outrageous! Asking for Cal-Am ratepayers to pay for litigation – when the ratepayers had little or nothing to do with this plan – is against any understanding of what “transparency in government” implies. Cal-Am ratepayers are backed into a box on this one, no matter how much it turns out to cost. This cannot be defended.

Because the release of information was so late, and does not include enough time for public review, this means decisions will be finalized without full understanding of the consequences of the agreement. The vote should be delayed by the Board until an independent cost analysis is Performed, or deny the agreement. This is a very serious issue, and to be plunging into something with such huge consequences for the Peninsula, with so little independent and public review, is anathema to good public relations and trust.

Thank you for your consideration.

Sincerely,

Amy Anderson
25010 Outlook Dr
Carmel, CA 93923

PUBLIC REVIEW COPY
DO NOT REMOVE FROM THIS AREA



Robin Mahoney
15 Calle de los Helechos
Carmel Valley, CA 93924

April 3, 2010

Regina Doyle, Chair
Monterey Peninsula Water Management District
P.O. Box 85
Monterey, CA 93941
FAX 644-9560

Subject: Vote on the Financial Agreement

Dear Chair Doyle and Members of the District Board of Directors:

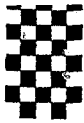
I am a homeowner in Carmel Valley. Based on recent press coverage, I am very concerned about water rates doubling or even tripling if this agreement is approved. What will these increases do to our property values and our ability to sell or rent our homes? Who will be able to live here or buy homes?

I have heard that the Division of Ratepayer Advocates will release a report on the financial agreement at the end of April. Since the Division and the Water Management District seem to be the only agencies that can directly address our concerns as ratepayers, I think it is important that your Board wait to hear from the Division before making a decision. Please delay any decision on the agreement until you have had a chance to hear from the Division or Ratepayer Advocates.

Thank you for holding a hearing on this important issue that will affect ratepayers for years to come.

Sincerely,

Robin Mahoney
Carmel Valley



Michael and Victoria McMillan
8724 Carmel Valley Rd
Carmel, CA 93923

RECEIVED

APR - 2 2010

MPWMD

April 2, 2010

BY FAX (831) 644-9560

Regina Doyle, Chair
Monterey Peninsula Water Management District
P.O. Box 85
Monterey, CA 93942

Re: Water Purchase Agreement – Reconsideration of Vote
PLEASE DENY APPROVAL
OR DELAY VOTE FOR ADDITIONAL PUBLIC INPUT

Dear Chair and Members of the Board of Directors:

Like most or all residents of Monterey Peninsula, I just learned of the Water Purchase Agreement through sketchy articles in the Herald, Pine Cone and Monterey County Weekly. If there is any truth to the information in the articles, then the businesses, homeowners, residents and voters of the Monterey Peninsula are getting a very bad deal: a doubling or more of already extremely high water rates to fund a water project that is inexplicably and outrageously expensive when compared to other similarly sized projects.

Other serious questions and concerns include:

1. How can it be fair that Marina will pay a fraction of the cost of Monterey Peninsula ratepayers for water?
2. The proposed project does not address the longer-term water needs for our community.
3. There are widely different overall cost estimates for the project (ranging from \$280 million to \$450 million), and we all know what happens in real life: actual costs of public projects end up being multiples of the estimated costs.
4. There has been a lack of time for public to adequately review and comment on important documents.
5. There has been a lack of public transparency involving the perceived "back room" deal making.

Regina Doyle, Chair
Monterey Peninsula Water Management District
April 2, 2010
Page 2 of 2

6. The DRA has expressed serious concern about the cost and fairness of the project.

Please deny approval of the water purchase and settlement agreements or at least delay final decision until the public has had an adequate opportunity to fully understand them and their impacts, as well as have a fair opportunity to provide public input.

Thank you for your consideration.

Very truly yours,



Michael K. McMillan

MKM/ac

Carmel Valley Association
P.O. Box 157, Carmel Valley, California 93924
www.carmelvalleyassociation.org



April 5, 2010

Regina Doyle, Chair
Monterey Peninsula Water Management District
PO Box 85
Monterey, CA 93942

Sent by FAX on 4/5/2010 to: 831-644-9560

PLEASE DENY APPROVAL OF THE WATER PURCHASE AGREEMENT

Dear Chair and Members of the Board of Directors:

The Carmel Valley Association has been actively participating in water issues affecting our area since 1949. Representing hundreds of families, we are the oldest and only residents' association speaking for all the Carmel Valley.

Our members have been actively participating in the current proceedings, and we have strongly supported the "Regional Project" in concept. However we strongly oppose the Water Purchase Agreement now under discussion. We believe the Agreement as written commits Carmel Valley residents and all Peninsula ratepayers to excessive up front risk, an unfair imbalance in costs allocation, and is not in the long term best interest of ratepayers served by CalAm.

- 1) **The Agreement commits ratepayers to huge immediate expenditures based on untested science.** Financial projections are based on an estimated 15% of fresh water from the planned wells. But no test wells have been drilled, and no pumping over extended time has taken place, so there are no actual measurements of current salinity under real pumping conditions, or of the extent of expected reductions in salinity as pumping progresses. Because of the "no export" rule for Salinas Valley groundwater and the required replacement water, the cost of exported desalinated water could soar at the same time the amount of desalinated water available for export could be sharply diminished, making the total project unfeasible under the proposed pricing formula. **Test wells should be drilled and test pumping should**

"To preserve, protect and defend the natural beauty and resources of Carmel Valley and the County of Monterey"

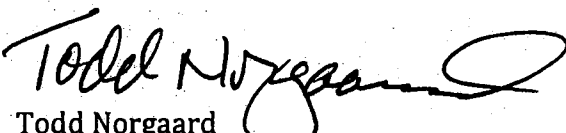
take place over a sufficient period of time so that actual well performance and salinity can be reasonably projected before this commitment takes place.


- 2) **The Agreement creates open-ended future obligations without adequate financial controls.** Peninsula ratepayers would be expected to cover all litigation costs, future planning and development costs, and operating costs without any participation in the decision-making process. There should be joint ownership of the plant facilities by the Marina Coast Water District, the Monterey County Water Resources Agency and Peninsula ratepayers, and joint participation in all future planning and operations.
- 3) **The Agreement rewards failure.** If the salinity of brackish water falls too low, making the cost of exportable desalinated water untenable; if the plant doesn't work as proposed; if there are crippling delays caused by litigation or the permit process – the Marina Coast Water District and the Monterey County Water Resources will receive a “windfall” in facilities and development work free of charge, paid for solely by Peninsula ratepayers. All parties to the Agreement must be financially obligated from the start, according to future benefits.
- 4) **The Agreement may not serve the future needs of Peninsula ratepayers.** Peninsula water customers need a dependable source or sources of water to replace water from the Carmel River aquifer. This project may or may not be the total answer to filling that need. Instead of taking one giant leap, the project needs to be broken down into smaller steps, with shared responsibilities for decisions and financing as more dependable information on future costs and benefits becomes available.

On April 7th the Division of Ratepayer Advocate (DRA) of the California Public Utilities Commission is expected to release their findings detailing the problems they have found in the agreements that resulted from the secret negotiations just concluded. Please delay any endorsement or approval of any Regional Project agreement until there has been time to fully review and understand the DRA's comments and the documents to which they apply.

As Carmel Valley residents we feel we have an extensive stake in the outcome of this project, both as ratepayers and as caretakers of the Carmel River and our valley.

Thank you for giving careful attention to our concerns,


Todd Norgaard
CVA Water Committee


Roger Dolan
CVA Water Committee

www.dra.ca.gov/DRA/h20/

April 5, 2010

The A.04-09-019 Settlement Agreement and Water Purchase Agreement (WPA) would result in a regional desalination project (Regional Project) with unreasonably high costs and risks to Cal Am ratepayers. It eliminates Commission oversight without replacing it with any meaningful local control.

DRA supports a regional desalination plant that is reasonably priced and fair, with appropriate cost controls and oversight.

Water Purchase Agreement Issues

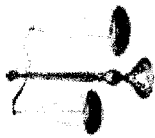
- **DRA estimates Regional Project request will result in a \$70 million revenue requirement increase, or a 163% increase in Cal Am rates.** Current Cal Am Monterey District revenue requirement is \$43 million. The Regional Project request nearly triples rates, and does not include the impact of the upcoming San Clemente Dam costs or the increase Cal Am will be requesting in its General Rate Case (GRC) to be filed July 2010. The public should have a comprehensive view of the total picture.
- **The cost of desalinated water is exceptionally expensive for a desalination facility of this size given current technology.** DRA estimates the cost to Cal Am for Regional Project desalinated water at \$6400 per acre-foot with another \$1500 per acre-foot for conveyance. The Department of Water Resources (DWR) estimates the cost of seawater desalination at \$1000 to \$2500 per acre-foot in the recently released 2009 Water Plan Update.
- **The WPA sets a cost cap of \$297 million but total debt will be closer to \$350 million.** The cost cap excludes interest during construction and any debt coverage requirements. DRA preliminary estimates indicate another \$40 to \$50 million in bonds will be necessary to cover interest during construction.
- **When the Cal Am pipelines and other necessary infrastructure is added, total capital costs approach \$450 million.** Cal Am requests a cost cap of \$107 million for necessary conveyance pipelines, aquifer storage and recovery facilities, and other infrastructure.
- **The Settlement and Water Purchase Agreement cost estimates do not include any cost impacts resulting from the debt equivalence issue, which could be significant.**
- **The Agreement lacks any cost controls on the price of desalinated water, and provides no recourse in the event costs skyrocket.** Neither Regional Project costs nor the price of water under the Agreement are subject to Commission jurisdiction. By approving the Agreement, the Commission shall be deemed to have agreed that all regional desalination expenses incurred by MCWRA and MCWD are reasonable and prudent. This includes the overhead expenses of MCWRA and MCWD, as well as all legal costs of MCWD, MCWRA and Cal Am arising from any lawsuits challenging the legality or validity of the WPA or its performance. For example, the WPA reimburses MCWD for the historical cost of developing its own desalination plant. Cal Am ratepayers are already paying for preconstruction costs Cal Am has incurred to develop the Coastal Water Project and alternatives.
- **Cal Am customers must pay extra for water they don't receive.** Under the Agreement, Cal Am would pay at least 95% of the cost of water provided to MCWD for



perhaps decades. MCWD pays only \$149 per acre-foot for desalinated water until it exercises its right to a permanent water allocation, while Cal Am will pay in the range of \$5000 to \$6000 or more per acre-foot for the same water. The MCWD payment of \$149 per acre foot would cover only a fraction of the variable O&M costs necessary to desalinate the water they receive.

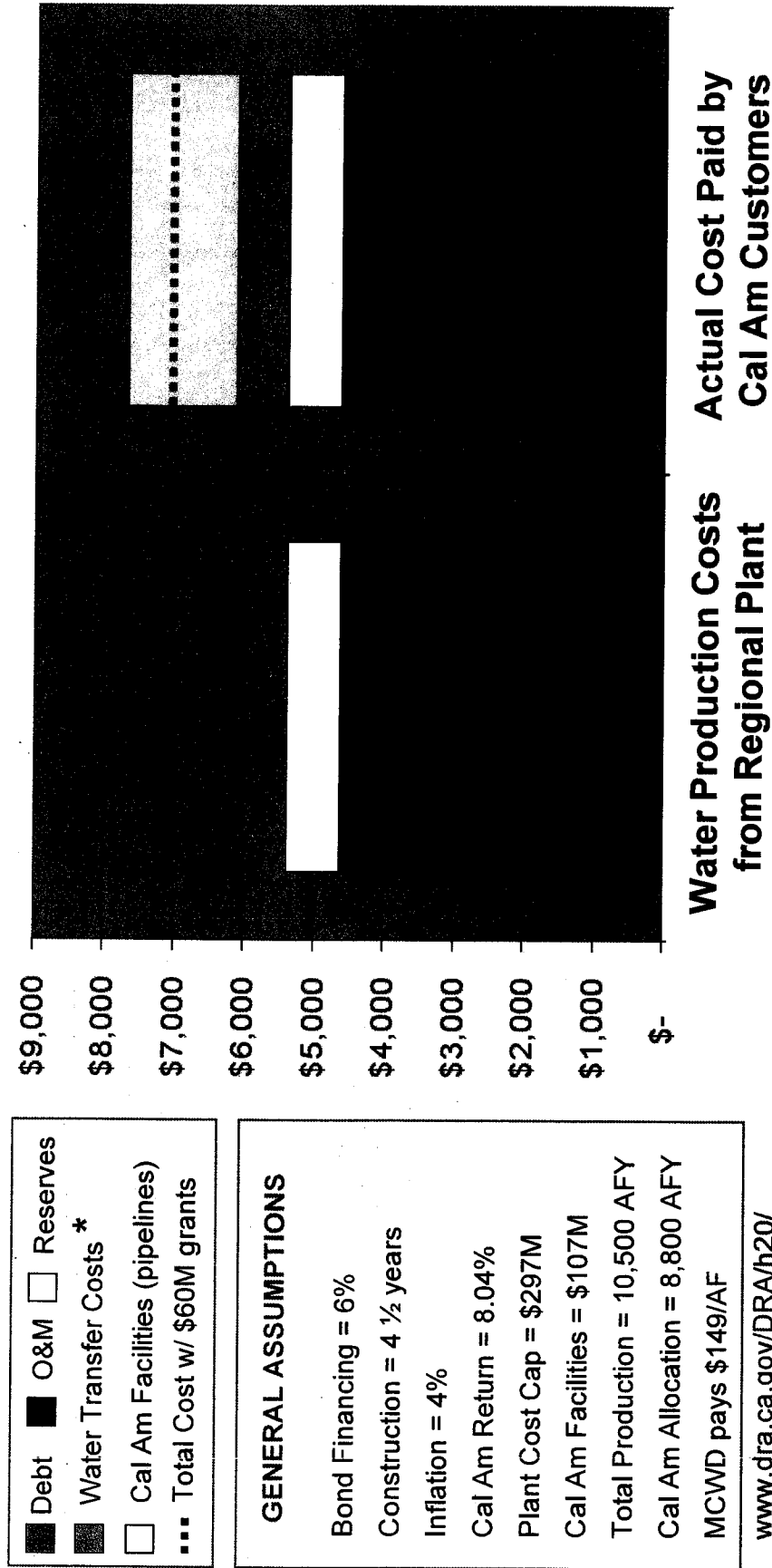
- **Groundwater uncertainty adds considerable risk to the Regional project.** Groundwater modeling did not consider density-driven forces which drive seawater intrusion. Consequently, the model predictions leave considerable uncertainty as to the impact of Regional Project pumping on seawater intrusion in the Salinas Groundwater Basin, as well as the percentage of groundwater in the source water mixture. This uncertainty results in future litigation risk and the possibility that Cal Am may not be able to produce its full 8800 acre-feet per year allocation.
- **The Monterey Peninsula ratepayers have only limited representation, yet bear all the risk and responsibility for the Regional Project.** MPWMD has a seat on the Advisory Committee, but does not have a vote on decisions regarding the operation and management of the desalination facility. Plant owners would not be accountable to Cal Am ratepayers who pay for the plant.
- **There has been insufficient opportunity for public review of the Regional Project costs, terms and conditions.** What is proposed in the Water Purchase Agreement was developed behind closed doors in confidential ADR settlement negotiations. Instead of economies of scale, lowered financing costs and green energy savings, the WPA presents instead a project that is more expensive and higher risk than what was initially proposed. Further, Cal Am ratepayers who will pay for the Regional Project have only advisory input and no decision-making role over the costs, operation or expansion of the desalination plant.

The public saw this proposal for the first time on March 30th. If approved, this contract will be in place for a minimum of 34 years and up to 94 years. The proposals presented in the settlement and WPA will have serious economic impacts on residents and business of the Peninsula. Project proponents have not yet released supporting cost worksheets, expected financing costs or operations and maintenance costs.
- **The impact of Regional Project rates on customer demand has not been adequately considered.** DRA estimates that the summer bill for a typical two person household using 4 Ccfs per month would increase from \$21 to \$44; for 7 Ccfs it would increase from \$37 to \$88 per month; for 12 Ccfs it would increase from \$85 to \$220, and for 16 Ccfs it would increase from \$149 to \$397 per month. (These bill amounts exclude bill surcharges.) Such large increases could cause customers to reduce their consumption, which could further increase rates.



DIVISION OF RATEPAYER ADVOCATES

Comparison of Regional Project Water Production Cost (\$/AF) to Actual Cost Paid by Cal Am Customers



* Water Transfer Costs are the additional costs Cal Am ratepayers will pay to offset the difference between the Water Production Costs from the Regional Plant and the price MCWD pays for water under the Water Purchase Agreement



LEAGUE OF WOMEN VOTERS®
OF THE MONTEREY PENINSULA

April 3, 2010

Chair
Monterey County Board of Supervisors
168 West Salinas, 1st Floor
Salinas, CA 93901

SUBJECT: VOTE ON WATER PURCHASE AGREEMENT

Dear Chair and Members of the Board:

The League of Women Voters of the Monterey Peninsula appreciates the Board holding a public hearing on the Water Purchase Agreement. The League is devoted to transparency in the governmental decision-making process. This includes timely public access to documents under consideration as well as opportunities to participate in public hearings.

Unfortunately, all major decisions related to the Regional Project have been made behind closed doors. Only recently, has the public been informed of significant agreements hammered out in secret meetings. The Water Purchase Agreement and Settlement Agreement have only been available since last Tuesday.

Our preliminary review of the Purchase Agreement indicates that total project costs to be paid by Cal-Am ratepayers range from \$4,000 to \$7,000 per acre-foot. These numbers contrast dramatically from those presented by the Regional Project proponents less than two months ago of \$2,300 per acre-foot (attached overhead presentation in February 2010). They also vary considerably from other desalination projects, e.g., the Department of Water Resources Water Plan Update of 2009 estimates costs for desalination between \$1,000 and \$2,500 acre feet. At the same time, the Marina Coast Water District would pay \$149 per acre-foot. This rate structure is unfair to Cal-Am ratepayers who will be providing significant subsidies to non-Cal-Am users as well as paying for a project that provides limited assurance that it can deliver the water because of export and water rights questions that remain outstanding.

The Settlement Agreement includes no fixed price for water or a formula for determining costs in future years. There are no cost controls, and provisions even require Cal-Am ratepayers to pay for litigation regarding the Regional Project. There is no provision to address shortcomings once the Settlement Agreement is approved by the Public Utilities Commission. The agreement is for a minimum of 34 years with periodic renewals up to 94 years. In short, Cal-Am ratepayers are on the hook no matter what the costs.

PO BOX 1995
Monterey CA 93942

648-VOTE (648-6656)
LWVMPca@yahoo.com
www.lwvmp.org

The delayed roll-out of information with inadequate time for review and public participation means that decisions are being made without full understanding of the plans, draft agreements and possible consequences. With extremely limited time for decision-makers and the public to analyze over 100 pages of very technical documents, we request that the Board either delay the vote until the Division of Ratepayer Advocates (DRA) releases its cost analysis at the end of April or deny the Water Purchase Agreement.

Thank you for your consideration.

Sincerely,

Dennis Mar
President

Enc.

Cc: Division of Ratepayer Advocates

Correspondence

Received April 13, 2010

April 12, 2010

Doug Kasunich
18765 Pesante Road
Prunedale, CA 93907

Marina Coast Water District
11 Reservation Road
Marina, CA 93933

Via email at mcwd@mcsd.org and jheitzman@mcwd.org

RE: item 9F, reconsideration of vote on adoption of Resolution No. 2010-20

Dear President Nishi and district directors,

I am writing to urge you to reverse your earlier action during a special meeting on April 5 in which, as a Responsible Agency, you certified the Regional Project FEIR and signed settlement agreements to recover all present and future costs in connection with the project. I ask you to do this because the FEIR's preferred alternative poses serious risks to North County's up-gradient aquifers, which the document neither considers nor mitigates. I am also concerned about apparent challenges that have surfaced contesting the underlying water rights of the Monterey County Water Resources Agency on the lands where the brackish water wells are to be located. The project as proposed contains no contingencies for alternate well field sites or sources of alternate raw water product for the planned desalination facilities.

I have a long background in soil and water resources and currently serve on North Monterey County's Ad Hoc Water Group, a group formed by Supervisor Lou Calcagno and charged with proposing water solutions for North County's critical water problems.

I refer you to the commentary, "Rob Peter, Pay Paul," an accurate, straightforward and easily understandable explanation of the complex challenges facing North County and the very real risk posed to North County's aquifers by the Regional Project. [Attachment 1]

I also concur with the FEIR comments #3 - #7 regarding unanalyzed impacts to North County's aquifers submitted by LandWatch Monterey County to the California Public Utilities Commission on November 24, 2009. [Attachment 2]

As a Responsible Agency under CEQA, it would be irresponsible to certify a project with unanalyzed and unmitigated impacts to North County's aquifers.

Thank you for your serious consideration of these concerns.

Sincerely,

Doug Kasunich

Attachment 1

Water plan: Rob Peter, pay Paul

By JULIE ENGELL

Guest commentary

Posted: 04/10/2010 01:29:13 AM PDT

The Peninsula's solution to its water shortage—the ballyhooed desalination project which relies on desalting brackish water from the Salinas Basin—will worsen North Monterey County's water supply problems.

To understand why, you have to understand a little bit about North County's hydrogeology. North County's interconnected aquifers are considered subareas of the Salinas and Pajaro basins. They lie uphill from those basins and flow into them.

At one time, there was enough fresh water flowing through these aquifers to keep seawater at bay and to provide well water for agriculture and other uses. But even after water was no longer plentiful, North County development was allowed to rely on individual and mutual wells instead of relying on centralized water systems. The result is that water distribution systems are almost nonexistent in North County. And because North County's aquifers drain into the Pajaro and Salinas basins, increasing water demand in those basins further depleted North County's water supplies.

In 1995, the same year Cal Am was ordered to reduce pumping along the Carmel River, Monterey County finished a comprehensive study of North County's water problems. It found that twice as much water was being pumped than was being replenished. It found that if water use continued at 1992 levels, North County's aquifers had a sustainable supply for five years. But since water use increased, North County ran out of sustainable water sometime before 1999.

Since then, North County has been mining water. Water levels have continued to drop while nitrate and arsenic contamination has intensified. Four years ago, wells failed in the highest elevation subarea, Granite Ridge, leaving several households without water. They have been trucking water in at great expense ever since.

Despite receiving the study's recommendations in 1996, the Monterey County Board of Supervisors has continued approving subdivisions in North County.

Enter the State Water Resources Control Board, which threatened in 1996 to adjudicate the Salinas Basin unless Monterey County halted seawater intrusion by finding another water supply or by reducing demand. In response, the Monterey County Water Resources Agency developed the Salinas Valley Water Project. The project goals were to increase storage at the Nacimiento and San Antonio dams, build an inflatable dam impounding about 9,700 acre-feet per year and to mix the impounded water with recycled water and deliver it to Castroville-area farmers. In turn, those farmers would have to pump less groundwater near the coast. The theory is that it will put more fresh water into the aquifer system. However, for this to benefit North County residents,

enough additional fresh water would have to travel through the aquifer system to force water uphill into North County's aquifers.

A committee composed mostly of Salinas Valley agricultural and development interests proposed the fee structure for the Salinas Valley project. They divided the project area into zones of benefit with different rate structures. The most costly element, the rubber dam, is primarily paid for by North County even though only Castroville-area farmers will receive water directly. The project included no distribution system for the rest of North County.

The project was approved in a weighted vote. Large landowners with more votes than small landowners approved a project for which smaller landowners would pay the largest share and risk receiving the least benefit.

The rubber dam is not yet operational, but that didn't stop county officials from advocating further subdivision in North County, including the massive Rancho San Juan development. Approvals were based on the assumption of additional water supplies from the Salinas Valley Water Project. Meanwhile, Granite Ridge wells began running dry.

The proposed desalination plant, known as the Regional Plan, would address the Peninsula's water shortage by pumping water from the Salinas Basin. The plan, engineered in part by the Monterey County Water Resources Agency and advocated by North County Supervisor Lou Calcagno, would produce about 10,000 acre-feet of desalted water for Marina and the Peninsula by annually desalinating between 20,000 and 25,000 acre-feet of brackish water from the Salinas Basin.

To put this into perspective, total water demand in North County is about 23,000 acre-feet per year. The Regional Plan proposes to increase pumping from the Salinas Basin by as much as North County's entire annual water demand.

This impact was not analyzed in the Regional Plan's environmental impact report, produced by RMC Planning. Groundwater impacts were based on wells outside the North County aquifers. Curtis Weeks, general manager of the county Water Resources Agency, asserts that this is OK because, given adequate funds, the agency will monitor the potential impacts. Supervisor Calcagno isn't worried either. He says he plans to build water distribution systems to move water uphill.

Already, parts of Granite Ridge have run dry. At least 6,000 more North County households are at risk when the pumping starts, but there are no plans to distribute water to them if the Regional Project sucks their wells dry.

Any fix will be expensive. Unless offset by state grants, the proposed Granite Ridge project to deliver water to 1,200 households is estimated to cost at least \$27 million, about \$23,000 per household. The consultant the county hired to complete the EIR on the Granite Ridge project is RMC, the same consultant that failed to analyze the impacts on North County while reviewing the Regional Plan.

Before the Public Utilities Commission makes its final choice on a desalination facility for the Peninsula, North County residents need to voice their concerns. Please e-mail the PUC at public_advisor@cpuc.ca.gov, or fax your comments to 415-703-2057.

Julie Engell is a land-use activist who led the effort against Rancho San Juan. She lives in Monterey.

Attachment 2



Post Office Box 1876, Salinas, CA 93902

Email: LandWatch@mclw.org

Website: www.landwatch.org

Telephone: 831-422-9390

FAX: 831-422-9391

November 24, 2009

Andrew Barnsdale
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Subject: FEIR for Coastal Water Project

Dear Mr. Barnsdale:

LandWatch has reviewed the FEIR for the Coastal Water Project and has the following comments:

1. **Growth-Inducement.** The FEIR indicates that 859 afy is included in the demand number "to ensure adequate supplies during critically dry years (FEIR, p. 14.5-141)." The document also states that a 20 percent contingency factor is "to provide a measure of flexibility for jurisdictions to respond to unanticipated water needs" and "the relaxation of current conservation practices and water use restrictions when additional water supplies become available. (FEIR, p. 14.5-142)" While we appreciate the purpose of a drought reserve and the 20 percent contingency factor, **without binding assurances that limit water supplies to these uses**, the water above and beyond that is needed to meet regulatory requirements would be growth-inducing. This finding is based on the experience of the last 14 years where conserved water was used for growth and development rather than for drought reserve or to meet requirements of Order 95-10. The MPWMD should either provide written assurances that the excess water would not be used for new growth or the FEIR should be revised to address the growth-inducing impact of a drought reserve and the contingency factor.

2. **Water Demand.** Water demand to meet regulatory requirements for the Monterey Peninsula is identified as 12,500 afy. Water produced under all CWP Alternatives should be reduced to account for projects identified in the September 16, 2009 SWRCB order. Water reductions that would be permanent include a total of 879 afy -- 549 afy from pipeline replacement (p. 42) and 330 afy from retrofitting properties (p. 43). Without a comparable reduction in water produced by CWP alternatives, Phase I of all the alternatives would be growth inducing and could accommodate over 3,660 new residential units (0.24 afy/unit).
3. **Impacts to North County of the Regional Project.** The FEIR fails to adequately analyze and mitigate impacts to North County's up-gradient aquifers caused by pumping approximately 22,000 to 25,000 acre-feet of brackish water from the 180-foot aquifer of the Salinas Basin.

The FEIR states (p. 13.6-1), "Project effects on the SVGB from extraction of coastal area desalination feedwater were adequately addressed in the Draft EIR. Therefore, this master response is intended to clarify and enhance information brought to light in the Draft EIR regarding the quantity, use of, and replacement of water that would be drawn from the SVGB and used by the proposed project."

This statement couldn't be further from the truth. In fact, the DEIR failed to adequately address the impacts of brackish water extraction from the 180-foot aquifer of the Salinas Valley Groundwater Basin. None of the wells upon which projected ground water elevations were modeled are located in the up-gradient subareas of North County--Highlands and Granite Ridge. This makes the projected groundwater contours, at best, guesstimates. [Well Hydrographs, Figure 2 of the North Marina Groundwater Model (Appendix A of Appendix Q) include no wells located in Highlands North, Highlands South or Granite Ridge. No well locations in those subareas are identified in RMC's Impacts of Salinas Valley Ground Water Basin from the Monterey Regional Water Supply Project (Appendix B of Appendix Q), Focused View of Ground Water Elevations, figure 4.]

The FEIR (p. 13.6-9) admits the current modeling is inadequate, and in violation of CEQA, it proposes an analysis of the impacts *after* project approval. "If the Regional project was approved, the existing groundwater monitoring program would need to be augmented in order to assess the aquifer response to groundwater extraction. An augmented monitoring well network and monitoring plan would be developed to provide information that could accurately represent the groundwater elevations in both the 180-foot Aquifer and associated strata near Marina *and in the North County area*. [Emphasis added] Data collected from the monitoring program would be used to evaluate the Regional Project and compare its effects to the basin management objectives." "*Aquifer response to groundwater*

extraction” must be analyzed prior to project approval. Groundwater elevations need to be “accurately represented” now not later.

Furthermore, no meaningful, measurable or enforceable mitigations are proposed if and when negative impacts result. “Findings from the program would assist decisions-makers with policy decisions or actions regarding the basin’s response to the Regional Project. Objectives for the groundwater monitoring network would be to determine effects of the Regional Project on groundwater quality and quantity and to provide data for development of additional basin management solutions.” The residents of North Monterey County are already paying for a “basin management solution” in the form of the yet-to-be-completed Salinas Valley Water Project. Who are the EIR preparers proposing pay for development and implementation of “additional basin management solutions” should impacts of the Regional Plan make those additional solutions necessary?

While the EIR fails to provide any meaningful analysis of further reducing water pressure in the 180-foot aquifer, there is significant information in the public record that the results of doing so would have serious negative consequences. According to the North Monterey County Hydrogeologic Study: Volume 1, Water Resources, Fugro West, Inc., (p. 57), ground water movement is a significant aspect of managing North County’s diminishing water resources. “Ground water movement is controlled by differences in water elevations or pressure. Water at higher pressure or elevation moves to areas of lesser pressure or elevation. In the study area, ground water moves generally westerly, northerly, and southerly from the Granite Ridge area into the Highlands South, Highlands North, and Salinas Valley respectively.”

The North Monterey County Hydrogeologic Study: Volume 2–Critical Issues Report and Interim Management Plan, (p. 3), reiterates, “The subareas, while displaying distinctive differences, are hydraulically connected with each other and the adjacent Pajaro and Salinas Valley areas. Because of this connection between these areas, *ground water conditions within the subareas and connected areas are interdependent.*” [Emphasis added]

Volume 1 of the hydrogeologic study, (p. 57-58), continues, “*Much discussion was focused on the importance, existence and volume of regional ground water flow from the study area into the adjacent Pajaro and Salinas Valleys. The existence of this regional flow has been identified on the basis of historical water level gradients between these areas.* [Emphasis added] While current water levels in the majority of the study area are still higher than the adjacent areas, this difference is decreasing, reducing the volume of recharge from these up-gradient areas.

“Consideration of the natural flow system in the study area and the adjacent areas raises the question of ground water flow direction between the study area and the adjacent areas prior to alteration of water level conditions resulting from ground

water extractions. The large majority of the recharge in both the Pajaro and Salinas Valleys is derived from the respective river systems. In the study area, recharge is much less and limited to the infiltration of a minor portion of total precipitation. Prior to the onset of ground water extractions in the beginning of this century, both the Salinas and Pajaro Valleys contained many flowing (artesian) wells. *These data suggest that before extraction in the adjacent river valleys began, ground water from these valleys may have been tributary to the study area (rather than the current conditions).*” [Emphasis added]

The study further states (p. 78), “Comparison of the model calculated inflows and outflows for each of the subareas *reveal the interdependency of the subareas and the lack of any significant hydrogeologic boundaries.* [Emphasis added] The model confirms and quantifies the occurrence of subsurface flows between various subareas. Generally, ground water flows from the Granite Ridge subarea into the adjoining subareas of Highlands North, Highlands South, and the Eastside Area. *The model also confirms the flow from the Highlands South subarea into the Pressure Area of the Salinas Valley.*” [Emphasis added]

The study also states (p. 78), “~~the~~ sustainable yield estimates assume that current land use remains approximately static and that reduction in extractions occur in proportion to the current land use. *Changes in land use will affect return flows and may change the sustainable yield for a subarea. Additionally, MW estimates assume the maintenance of existing inflows and outflows between various subareas. The magnitude of these flows is a function of regional groundwater gradients. Changes in water use in various subareas or hydraulically adjacent areas not within the study area (Salinas Valley or north of Pajaro River) could change the magnitude of the subsurface flow between subareas.*” In other words, changes in water use in the Salinas Valley, such as pumping an additional 22,000 to 25,000 afy as proposed under the Regional Project, would change the magnitude of the flow between the subareas, impacting the sustainable yield of the up-gradient subareas—Highlands and Granite Ridge.

Given the interdependency of the subareas and the lack of hydrogeologic boundaries between them, what is the impact on sustainable yield of extracting an additional 22,000 to 25,000 acre-feet from the Salinas Basin? The EIR preparers propose to evaluate impacts *after* project approval. However, the North Monterey County Hydrogeologic Study: Volume 1, Water Resources provides enough perspective to raise grave concern. In Table 11, (p.77), sustainable yield is identified for each North County subarea. Highlands South has a sustainable yield of no more than 4,390 afy. Granite Ridge has a sustainable yield of a mere 610 afy. Both of these sustainable yields pale by comparison to the amount of water the Regional Project proposes to extract from the 180-foot aquifer in the adjacent Salinas Valley.

Before project approval and certification of the Coastal Water Project EIR, the PUC is legally required to fully analyze impacts to North Monterey County’s up-

gradient aquifers. Furthermore, the water rights enjoyed by residents of North Monterey County require that the PUC *avoid* negative impacts to North County's water supplies.

4. **Seawater Intrusion.** The Regional Project would not arrest seawater intrusion. Rather, it would change the contours of the seawater intrusion front, inducing more intrusion into North County while decreasing it in the Salinas Valley.

According to the North Monterey County Hydrogeologic Study: Volume 1, Water Resources, (p. 79), "The volume of ground water in storage presented in Table 12 is all the ground water contained in the sediments. This volume can be misleading since the majority of this water is located below sea level. Alternatively, useable ground water in storage is defined as the volume of ground water above sea level. *This definition is useful in a coastal basin. When water levels decline below sea level, depleted ground water storage is replaced with sea water.*" [Emphasis added]

As of 1992, useable groundwater in storage according to Table 12 totaled 57,300 acre-feet. At the same time, overdraft was estimated at 8,550 afy [North Monterey County Hydrogeologic Study: Volume 1, Water Resources, page 108]. At 1992's rate of overdraft, North County's useable ground water in storage (groundwater stored above sea level) was exhausted seven years later—in 1999. [57,300 afy / 8,550 afy = 6.7 years]

Decreasing the pressure gradient in the adjacent Salinas Basin by 22,000 to 25,000 afy, would further deplete North County's groundwater below sea level. This would exacerbate seawater intrusion in North County's aquifers, even while purportedly reducing seawater intrusion in the Salinas Basin. This shift in the contours of the seawater intrusion front was not analyzed in the Coastal Water Project EIR. Nor are impacts mitigated.

5. **North County Aquifers.** The drawdown of North County's aquifers caused by feedwater pumping for the Regional Project's desalination plant (22,000 to 25,000 afy) would significantly increase the difficulty of managing North County's scarce water resources.

The North Monterey County Hydrogeologic Study: Volume 1, Water Resources states (p. 101), "The chronic overdraft of the area has resulted in falling water levels and the degradation of ground water by seawater. Excessive nitrogen loading has rendered ground water non-potable in many areas. Supplemental water supplies for the area have been recommended since the 1950's. However, the delivery of water to the area has always been judged to be too expensive. If imported water would become available; delivery of this water would be difficult. Because of the number and dispersed nature of the agricultural users and small water systems, delivery of imported water would require construction of an expensive distribution system to deliver the water. *Without a supplemental supply*

and distribution system, water supply problems in the area will need to be addressed by demand management.” [Emphasis added]

According to the study (Table 11, “Sustainable Yield,” p. 77), without additional water supplies, demand management would require pumping reductions of 11,700 afy from 1992 levels. As explained above, outflow increases to adjacent areas reduce a subarea’s sustainable yield. When the sustainable yield of North County’s subareas is diminished, the burden of reducing pumping is increased well beyond the 11,700 acre-feet identified as necessary in the hydrogeologic study.

Furthermore, the drawdown caused by source water pumping for desalination also affects contaminant concentrations in North County’s aquifers. “Additionally, the volume of ground water in storage represents the volume of water available for dilution of contaminants” [P. 78, the North Monterey County Hydrogeologic Study: Volume 1, Water Resources, Fugro West, Inc.]

The Coastal Water Project EIR fails to analyze, quantify or mitigate this increased burden of reducing pumping beyond the 11,700 acre-feet identified in the study. The Coastal Water Project EIR fails to analyze or mitigate increased concentrations of contaminants caused by reductions in groundwater storage that will result from pumping 22,000 to 25,000 afy from the adjacent Salinas Basin.

6. **15% Allocation.** The 15% allocation of product water which is to be returned to the Salinas Basin must increase over time.

The FEIR’s own modeling indicates that the seawater intrusion front will recede toward the coast as 22,000 afy is pumped from the 180-foot aquifer. “Continued pumping in this highly intruded zone along the coast would gradually pull the intruded groundwater seaward back towards the coast.” (Coastal Water Project FEIR, p. 13.6-2) If this modeling is accurate, then the 85%:15% ratio would necessarily shift as fresh water is drawn toward the coast.

There is no provision for monitoring this shift and adjusting the amount of water returned to the basin based upon increasing amounts of fresh water being used as feedwater for desalination. This is a major omission. Extracting more fresh water from the Salinas Basin than is returned to the Basin would have significant, unanalyzed and unmitigated impacts. Exporting that fresh water from the basin poses legal problems not addressed in the FEIR, i.e., desalinated water derived from the Salinas Basin rather than from ocean water must legally be retained in the Basin leaving a shortfall in water that can be exported to the Monterey Peninsula.

7. **Brackish Water.** Brackish water in the 180-foot aquifer is a valuable resource, the benefits of which will be permanently denied to residents of the Salinas Basin.

According to the FEIR, pumping of brackish feedwater in the 180-foot aquifer of the Salinas Basin would pull intruded groundwater back to the coast. It is a resource the Marina Coast Water District is eager to use, so one must infer that it is a valuable resource. The FEIR contains no analysis of impacts to communities in North County and the City of Salinas of exhausting the brackish water source when those communities may, in the future, need to rely on it and the same technology proposed in the EIR to provide potable water for their populations.

8. **Water to Meet Regulatory Requirements.** As revised, the Regional Project relies almost exclusively on a large, structural solution to meet the regulatory requirements imposed on the Monterey Peninsula. This places residents of the Monterey Peninsula at the mercy of assumptions regarding the ratio of SVWB water to ocean water and the shifting nature of that ratio as addressed above. The Regional Project should be revised to include smaller, incremental projects that have greater certainty of outcome, e.g., reclaimed water for landscaping on the Monterey Peninsula, continued retrofitting, pipeline replace, stormwater runoff and Ground Water Replenishment.

Thank you for the opportunity to review the FEIR.

Sincerely,

//s//

Amy L. White, Executive Director
LandWatch Monterey County

Attached:

North Monterey County Hydrogeologic Study by Fugro West. Volume I: Water Resources (October 1995) and Volume II: Critical Issues Report and Interim Management Plan (May 1996).

Carmel Valley Association
P.O. Box 157, Carmel Valley, California 93924
www.carmelvalleyassociation.org

FAX MEMO

THREE PAGES

TO: MARINA COAST WATER DISTRICT BOARD
Faxed to: 883-5995
PAULA RISO, MCWD
Faxed to: 883-5960
FROM: TODD NORGAARD, CARMEL VALLEY ASSOCIATION
SUBJECT: WATER PURCHASE AGREEMENT
DATE: April 12, 2010

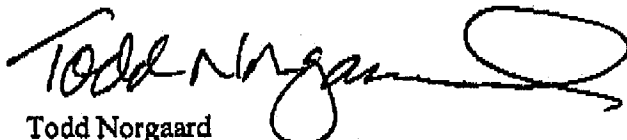
To The Chair and Members of the Board of Directors
Marina Coast Water District

Following is a letter presented on April 5 to the Monterey Peninsula Water Management District (and also faxed on that date to MCWD) on behalf of the Carmel Valley Association regarding the "Water Purchase Agreement."

Please include this letter in your discussions on 4/13 (agenda item 9-F, "Reconsider Vote on Adoption of Resolution No. 2010-20").

Please be aware that the Carmel Valley Association strongly supports the "Regional Plan." However, we strongly oppose the purchase agreement as currently written.

Thank you for your attention to this matter – and for your inclusion of our views,



Todd Norgaard
Carmel Valley Association
Home Phone: 620-1316

cc: M. Ericson, Law Offices of Michael W. Stamp

Carmel Valley Association
P.O. Box 157, Carmel Valley, California 93924
www.carmelvalleyassociation.org



April 5, 2010

Regina Doyle, Chair
Monterey Peninsula Water Management District
PO Box 85
Monterey, CA 93942

Sent by FAX on 4/5/2010 to: 831-644-9560

PLEASE DENY APPROVAL OF THE WATER PURCHASE AGREEMENT

Dear Chair and Members of the Board of Directors:

The Carmel Valley Association has been actively participating in water issues affecting our area since 1949. Representing hundreds of families, we are the oldest and only residents' association speaking for all the Carmel Valley.

Our members have been actively participating in the current proceedings, and we have strongly supported the "Regional Project" in concept. However we strongly oppose the Water Purchase Agreement now under discussion. We believe the Agreement as written commits Carmel Valley residents and all Peninsula ratepayers to excessive up front risk, an unfair imbalance in costs allocation, and is not in the long term best interest of ratepayers served by CalAm.

- 1) **The Agreement commits ratepayers to huge immediate expenditures based on untested science.** Financial projections are based on an estimated 15% of fresh water from the planned wells. But no test wells have been drilled, and no pumping over extended time has taken place, so there are no actual measurements of current salinity under real pumping conditions, or of the extent of expected reductions in salinity as pumping progresses. Because of the "no export" rule for Salinas Valley groundwater and the required replacement water, the cost of exported desalinated water could soar at the same time the amount of desalinated water available for export could be sharply diminished, making the total project unfeasible under the proposed pricing formula. **Test wells should be drilled and test pumping should**

"To preserve, protect and defend the natural beauty and resources of Carmel Valley and the County of Monterey"

take place over a sufficient period of time so that actual well performance and salinity can be reasonably projected before this commitment takes place.

- 2) The Agreement creates open-ended future obligations without adequate financial controls. Peninsula ratepayers would be expected to cover all litigation costs, future planning and development costs, and operating costs without any participation in the decision-making process. There should be joint ownership of the plant facilities by the Marina Coast Water District, the Monterey County Water Resources Agency and Peninsula ratepayers, and joint participation in all future planning and operations.
- 3) The Agreement rewards failure. If the salinity of brackish water falls too low, making the cost of exportable desalinated water untenable; if the plant doesn't work as proposed; if there are crippling delays caused by litigation or the permit process – the Marina Coast Water District and the Monterey County Water Resources will receive a “windfall” in facilities and development work free of charge, paid for solely by Peninsula ratepayers. All parties to the Agreement must be financially obligated from the start, according to future benefits.
- 4) The Agreement may not serve the future needs of Peninsula ratepayers. Peninsula water customers need a dependable source or sources of water to replace water from the Carmel River aquifer. This project may or may not be the total answer to filling that need. Instead of taking one giant leap, the project needs to be broken down into smaller steps, with shared responsibilities for decisions and financing as more dependable information on future costs and benefits becomes available.

On April 7th the Division of Ratepayer Advocate (DRA) of the California Public Utilities Commission is expected to release their findings detailing the problems they have found in the agreements that resulted from the secret negotiations just concluded. Please delay any endorsement or approval of any Regional Project agreement until there has been time to fully review and understand the DRA's comments and the documents to which they apply.

As Carmel Valley residents we feel we have an extensive stake in the outcome of this project, both as ratepayers and as caretakers of the Carmel River and our valley.

Thank you for giving careful attention to our concerns,


Todd Norgaard
CVA Water Committee


Roger Dolan
CVA Water Committee

April 13, 2010

Attention: Kenneth K. Nishi, President
Marina Coast Water District
11 Reservation Road
Marina, CA 93933

Regarding: Item F. *Reconsider the Vote on Resolution No. 2010-20*

Dear President Nishi and MCWD Directors:

LandWatch Monterey County is pleased you are reconsidering your vote on the Water Purchase Agreement for the Regional Water Project.

LandWatch believes this purchase agreement should be assessed independently of the Regional Water Project because a good project can be ruined by a flawed purchase agreement. Elected officials of Monterey County should work hard to ensure this agreement is fair and responsible for the rate payers. One way to ensure fairness for the ratepayers is to delay approval of this agreement until the Division of Ratepayer Advocates (DRA) releases its assessment of the agreement. The DRA is the state agency with the sole role of protecting the consumer, and they have already stated they believe this agreement is flawed.

LandWatch has the following concerns about the agreement. The agreement appears to indicate total project costs paid by Cal-Am ratepayers ranging from \$4,000 to \$7,000 per acre-foot while Marina Coast Water District would pay \$149 per acre-foot. This rate structure is inequitable and would act as a subsidy to non-Cal-Am users. Furthermore, during their extensive public outreach campaign, the proponents of the Regional Project listed the price at \$2,300 per acre-foot. This represents a large discrepancy and the implications should be examined before further action is taken on the agreements. Also, the price estimate in the agreement does not include the interest cost for construction financing which could be \$45 million or more. Finally, the public had a very limited amount of time to review the agreements.

LandWatch encourages this Board to delay action on this item until the DRA releases its analysis of the purchase agreement. Thank you for allowing LandWatch to comment.

Thank you and sincerely,


Amy L. White, Executive Director
LandWatch Monterey County

LAW OFFICES OF
MICHAEL W. STAMP

Facsimile
(831) 373-0242

479 Pacific Street, Suite 1
Monterey, California 93940

Telephone
(831) 373-1214

April 13, 2010

Via Facsimile

Kenneth K. Nishi, President,
and Board of Directors
Marina Coast Water District
11 Reservation Road
Marina, California 93933

Subject: Item 9-F, "Reconsider the Vote on Adoption of Resolution No. 2010-20"

Dear President Nishi and Members of the Board:

This Office represents the Ag Land Trust. On behalf of our client, we object to any approval with regard to the Regional Project or of any of the environmental documentation prepared to date. It is difficult to tell from the agenda item 9-F description what you intend to do. If you intend to approve the Regional Project again, or to take steps to move forward with that project, we object for the reasons already stated and submitted to you. Please refer to the materials that we have submitted in the past for your consideration, including our letter to the Public Utilities Commission.

We wish to emphasize that the statement of overriding considerations is inappropriate, and that the proposed mitigations are feasible. There is no evidence that the mitigations are infeasible. A desire to rush the project is not a sufficient reason for the MCWD to avoid the responsibility to protect air quality. The MCWD should not compromise public health or avoid its responsibilities to reduce greenhouse gas emissions under AB 32 in order to approve the Regional Project. There is no evidence as to what, if any, delay would be caused solely by the adoption of the mitigation measures that are suggested to be "infeasible." The proposed findings of overriding consideration is not supported by evidence. There is no evidence that a desalination plant of the proposed size and configuration would provide a reliable source of water. If the Carmel River and the Seaside Aquifer are used as backup supplies for the project, as appears to have been indicated unofficially, then benefits to the River and Aquifer are uncertain and would not outweigh the potential adverse effects of the project.

If you rescind or vacate your prior approval, the Ag Land Trust reserves the right to seek attorney fees and costs under the catalyst theory. Thank you.

Very truly yours,


Molly Erickson

Paula Riso

From: Jim Heitzman
Sent: Tuesday, April 13, 2010 6:27 PM
To: Paula Riso
Subject: FW: Item 9F, Reconsideration of Vote on Adoption of Resolution No. 2010-20

From: Bill Theyskens [mailto:wgrovert@sbcglobal.net]
Sent: Tuesday, April 13, 2010 6:26 PM
To: Jim Heitzman
Cc: wgrovert
Subject: Fw: Item 9F, Reconsideration of Vote on Adoption of Resolution No. 2010-20

April 13, 2010

Marina Coast Water District
11 Reservation Road
Marina, CA 93933

Via email at mcwd@mcsd.org and jheitzman@mcwd.org

SUBJECT: Item 9F, Reconsideration of Vote on Adoption of Resolution No. 2010-20

President Nishi and District Directors,

On behalf of my family and the members of the Prunedale Preservation Alliance, which I Chair, I request that you reverse your earlier action during a special meeting on April 5 in which, as a Responsible Agency, you certified the Regional Project FEIR and signed settlement agreements to recover all present and future costs in connection with the project. I ask you to reverse your decision because I, as a State- Licensed Geologist and Certified Hydrogeologist, have concerns about the impacts on the Salinas Basin aquifers and the water supply to the City of Salinas and the potential water supply for North County. The document neither considers nor mitigates potential problems related to the citing of wells in an area of the basin that is reported to have a lack of a continuous clay layer (aquitard) separating the 180-foot and 400 foot aquifers.

The Kennedy Jenks' Hydrostratigraphic Analysis of the Northern Salinas Valley, dated 14 May 2004, Figures 2 and 4, show the line of cross section and cross section B-B'. This is a southwest to northeast cross section, and is the SE to NW trending cross section that is located closest to the coast. It shows that for a significant portion of the cross section there is no clay zone separating the 180-foot and the 400-foot aquifers. Has this been addressed (e.g. the potential for inducing additional seawater intrusion, and additional mixing of the waters of the two aquifers)?

Also, this same report indicates that the lack of a continuous aquitard in the basin will likely be responsible for seawater intrusion to reach Salinas wells considerably sooner than generally anticipated based on the rate of seawater intrusion in the 400 foot aquifer. This will likely occur as the advanced front of the 180-foot aquifer will begin dropping the heavier saline water down into the 400 foot aquifer. The report, prepared for the MCWRA, states "*we predict that the seawater intrusion front (500mg/L) in the Pressure 180-foot aquifer will impact production wells in the City in about 14 to 16 years from the year 2001 at a horizontal migration rate of 673 ft/yr.*". Unfortunately this report is not widely publicized by MCWRA, or thers for that matter.

What will happen to the proposed wells for the desal project, as well as any supposedly to be put into service in the future for North County in the vicinity of Castroville as has been stated, when Salinas' wells become impacted by seawater?

Again, I request that you reverse your earlier action when you certified the Regional Project FEIR and signed settlement agreements to recover all present and future costs in connection with the project.

Sincerely,

Marina Coast Water District
Agenda Transmittal

Agenda Item: 8-A

Meeting Date: April 19, 2010

Submitted By: Suresh Prasad

Presented By: Suresh Prasad

Reviewed By: Carl Niizawa

Agenda Title: Receive District Draft FY 2010-2011 Budgets, Rates, Fees and Charges for the Marina and Ord Community Service Areas and Provide Direction Regarding Preparation of the Final Budget Documents

Detailed Description: The Board is requested to receive the draft budget for FY 2010-2011 and provide direction to staff to include preparation of the final budget documents.

Each year, the District follows a budget development process that results in Board approval of the annual budget by June 30. On March 16, 2010, the District Board received the FY 2010-2011 draft budget and schedule, which included adopting the FY 2010-2011 Budget at its regular monthly meeting on June 08, 2010, with an effective date of July 1, 2010.

On March 17, 2010, the draft Ord Community budget was distributed and discussed with the FORA Water/Wastewater Oversight Committee (WWOC). On April 14, 2010, the WWOC again reviewed the Ord Community budget and recommended the draft Ord Community budget to the FORA Board. The FORA Board would normally be expected to adopt the budget sometime in May 2010.

The Draft FY 2010-2011 Budget includes operating and capital budgets in support of the District's two service areas and five cost centers (Marina and Ord Community). District overhead is apportioned to the cost centers according to a pre-determined formula (based on expense percentages). The allocation rate for this fiscal year has changed based on previous year (FY 2008-2009) audited expense figures. The draft budget includes a 7.8% rate increase for Marina and Ord cost centers. If the Board moves forward with the increase, a Prop 218 process will have to be followed. This Draft Budget includes several other key assumptions, which are contained in the Budget Summary Note.

Prior Committee or Board Action: The Board received the Draft FY 2010-2011 Budget and Budget Schedule on March 16, 2010.

Board Goals/Objectives: *2007/2008 Strategic Plan, Goal No. 4 – To manage the District's finances in the most effective and fiscally responsible manner.*

Financial Impact: ___ Yes ___ ☒ No

Funding Source/Recap: None

Materials Included for Information/Consideration: FY 2010-2011 Budget Schedule; Draft FY 2010-2011 Budget Document; and FORA WWOC packet of exhibits. (Budget items provided separately.)

Staff Recommendation: The Board of Directors receive the District Draft FY 2010-2011 Budget documents and associated supporting information for the Marina and Ord Community Service Areas and provide direction to staff to include preparation of the final budget documents.

Action Required: _____Resolution _____Motion X Review

Board Action

_____Resolution No_____ Motion By_____ Seconded By_____

Ayes_____ Abstained_____

Noes_____ Absent_____

Reagendized_____ Date_____ No Action Taken_____