

Monterey County

*Monterey County Water Resources Agency
Board Chambers
168 W. Alisal St.
Salinas, CA 93901*



Meeting Agenda - Final-revised

Tuesday, January 17, 2017

12:00 PM

Water Resources Agency Board of Directors

*Chair David Hart
Vice Chair Richard Ortiz
Ken Ekelund
Mark Gonzalez
Claude Hoover
John Huerta
Mike Scattini
Deidre Sullivan
Glen Dupree*

Public Comments on closed Session Items

1. Closed Session under Government Code section 54950, relating to the following items:
 - a. Pursuant to Government Code section 54956.9(d)(1), the Board will confer with legal counsel regarding existing litigation:
 - (1) In the Matter of the Application of California-American Water Company (Application 04-09-019)
 - (2) In the Matter of the Application of California-American Water Company (Application 12-04-019)
 - (3) In the Matter of the Application of California-American Water Company (Application 13-05-017)
 - (4) California-American Water Company v. Marina Coast Water District, et al, San Francisco Superior Court, case no. CGC-13-528312
 - (5) California-American Water Company v. Marina Coast Water District, et al. (Court of Appeal, First Appellate District, case no. A145604; San Francisco Superior Court case no. CGC1358312)
 - (6) California-American Water Company & Monterey County Water Resources Agency v. Marina Coast Water District & RMC Water & Environment, et al, San Francisco Superior Court, CGC-15-546632
 - (7) Marina Coast Water District v. California Coastal Commission and Cal-Am, et al. (Supreme Court of the State of California, case no. S238759)

Adjourn to Closed Session

Reconvene Meeting/Re-Establish Quorum

Pledge of Allegiance

Public Comments

2. Raftelis Financial Consultants, Inc. will provide an analysis of the current Zones 2B, 2Y and 2Z finances and discuss proposed financial plan.

Action Items

3. Consider recommending that the Water Resources Agency Board of Supervisors adopt a resolution authorizing the Chair of the Agency Board of Supervisors to execute a Joint Powers Authority agreement establishing the Salinas Valley Basin Groundwater Sustainability Agency ("SVBGSA").

Attachments: [Board Report](#)
[Proposed JPA Agreement](#)
[Board Order](#)

4. Consider options for the 2017 nomination and election of officers of the Board of Directors:
- (a) Adopt a Resolution suspending By-Law 3.2 for the 2017 nomination and election of officers; and either
 - (b) Receive nominations from the floor and elect officers; or
 - (c) Appoint a committee to nominate candidates for officers and conduct elections at the January 30, 2017 Board of Directors meeting.

Attachments: [Board Report](#)
[Resolution](#)

5. Consider recommending the Monterey County Water Resources Agency Board of Supervisors approve an Agreement for And Consent to Co-Location and Compatible Use Pipeline Easement; and authorize the General Manager to Execute the Agreement.

Attachments: [Board Report](#)
[Draft Easement Agreement](#)
[Board Order](#)

6. Consider approving and recommending that the Monterey County Water Resources Agency Board of Supervisors:
- a. Approve Amendment No. 5 to the Professional Services Agreement with FISHBIO Corporation, in the amount of \$350,000 for fish monitoring activities for the Salinas Valley Water Project; and
 - b. Authorize the Auditor-Controller to increase appropriations in the amount of \$350,000 in the WRA FY 2016-17 Adopted Budget for the SRDF Fund 134-9300-8267-WRA028 financed by unassigned fund balance in the SRDF Fund 134-9300-8267-WRA028; and
 - c. Authorize the General Manager to execute the Amendment.

Attachments: [Board Report](#)
[FishBio Amendment No. 5](#)
[FishBio Amendments 1 - 4](#)
[Fishbio Original Executed Contract](#)
[Board Order](#)

7. Consider authorizing the General Manager of the Monterey County Water Resources Agency, in consultation, and with the approval of, National Marine Fisheries Service (NMFS) to release up to 460 cfs from Nacimiento Reservoir for an agreed upon period of time prior to February 1, 2017, in order to enhance adult steelhead upstream migration.

Attachments: Board Report
Letter from NMFS
Board Order

General Manager's Report

Committee Reports

Information Items

8. Receive an update on the Salinas River Lagoon Sandbar Management activities.

Attachments: [Board Report](#)
[Emergency Proclamation](#)

Correspondence

9. Letter dated January 5, 2017 from Alecia Van Atta, Assistant Regional Administrator, National Oceanic and Atmospheric Administration (NOAA) to David Hart, Chair of the Monterey County Water Resources Agency Board of Directors
Re: Response to MCWRA's December 12, 2016, *Winter 2016-2017 Reservoir Release Analysis* memorandum

Attachments: [NOAA Letter dated 1/5/17](#)

Board of Directors' Comments

Board of Directors Addenda

Monterey County Water Resources Agency Board of Directors Addenda for Tuesday, January 17, 2017

7. Consider authorizing the General Manager of the Monterey County Water Resources Agency, in consultation, and with the approval of, National Marine Fisheries Service (NMFS) to release up to 460 cfs from Nacimiento Reservoir for an agreed upon period of time prior to February 1, 2017, in order to enhance adult steelhead upstream migration.

PRESENTATIONS

ACTION ITEMS



Monterey County

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Report

Legistar File Number: WRAA 17-001

January 17, 2017

Introduced: 1/6/2017

Current Status: Agenda Ready

Version: 1

Matter Type: WR Agreement

Consider approving and recommending that the Monterey County Water Resources Agency Board of Supervisors:

- a. Approve Amendment No. 5 to the Professional Services Agreement with FISHBIO Corporation, in the amount of \$350,000 for fish monitoring activities for the Salinas Valley Water Project; and
- b. Authorize the Auditor-Controller to increase appropriations in the amount of \$350,000 in the WRA FY 2016-17 Adopted Budget for the SRDF Fund 134-9300-8267-WRA028 financed by unassigned fund balance in the SRDF Fund 134-9300-8267-WRA028; and
- c. Authorize the General Manager to execute the Amendment.

RECOMMENDATION:

It is recommended that the Monterey County Water Resources Agency Board of Directors:

- a. Approve and recommend that the Monterey County Water Resources Agency Board of Supervisors approve Amendment No. 5 to the Professional Services Agreement with FISHBIO Corporation, in the amount of \$350,000 for fish monitoring activities for the Salinas Valley Water Project (SVWP); and
- b. Authorize the Auditor-Controller to increase appropriations in the amount of \$350,000 in the WRA FY 2016-17 Adopted Budget for the SRDF Fund 134-9300-8267-WRA028 financed by unassigned fund balance in the SRDF Fund 134-9300-8267-WRA028; and
- c. Authorize the General Manager to execute the Amendment.

SUMMARY/DISCUSSION:

The Monterey County Water Resources Agency finalized construction of the SVWP in 2010 triggering the fisheries monitoring conditions in the various permits required for the project. Consultant assistance is needed for components relating to the life cycle monitoring of steelhead trout (*O. mykiss*) including: 1) smolt outmigration; 2) adult upstream migration; 3) index reach monitoring. Amendment No. 5 is intended to cover the smolt outmigration and adult upstream migration fisheries monitoring work required in the National Marine Fisheries Service's Biological Opinion for the SVWP. The 2016/17 budget included \$20,000 for these tasks, which is insufficient for the effort required given the current streamflow conditions.

OTHER AGENCY INVOLVEMENT:


None

FINANCING:

There is sufficient fund balance of \$3,321,422 in the SRDF Fund 134 FY 2016-17 Adopted

Budget to pay the full \$350,000 requested in Fish Bio Amendment No. 5.

Prepared by: Elizabeth Krafft, Sr. Water Resources Hydrologist, (831) 755-4864

Approved by: 
David E. Chardavoyne, General Manager, (831) 755-8906

Attachments:

1. Board Order
2. Amendment #5
3. Amendments 1 - 4
4. Professional Services Agreement



*Before the Board of Directors of the Monterey County Water Resources Agency
County of Monterey, State of California*

BOARD ORDER No. _____

APPROVE AND RECOMMEND THAT THE MONTEREY COUNTY WATER)
RESOURCES AGENCY BOARD OF SUPERVISORS:)
A. APPROVE AMENDMENT NO. 5 TO THE PROFESSIONAL SERVICES)
AGREEMENT WITH FISHBIO CORPORATION, IN THE AMOUNT OF \$350,000)
FOR FISH MONITORING ACTIVITIES FOR THE SALINAS VALLEY WATER)
PROJECT (SRDF); AND)
B. AUTHORIZE THE AUDITOR-CONTROLLER TO INCREASE APPROPRIATIONS)
IN THE AMOUNT OF \$350,000 IN THE UNASSIGNED FUND BALANCE IN THE)
SRDF FUND 134-9300-8267-WRA028 FINANCED BY UNASSIGNED FUND)
BALANCE IN THE SRDF FUND 134-9300-8267-WRA028; AND)
C. AUTHORIZE THE GENERAL MANAGER TO EXECUTE THE AGREEMENT.)

Upon motion of Director _____, seconded by Director _____, and carried by those members present, the Board of Directors hereby:

Approves and recommends that the Monterey County Water Resources Agency Board of Supervisors:

- a. Approve Amendment No. 5 to the professional services agreement with FISHBIO in the amount of \$350,000 to provide fish monitoring activities in support of the Salinas Valley Water Project (SRDF); and
- b. Authorize the Auditor-Controller to increase appropriations in the amount of \$350,000 in the unassigned fund balance in the SRDF fund 134-9300-8267-WRA028 financed by unassigned fund balance in the SRDF fund 134-9300-8267-WRA028; and
- c. Authorizes the General Manager to execute the Amendment.

PASSED AND ADOPTED on this 17th day of **January 2017** by the following vote, to-wit:

AYES:

NOES:

ABSENT:

BY: David Hart, Chair
Board of Directors

ATTEST: David E. Chardavoyne
General Manager

AMENDMENT No. 5
to
Agreement for Professional Services between
Monterey County Water Resources Agency and FISHBIO

The undersigned parties hereby agree to amend that certain Agreement for Professional Services between the Monterey County Water Resources Agency (hereinafter "Agency") and FISHBIO (hereinafter "CONTRACTOR") executed and effective on November 29, 2012, amended on January 27, 2014, October 14, 2014, (hereinafter "Agreement"). The agreement expires on June 30, 2017.

This Amendment adds Amendment 5 as follows:

1. Section 3 of the Agreement is hereby amended to read as follows:

PAYMENT TO CONTRACTOR: Maximum liability. The maximum amount payable to CONTRACTOR under this contract is:

Original Agreement	\$	382,623	FY 2012/13
Amendment No. 1	\$	237,000	FY 2013/14
Amendment No.2	\$	20,000	FY 2014/15
Amendment No.3	\$	20,000	FY 2015/16
Amendment No.4	\$	0	FY 2016/17 (Extension of time only)
Amendment No.5	\$	350,000	FY 2016/17

The maximum amount payable to CONTRACTOR under this Agreement is \$1,009,623.

2. Except as provided herein, all remaining terms, conditions and provisions of the AGREEMENT and AMENDMENTS 1-4 are unchanged and unaffected by this AMENDMENT and shall continue in full force and effect as set forth in the AGREEMENT and AMENDMENTS 1-4.

3. A copy of this AMENDMENT shall be attached to the original AGREEMENT dated November 29, 2012.

All other provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this AMENDMENT on the day and year written below.

MONTEREY COUNTY WATER
RESOURCES AGENCY

FISHBIO

David E. Chardavoyne, General Manager

By: _____
Signature of Chair, President, or
Vice-President

Dated: _____

Printed Name and Title

Approved as to Fiscal Provisions:

Dated: _____

Deputy Auditor/Controller

By: _____
(Signature of Secretary, Asst. Secretary, CFO,
Treasurer or Asst. Treasurer)*

Dated: _____

Approved as to Liability Provisions:

Printed Name and Title

Risk Management

Dated: _____

Dated: _____

Approved as to Form:

Deputy County Counsel

Dated: _____

*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

AMENDMENT No. 1
to
Agreement for Professional Services
between
Monterey County Water Resources Agency and FISHBIO

The undersigned parties hereby agree to amend that certain Agreement for Professional Services between the Monterey County Water Resources Agency (hereinafter "Agency") and FISHBIO (hereinafter "CONTRACTOR") executed and effective on November 29, 2012, and amended on January 27, 2014 (hereinafter "Agreement").

Section 2 of the Agreement is hereby amended to read as follows:

Term of Agreement: The term of this Agreement shall begin upon execution of this Agreement by CONTRACTOR and Agency, and, unless earlier terminated as provided herein, shall remain in force until: **June 30, 2014**

Section 3 of the Agreement is hereby amended to read as follows:

3. Payment to CONTRACTOR; maximum liability. Subject to the limitations set forth herein, Agency shall pay to CONTRACTOR the amounts provided in Exhibit B. The maximum amount payable to CONTRACTOR under this contract is:

Original Agreement	\$ 382,623
<u>Amendment No. 1</u>	<u>\$ 237,000</u>
Total:	\$ 619,623

The maximum amount payable to CONTRACTOR under this Agreement is **\$619,623**.

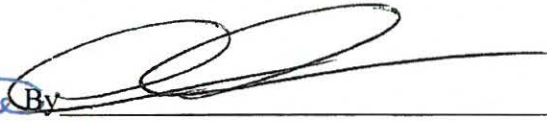
All other provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, Agency and CONTRACTOR have caused this Amendment No. 1 to be executed as follows:

**MONTEREY COUNTY
WATER RESOURCES AGENCY**

FISHBIO

David E. Chardavoyne
David E. Chardavoyne, General Manager

By 
(signature)

DATED: 21 March 2014

Doug Demko President
(print name and title)*

DATED: 2-12-14

By Andrea Fuller
(signature)

Andrea Fuller Operations manager
(print name and title)*

DATED: 2-12-14

* INSTRUCTIONS: If CONTRACTOR is a corporation (including limited liability and nonprofit corporations), the full legal name of the corporation shall be set forth together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth together with the signature of a partner with authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of his or her business, if any, and shall personally sign the Agreement.

**FISHBIO
Amendment No. 1**

* * * * *

Approved as to form:

[Signature]
Deputy County Counsel

DATED: 3/17/14

Approved as to fiscal provisions:

[Signature]
CAO Analyst

DATED: 4/18/14

[Signature]
Auditor-Controller

DATED: 3-18-14

RISK MANAGEMENT
COUNTY OF MONTEREY
APPROVED AS TO INDEMNITY/
INSURANCE LANGUAGE

By: [Signature]
Date: 3-17-14

AMENDMENT No. 2
to
Agreement for Professional Services
between
Monterey County Water Resources Agency and FISHBIO

The undersigned parties hereby agree to amend that certain Agreement for Professional Services between the Monterey County Water Resources Agency (hereinafter "Agency") and FISHBIO (hereinafter "CONTRACTOR") executed and effective on November 29, 2012, and amended on January 27, 2014 (hereinafter "Agreement").

Section 2 of the Agreement is hereby amended to read as follows:

Term of Agreement: The term of this Agreement shall begin upon execution of this Agreement by CONTRACTOR and Agency, and, unless earlier terminated as provided herein, shall remain in force until: **June 30, 2015**

Section 3 of the Agreement is hereby amended to read as follows:

3. Payment to CONTRACTOR; maximum liability. Subject to the limitations set forth herein, Agency shall pay to CONTRACTOR the amounts provided in Exhibit B. The maximum amount payable to CONTRACTOR under this contract is:

Original Agreement	\$ 382,623
Amendment No. 1	\$ 237,000 FY 2013/14
<u>Amendment No. 2</u>	<u>\$ 20,000 FY 2014/15</u>
Total:	\$ 639,623

The maximum amount payable to CONTRACTOR under this Agreement is **\$639,623**.


All other provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, Agency and CONTRACTOR have caused this Amendment No. 2 to be executed as follows:

**MONTEREY COUNTY
WATER RESOURCES AGENCY**

FISHBIO


David E. Chardavoyne, General Manager

By 
(signature)

DATED: 19 October 2014

Doug Demko President
(print name and title)*

DATED: 7/27/14

By Andrea Fuller
(signature)

Andrea Fuller / Operations manager - member
(print name and title)*

DATED: 8-5-14

* INSTRUCTIONS: If CONTRACTOR is a corporation (including limited liability and nonprofit corporations), the full legal name of the corporation shall be set forth together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth together with the signature of a partner with authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of his or her business, if any, and shall personally sign the Agreement.

FISHBIO
Amendment No. 2

* * * * *

Approved as to form:

[Signature]
Deputy County Counsel

DATED: 8/12/14

Approved as to fiscal provisions:

[Signature]
CAO Analyst

DATED: 10/8/14

[Signature]
Auditor-Controller

DATED: 10-7-14

COUNTY OF MONTEREY
APPROVED AS TO INDEMNITY/
INSURANCE LANGUAGE

By: Dyala Selumah
10-7-14

AMENDMENT No. 3

to

Agreement for Professional Services

between

Monterey County Water Resources Agency and FISHBIO

The undersigned parties hereby agree to amend that certain Agreement for Professional Services between the Monterey County Water Resources Agency (hereinafter "Agency") and FISHBIO (hereinafter "CONTRACTOR") executed and effective on November 29, 2012, amended on January 27, 2014 and October 14, 2014 (hereinafter "Agreement"). The agreement expired on June 30, 2015. This Amendment reinstates the original Agreement and Amendments and adds Amendment 3 as follows:

Scope of Work (Exhibit A) of the Agreement is hereby amended to include following:

CONTRACTOR(s) will perform a reconnaissance level survey of the San Antonio River from below the dam to the confluence with the Salinas River (approximately 6 river miles) under low flow conditions (approximately 5 cfs) to quantify the presence/absence of steelhead trout and other native fishes. This survey will include water quality parameters such as temperature and dissolved oxygen and general habitat conditions conducive to the presence of steelhead trout and other native fishes. Contractor will perform the survey using methods such as snorkel surveying and/or seining or others as appropriate in order to provide National Marine Fisheries Service (NMFS) and California Department of Fish and Wildlife (CDFG) with acceptable data. Contractor will prepare a report for the Agency describing the habitat conditions as well as indications of presence/absence of steelhead trout. This initial report will be submitted to the Agency no later than August 21, 2015.

Section 2 of the Agreement is hereby amended to read as follows:

Term of Agreement: The term of this Agreement shall begin upon execution of this Agreement by CONTRACTOR and Agency, and, unless earlier terminated as provided herein, shall remain in force until: **June 30, 2016**.

Section 3 of the Agreement is hereby amended to read as follows:

3. **Payment to CONTRACTOR; maximum liability.** Subject to the limitations set forth herein, Agency shall pay to CONTRACTOR the amounts provided in Exhibit B. The maximum amount payable to CONTRACTOR under this contract is:

Original Agreement	\$	382,623
Amendment No. 1	\$	237,000 FY 2013/14
Amendment No. 2	\$	20,000 FY 2014/15
Amendment No. 3	\$	20,000 FY 2015/16
Total:	\$	659,623

The maximum amount payable to CONTRACTOR under this Agreement is **\$659,623**.

All other provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, Agency and CONTRACTOR have caused this Amendment No. 3 to be executed as follows:

**MONTEREY COUNTY
WATER RESOURCES AGENCY**

FISHBIO

David E. Chardavoyne
David E. Chardavoyne, General Manager

By Andrea Fuller
(signature)

DATED: 9 November 2015

Andrea Fuller, vice president
(print name and title)*

DATED: 9-8-15

By [Signature]
(signature)

Doug Demko, President
(print name and title)*

DATED: 9-8-15

* INSTRUCTIONS: If CONTRACTOR is a corporation (including limited liability and nonprofit corporations), the full legal name of the corporation shall be set forth together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth together with the signature of a partner with authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of his or her business, if any, and shall personally sign the Agreement.

**FISHBIO
Amendment No. 3**

RISK MANAGEMENT
COUNTY OF MONTEREY
APPROVED AS TO INDEMNITY/
INSURANCE LANGUAGE

* * * * *

By: [Signature]
Date: 10-27-15

Approved as to form:

[Signature]
Deputy County Counsel

DATED: 10/16/15

Approved as to fiscal provisions:

[Signature]
CAO Analyst

DATED: 10/27/15

[Signature]
Auditor-Controller

DATED: 10/20/15

AMENDMENT #4 TO AGREEMENT BY AND BETWEEN MONTEREY COUNTY WATER RESOURCES AGENCY & FISHBIO

THIS AMENDMENT is made to the PROFESSIONAL SERVICES AGREEMENT for the provision of fisheries monitoring by and between FISHBIO, hereinafter "CONTRACTOR", and the Monterey County Water Resources Agency, a political subdivision of the State of California, hereinafter referred to as "Agency".

WHEREAS, the Agency and CONTRACTOR wish to amend the AGREEMENT to reflect the extension of the contract for one (1) additional year.

NOW THEREFORE, the County and CONTRACTOR hereby agree to amend the AGREEMENT in the following manner:

1. Section 2 of the Agreement is hereby amended to read as follows:
Term of Agreement: The term of this Agreement shall begin upon execution of this Agreement by CONTRACTOR and Agency, and, unless earlier terminated as provided herein, shall remain in force until: June 30, 2017.
2. Except as provided herein, all remaining terms, conditions and provisions of the AGREEMENT are unchanged and unaffected by this AMENDMENT and shall continue in full force and effect as set forth in the AGREEMENT.
3. A copy of this AMENDMENT shall be attached to the original AGREEMENT dated November 29, 2012

This space left blank intentionally

IN WITNESS WHEREOF, the parties have executed this AMENDMENT on the day and year written below.

MONTEREY COUNTY

Contracts/Purchasing Officer

Dated:

Approved as to Fiscal Provisions:

Deputy Auditor/Controller

Dated:

Approved as to Liability Provisions:

Risk Management

Dated:

Approved as to Form:

Deputy County Counsel

Dated:

CONTRACTOR

By:

Signature of Chair, President, or Vice-President

Printed Name and Title

Dated:

By:

(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)*

Printed Name and Title

Dated:

[Handwritten signature]
8/24/16
CAO Analyst

*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

MONTEREY COUNTY
WATER RESOURCES AGENCY

David E. Chardavoyne

David E. Chardavoyne, General Manager

DATED: 30 August 2016

MONTEREY COUNTY WATER RESOURCES AGENCY
AND FISHBIO
AGREEMENT FOR SERVICES

This is a multi-year agreement between the Monterey County Water Resources Agency, hereinafter called "Agency," and FISHBIO,
a California Corporation, Oakdale, CA,
hereinafter called "CONTRACTOR".

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

1. Employment of Contractor. Agency hereby engages CONTRACTOR, and CONTRACTOR hereby agrees to perform the services set forth in Exhibit A, in conformity with the terms of this Agreement. CONTRACTOR will complete all work in accordance with the **Scope of Work/Work Schedule set forth in Exhibit A:**

The scope of work is briefly described and outlined as follows:
fisheries monitoring on the Salinas, Nacimiento and Arroyo Seco Rivers
(see Exhibit A)

The CONTRACTOR shall perform its services under this agreement in accordance with usual and customary care and with generally accepted practices in effect at the time the services are rendered. The CONTRACTOR and its agents and employees performing work hereunder are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required by this Agreement.

- (b) CONTRACTOR, its agents and employees shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
- (c) CONTRACTOR shall furnish, at its own expense, all materials and equipment necessary to carry out the terms of this Agreement, except as otherwise provided herein. CONTRACTOR shall not use Agency premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations hereunder.

2. Term of Agreement. The term of this Agreement shall begin upon execution of this Agreement by CONTRACTOR and Agency, and, unless earlier terminated as provided herein, shall remain in force until the work required by this Agreement is completed.

3. Payments to CONTRACTOR; maximum liability. Subject to the limitations set forth herein, Agency shall pay to CONTRACTOR the amounts provided in Exhibit B. The maximum amount payable to CONTRACTOR under this contract is three hundred eight two thousand six hundred twenty three dollars
(\$ 382,623.00).

4. Monthly Invoices by CONTRACTOR; Payment.

- (a) CONTRACTOR shall submit to Agency an invoice, in a format approved by Agency, setting forth the amounts claimed by CONTRACTOR, together with an itemized basis for such amounts, and setting forth such other pertinent information Agency may require. CONTRACTOR shall submit such invoice monthly or as agreed by Agency, but in no event shall such invoice be submitted later than 30 days after completion of CONTRACTOR's work hereunder. Agency shall certify the claim if it complies with this contract and shall promptly submit such claim to the Monterey County Auditor-Controller, who shall pay the certified amount within 30 days after receiving the invoice certified by Agency. It is understood and agreed that CONTRACTOR shall complete all work described in Exhibit A for an amount not exceeding that set forth above, notwithstanding CONTRACTOR's submission of periodic invoices.
- (b) CONTRACTOR agrees that Agency may withhold ten percent (10%) of the amount requested by CONTRACTOR from any progress payment, until such time as all goods and services are received in a manner and form acceptable to Agency.
- (c) If, as of the date of execution of this Agreement, CONTRACTOR has already received payment from Agency for work which is the subject of this Agreement, such amounts shall be deemed to have been paid under this Agreement and shall be counted toward Agency's maximum liability set forth above.
- (d) CONTRACTOR shall not be reimbursed for travel expenses unless expressly stated in this Agreement.

5. Indemnification CONTRACTOR shall indemnify, defend, and hold harmless the Agency and the County of Monterey, their officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or

connected with the CONTRACTOR's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence, active negligence, or willful misconduct of the Agency. CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subCONTRACTORS.

6. Insurance.

6.1 Evidence of Coverage:

Prior to commencement of this Agreement, the CONTRACTOR shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition the CONTRACTOR upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the Agency's Contact, unless otherwise directed. The CONTRACTOR shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and such, insurance has been approved by the Agency. This approval of insurance shall neither relieve nor decrease the liability of the CONTRACTOR.

6.2 Qualifying Insurers:

All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

6.3 Insurance Coverage Requirements:

Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent CONTRACTORS, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Exemption/Modification (Justification attached; subject to approval).

Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Exemption/Modification (Justification attached; subject to approval).

Workers' Compensation Insurance, if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

Exemption/Modification (Justification attached; subject to approval).

Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

Exemption/Modification (Justification attached; subject to approval).

6.4 Other Insurance Requirements.

All insurance required by this Agreement shall be with a company acceptable to the Agency and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the Agency shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for CONTRACTOR and additional insureds with respect to claims arising from each subCONTRACTOR, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subCONTRACTOR showing each subCONTRACTOR has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the Monterey County Water Resources Agency and the County of Monterey, their officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County

and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the Agency, CONTRACTOR shall file certificates of insurance with the Agency's contract administrator, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

CONTRACTOR shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by Agency, annual certificates to Agency's Contract Administrator. If the certificate is not received by the expiration date, Agency shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles Agency, at its sole discretion, to terminate this Agreement immediately.

7. Maintenance of Records. CONTRACTOR shall prepare, maintain and preserve all reports and records that may be required by federal, State, and local rules and regulations relating to services performed under this Agreement. CONTRACTOR shall retain all such records for at least five years from the date of final payment, or until any litigation relating to this Agreement is concluded, whichever is later.

8. Right to Audit at Any Time. Agency officials shall have the right, at any time during regular working hours and on reasonable advance notice, to examine, monitor and audit all work performed and all records, documents, conditions, activities and procedures of CONTRACTOR or its subCONTRACTORS relating to this Agreement. Government Code Section 8546.7 provides that an audit by the State Auditor General may be performed up to three years after the final payment under any contract involving the expenditure of public funds in excess of \$10,000.

9. Confidentiality; Return of Records. CONTRACTOR and its officers, employees, agents, and subCONTRACTORS shall comply with all federal, State and local laws providing for the confidentiality of records and other information. To the extent permitted by applicable law and regulations, CONTRACTOR shall maintain confidentiality with respect to Agency's well database and other water use data.

CONTRACTOR shall not disclose any confidential information received from Agency or prepared in connection with the performance of this Agreement without the express permission of Agency. CONTRACTOR shall promptly transmit to Agency all requests for disclosure of any such confidential information. CONTRACTOR shall not use any confidential information gained through the performance of this Agreement except for the purpose of carrying out CONTRACTOR's obligations hereunder. When this Agreement expires or terminates, CONTRACTOR shall return to Agency all records, which CONTRACTOR utilized or received, from Agency to perform services under this Agreement.

10. Termination. Either party may terminate this Agreement by giving written notice of termination to the other party at least thirty (30) days prior to the effective date of termination, which date shall be specified in any such notice. In the event of such termination, the amount payable hereunder shall be reduced in proportion to the services provided prior to the effective date of termination. Agency may terminate this Agreement at any time for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes, without limitation, the failure of CONTRACTOR to perform the required services at the time and in the manner provided herein. If Agency terminates this Agreement for good cause, Agency may be relieved of the payment of any consideration to CONTRACTOR, and Agency may proceed with the work in any manner, which it deems proper. Costs incurred by Agency thereby shall be deducted from any sum due CONTRACTOR.

11. Amendments and Modifications. No modification or amendment of this agreement shall be valid unless it is set forth in writing and executed by the parties.

12. Non-Discrimination. Throughout the performance of this Agreement, CONTRACTOR will not unlawfully discriminate against any person because of race, color, religion, gender, national origin, ancestry, physical disability, medical condition, marital status, age older than 40, or sexual preference, either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR shall comply fully with all federal, State and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to any target population designated herein shall not be deemed prohibited discrimination.

13. Independent Contractor. In its performance under this Agreement, CONTRACTOR is at all times acting and performing as an independent CONTRACTOR and not an employee of Agency. No offer or obligation of employment with Agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from Agency any form of benefits accorded to employees including without limitation leave time, health insurance, workers compensation coverage, disability benefits, and retirement contributions. CONTRACTOR shall be solely liable for and

obligated to pay directly all applicable taxes, including without limitation federal and State income taxes and social security arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold harmless Agency from any and all liability, which Agency may incur because of CONTRACTOR's failure to make such payments.

14. Delegation of Duties; Subcontracting. CONTRACTOR is engaged by Agency for its unique qualifications and abilities. CONTRACTOR may not, therefore, delegate any of its basic duties under this Agreement, except to the extent that delegation to CONTRACTOR's employees is contemplated herein. No work shall be subcontracted without the written consent of Agency, except as provided in this Agreement or its attachments. Notwithstanding any subcontract, CONTRACTOR shall continue to be liable to Agency for the performance of all work hereunder. CONTRACTOR shall not assign, sell, mortgage or otherwise transfer its interest or obligations in this Agreement without Agency's prior written consent.

15. Agency's Rights in Work Product. All original materials prepared by CONTRACTOR in connection with its work hereunder -- including but not limited to computer codes, customized computer routines developed using proprietary or commercial software packages, reports, documents, maps, graphs, charts, photographs and photographic negatives -- shall be the property of Agency and shall be delivered to Agency prior to final payment. CONTRACTOR may utilize any existing materials developed by CONTRACTOR prior to commencement of work under this Agreement, which materials shall remain the property of CONTRACTOR.

16. Compliance with Terms of Federal or State Grant. If any part of this Agreement has been or will be funded pursuant to a grant from the federal or State government in which Agency is the grantee, CONTRACTOR shall comply with all provisions of such grant applicable to CONTRACTOR's work hereunder, and said provisions shall be deemed a part of this Agreement as though fully set forth herein.

17. Conflict of Interest. CONTRACTOR warrants that it presently has no interest and shall not acquire any interest during the term of this Agreement, which would directly or indirectly conflict in any manner or to any degree with its full and complete performance of all services under this Agreement.

18. Governing Laws. This Agreement is entered into in the County of Monterey, State of California, and shall be construed and enforced in accordance with the laws of the State of California. The parties hereby agree that the County of Monterey shall be the proper venue for any dispute arising hereunder.

19. Compliance with Applicable Law. The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.

20. Construction of Agreement. The parties agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any exhibit or amendment. To that end, it is understood and agreed that this Agreement has been arrived at through negotiation, and that neither party is to be deemed the party which prepared this Agreement within the meaning of Civil Code Section 1654. Section and paragraph headings appearing herein are for convenience only and shall not be used to interpret the terms of this Agreement.

21. Waiver. Any waiver of any term or condition hereof must be in writing. No such waiver shall be construed as a waiver of any other term or condition herein.

22. Successors and Assigns. This Agreement and all rights, privileges, duties and obligations hereunder, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns and heirs.

23. Contractor. The term "CONTRACTOR" as used in this Agreement includes CONTRACTOR's officers, agents, and employees acting on Contactor's behalf in the performance of this Agreement.

24. Interpretation of Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

25. Time is of the Essence. The parties mutually acknowledge and agree that time is of the essence with respect to every provision hereof in which time is an element. No extension of time for performance of any obligation or act shall be deemed an extension of time for performance of any other obligation or act, nor shall any such extension create a precedent for any further or future extension.

26. Contract Administrators.

CONTRACTOR's designated principal responsible for administering
CONTRACTOR's work under this Agreement shall be
Doug Demko and Ryan Cuthbert

Agency's designated administrator of this Agreement shall be
Elizabeth Krafft

27. Notices. Notices required under this Agreement shall be delivered personally or by electronic facsimile, or by first class or certified mail with postage prepaid. Notice shall be deemed effective upon personal delivery or facsimile transmission, or on the third day after deposit with the U.S. Postal Service. CONTRACTOR shall give Agency prompt notice of any change of address. Unless otherwise changed according to these notice provisions, notices shall be addressed as follows:

TO AGENCY
Name: MCWRA
Address: PO Box 930
Salinas, CA 93902

TO CONTRACTOR
Name: Doug Demko, Principal FISHBIO
Address: 1617 S. Yosemite Avenue
Oakdale, CA 95361

Telephone: 831.755.4860
Fax: 831.424.7935
E-Mail: kraftea@co.monterey.ca.us

Telephone: 209.847.6300
Fax: 209.847.1925
E-Mail: dougdemko@fishbio.com

28. Electronic Deliverables. Where feasible, all reports, documents and other printed information provided to the Agency pursuant to this Agreement shall be submitted in both written and Electronic formats in accordance with the specifications listed in Exhibit C.

29. Non-exclusive Agreement. This Agreement is non-exclusive and both parties reserve the right to contract with other entities for the same or similar services.

30. Execution of Agreement. Any individual executing this Agreement on behalf of an entity represents and warrants that he or she has the requisite authority to enter into this Agreement on behalf of such entity and to bind the entity to the terms and conditions hereof. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

31. Exhibits. The following Exhibits are attached hereto and incorporated by reference:
Exhibit A - Scope of Work/ Work Schedule
Exhibit B - Budget
Exhibit C -

32. Entire Agreement --As of the effective date of this Agreement, this document, including all exhibits hereto, constitutes the entire agreement between the parties, and supersedes any and all prior written or oral negotiations and representations between the parties concerning all matters relating to the subject of this Agreement.

MONTEREY COUNTY WATER RESOURCES AGENCY
AND FISHBIO
AGREEMENT FOR SERVICES

IN WITNESS WHEREOF, AGENCY and CONTRACTOR execute this agreement as follows:

**MONTEREY COUNTY WATER
RESOURCES AGENCY:**

CONTRACTOR:

BY: David E. Chardavoyne BY: 

David E. Chardavoyne
Interim General Manager

Type Name: Doug Demko
Title: Principal

Date: 11/29/12

Date: 10/23/12

BY: _____

Type Name: _____
Title: _____

Date: _____

* INSTRUCTIONS: If CONTRACTOR is a corporation (including limited liability and nonprofit corporations), the full legal name of the corporation shall be set forth together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth together with the signature of a partner with authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of his or her business, if any, and shall personally sign the Agreement.

(_____)
Agreement/Amendment No # (_____)

Approved as to form ¹:

Approved as to fiscal provisions:



Deputy County Counsel



Administrative Analyst

Dated: 11/16/12

Dated: 11-28-12

RISK MANAGEMENT
COUNTY OF MONTEREY
APPROVED AS TO INDEMNITY/
RISK MANAGEMENT LANGUAGE



Auditor-Controller ²:

By: Dorinda Schumaker
Dated: 11-16-12

Dated: 11-16-12

¹ Approval by County Counsel is required, and/or when legal services are rendered

² Approval by Auditor-Controller is required

EXHIBIT A

EXHIBIT A
Scope of Work/Work Schedule

This scope of work pertains to fisheries monitoring on the Salinas, Nacimiento and Arroyo Seco Rivers. (Detailed operating procedures, including monitoring of environmental variables and equipment maintenance are attached as Appendices to this scope.)

Task 1. Adult Upstream Migration (Adult Escapement)

Sub-task 1.1 Project Planning

FISHBIO, under the oversight of the Monterey County Water Resources Agency (Agency) will revise operations plan, build relationships with landowners, obtain required scientific collecting permits as well as other pertinent authorizations, and use existing equipment to install and operate a weir and Riverwatcher on the Salinas River (near the Salinas River Diversion Facility at the same location used in 2010 and 2011) to meet current and future monitoring goals as determined by the Agency.

Sub-task 1.2 Weir and Riverwatcher Installation, Operation and Removal

FISHBIO will install the Weir and Riverwatcher on the Salinas River near Marina, CA by November 30 in anticipation of a December 1 monitoring season start date. FISHBIO will implement unique, site-specific installation techniques developed during the 2010 and 2011 monitoring seasons. These techniques are very important to successful weir operation given the site characteristics (i.e. sand substrate, tidal influence, etc.). The monitoring protocols in Appendix A will be followed.

Sub-task 1.3 Data Management and Reporting

Field staff will enter all data into an Access database a minimum of three times per week and electronic data will be checked for accuracy "line by line" against the original data sheets for quality assurance. Digital photographs of field activities, equipment and fish species will be taken and provided to the Agency.

FISHBIO will distribute real-time summaries of events that deserve special attention in the form of e-mails and phone conversations. This includes results of mark-recapture studies, equipment problems or other crucial information. A comprehensive mid-season monitoring technical memorandum (tech memo) will be provided to the Agency. At the end of the monitoring season, FISHBIO will prepare a written report describing the year's events and study findings. The report will include a detailed description of the project locations and physical attributes, sampling and analytical methods, results, conclusions and recommendations for future efforts.

All raw data will be provided to the Agency in Access and a summarized file in Excel, and the annual report will be provided electronically in both .pdf and MS word format by June 1.

Task 2. Smolt Outmigration Monitoring (Rotary Screw Traps)

Subtask 2.1 Project Planning

FISHBIO, under the oversight of the Agency will revise operations plan, build relationships with landowners, obtain required scientific collecting permits as well as other pertinent authorizations, and use existing equipment to install and operate Rotary Screw Traps (RSTs) on the Salinas, Arroyo Seco and Nacimiento Rivers to meet current and future monitoring goals as determined by the Agency.

Subtask 2.2 RST Installation, Operation and Removal

Once all permits and landowner authorizations have been secured, a team of 4-6 experienced technicians will install the RSTs prior to March 15th, operate the RSTs through May 31st, and remove, clean, repair, and prepare the traps for storage. Traps will be installed using a variety of techniques developed and improved during the 2010-2012 monitoring seasons. The protocols in Appendix B will be utilized.

Three RSTs (Salinas, Arroyo Seco and Nacimiento) will be operated seven days per week March 15th to May 31st to determine the timing and abundance of juvenile steelhead migration in the Salinas River Basin. Traps will be removed within a few days following the end of the monitoring period and will be pressure washed, inspected for any damage that may have occurred during the operating season and any necessary repairs will be made. Traps will be transported to a location chosen by the Agency for off-season storage.

Sub-task 2.3 Data Management and Reporting

Field staff will enter all data into an Access database a minimum of three times per week and electronic data will be checked for accuracy "line by line" against the original data sheets for quality assurance. Digital photographs of field activities, equipment and fish species will be taken and provided to the Agency.

FISHBIO will distribute real-time summaries of events that deserve special attention in the form of e-mails and phone conversations. This includes results of mark-recapture studies, equipment problems or other crucial information. A comprehensive mid-season monitoring technical memorandum (tech memo) will be provided to the Agency. At the end of the monitoring season, FISHBIO will prepare a written report describing the year's events and study findings. The report will include a detailed description of the project locations and physical attributes, sampling and analytical methods, results, conclusions and recommendations for future efforts.

All raw data will be provided to the Agency in Access and a summarized file in Excel, and the annual report will be provided electronically in both .pdf and MS word format by August 1.

Task 3. Index Reach Surveys

Sub-task 3.1 Project Planning

FISHBIO, under the oversight of the Monterey County Water Resources Agency (Agency) will create or revise operations plan, build relationships with landowners, obtain required scientific collecting permits as well as other pertinent authorizations, and use existing equipment to conduct index-reach surveys on the Arroyo Seco and Nacimiento Rivers in a manner consistent with 2010 and 2011 surveys and to meet current and future goals as determined by the Agency.

FISHBIO will perform a reconnaissance survey of the entire Nacimiento River (approximately 10 river miles) under minimum flow conditions (60 cfs) to identify survey sites conducive to electrofishing depletion sampling. In the event that insufficient electrofishing depletion sampling sites are identified, then multi-pass dive counts in the Nacimineto River would be warranted.

Sub-task 3.2 Conduct Index-Reach Surveys and Associated Activities

FISHBIO will utilize operational procedures as outlined in Appendix C to conduct the index reach surveys and/or snorkeling surveys.

Sub-task 3.3 Data Management and Reporting

Field staff will enter all data into an Access database a minimum of three times per week and electronic data will be checked for accuracy "line by line" against the original data sheets for quality assurance. Digital photographs of field activities, equipment and fish species will be taken and provided to the Agency.

FISHBIO will distribute real-time summaries of events that deserve special attention in the form of e-mails and phone conversations. This includes results of mark-recapture studies, equipment problems or other crucial information. A comprehensive mid-season monitoring technical memorandum (tech memo) will be provided to the Agency. At the end of the monitoring season, FISHBIO will prepare a written report describing the year's events and study findings. The report will include a detailed description of the project locations and physical attributes, sampling and analytical methods, results, conclusions and recommendations for future efforts.

All raw data will be provided to the Agency in Access and a summarized file in Excel, and the annual report will be provided electronically in both .pdf and MS word format.

Task 4. On-call Services

FISHBIO will provide on-call services, including emergency services outside of normal business hours to the Agency as requested for the duration of this contract. Since the frequency or necessity on-call services is not known, FISHBIO will invoice the Agency based on a time and materials basis as shown in Table 1.

APPENDIX A: PORTABLE RESISTANCE BOARD WEIR AND VAKI RIVERWATCHER MONITORING PROTOCOL – SALINAS RIVER

General Instructions

Safety should always be your primary concern. Never perform a task if it cannot be performed safely. Stay aware of your surroundings and possible hazards at all times. Make suggestions about improvements to safety procedures to your partner in the field, project field leader, and/or to the project manager.

A minimum of two crewmembers will operate the trap at any time. At least one crewmember must have a working cell phone when in the field. Life-jackets are to be worn at all times while in a boat, on the weir, or in the river. First aid kits, emergency road flares, and fire extinguishers will be maintained in all vehicles and boats.

Weirs and associated rigging are a possible hazard to boaters, swimmers and others using the river. Wires and cables should be marked with bright colored flagging or reflection tape to be easily seen. Signs should be positioned both upstream and downstream of the weir to instruct boaters and swimmers how to avoid the trap. A sign should also be positioned adjacent to the Weir to instruct the public on the associated dangers of the Weir. Other protective measures may include flashing lights to improve the visibility of boat passage and rigid components of the weir.

Weir Operation and Maintenance

Installation

Typically, a portable resistance board weir and Riverwatcher requires two days to install and can be removed in one day. A Weir is composed of four main components: a substrate rail, rigid weir, resistance weir, and modified fish passage resistance panel (Figure A-1). Refer to Cuthbert (2012) for detailed installation instructions; whereby, this particular installation requires skilled technicians that are SCUBA certified with experience using air tools in an aquatic environment due to the very poor visibility caused by high turbidity levels in the Salinas River. SCUBA divers essentially have to install the substrate rail without sight.



Figure A-1. Photos of a section of substrate rail prior to installation (left), rigid weir installed in the Stanislaus River (left-center), technicians installing a resistance weir panel (right center), and modified fish passage resistance panel.

The fabrication and configuration of the weir generally followed guidelines found in Tobin (1994) and Stewart (2002, 2003); however, slight adjustments were made to

accommodate the site-specific attributes of this installation. For example, we modified the livebox to accommodate the Riverwatcher components and operational procedures were added to account for downloading the Riverwatcher data and inspecting the Riverwatcher components.

The Riverwatcher system was used in conjunction with the weir to monitor fish passage without the need to capture or handle fish. The Riverwatcher system is comprised of three main components: an infrared scanner, a digital video camera with lights housed in a stainless steel camera tunnel, and a computer system.

Weir Monitoring

The weir is inspected and cleaned a minimum of twice per week, and more frequently when debris loads are heavy. First and foremost the weir is inspected for any problems that could be a safety concern (i.e. boat passage issues, missing warning signs). The resistance weir panels should be inspected for broken stringers or PVC pickets and the resistance boards should be inspected for performance and function (i.e. correct board angles). The substrate rail and cable should be inspected for any cracked welds or frayed cables and the substrate should be monitored for scouring at or immediately adjacent to the weir and substrate rail.

Real-time river flows and precipitation will be monitored in relation to weir operation. In order to predict the proper operational time periods of the weir, flow and precipitation predictions will be monitored and weir operations will be determined based on predetermined “flow triggers”. Precipitation predictions are obtained from a MCWRA climate consultant and flows predictions are obtained from the National Weather Service California Nevada River Forecast Center (<http://www.cnrfc.noaa.gov/graphicalRVF.php?id=SPRC1>) or the National Weather Service Advanced Hydrologic Prediction Service (<http://water.weather.gov/ahps2/hydrograph.php?wfo=mtr&gage=sprc1&view=1.1.1.1.1.1.1.1>).

The following “flow triggers” for the 2011/12 monitoring season were determined based on a combination of “flow triggers” from weir monitoring on the Stanislaus and Tuolumne River weirs and the characteristics of the Salinas River weir site (Table A-1).

Table A-1. Predicted Salinas River flow triggers at Spreckels and weir operational actions when triggers are activated.

Flow Trigger (Predicted)	Operational Action
>1,750 cfs sustained for greater than 24 hrs.	Remove weir prior to predicted flows reaching 1,200 cfs.
<500-600 cfs	Reinstall weir if the predicted flow is sustained at <1,750 cfs for 72 hrs or longer.

Bathymetry Monitoring

Using an auto-level and established benchmarks, transect data will be recorded to document riverbed bathymetry including top of bank/floodplain data in the vicinity of the weir. Transect locations will be marked with permanent reference stakes at the endpoints. Sampling of established transects will be recorded at regular intervals (every two weeks) over the sampling season. Additionally, transect data will be collected immediately following flow events (freshets or dam discharges) which will likely contribute to accelerated scour/sedimentation. Transect information will be collected at increasing distance intervals (no greater than 30 feet apart) above and below the weir. A control site should also be established adjacent to the weir site, preferably upstream, or otherwise beyond the influence of the weir where transect data will be concurrently collected. Transect data will be recorded at the following distance intervals:

1. 30 feet upstream
2. 10 feet upstream
3. At the substrate rail
4. 10 feet downstream (mid-panel)
5. 20 feet downstream (end of panel)
6. 30 feet downstream
7. 60 feet downstream
8. 90 feet downstream
9. 120 feet downstream

Additional transect(s) may be added if scour/sedimentation is evident beyond the proposed distances or additional detail is required. If a continuous record of river stage is required, water level data loggers (Onset, Pocasset, MA; U20) will be deployed in secured stilling wells above and below the weir.

Data Collection

Fish Passage Data

The Vaki Riverwatcher autonomously collects size, and timing data on each fish passage. A technician downloads the data during a daily weir check; if no technician is on-site the data can also be downloaded through a wireless VPN connection. The VPN connection is also used to check the connection status of the Riverwatcher.

Data downloads are imported to the Winari database back at the office. The Winari database is a tool provided by Vaki to aid in the efficient and effective review of the Riverwatcher data.

After each passage is identified to species, data is exported into an Excel spreadsheet and associated characteristics (e.g. fish condition and total length) are recorded for all fish passages, additional characteristics (e.g., gender, presence/absence of ad-clip, and silhouette quality) are recorded for each steelhead passage. Silhouette quality is used qualitatively to describe the confidence in the passage identification. A fish is ranked as “poor” when it is difficult to identify any of the morphologic features used to identify

steelhead from the given silhouette. A “fair” ranking is given when there is at least one morphologic feature identified in the silhouette, and a “good” ranking indicated that the majority of the morphologic features are identifiable in the silhouette. The daily passage counts, as well as the season total abundance, consists of net upstream passages (upstream passages – downstream passages).

The Riverwatcher system estimates total length based on the depth of the fish and a length coefficient. Due to the lack of site-specific morphometric data for adult steelhead, a user-defined coefficient was derived from a body depth to total length ratio from measurements of trapped fish and carcasses taken at the Stanislaus River Weir. The user-defined coefficient is applied to the Riverwatcher system’s estimated fish depths at the Salinas River Weir to estimate total length. The coefficient was derived by the following equation:

$$l = \frac{tl}{d}$$

where, l is the length coefficient, tl is the total length, and d is the body depth of the measured fish. The mean of the coefficients (lm) of all the measured fish was then used to estimate total length of the fish recorded by the Riverwatcher system using the following equation:

$$L = D * lm$$

where, L is the estimated total length, D is the body depth measured by the Riverwatcher system, and lm is the mean of coefficients. The user-defined coefficients derived from Stanislaus River Weir data are provided in Table A-2.

Table A-2. Winari database user defined length coefficient means from 2003 through 2009 Stanislaus River Weir trapping and carcass data.

Species Name	Common Name	n	Length Coefficient
<i>Cyprinus carpio</i>	carp	12	3.7
<i>Ictalurus sp.</i>	catfish	2	4.5
<i>Ptychocheilus grandis</i>	Sacramento pikeminnow	1	5.2
<i>Catostomus occidentalis</i>	Sacramento sucker	13	5.6
<i>Oncorhynchus mykiss</i>	steelhead	16	4.8
<i>Morone saxatilis</i>	striped bass	16	4.5
Unidentified	unidentified	-	6.0

Carcass Data

If carcasses are recovered from the Weir they will be measured for length and body depth. They will be identified to species and pertinent scale or tissue samples will be taken and archived. Appropriate protocols for the processing of carcasses will be coordinated with a California Department of Fish and Game (CDFG) biologist. NMFS and CDFG will be contacted in the event that a steelhead carcass is recovered from the Weir.

Environmental Data

Physical data to be collected during each weir check includes water temperature (°F), dissolved oxygen (mg/L), turbidity (Nephelometric Turbidity Units; NTU), weather

conditions (RAN = rain, CLD = cloudy, CLR = clear, FOG = fog), and water velocity (ft/s) measurements at the opening of the livebox. Instantaneous water temperature and dissolved oxygen are recorded using an Exstick II model DO600 Dissolved Oxygen Meter (Extech Instruments Corporation, Waltham, Massachusetts, USA). Daily average water temperature is calculated from data that was logged hourly using a submersible temperature logger (Hobo Water Temp Pro V2, Onset Computer Corporation, Pocasset, MA). Instantaneous turbidity is recorded using a model 2020e Turbidimeter (LaMotte Co., Chestertown, Maryland, USA), and instantaneous water velocity is measured using a digital Flow Probe model FP-101 (Global Water Instrumentation, Inc., Gold River, California, USA). Additionally, daily average Salinas River flows (cubic feet per second; cfs) were downloaded from the United States Geological Survey (USGS) "Waterwatch" website (<http://waterwatch.usgs.gov>).

Literature Cited

- Cuthbert, R., and A. Fuller. 2012. Portable resistance board weir installation manual with emphasis on the Salinas River Weir Project. Prepared by FISHBIO for Monterey County Water Resources Agency, Salinas, CA.
- Stewart, R. 2002. Resistance board weir panel construction manual. Alaska Department of Fish and Game, Division of Commercial Fisheries, Artic-Yukon-Kuskokwim Region, Regional Information Report No. 3A02-21, Fairbanks, Alaska.
- Stewart, R. 2003. Techniques for installing a resistance board fish weir. Alaska Department of Fish and Game, Division of Commercial Fisheries, Artic-Yukon-Kuskokwim Region, Regional Information Report No. 3A02-21, Fairbanks, Alaska.
- Tobin, J.H. 1994. Construction and performance of a portable resistance board weir for counting migrating adult salmon in rivers. U. S. Fish and Wildlife Service, Kenai Fishery Resource Office, Alaska Fisheries Technical Report Number 22, Kenai, Alaska.

APPENDIX B: PROTOCOL FOR ROTARY SCREW TRAP OPERATIONS

Trapping Site Selection and Installation

FISHBIO personnel have found that the water depth should clearly exceed the radius of the cone, with a current velocity of at least 1.5 ft/s for the trap to operate effectively. Thus, RSTs are commonly positioned in the thalweg of the river channel where water velocities are greatest (Thedinga et al. 1994). When selecting a trapping site, it is important to consider the typical hydrograph of the stream under study, since many streams may experience large changes in flow over relatively short periods of time.

In order to ensure a consistent sampling record and avoid costly loss or damage of sampling gear, RSTs need to be secured using techniques appropriate for the sampling site. The two common methods used by FISHBIO are described below.

Method 1 - Overhead cable: The trap is held in place by a 3/8-inch overhead cable strung between two large trees (or a post if a second tree is not present) located on opposite banks. Cables fastened to the front of each pontoon are attached to the overhead cable.

Method 2 - Anchor: The trap is positioned and secured in place by one 50 lb plow style anchor (Delta Fast-Set model, Lewmar, Havant, UK). The anchor is connected to the RST by 3/8-inch stainless steel cables via a yoke-style cabling system (resembling a "Y" shape), whereby, each end of the yoke is attached to the front of a pontoon. The downstream force of the water on the traps keeps the cables taut.

Backup and Safety

To prevent the traps from floating downstream should the anchor or overhead cable fail, all traps are equipped with a backup cable that is connected to the downstream side of the trap and secured to suitable structure (e.g. a tree) on the shore.

As RSTs may present a navigational hazard, flashing lights and flagging are placed on the traps and along the cabling to increase visibility. As an additional safety precaution, warning signs are posted at each trapping location to inform people of the inherent dangers and risks of injury posed by unauthorized handling of the RSTs.

Trap Monitoring and Maintenance

When the trap is not sampling for a short period (several days), the funnel of the RST is raised, preventing fish from entering the structure and becoming trapped. If sampling is interrupted for extended periods of time, the trap is removed from the river.

While in operation and regardless of trapping location, traps are checked at least once daily (generally in the morning), with additional maintenance and checks conducted as conditions require (e.g. during periods of peak migration, high flows, or high debris loads). During each trap check the contents of the liveboxes are removed and fish are

anesthetized for safe handling (Tricaine-S, Western Chemical Brand, Ferndale, WA). All fish are then identified to species, counted, and any marked fish are noted. In addition, subsamples for species of special interest are selected for further data collection in conformance with site-specific collection protocol. These fish are measured to the nearest millimeter (fork length, FL) and weighed (to nearest tenth of a gram) in a small, plastic container partially filled with stream water, which is tared prior to weighing each fish. Trout are assigned to a lifestage category based fork length (Table B-1), and, if applicable, a smolt category based on a seven category scale (Table B-2). Fish are then placed in a container with freshwater and allowed to recover before release.

Table B-1. Life stage categories for rainbow trout/steelhead (*O. mykiss*) based on forklenghts.

<i>O. mykiss</i>	<100 mm	young-of-the-year (YOY)
	100-299 mm	one year old or older (Age 1+)

Table B-2. Smolting appearance of all measured trout are rated based on a seven-category scale (Interagency Ecological Program, unpublished).

Smolt Categories	1	yolk-sac fry
	2	fry
	3	parr
	4	silvery parr
	5	smolt
	6	mature adult
	IAD	Immature adult

Following the processing, recovery and release of captured fish, traps are cleaned to prevent accumulation of debris that might impair trap rotation or cause fish mortality within the livebox. Trap cleaning includes removal of debris from all trap surfaces and from within the livebox. The amount of debris load in the livebox is estimated and recorded whenever traps are checked.

In addition, several measurements are taken to ensure proper positioning of the trap, proper trap function, and – if necessary – to estimate how long a trap operated effectively if it prematurely stopped (e.g., log jam).

- Instantaneous water velocity in front of the trap funnel (Flow Probe, Global Water, Model FP101, Gold River, CA).
- Number of rotations the funnel made in a 24 hour period (counted using a mechanical counter (Redington, Windsor, CT) mounted to the pontoon).
- Average daily trap rotation speed (estimated by recording the time (in seconds) for three continuous revolutions of the cone prior to and after the morning trap cleaning).

Environmental Variables

A number of environmental variables are recorded daily

- Instantaneous turbidity: measured in Nephelometric Turbidity Units (NTU) using a turbidity meter (LaMotte, Model 2020e, Chestertown, Maryland).
- Instantaneous water temperature and dissolved oxygen (DO): recorded using a

DO meter (Exstick II model DO600, Extech Instruments Corporation, Waltham, MA)

- Instantaneous conductivity: recorded using a conductivity meter (ExStik II model EC500, Extech Instruments Corporation, Waltham, MA).
- Daily average water temperature: calculated from hourly water temperature data that are logged using a submersible data logger (Hobo Water Temp Pro V2, Onset Computer Corporation, Pocasset, MA).
- Average daily flow data: downloaded from U. S. Geological Survey (USGS), California Data Exchange (CDEC) or U.S. Army Corps of Engineers (USACE) gauging stations. Gauging stations for each trapping location are provided in the site specific appendices.

Estimating Trap Efficiency

As the RST only samples a fraction of the flow at any given time, and factors such as high flow, low turbidity, fish size and noise can reduce the efficiency of the RST (Volkhardt et al. 2007), the fraction of fish caught by the trap needs to be estimated. To obtain an estimate of trap efficiency, a known number of marked fish are released upstream of the RST. The fraction of marked fish recovered in the trap is indicative of the proportion of all migrating fish (under identical conditions) and can be used to estimate total abundance of individuals migrating downstream.

Whenever catches are sufficient to obtain a group of a pre-determined size (over no more than two days), naturally reared juveniles (rather than those of hatchery origin) are used to conduct these tests. If numbers caught at the trap are insufficient to estimate efficiency, fish may be obtained at a hatchery and transported to the trapping site.

Marking Procedure

To identify individuals belonging to the group released for estimation of trap efficiency, FISHBIO uses a photonic marking system (Day-Glo Color Corporation, Cleveland, OH). The fish are temporarily anesthetized (using Tricaine-S) and a marking gun uses compressed air to force a small amount of dye into the fish's fin tissue. Very little dye is actually injected into the fin tissue, leaving only a small mark that can be seen with careful examination of the fish. The dye is temporary and experiments have shown that it does not substantially affect fish health or survival. Use of this photonic marking technique allows for rapid application of marks to large numbers of individuals, and use of different colors and mark locations makes it possible for biologists to distinguish between release groups. Although the dye initially appears quite bold, it quickly fades to a faintly colored mark.

Naturally produced juveniles are marked onshore immediately adjacent to the traps and are then transported to the upstream release sites where they are held until release. Hatchery produced fish may be marked at the hatchery and then transported to the release site.

Holding Facility and Transport Method

Once fish are marked, they are transferred from liveboxes into either 5-gallon buckets or 20-gallon insulated coolers (depending on the quantity of fish, temperature, and distance traveled), and are transported by boat or truck upstream to the release sites. Release locations are generally 0.2 to 0.5 miles upstream of the trapping site, selected to be located far enough upstream to allow for an even distribution of marked fish, yet close enough to the trap to minimize predation of marked fish between release and recapture (Volkhardt et al. 2007).

Fish are held in livecars in the river for several hours to ensure full recovery prior to release. Livecars are constructed of 15" diameter PVC pipe cut into 34" lengths, with a rectangular window (approximately 6"x 23") covered with aluminum or stainless steel mesh to allow for adequate water circulation. Livecars are tethered to vegetation or other structures in areas of low water velocity to reduce fish stress.

Pre-release Inspection

Prior to release, marked fish undergo a second visual inspection to ensure proper mark retention. To help visualize the dye, the fish is placed on a black background and illuminated with an ultra violet light. Fifty fish (or the entire release group if fewer than 50 fish) are randomly selected from each release group, anesthetized, and examined for marks; the remaining fish (if any) are counted. If more than two fish are observed without a mark, the entire group is sorted and any fish without a mark are removed from the group and not included in the total count.

Release Procedure

All marked fish are released just after sunset when most juvenile salmon are actively migrating. Fish, after being transferred from the livecars to buckets, are scooped from the bucket with a dip net and released into the river. After releasing a batch of fish, a delay of about 30 seconds to 3 minutes allows the fish to disperse naturally prior to the release of the next group. Total release time for marked groups normally ranges from ten minutes to 30 minutes depending on the group size.

Recapture Procedure

Following release of marked individuals, RSTs are checked at one-hour intervals and all fish are examined for marks to determine the proportion of recaptures. The number of times the trap is checked is dependent upon the number of marked fish recovered from the livebox. Generally, the traps are checked a minimum of two times or until the no marked individuals are recaptured during a trap check.

Trap efficiency (T_i) is estimated as follow:

$$T_i = \frac{C}{R} \quad \text{(Equation 1)}$$

where C is the number of marked fish that were recaptured, and R is the total number of marked fish that were released.

Increasing Trap Efficiency

To sample a greater fraction of the flow, two RSTs can be set up side-by-side in a tandem configuration. Whether single or tandem traps are used depends on the characteristics of the trapping location; narrow river channels can be sampled effectively with a single RST, whereas a wide river may warrant a tandem configuration to increase capture efficiency. Tandem traps are fastened together side-by-side with ½-inch Ultra High Molecular Weight (UHMW) plastic strips that are bolted to the adjacent pontoons of both RSTs at the cross-bars.

In certain situations “wings” may be attached at 45-degree angles to the outer edge of each pontoon near the upstream end of the trap to increase current velocity at the trap and to improve catch efficiency. The “wings” consist of 4 ft x 4 ft aluminum frames with removable plywood inserts. An additional structure (built from plywood sheets and attached to t-posts set in the river bed) may be positioned in the river at appropriate angles to deflect more water towards and thereby increase current velocity at the traps.

Abundance Estimates

For estimation of abundance from RST samples, daily salmonid catch is equivalent to the number of salmonids captured during a morning trap check plus the number of salmonids captured during any trap check(s) that occurred within the period after the previous morning check. For example, the daily catch for April 10 is the sum of catch from the morning trap check on April 10 and the evening trap check conducted on April 9. Separate daily catch data are maintained for marked and unmarked salmonids.

Clearly, as RSTs only sample a fraction of the in-river flow, only a percentage of the total number of downstream migrants is captured. Although many factors can affect the actual fraction of fish captured, flow is the primary variable affecting salmonid trap efficiencies.

A variety of approaches can be used to estimate abundance, depending on the type of data available. Total abundance estimates may incorporate estimates of trap efficiency, predictive models thereof (incorporating flow, fish size and turbidity), or rely simply on the proportion of flow sampled by the RST.

In general, for the purposes of reports submitted by FISHBIO, annual total abundance (\hat{Y}) is defined as the sum of all daily abundance estimates for the entire trapping season:

$$\hat{Y} = \sum_1^i \hat{y}_i \quad \text{Equation (2)}$$

where \hat{y}_i is the total abundance estimate for day i .

No Trap Efficiency Estimates

In some instances trap efficiency tests cannot be conducted due to insufficient catch. In those cases, relative abundance is estimated by expanding the number of fish captured in the fraction of river flow passing through the trap to the total river discharge. The proportion of flow (P_i) sampled by the trap is calculated for day i , as follows:

APPENDIX C: PROTOCOL FOR ELECTROFISHING OPERATIONS, HABITAT MAPPING AND SNORKEL SURVEYS

Electrofishing Depletion Surveys

Electrofishing depletion survey methods will generally follow the methods used during past Arroyo Seco and Nacimiento River electrofishing surveys: two or three backpack electrofishers (model LR-24) will be used (depending on site characteristics) and six people (three to four netters and two to three electrofisher operators) will be utilized. Block nets will be positioned at the upstream and downstream ends of the selected sampling site. Fish recovery buckets will be placed in short intervals along the riverbank. Electrofishing will be performed with all personnel moving simultaneously from downstream to upstream, staying in a straight line perpendicular to the river flow. Fish are netted and transferred to the buckets. Fish are processed after each electrofishing pass. A minimum of three electrofishing passes will be made with passes continuing until the target depletion is reached.

Captured *O. mykiss* will be anesthetized, checked for any external marks/tags and overall health, and measured for length and weight. Smolt indices will also be recorded according to a rating scale developed by IEP (rating from 1-5), with a score of 1 representing a yolk-sac fry; 2, a fry; 3, a parr; 4, a silvery parr; and 5, a smolt. Digital photographs will be taken of each steelhead captured. Scale samples will be archived and can be used at a later date by MCWRA or other researchers to identify age, growth, and genetics. All non-steelhead fish species (incidentals) will also be counted and measured for length and weight.

Environmental data will be collected at each site including instantaneous point measurements of water velocity, water temperature, turbidity, dissolved oxygen, and salinity and digital photographs will be taken to document how site conditions change.

Water velocity will be measured with a Global Water flow probe. Turbidity will be measured at the trap in nephelometric turbidity units (NTUs) using a LaMotte turbidity meter, which is more accurate than Secchi readings. Instantaneous water temperature, dissolved oxygen and salinity will be measured using Extech meters.

We intend to employ the same analysis methodology used in previous survey seasons, whereby population estimates were calculated using an iterative maximum-likelihood approach for each site. MicroFish 3.0 (Van Deventer 2006) was used as a tool to calculate population estimates, standard errors and 95% confidence intervals (MCWRA 2012). Past population estimates were restricted to the sampled areas, and were only an index of the overall population.

$$P_i = \frac{V_i * (\pi * \frac{r^2}{2})}{F_i} \quad \text{Equation (3)}$$

where, V_i is the daily velocity measured at the mouth of the trap, r is the radius of the trap, and F_i is the average daily flow measured at the respective gauging station.

To estimate the daily total abundance (\hat{y}_i) of fish migrating downstream, the number of fish caught during a 24-hour period (x_i) is divided by the proportion of flow sampled in the 24-hour period.

$$\hat{y}_i = \frac{x_i}{P_i} \quad \text{Equation (4)}$$

Abundance Estimates Incorporating Trap Efficiency

When estimates of trap daily efficiency (\hat{E}_T) exist, this value is substituted for the proportion of flow that is sampled by the RST, and daily abundance is estimated as

$$\hat{y}_i = \frac{x_i}{T_i} \quad \text{Equation (5)}$$

Predictive Models of Trap Efficiency

As long term data sets become available, encompassing estimates of trap efficiency for a variety of environmental conditions (e.g. flow, fish size, turbidity), the relationship between these predictor variables and trap efficiency is investigated using regression analysis. Resulting predictive relationships are used to estimate trap efficiencies for given environmental conditions, and applied to the catch data for the respective day. Details on predictive relationships (if applicable) between environmental variable and trap efficiency as pertinent to various rivers can be found in the Appendices.

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Habitat Mapping

We plan to use the same sample units on the Arroyo Seco River that were selected during the previous survey seasons. However, due to difficulties encountered on the Nacimiento River during the previous survey seasons we plan to identify some new sites at upstream locations that were not previously investigated due to accessibility. Prior to conducting Arroyo Seco River index-reach surveys we will validate the selected sites for proper habitat type and area coverage.

As an alternative protocol for sample site selection, the procedure outlined below may be implemented as applicable:

Habitat accessible to anadromy in each river will be stratified into reaches depending on the overall habitat characteristics and relevant access points. Each reach will be subdivided into habitat units based on a four-category classification (i.e. riffle, run, shallow pool, deep pool, cascade). During habitat mapping, the river will be surveyed on foot by kayak. GPS waypoints will be taken at the unit boundaries of each habitat unit using a hand held Trimble[®] GPS unit (Trimble Navigation Limited, Sunnyvale, CA), in order to accurately locate each habitat unit during subsequent visits. In addition, the length of each unit will be measured with a rangefinder and recorded, as this measurement will become integral in the subsequent sample selection procedure. Mapping notes will include: the date, flow, reach, unit number, habitat type, length and average width of each habitat unit, and any landmarks near or within the unit. During the initial habitat mapping, habitat units that appear to pose potential hazards to snorkelers or are otherwise unsuitable for the proposed survey type will be identified. These units, while included in subsequent fish abundance estimation based on their lengths, will be excluded from survey unit selection.

Habitat mapping will occur once on each river at the start of the study. Minor changes to the physical habitat of units will be noted during the annual snorkel surveys. In some unusual cases considerable changes in the physical habitat can occur over time due to large winter storms and construction. If such events occur, then the affected habitats will be revisited and remapped.

Sample Unit Selection

For each tributary, sampling coverage should be a minimum of 15% of the rivers' lengths. This 15% will be allocated between different habitat types, with higher sampling effort in habitats preferentially inhabited by *O. mykiss*. This is intended to minimize sampling variance for habitats with high abundance (2nd Stage Error) and ultimately allow for narrower confidence intervals than would otherwise be possible.

Within each reach and stratum (as defined by habitat type: run, riffle, deep pool, shallow pool, cascade), sampling units will be selected using an unequal probability sampling scheme that selects units with a probability proportional to their length/size (without replacement, PPSWOR). Stream sections classified as "cascades" are often hazardous

and will be excluded from this survey due to safety concerns. The probability of a particular unit i being selected can be expressed as

$$\pi_i = \frac{l_i}{L}$$

where

l_i = is the length of unit i (in meters), and
 L = the combined length of all units in this stratum.

This approach yields several important benefits; as longer habitat units have a higher probability of selection, cost and effort for travel to and between units can be reduced without sacrificing sampling coverage. Further, this approach allows for unbiased estimation of sampling variance, and is thought to improve precision of the abundance estimate over equal probability sample selection, if abundance estimates for particular units are positively correlated to unit length (a biologically reasonable assumption).

In order to facilitate the detection of trends in abundance (by employing difference estimators, more detail available upon request), sampling units will be selected during the first year of the study, and the same units will be surveyed in subsequent years.

Multi-pass Snorkel Counts

Although there are many methods for estimating the total abundance of fish in freshwater systems, the majority of the methods depend on handling the fish during enumeration (e.g., electrofishing, seining etc.). A viable alternative to obtaining accurate population size estimates by traditional methods (such as depletion electrofishing or mark-resighting experiments) is the Method of Bounded Counts (MBC). This approach relies on repeat counts of fish from the same unit (generally four passes), and produces nearly unbiased estimates of abundance if fish abundance in respective survey units is relatively low (Mohr and Hankin 2005). As such, this method provides a non-invasive (no fish handling required) alternative to traditional methods that is highly applicable to stream surveys involving species of special concern.

Each year, a single snorkel survey will be conducted at each of the selected rivers (at habitat units selected according to the above described procedure). Ideally, the surveys will be conducted in the summer, when size differences between Age 0+ and Age 1+ are most apparent. However, the exact timing will be determined annually depending on river conditions, and scheduled to minimize environmental variation between years. During each survey, a standardized protocol will be followed to ensure comparability of survey results and to minimize variation due to sampling error:

The number of divers needed for a snorkel survey will depend on the conditions and size of the stream, but will be chosen to ensure complete visual coverage of the stream during

upstream snorkeling. If the surveyed stream section requires more than two divers for complete visual coverage of the stream width, parallel dive lanes will be established prior to snorkeling. This is achieved by marking lane borders with white string, anchored to the river bottom at appropriate intervals. Whenever conditions allow, lane markers will be deployed without entering the unit to avoid disturbing and displacing fish. This is achieved by stretching the marking string along the shoreline of the survey unit, then entering the stream at the boundaries of the survey unit with the string above water level and anchoring it at the appropriate positions. Survey units will be allowed to rest for a period of 15 minutes following dive lane demarcation. Dive lanes will be randomly assigned to divers at each survey unit to minimize the effects of diver familiarity with the physical habitat and fish population on dive counts.

Care will be taken to minimize disturbance of fish prior to sampling each unit. Divers will enter the stream at the downstream border of the survey reach and count fish within their respective dive lanes as they proceed upstream. Divers will record fish counts on a wrist mounted dive slate, and assign a size category to each observation (less than 100mm, 100-200mm, 200-300mm, and greater than 300mm). To facilitate the correct estimation of fish size by the divers, they will carry a reference string knotted at 100mm intervals. When approaching the upstream boundary of the survey unit, divers will carefully monitor fish holding close to the unit boundary and include fish that cross the unit boundary upstream. Any fish that appear to move between lanes will be discussed immediately after the dive to avoid multiple counts of the same fish.

As obtaining accurate counts of *O. mykiss* is the priority of this survey, other observed species (and their lengths) will be recorded only if doing so does not compromise counts of *O. mykiss*.

The following environmental data will be collected at each sampling unit:

- Instantaneous water temperature and dissolved oxygen (DO, Exstick II model DO600, Extech Instruments Corporation, Waltham, MA)
- Visibility (defined as the horizontal distance at which a diver can clearly discern a 100 mm artificial trout)
- Weather (see Figure 1 for datasheet example).
- Flow (in cfs, obtained from the nearest USGS gauge)

Estimated Indices of Abundance by Habitat and Life Stage

Within each habitat type, data for each size class can be pooled across reaches of the same river, assuming similar fish detectability among reaches. As the proposed survey design incorporates changes in dive lane width to accommodate for variation in visibility between survey units, this assumption is likely to be satisfied, and allows for an abundance estimate for each size class within each habitat category. This will provide an estimated abundance for each size class within a specific habitat type in that river.

Based on the selection of n samples within a stratum, the total number of countable fish within that habitat type can be estimated using a Horvitz-Thompson estimator (Cochran 1977; Sarndal et al. 1992) as

$$\hat{Y} = \sum_{i=1}^n \frac{y_i}{\pi_i}$$

where

\hat{Y} = the estimated total number of fish within that habitat type

y_i = the count of fish in the i^{th} sample unit within that stratum

π_i = the probability that unit i appears in a PPSWOR sample of size n (1st order inclusion probability)

The sampling variance for the Horvitz-Thompson estimator, for fixed sample size n , can be estimated using the Sen-Yates-Grundy variance estimator (see Cochran 1977; Sarndal et al. 1992) as

$$\hat{V}(\hat{Y}) = \sum_{i=1}^{n-1} \sum_{j>i}^n \frac{(\pi_i \pi_j - \pi_{ij})}{\pi_{ij}} * \left[\frac{y_i}{\pi_i} - \frac{y_j}{\pi_j} \right]^2$$

where

π_j = the probability of unit j to be included in the PPSWOR sample of size n

π_{ij} = the probability of units i and j to be included in the PPSWOR sample of size n (2nd order inclusion probability)

The 95% confidence interval for the estimated total (\hat{Y}) can be calculated by multiplying the appropriate student's t -value for $n-1$ degrees of freedom by the square root of the estimated sampling variance (\hat{V})

$$95\% \text{ C.I.} = \hat{Y} \pm t_{n-1} * \sqrt{\hat{V}(\hat{Y})}$$

Additional detail and procedures regarding calibration of single pass dive counts and the Method of Bounded Counts are available upon requests.

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EXHIBIT B

	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov
Task 1. Adult Upstream Migration															
Sub-Task 1.1 Project Planning	X	X	X												
Sub-Task 1.2 Installation, Operation, and Removal				X	X	X	X								
Sub-Task 1.3 Data Management and Reporting								X	X						
Task 2. Stock Enhancement Activities															
Sub-Task 2.1 Project Planning					X	X									
Sub-Task 2.2 Installation, Operation, and Removal							X	X	X						
Sub-Task 2.3 Data Management and Reporting										X	X				
Task 3. Adult Upstream Migration															
Sub-Task 3.1 Project Planning								X	X	X					
Sub-Task 3.2 Conduct Index-Reach Surveys											X	X	X	X	
Sub-Task 3.3 Data Management and Reporting															X

Figure 1. Work schedule for Salinas Basin fisheries monitoring.

Table 1. FISHBIO schedule of 2012 hourly billing rates.

<i><u>Position</u></i>	<i><u>Hourly Rate</u></i>
Principal Biologist	\$ 180.00
Quantitative Ecologist	\$ 160.00
Senior Biologist	\$ 160.00
Biologist 3	\$ 150.00
Biologist 2	\$ 130.00
Biologist 1	\$ 115.00
Graphical Design	\$ 115.00
Bio-Technician 2	\$ 85.00
Bio-Technician 1	\$ 75.00
Office Assistant	\$ 50.00

	Projected Hours					Mileage \$0.555/mi	Estimated Cost
	Principal \$180	Project Manager \$130	Biologist \$115	Technician \$85	Database/GIS Specialist \$130		
Task 1. Adult Upstream Migration Monitoring							
1.1 Project Planning	5	5					\$1,550
1.2 Weir and Riverwatcher Installation, Operation, and Removal	5	25		1410		4500	\$126,498
1.3 Data Management and Reporting	5	80	40	180	10		\$32,500
						Sub-Total	\$160,548
Task 2. Smolt Outmigration Monitoring							
2.1 Project Planning	5	5					\$1,550
2.2 RST Installation, Operation, and Removal	5	20		1512		9750	\$137,431
2.3 Data Management and Reporting	5	80	40	115	5		\$26,325
						Sub-Total	\$165,306
Task 3. Index-Reach Surveys							
3.1 Project Planning	5	5	5		5		\$2,775
3.2 Conduct Index-Reach Surveys and Associated Activities		30	40	400		800	\$42,944
3.3 Data Management and Reporting	5	40	30	10	5		\$11,050
						Sub-Total	\$56,769
Task 4. On-Call Services	TBD	TBD	TBD	TBD	TBD	TBD	TBD
	Year 1 Total Estimated Cost						\$382,623

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FISHBIO Environmental LLC

1617 S Yosemite Ave,
 Oakdale, CA 95361
 12095864509

INSURERS AFFORDING COVERAGE

NAIC #

INSURER A: Hartford Casualty Insurance Company

 INSURER B: **Endurance Am Spec Ins Co**

 INSURER C: **Zurich Insurance Co.**

INSURER D:

INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
B	X	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	ECC101015116-00	8/24/12	8/24/13	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 400,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	X	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALLOWED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	84UECVO2718	4/6/12	4/6/13	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EAACC \$ AGG \$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
C		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	WC4686170	2/1/12	2/1/13	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B		OTHER Professional Liability	ECC101015116-00	8/24/12	8/24/13	\$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

The County of Monterey, its officers, agents and employees are named Additional Insured.

**10 Day notice of cancellation for non payment of premium.

CERTIFICATE HOLDER

County of Monterey
 168 W Alisal St 3rd Fl.
 Salinas, CA 93901

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT. BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

FISHBIO Environmental LLC
Policy Number: ECC101015116-00
Endurance Am Spec Ins Co.

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED -- OWNERS, LESSEES OR
CONTRACTORS - (FORM B)
(CG 20 10 11 85)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

The County of Monterey, its officers, agents and employees.

(If no entry appeared above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

Who IS AN INSURED (Section II) is amended to include as an insured the person-or organization shown in the schedule, but only with respect to liability arising out of "your work" for that insured by or for you.

4. Other Insurance

d. This insurance is primary for the person or organization shown in the schedule, but only with respect to liability arising out of your work for that insured by or for you. Other insurance afforded to that insured will apply as excess and not contribute as primary to the insurance afforded by this endorsement.

FISHBIO Environmental LLC
Policy Number: 84UECVO2718
Hartford Casualty Insurance Company

COMMERCIAL AUTO

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED -- OWNERS, LESSEES OR
CONTRACTORS - (FORM B)
(CG 20 10 11 85)**

This endorsement modifies insurance provided under the following:

COMMERCIAL AUTO COVERAGE PART

SCHEDULE

Name of Person or Organization:

The County of Monterey, its officers, agents and employees.

(If no entry appeared above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

Who IS AN INSURED (Section II) is amended to include as an insured the person-or organization shown in the schedule, but only with respect to liability arising out of "your work" for that insured by or for you.

4. Other Insurance

d. This insurance is primary for the person or organization shown in the schedule, but only with respect to liability arising out of your work for that insured by or for you. Other insurance afforded to that insured will apply as excess and not contribute as primary to the insurance afforded by this endorsement.



Monterey County

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Report

Legistar File Number: WRAG 17-008

January 17, 2017

Introduced: 1/9/2017

Version: 1

Current Status: Agenda Ready

Matter Type: WR General Agenda

Consider recommending that the Water Resources Agency Board of Supervisors adopt a resolution authorizing the Chair of the Agency Board of Supervisors to execute a Joint Powers Authority agreement establishing the Salinas Valley Basin Groundwater Sustainability Agency ("SVBGSA").

RECOMMENDATION:

It is recommended that the Monterey County Water Resources Agency Board of Directors:

Recommend that the Water Resources Agency Board of Supervisors adopt a resolution authorizing the Chair of the Agency Board of Supervisors to execute a Joint Powers Authority agreement establishing the Salinas Valley Basin Groundwater Sustainability Agency ("SVBGSA").

SUMMARY/DISCUSSION:

In the fall of 2014, the California legislature adopted, and the Governor signed into law, three bills (SB 1168, AB 1739, and SB 1319) collectively referred to as the "Sustainable Groundwater Management Act" ("SGMA") that initially became effective on January 1, 2015, and have been amended from time-to-time thereafter. The stated purpose of SGMA, as set forth in California Water Code section 10720.1, is to provide for the sustainable management of groundwater basins at a local level by providing local groundwater agencies with the authority, and technical and financial assistance necessary to sustainably manage groundwater.

SGMA requires the designation of Groundwater Sustainability Agencies ("GSAs") for the purpose of achieving groundwater sustainability through the adoption and implementation of Groundwater Sustainability Plans ("GSPs") for all medium and high priority basins as designated by the California Department of Water Resources. SGMA also requires that basins have a designated GSA by no later than June 30, 2017, and an adopted GSP by no later than January 31, 2020, if a high or medium priority basin is in critical overdraft; and no later than January 31, 2022, if designated a high or medium priority basin. The Salinas Valley Groundwater Basin ("Basin") is a high priority basin, and the 180/400 foot aquifer sub-basin is designated in critical overdraft.

SGMA authorizes a combination of local agencies to form a GSA by entering into a joint powers agreement as authorized by the Joint Exercise of Powers Act (Chapter 5 of Division 7 of Title 1 of the California Government Code). In 2015, the County along with the City of Salinas, the Water Resources Agency, the Monterey County Farm Bureau, the Growers-Shippers Association, and Salinas Valley Water Coalition retained a professional facilitator, the Consensus Building Institute (CBI) to bring together a collaborative working

group (CWG) to build consensus amongst key stakeholders and make recommendations to the various entities eligible to be GSAs in the Basin concerning the formation of a governance for the GSA. After months of deliberation, the CWG recommended a joint powers authority (“JPA”) to be the GSA in the Basin. The CWG group consists of representatives of the County, Water Resources Agency, cities, special districts that provide water and regulated water companies, environmental groups, agricultural interests, disadvantaged communities and small rural well owners, all in the Basin. As of this report, the CWG met fifteen (15) times and received numerous public comments by members of the community. In addition, there have been three stakeholder forums where members of the greater public have also been invited to learn about the effort, participate, and provide comment.

The CWG has reached consensus on the material issues concerning the terms of a JPA agreement. These include the description of and qualifications for the various director positions on the JPA board, the nomination and appointment process for the board of directors, and the length of terms for directors. Staff will review with the Board the various provisions of the proposed JPA. A copy of the proposed JPA agreement is enclosed as Attachment A. A draft Board Order recommending that the Chair of the Agency Board of Supervisors execute it is enclosed as Attachment B.

As a practical matter, the JPA requires advance funding by the entities executing the JPA agreement (“Members”) for the first two full fiscal years of its existence, until such time that the JPA can levy fees or otherwise raise revenue to fund its operations. Representatives of a number of the proposed Members (the City of Salinas, County and City of Gonzales) have met and discussed a contribution formula for that purpose. Also, the City of Gonzales staff has collaborated with the representatives of Soledad, Greenfield, and King City on these issues. Contributions from the Members would start in fiscal year 2017 - 2018.

The County and the City of Salinas were the first two potential Members to act on the JPA agreement, both on December 13, 2016. The Castroville Community Services District has also voted to join. Other potential Members are expected to join the JPA in early 2017. The goal recommended by the CWG is to have sufficient jurisdictions join the JPA as Members permitting formation of a new Board of Directors of the JPA by early spring of 2017. The new JPA Board can then commence the business of the JPA and the important work of adopting and filing a Notice of Intent no later than June 30, 2017.

OTHER AGENCY INVOLVEMENT:

As mentioned, the County and the City of Salinas approved the JPA agreement on December 13, 2016, and the Castroville Community Services District approved the agreement on December 20, 2016. Other potential Members include the Cities of Gonzalez, Soledad, Greenfield and King, and the Monterey Regional Water Pollution Control Agency.

FINANCING:

The Water Resources Agency proposed annual funding contribution would be \$20,000 for 2 years. The first year’s funding will not be due until July of 2017 and will be addressed in the FY 2017-18 budget; the second year funding will be addressed in the FY 2018-2019 budget.

Prepared by: Leslie J. Girard, Chief Asst. County Counsel, (831) 755-5045

Approved by: 
David E. Chardavoyne, General Manager, (831) 755-8906

Attachments:

- A. Proposed JPA Agreement
- B. Draft Board Order

EXHIBIT B



Before the Board of Directors of the Monterey County Water Resources Agency County of Monterey, State of California

BOARD ORDER No.

Recommend that the Chair of the Agency)
Board of Supervisors execute a Joint Powers)
Authority agreement establishing the Salinas)
Valley Basin Groundwater Sustainability)
Agency ("SVBGSA"))

Upon motion of Director _____, seconded by Director _____, and
carried by those members present, the Board of Directors hereby:

1. Recommends that the Chair of the Agency Board of Supervisors execute a Joint Powers Authority agreement establishing the Salinas Valley Basin Groundwater Sustainability Agency ("SVBGSA") attached hereto as Exhibit 1, together with any modifications that, in the opinion of the Agency General Manager and County Counsel are not material.

PASSED AND ADOPTED on this 17th day of January 2017, by the following vote, to-wit:

AYES:

NOES :

ABSENT:

BY: _____
Chair
Board of Directors

ATTEST: _____
David E. Chardavoine
General Manager

EXHIBIT A

JOINT EXERCISE OF POWERS AGREEMENT

establishing the

SALINAS VALLEY BASIN GROUNDWATER

SUSTAINABILITY AGENCY

DRAFT

JOINT EXERCISE OF POWERS AGREEMENT

establishing the

SALINAS VALLEY BASIN GROUNDWATER SUSTAINABILITY AGENCY

THIS JOINT EXERCISE OF POWERS AGREEMENT (“Agreement”) establishing the Salinas Valley Basin Groundwater Sustainability Agency (“Agency”) is made and entered into as of _____ (“Effective Date”), by and among the public agencies listed on the attached Exhibit “A” (collectively “Members” and individually “Member”) for the purpose of forming a Groundwater Sustainable Agency (“GSA”) and achieving groundwater sustainability in the Salinas Valley Groundwater Basin.

RECITALS

WHEREAS, in the fall of 2014 the California legislature adopted, and the Governor signed into law, three bills (SB 1168, AB 1739, and SB 1319) collectively referred to as the “Sustainable Groundwater Management Act” (“SGMA”), that initially became effective on January 1, 2015, and that has been amended from time-to-time thereafter; and

WHEREAS, the stated purpose of SGMA, as set forth in California Water Code section 10720.1, is to provide for the sustainable management of groundwater basins at a local level by providing local groundwater agencies with the authority, and technical and financial assistance necessary, to sustainably manage groundwater; and

WHEREAS, SGMA requires the designation of Groundwater Sustainability Agencies (“GSAs”) for the purpose of achieving groundwater sustainability through the adoption and implementation of Groundwater Sustainability Plans (“GSPs”) or an alternative plan for all medium and high priority basins as designated by the California Department of Water Resources; and

WHEREAS, SGMA requires that the Basin have a designated GSA by no later than June 30, 2017, and an adopted GSP by no later than January 31, 2020, if a high or medium priority basin in critical overdraft, and no later than January 31, 2022, if a high or medium priority basin; and

WHEREAS, SGMA authorizes a combination of local agencies to form a GSA by entering into a joint powers agreement as authorized by the Joint Exercise of Powers Act (Chapter 5 of Division 7 of Title 1 of the California Government Code) (“Act”); and

WHEREAS, each Member is a local agency, as defined by SGMA, within that portion of the Salinas Valley Groundwater Basin (“Basin” and as more fully described below) within Monterey County, which is designated basin number 3-004 in Department of Water Resources Bulletin No. 118 (update 2016), and consisting of seven sub-basins plus that portion of the Paso Robles sub-basin within Monterey County (but not including the adjudicated portion of the

Seaside sub-basin), each of which is designated as either a high or medium priority basin, and one of which (the 180/400 ft. aquifer) is designated in critical overdraft; and

WHEREAS, the Members are therefore authorized to create the Agency for the purpose of jointly exercising those powers granted by the Act, SGMA, and any additional powers which are common among them; and

WHEREAS, the Members, individually and collectively, have the goal of cost effective sustainable groundwater management that considers the interests and concerns of all beneficial uses and users of groundwater within and adjacent to the Basin; and

WHEREAS, the Members hereby enter into this Agreement to establish the Agency to serve as a GSA for the Basin and undertake the management of groundwater resources pursuant to SGMA; and

WHEREAS, the Members intend to cooperate with adjacent GSAs such as any GSA formed over a portion of the Paso Robles sub-basin (3-04.06) within San Luis Obispo County, and the Pajaro Valley Water Management Agency; and

WHEREAS, the Members intend to ~~study the potential for pursue~~ state legislation to, among other amendments, amend the WRA Act to modify the governance structure of the WRA in a form similar to the governance of the Agency established herein and to establish that agency as the statutorily designated GSA for the Basin, or establish a new entity to be so designated;

NOW THEREFORE,

In consideration of the matters recited and the mutual promises, covenants, and conditions set forth in this Agreement, the Members hereby agree as follows:

Article I: Definitions

Section 1.1 – Definitions.

As used in this Agreement, unless the context requires otherwise, the meaning of the terms hereinafter set forth shall be as follows:

(a) “Act” means the Joint Exercise of Powers Act, set forth in Chapter 5 of Division 7 of Title 1 of the California Government Code, sections 6500, *et seq.*, as may be amended from time-to-time.

(b) “Agreement” means this Joint Exercise of Powers Agreement establishing the Salinas Valley Basin Groundwater Sustainability Agency.

(c) “Agency” means the Salinas Valley Basin Groundwater Sustainability Agency, which is a separate entity created by this Agreement pursuant to the provisions of the Act and SGMA.

(d) “Agricultural Directors” means the four Directors representing agricultural interests, as more fully set forth in rows (f) – (i) of Exhibit B of this Agreement.

(e) “Agricultural Association” means the Salinas Basin Agricultural Water Association.

(f) “Alternate Director” means an Alternate Director appointed pursuant to Section 6.6 of this Agreement.

(g) “Appointing Authority” means the entity authorized to appoint Primary and Alternate Directors pursuant to Sections 6.2, 6.3 and 6.6 of this Agreement and as identified in Exhibit B to this Agreement.

(h) “Basin” means that portion of the Salinas Valley Groundwater Basin, newly designated no. 3-004 in the Department of Water Resources’ Bulletin No. 118 (update 2016), within the County of Monterey and that includes the following sub-basins: 1) 180/400 Foot Aquifer (No. 3-004.01); 2) East Side Aquifer (3-004.02); 3) Forebay Aquifer (3-004.04); 4) Upper Valley Aquifer (3-004.05); 5) Langley Area (3-004.09); 7) the newly designated Monterey sub-basin (3-004.10); and, 8) the portion of the Paso Robles Area (3-004.06) in Monterey County; but not including that portion of the Seaside Area that has been adjudicated, all as their boundaries may be modified from time to time through the procedures described in California Water Code section 10722.2 or by the Department of Water Resources under its separate authority, and not including any other area for which a GSA has been established pursuant to SGMA.

(i) “Board of Directors” or “Board” means the governing body of the Agency as established by Section 6.1 of this Agreement.

(j) “Brown Act” means the California Open Meeting Law, Government Code section 54950 *et seq.*

(k) “Bylaws” means the bylaws adopted by the Board of Directors pursuant to Section 6.8 of this Agreement to govern the day-to-day operations of the Agency.

(l) “Cause” means a conviction of a crime i) of moral turpitude, or ii) involving fraud, misrepresentation, or financial mismanagement, or iii) a finding by an administrative body or agency, or a court of law, that the person has violated any conflict of interest provision of federal, state or local law.

(m) “City Selection sub-Committee” means a subcommittee of the Monterey County City Selection Committee, established by Government Code section 50270 *et seq.*, and consisting of the mayors of the following cities: Gonzales, Soledad, Greenfield, and King City.

(n) “County” means the County of Monterey.

(o) “CPUC” means the California Public Utilities Commission.

(p) “CPUC Regulated Water Company” means an investor owned water company operating in the Basin that has been granted a certificate of public convenience and necessity by the CPUC and is regulated by the CPUC.

(q) “Determination Date” means the date on which the Agency votes to notify the State of its intent to become a GSA as provided in Water Code sections 10723 (a) and (b).

(r) “Director” or “Directors” means Primary and Alternate Directors as set forth in Section 6.6 of this Agreement.

(s) “Director Position(s)” means those eleven Board positions, singularly or plural, established pursuant to Section 6.1 of this Agreement.

(t) “Disadvantaged Community” means a disadvantaged community or economically distressed area as those terms are defined in Water Code section 79702 (as may be amended from time-to-time) within the Basin.

(u) “Effective Date” means the date by which two Members have executed this Agreement which date shall be set forth in the introductory paragraph of this Agreement.

(v) “Fiscal Year” means that period of 12 months beginning July 1 and ending June 30 of each calendar year.

(w) “Groundwater Sustainability Agency” or “GSA” has the meaning set forth in California Water Code section 10721(j).

(x) “Groundwater Sustainability Plan” or “GSP” has the meaning set forth in California Water Code section 10721(k).

(y) “GSA Eligible Entity or Entities” means those entities eligible to become a GSA pursuant to SGMA.

(z) “Initial Board” means the initial Board of Directors established pursuant to Section 6.2, below.

(aa) “Initial Contribution” means the required contribution of Members as set forth in Section 10.4 of this Agreement.

(bb) “Local Agency” or “Local Agencies” has the meaning set forth in California Water Code Section 10721(n).

(cc) "Local small water system" means a system for the provision of piped water for human consumption that serves at least two, but not more than four, service connections, including any collection, treatment, storage, and distribution facilities under control of the operator of such system which are used primarily in connection with such system, and any collection or pretreatment storage facilities not under the control of the operator which are used primarily in connection with such system; it does not include two or more service connections,

which supply dwelling units occupied by members of the same family, on one parcel, all as set forth in Monterey County Code section 15.04.020 (g).

(dd) “Majority Vote” means the affirmative vote of six Directors then present and voting at a meeting of the Board.

(ee) “Member” or “Members” means the GSA Eligible Entities listed in the attached Exhibit “A” that have executed this Agreement, including any new Members that may subsequently join this Agency with the authorization of the Board, pursuant to Section 5.2 of this Agreement.

(ff) “Mutual Water Company” has the meaning set forth in Corporations Code section 14300.

(gg) “Permanent Board” means the permanent Board of Directors established pursuant to Section 6.3 of this Agreement.

(hh) “Permanent Director” means a Director appointed to the Permanent Board.

(ii) “Permanent Director Position” means a Director Position on the Permanent Board.

(jj) “Primary Director” means a Primary Director appointed pursuant to Sections 6.4 of this Agreement.

(kk) “Public Water System” means a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. A public water system includes the following: (1) Any collection, treatment, storage, and distribution facilities under control of the operator of the system that are used primarily in connection with the system, (2) Any collection or pretreatment storage facilities not under the control of the operator that are used primarily in connection with the system, or (3) Any water system that treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption, all as set forth in Health and Safety Code section 116275 (h).

(ll) “South County Cities” means the cities of Gonzales, Soledad, Greenfield and King City.

(mm) “State” means the State of California.

(nn) “State Small Water System” means a system for the provision of piped water to the public for human consumption that serves at least five, but not more than 14, service connections and does not regularly serve drinking water to more than an average of 25 individuals daily for more than 60 days out of the year, as set forth in California Health and Safety Code section 116275 (n).

(oo) “Super Majority Vote” means the affirmative vote of eight Directors then present and voting at a meeting of the Board.

(pp) “Super Majority Plus Vote” means the affirmative vote of eight Directors then present and voting at a meeting of the Board but including the affirmative vote of three of the Agricultural Directors.

(qq) “Sustainable Groundwater Management Act” or “SGMA” means the comprehensive groundwater legislation collectively enacted and referred to as the “Sustainable Groundwater Management Act” as codified in California Water Code Sections 10720 *et seq.* and as may be amended from time-to-time.

(rr) “WRA” means the Water Resources Agency of the County of Monterey.

Unless otherwise indicated, all statutory references are to the statutory codes of the State.

Article II: The Agency

Section 2.1 – Agency Established.

There is hereby established a joint powers agency known as the Salinas Valley Basin Groundwater Sustainability Agency. The Agency shall be, to the extent provided by law, a public entity separate from the Members of this Agreement.

Section 2.2 – Purpose Of The Agency.

The purpose of Agency is to cooperatively carry out the requirements of SGMA including, but not limited to, serving as the GSA for the Basin and developing, adopting and implementing a GSP that achieves groundwater sustainability in the Basin, all through the exercise of powers granted to a GSA by SGMA and those powers common to the members as provided in the Act.

Article III: Term

Section 3.1 – Term.

This Agreement shall become operative on the Effective Date. Subject to the terms of Sections 11.6, 11.7 and 11.8, below, this Agreement shall remain in effect unless terminated pursuant to Section 11.10, below.

Article IV: Powers

Section 4.1 – Powers.

The Agency shall possess the ability to exercise those powers specifically granted by the Act, SGMA, and the common powers of its Members related to the purposes of the Agency, including, but not limited to, the following:

- a) To designate itself the GSA for the Basin pursuant to SGMA.
- b) To adopt rules, regulations, policies, bylaws and procedures governing the operation of the Agency and the adoption and implementation of the GSP.
- c) To develop, adopt and implement a GSP for the Basin pursuant to SGMA.
- d) To retain or employ consultants, advisors, independent contractors, agents and employees.
- e) To obtain legal, financial, accounting, technical, engineering, and other services needed to carry out the purposes of this Agreement.
- f) To conduct studies, collect and monitor all data related and beneficial to the development, adoption and implementation of the GSP for the Basin.
- g) To perform periodic reviews of the GSP including submittal of annual reports.
- h) To register and monitor wells.
- i) To issue revenue bonds or other appropriate public or private debt and incur debts, liabilities or obligations.
- j) To levy taxes, assessments, charges and fees as provided in SGMA or as otherwise provided by law.
- k) To regulate and monitor groundwater extractions as permitted by SGMA, provided that this provision does not extend to a Member's operation of its system to distribute water once extracted or otherwise obtained, unless and to the extent required by other laws now in existence or as may otherwise be adopted.
- l) To establish and administer projects and programs for the benefit of the Basin.
- m) To cooperate, act in conjunction, and contract with the United States, the State, or any agency thereof, counties, municipalities, special districts, groundwater sustainability agencies, public and private corporations of any kind (including without limitation, investor-owned utilities), and individuals, or any of them, for any and all purposes necessary or convenient for the full exercise of the powers of the Agency.

n) To accumulate operating and reserve funds and invest the same as allowed by law for the purposes of the Agency.

o) To apply for and accept grants, contributions, donations and loans under any federal, state or local programs for assistance in developing or implementing any of its projects or programs in connection with any project undertaken in the Agency's name for the purposes of the Agency.

p) To acquire by negotiation, lease, purchase, construct, hold, manage, maintain, operate and dispose of any buildings, property, water rights, works or improvements within and without the respective jurisdictional boundaries of the Members necessary to accomplish the purposes describe herein.

q) To sue or be sued in its own name.

r) To invest funds as allowed by law.

s) Any additional powers conferred under SGMA or the Act, or under applicable law, insofar as such powers are needed to accomplish the purposes of SGMA, including all powers granted to the Agency under Article 4 of the Act which are in addition to the common powers of the Members, including the power to issue bonds or otherwise incur debts, liabilities or obligations to the extent authorized by the Act or any other applicable provision of law and to pledge any property or revenues of the rights thereto as security for such bonds and other indebtedness.

t) Any power necessary or incidental to the foregoing powers in the manner and according to the procedures provided for under the law applicable to the Members to this Agreement and to perform all other acts necessary or proper to fully carry out the purposes of this Agreement.

Section 4.2 – Exercise Of Powers.

In accordance with Section 6509 of the Act, the foregoing powers shall be subject to the restrictions upon the manner of exercising such powers pertaining to the County.

Section 4.3 – Water Rights And Consideration Of All Beneficial Uses And Users Of Groundwater In The Basin.

As set forth in Water Code section 10723.2 the GSA shall consider the interests of all beneficial uses and users of groundwater in the Basin, as well as those responsible for implementing the GSP. Additionally, as set forth in Water Code section 10720.5(a) any GSP adopted pursuant to this Agreement shall be consistent with Section 2 of Article X of the California Constitution and nothing in this Agreement modifies the rights or priorities to use or store groundwater consistent with Section 2 of Article X of the California Constitution, with the exception that no extraction of groundwater between January 1, 2015 and the date the GSP is adopted may be used as evidence of, or to establish or defend against, any claim of prescription. Likewise, as set forth in Water Code section 10720.5(b) nothing in this Agreement or any GSP

adopted pursuant to this Agreement determines or alters surface water rights or groundwater rights under common law or any provision of law that determines or grants surface water rights.

Section 4.4 – Preservation Of Police Powers.

Nothing set forth in this Agreement shall be deemed to modify or otherwise limit a Member’s police powers in any way, or any authority to regulate groundwater under existing law or any amendment thereto.

Article V: Membership

Section 5.1 – Members.

The Members of the Agency shall be the entities listed on the attached Exhibit A so long as their membership has not been withdrawn or terminated pursuant to the provisions of Article XI of this Agreement. GSA Eligible Entities shall have until the Determination Date to execute this Agreement and pay their Initial Contribution, and become Members. Any GSA Eligible Entity that has not executed this Agreement and paid their Initial Contribution by the Determination Date shall be subject to the process described in Section 5.2, below, to become a Member.

Section 5.2 – New Members.

New Members may be added to the Agency by the unanimous vote of all other Members so long as: 1) the new Member is a GSA Eligible Entity; and, 2) the new Member agrees to or has met any other conditions that the existing Members may establish from time-to-time.

Once an application is approved unanimously by the existing Members the attached Exhibit A shall be amended to reflect the new Member.

Article VI: Directors And Officers

Section 6.1 – Board Of Directors.

The Agency shall be governed and administered by an eleven (11) member Board of Directors which is hereby established. All voting power of the Agency shall reside in the Board.

Section 6.2 – Initial Board of Directors.

An Initial Board shall be composed of the Director Positions with the qualifications and Appointing Authority as described in Exhibit B. The nominating groups identified in Section 6.5, below, may, but are not required to, provide nominations to the relevant Appointing Authority for the Initial Board; however, any such nomination must be received by the respective Appointing Authority no later than January 31, 2017. If such nominations are received no later than the time specified the Appointing Authorities shall follow the respective procedures for

appointment to the Permanent Board set forth in Section 6.5, below. If such nominations are not received by the time specified, the Appointing Authority may make appointments to the Initial Board as it determines in its sole discretion.

The Initial Board shall serve only until September 30, 2017, at which time a Permanent Board shall be appointed as described below.

Section 6.3 – Permanent Board.

Subject to the Appointment and Nominating procedures set forth in Section 6.5, below, beginning on October 1, 2017, a Permanent Board shall be established consisting of the Director Positions with the qualifications and Appointing Authority as described in Exhibit B. With the exception of the CPUC Regulated Water Company Director Position, each Permanent Director Position shall have a term consisting of three (3) years and shall hold office until their successor is appointed by their Appointing Authority and the Agency has been notified of the succession. The terms of Permanent Director Positions shall be staggered, with Director Positions identified in rows (a), (c), (f), (h) and (j) of exhibit C serving three (3) year terms from initial appointment, and those identified in rows (b), (d), (g), (i), and (k) serving two (2) year terms from initial appointment, and thereafter serving three (3) year terms. The CPUC Regulated Water Company Director Position shall serve a term of two (2) years, and a Director shall hold office until their successor is appointed and the Agency has been notified of the succession. Notwithstanding the actual date of their initial appointment, for purposes of establishing the terms of Permanent Directors such initial appointment shall be deemed to have commenced on the July 1 preceding such initial appointment, and the terms of Directors shall thereafter commence on July 1 of the respective appointing year. Each Director Position shall require an affirmative appointment by the Appointing Authority for every term.

Section 6.4 – General Qualifications.

- a) Each Director, whether on the Initial Board or Permanent Board, must have the following general qualifications:
 - i. General education and/or knowledge, interest in and experience relating to the control, storage, and beneficial use of groundwater.
 - ii. General understanding and knowledge of the Basin and all its beneficial users.
 - iii. Working knowledge and understanding of how to develop strategic plans, policies, programs, and financing/funding mechanisms.
 - iv. Genuine commitment to collaboratively work together to (i) achieve groundwater sustainability through the adoption and implementation of a GSP for the Basin, and all its beneficial uses; and (ii) provide for the ongoing sustainable management of the Basin.
 - v. General knowledge and understanding of one or more of the different facets

(administration, financial, legal, organizational, personnel, etc.) needed for a successful and productive organization.

- vi. Ability to commit the time necessary, estimated at a minimum 15-20 hours per month, to responsibly fulfill their commitment to the organization. This includes, but is not limited to: (i) Board meetings, (ii) Board training, (iii) analyzing financial statements and technical reports, (iv) reviewing Board documents before Board meetings, (v) attending Board meetings, and (vi) serving on committees to which they are assigned.
- vii. A permanent resident within the Basin, or a representative of an agency with jurisdiction, or a business or organization with a presence, within the Basin.

b) Nominating groups and Appointing Authorities, as described in Section 6.5, should endeavor to avoid nominating or appointing a person to a Director Position that, because of his or her employment or other financial interest, is likely to be disqualified from a substantial number of decisions to be made by the Board on the basis of conflict-of-interest requirements.

Section 6.5 – Appointments and Nominations for Director Positions on the Permanent Board.

The appointment and nominating process for each Primary and Alternate Director Positions on the Permanent Board shall be as follows:

- a) City of Salinas Director Position.

The City of Salinas shall appoint the Director Position listed in Row (a) of Exhibit B, the specific qualifications of such Director Position to be at the discretion of the City of Salinas.

- b) South County Cities Director Position.

The Director Position listed in Row (b) of Exhibit B shall be filled by a representative from one of the four cities listed therein. The City Selection sub-Committee shall determine which city shall be the Appointing Authority for each term of the Director Position. The specific qualifications of such Director Position shall be at the discretion of that city designated the Appointing Authority. If the City Selection sub-Committee cannot reach agreement on a city to be the Appointing Authority for this Director Position, the County Board of Supervisors shall decide which city shall be the Appointing Authority.

- c) Other GSA Eligible Entity Director Position.

- i. Representative of the entities listed on Exhibit C shall be eligible to participate in the nominating process for the Other GSA Eligible Entity Director Position listed in Row (c) of Exhibit B.

- ii. The representatives collectively by agreement among themselves shall make nominations to the Appointing Authority for the persons to fill both the Primary and Alternate Director Positions when the term of such position are expiring or are vacant.
 - iii. The representatives shall nominate one or more persons to fill both the Primary and Alternate Director Positions. If more than one person is nominated the representatives shall indicate the preferred nominee.
 - iv. The Appointing Authority shall appoint the nominee (if only one) or appoint from among the nominees; the Appointing Authority may reject a nominee only for Cause. If the representatives cannot or do not forward any nominations the Appointing Authority shall make the appointment based upon its own determination.
 - v. The representatives may also advise the Appointing Authority regarding the removal of their nominee from the Director Positions for Cause. If the Appointing Authority determines that Cause exists such Director shall be removed and a new Director appointed to fill out the remaining term of the removed Director. The representatives may also request that their nominee in the Director Position be removed for any reason or no reason. If such request is made the Appointing Authority shall remove the Director and a new Director appointed to fill out the remaining term of the removed Director.
 - vi. From time-to-time entities may ask to be removed from Exhibit C. If such request is made the Appointing Authority shall notify the other Members and the Board, and Exhibit C shall be modified accordingly.
 - vii. From time-to-time other entities may request to be included on Exhibit C. The then-existing representatives shall inform the Appointing Authority if such requests are acceptable. If accepted by the representatives the Appointing Authority shall notify the other Members and the Board, and Exhibit C shall be modified accordingly.
- d) Disadvantaged Community, or Public Water System Systems, including Mutual Water Companies serving residential customers, Director Position.
- i. Representative of the entities listed on Exhibit D shall be eligible to participate in the nominating process for the Disadvantaged Community, or Public Water System Systems, including Mutual Water Companies serving residential customers, Director Position listed in Row (d) of Exhibit B.
 - ii. The representatives by agreement among themselves shall collectively make nominations to the Appointing Authority for the persons to fill both the Primary and Alternate Director Positions when the term of such positions are expiring or are vacant.

- iii. The representatives shall nominate one or more persons to fill both the Primary and Alternate Director Positions. If more than one person is nominated the representatives shall indicate the preferred nominee.
 - iv. The Appointing Authority shall appoint the nominee (if only one) or appoint from among the nominees; the Appointing Authority may reject a nominee only for Cause. If the representatives cannot or do not forward any nominations the Appointing Authority shall make the appointment based upon its own determination.
 - v. The representatives may also advise the Appointing Authority regarding the removal of their nominee from the Director Positions for Cause. If the Appointing Authority determines that Cause exists such Director shall be removed and a new Director appointed to fill out the remaining term of the removed Director. The representatives may also request that their nominee in the Director Position may be removed for any reason or no reason. If such request is made the Appointing Authority shall remove the Director and a new Director appointed to fill out the remaining term of the removed Director.
 - vi. From time-to-time entities may ask to be removed from Exhibit D. If such request is made the Appointing Authority shall notify the other Members and the Board, and Exhibit D shall be modified accordingly.
 - vii. From time-to-time other entities may request to be included on Exhibit D. The then-existing representatives shall inform the Appointing Authority if such requests are acceptable. If accepted by the representatives the Appointing Authority shall notify the other Members and the Board, and Exhibit D shall be modified accordingly.
- e) CPUC Regulated Water Company Director Position.
- i. Representative of the entities listed on Exhibit E must meet the requirements of Section 1.1 (o) and shall be eligible to participate in the nominating process for the CPUC Regulated Water Company Director Position listed in Row (e) of Exhibit B.
 - ii. The representatives by agreement among themselves shall collectively make nominations to the Appointing Authority for the persons to fill both the Primary and Alternate Director Positions when the term of such position are expiring or are vacant.
 - iii. The representatives shall nominate one or more persons to fill both the Primary and Alternate Director Positions. If more than one person is nominated the representatives shall indicate the preferred nominee.

- iv. The Appointing Authority shall appoint the nominee (if only one) or appoint from among the nominees; the Appointing Authority may reject a nominee only for Cause. If the representatives cannot or do not forward any nominations the Appointing Authority shall make the appointment of an employee or agent of a CPUC Regulated Water Company listed on Exhibit E based upon its own determination.
 - v. The representatives may also advise the Appointing Authority regarding the removal of their nominee from the Director Position for Cause, although such authority to remove shall rest solely with the Appointing Authority.
 - vi. From time-to-time entities may ask to be removed from Exhibit E. If such request is made the Appointing Authority shall notify the other Members and the Board, and Exhibit E shall be modified accordingly.
 - vii. From time-to-time other entities may request to be included on Exhibit E. The then-existing representatives shall inform the Appointing Authority if such requests are acceptable. If accepted by the representatives the Appointing Authority shall notify the other Members and the Board, and Exhibit E shall be modified accordingly.
- f) Agriculture Director Positions.
- i. The Agricultural Association shall be eligible to participate in the nominating process for the Agriculture Director Positions listed in Rows (f) – (i) of Exhibit B. The Agricultural Association shall be solely responsible for its membership.
 - ii. The Agricultural Association shall make nominations to the Appointing Authority for the persons to fill each Primary and Alternate Director Position when the terms of such positions are expiring or are vacant.
 - iii. The Agricultural Association shall nominate at least two persons to fill each Director Position; the Agricultural Association shall indicate the preferred nominee for each Director Position.
 - iv. The Appointing Authority shall appoint from among the nominees for each Director Position; the Appointing Authority may reject a nominee only for Cause. If the Agricultural Association cannot or does not forward any nominations the Appointing Authority shall make the appointment based upon its own determination.
 - v. The Agricultural Association may also advise the Appointing Authority regarding the removal of a nominee from a Director Position for Cause. If the Appointing Authority determines that Cause exists such Director shall be removed and a new Director appointed to fill out the remaining term of the removed Director. The Agricultural Association may also request that

their nominee in a Director Position may be removed for any reason or no reason. If such request is made the Appointing Authority shall remove the Director and a new Director appointed to fill out the remaining term of the removed Director.

g) Environment Director Position.

- i. Representative of the entities listed on Exhibit F shall be eligible to participate in the nominating process for the Environment Director Position listed in Row (j) of Exhibit B.
- ii. The representatives by agreement among themselves shall collectively make nominations to the Appointing Authority for the persons to fill both the Primary and Alternate Director Positions when the term of such positions are expiring or are vacant.
- iii. The representatives shall nominate at least two persons to fill both the Primary and Alternate Director Positions and the representatives shall indicate the preferred nominee.
- iv. The Appointing Authority shall appoint from among the nominees; the Appointing Authority may reject a nominee only for Cause. If the representatives cannot or do not forward any nominations the Board shall solicit applications from interested persons. At an open public meeting, the Board shall select qualified applicants whose names shall be forwarded to the Appointing Authority. The Board may indicate a preferred nominee. The Appointing Authority shall make the appointment from the list of candidates in its sole discretion. If the Board cannot, or does not, forward a list of candidates, the Appointing Authority shall make the appointment based upon its own determination.
- v. The representatives may also advise the Appointing Authority regarding the removal of their nominee from the Director Position for Cause. If the Appointing Authority determines that Cause exists such Director shall be removed and a new Director appointed to fill out the remaining term of the removed Director. The representatives may also request that their nominee in the Director Position may be removed for any reason or no reason. If such request is made the Appointing Authority shall remove the Director and a new Director appointed to fill out the remaining term of the removed Director.
- vi. From time-to-time entities may ask to be removed from Exhibit F. If such request is made the Appointing Authority shall notify the other Members and the Board, and Exhibit F shall be modified accordingly.
- vii. From time-to-time other entities may request to be included on Exhibit F. The then-existing representatives shall inform the Appointing Authority if such requests are acceptable. If accepted by the representatives the

Appointing Authority shall notify the other Members and the Board, and Exhibit F shall be modified accordingly.

- h) Public Member Director Position.
 - i. The Public Member Primary and Alternate Director Positions listed in Row (k) of Exhibit B shall be filled by application to the Board when the term of such position is expiring or is vacant.
 - ii. Board staff shall process the applications to an open and public meeting of the Board.
 - iii. At the public hearing, the Board shall select the qualified applicants whose names shall be forwarded to the Appointing Authority. The Board may indicate a preferred nominee.
 - iv. The Appointing Authority shall appoint from among the nominees in its sole discretion. If the Board cannot or does not forward any nominations the Appointing Authority shall make the appointment based upon its own determination.
 - v. The Board may also advise the Appointing Authority regarding the removal of the Public Member Director for Cause, although such authority to remove shall rest solely with the Appointing Authority.

Section 6.6 – Primary Directors And Alternates.

Subject to the Appointing and Nominating procedures set forth in Section 6.5, above, each Appointing Authority shall appoint one Primary Director and one Alternate Director for each Director Position. With the exception of the Chairperson and Vice-Chairperson duties as more fully described in Section 6.7, below, the Alternate Director shall serve and assume the rights and duties of the Primary Director when the Primary Director is unable to attend or participate in a Board meeting. Unless appearing as a substitute for a Primary Director, Alternate Directors shall have no vote, and shall not participate in any discussions or deliberations of the Board, but may appear at Board meetings as members of the public. The Primary and Alternate Directors may be removed by their Appointing Authority only for Cause only upon the recommendation of or consultation with the nominating body for that Director Position, or upon the request of the nominating body for that Director Position. In the event that a Primary or Alternate Director is removed from their position, that Director Position shall become vacant and the Appointing Authority for that Director Position shall appoint a new Primary or Alternate Director pursuant to the provisions of Section 6.5 who shall fill the remaining term of that Director Position. In the event that a Director resigns from a Director Position, the Board shall notify the nominating body for that Director Position and the Appointing Authority for that Director Position shall appoint a new Primary or Alternate Director pursuant to the provisions of Section 6.5 who shall fill the remaining term of that Director Position.

Section 6.7 – Officers Of The Board.

a) Designation.

Officers of the Board shall consist of a Chairperson and Vice-Chairperson who shall be selected from the Primary Directors. The Chairperson shall preside at all meetings of the Board. Notwithstanding the appointment of an Alternate Director for the Chairperson, the Vice-Chairperson shall perform the duties of the Chairperson in the absence or disability of the Chairperson; however, the Alternate Director may otherwise attend and participate in the meeting as a substitute for the absent Primary Director. The Chairperson and Vice-Chairperson shall exercise and perform such other powers and duties as may be assigned by the Board. In the absence of both the Chairperson and Vice-Chairperson, and notwithstanding the appointment of an Alternate Director for the Director Position serving as Vice-Chairperson, the Board shall elect a Chairperson Pro-Tem from the Primary Directors to preside at a meeting; however, the Alternate Director for the Vice-Chairperson may otherwise attend and participate in the meeting as a substitute for the absent Primary Director.

b) Election.

The Board shall elect officers at the initial meeting of the Board, described in Section 7.1, below. The Primary Director appointed by the City of Salinas shall be designated as the Chairperson Pro Tem to convene and preside at the initial meeting of the Board, described in Section 7.1, until a Chairperson is elected by the Board. The Chairperson so elected shall serve in such capacity until June 30 of the succeeding calendar year. Thereafter, the Board shall annually elect the officers of the Board from the Primary Directors. Officers of the Board shall hold office for a term of one year commencing on July 1 of each calendar year and they may serve for multiple consecutive terms. Officers of the Board may be removed and replaced at any time, with or without cause, by a Majority Vote. In the event that an officer loses their position as a Primary Director, that officer position shall become vacant and the Board shall elect a new officer from existing Primary Directors to serve the remaining officer term.

Section 6.8 – Bylaws.

The Board shall adopt Bylaws governing the conduct of meetings and the day-to-day operations of the Agency on or before the first anniversary of the Effective Date.

Section 6.9 – Official Seal And Letterhead.

The Board may adopt, and/or amend, an official seal and letterhead for the Agency.

Section 6.10 – Conflict of Interest.

Directors shall be subject to the provisions of the California Political Reform Act, California Government Code section 81000 et seq, and all other laws governing conflicts of interests. Directors shall file the statements required by Government Code section 87200, et seq.

Article VII: Board Meetings And Actions

Section 7.1 – Initial Meeting.

The initial meeting of the Board shall be held at either the County Board of Supervisors chambers, located at 168 W. Alisal Street in Salinas, or at the Salinas City Council chambers, located at 200 Lincoln Avenue in Salinas within thirty days (30) days of the Effective Date of this Agreement. The date and time of the meeting shall be prominently publicized and noticed in addition to any requirements of the Brown Act in an effort to maximize public participation.

Section 7.2 – Regular Meeting Schedule.

At its initial meeting, and annually before July 1 of each calendar year thereafter, the Board shall establish a schedule of regular meetings, including time and place, at a location overlying the Basin. The Board may vote to change the regular meeting location, time and place, and may call special or emergency meetings, provided that the new, special or emergency meeting location remains at a place overlying the Basin, unless otherwise authorized by the Brown Act.

Section 7.3 – Principal Office.

At its initial meeting the Board shall establish a principal office for the Agency, which shall be located at a place overlying the Basin. The Board may change the principal office from time to time as the Board sees fit so long as that principal office remains at a location overlying the Basin.

Section 7.4 – Conduct Of Board Meetings.

Meetings of the Board of Directors shall be noticed, held, and conducted in accordance with the provisions of the Brown Act and such By-laws as the Board may adopt that are consistent with the Brown Act.

Section 7.5 – Quorum.

A quorum of the Board shall consist of a majority of the Director Positions.

Section 7.6 – Voting.

Each Director Position shall have one vote. In all cases, when a quorum is present, a Majority Vote shall be required to conduct business, unless a Super Majority Vote or a Super Majority Plus Vote is required.

Section 7.7 – Super Majority Vote Requirement.

Items that require a Super Majority Vote include the following unless otherwise required by law:

- a) Approval of a GSP;
- b) Amendment of budget and transfer of appropriations;
- c) Withdrawal of Members pursuant to Section 11.6 (d); and,
- d) Termination of Members pursuant to Section 11.7 (c).

Section 7.8 – Super Majority Plus Vote Requirement.

Items that require a Super Majority Plus Vote include the following unless otherwise required by law:

- a) Decisions to impose fees not requiring a vote of the electorate or property owners;
- b) Proposals to submit to the electorate or property owners (as required by law) decisions to impose fees or taxes; and
- c) Limitations on well extractions (pumping limits).

Section 7.9 – Conflict Of Interest Code.

At the initial meeting of Board, the Board shall begin the process for adoption and filing of a Conflict of Interest Code pursuant to the provisions of the Political Reform Act of 1974 (Government Code section 81000 et seq.).

Article VIII: Board Committees

Section 8.1 – Committees Of The Board.

- a) Board Committees.

The Board may from time-to-time establish one or more standing or ad hoc committees consisting of Directors to assist in carrying out the purposes and objects of the Agency, including but not limited to a Budget and Finance Committee, Planning Committee, and an Executive Committee. The Board shall determine the purpose and need for such committees. Meetings of standing committees shall be subject to the requirements of the Brown Act.

- b) Advisory Committee.

The Board shall establish an advisory committee consisting of Directors and non-Directors. The advisory committee shall be designed to ensure participation by and input to the Board of those constituencies set forth in Water Code section 10723.2 whose interests are not directly represented on the Board. The Board shall determine the number and qualifications of committee members.

Article IX: Operations And Management

Section 9.1 – Initial Administrative And Legal Services.

One or more of the Members shall provide initial administrative, legal and other support services to the Agency at no charge until the appointment of the Permanent Board as provided in Section 6.3, above. The Members shall collectively determine which of the Members shall provide such services.

Section 9.2 – Contracting Administrative And Legal Services.

The Agency may engage one or more Members to provide administrative or legal services following the conclusion of the initial administrative and legal services described in Section 9.1 of this Agreement, on terms and conditions acceptable to the Board. Any Member so engaged shall have such responsibilities as are set forth in the contract for such Member's services.

Section 9.3 – Executive Director.

The Agency may appoint an Executive Director from time-to-time under terms and conditions to be determined by the Board. The Executive Director shall report to and serve at the pleasure of the Board. The Executive Director shall be responsible for the general administration of the Agency, the preparation and implementation of a GSP, and such other duties as may be determined by the Board. If the Board has contracted for administrative services as described in Section 9.2, above, and appoints an Executive Director, the Executive Director shall be responsible for the oversight and control of such contracted administrative services pursuant to the policies and directives established by the Board.

Section 9.4 – Legal Counsel And Other Officers.

a) General Counsel

The Agency may appoint a General Counsel from time-to-time under terms and conditions to be determined by the Board. The General Counsel shall report to and serve at the pleasure of the Board. The General Counsel shall be responsible for the general oversight of the Agency's legal affairs, including litigation. The Board may contract with other counsel for specialized legal services under the supervision of the General Counsel.

b) Treasurer and Auditor

The City of Salinas shall serve as the initial Treasurer and Auditor for the Agency upon its formation, and shall discharge the duties set forth in Sections 6505 and 6505.5 of the Act. Subsequent to formation of the Agency, the Board may appoint a separate Treasurer or separate Auditor pursuant to Section 6505.6 of the Act, and those officers shall discharge the duties set forth in Sections 6505 and 6505.5 of the Act, respectively. The Board may change such Auditor or Treasurer from time-to-time provided such change is consistent with the Act.

c) Custodian of Property

The Public Works Director of the City of Salinas (“PW Director”) shall serve as the initial Custodian of the Agency’s Property as set forth in Section 6505.1 of the Act upon the Agency’s formation. The PW Director shall file an official bond as described in Government Code section 1450 et seq. in the amount of \$50,000, the premium of which shall be paid by the Agency. Subsequent to the formation of the Agency, the Board may designate a different Custodian provided such Custodian files an official bond in an amount required by the Board.

b) Other Officers

Subject to the limits of the Agency’s approved budget, the Board may establish other officer positions and appoint and contract for the services of such other officers as it may deem necessary or convenient for the business of the Agency, all of whom shall serve at the pleasure of the Board.

Section 9.5 – Employees.

Subject to the limits of the Agency’s approved budget, the Agency may hire employees to discharge the duties and responsibilities of the Agency, subject to the general oversight and control of the Executive Director.

Section 9.6 – Independent Contractors.

Subject to the limits of the Agency’s approved budget, the Board may contract for the services of such consultants, advisers and independent contractors as it may deem necessary or convenient for the business of the Agency.

Article X: Financial Provisions

Section 10.1 – Fiscal Year.

The Fiscal Year of the Agency shall be July 1 – June 30.

Section 10.2 – Establishment Of Funds.

The Board shall establish and maintain such funds and accounts as may be required by generally accepted government accounting practices. The Agency shall maintain strict accountability of all funds and report all receipts and disbursements of the Agency on no less than a quarterly basis.

Section 10.3 – Budgets.

a) Initial Budgets

The initial budget of the Agency for the Fiscal Year ending June 30, 2017, shall not exceed \$50,000. The budgets of the Agency for Fiscal Years 2017 – 2018 and 2018 – 2019 shall not exceed \$1,100,000 each unless otherwise agreed to by the unanimous vote of the Members as

described in Section 10.4, below.

b) Regular Budgets

Beginning for Fiscal Year 2019 – 2020, no later than sixty (60) days prior to the end of each Fiscal Year, the Board shall adopt a budget for the Agency for the ensuing Fiscal Year. The Board may authorize mid-year budget adjustments, as needed by Super Majority Vote.

Section 10.4 – Initial Contributions.

a) Fiscal Years 2017 – 2018 and 2018 - 2019

In order to provide the necessary capital to initially fund the Agency during Fiscal Year 2017 - 2018, the Members identified below shall each provide the listed Initial Contribution to the Agency’s Treasurer/Auditor no later than July 7, 2017:

- 1) County: \$670,000
- 2) WRA: \$ 20,000
- 3) City of Salinas: \$330,000
- 4) City of Gonzales: \$ 20,000
- 5) City of Soledad: \$ 35,000
- 6) City of Greenfield: \$ 35,000
- 7) City of King: \$ 30,000
- 8) Castroville CSD \$ 20,000

In order to provide the necessary capital to fund the Agency during Fiscal Year 2018 – 2019, the Members identified below shall each provide the listed Initial Contribution to the Agency’s Treasurer/Auditor no later than July 6, 2018:

- 1) County: \$670,000
- 2) WRA: \$ 20,000
- 3) City of Salinas: \$330,000
- 4) City of Gonzales: \$ 20,000
- 5) City of Soledad: \$ 35,000
- 6) City of Greenfield: \$ 35,000
- 7) City of King: \$ 30,000
- 8) Castroville CSD \$ 20,000

b) Additional Initial Contributions

New Members not listed above executing this Agreement no later than the Determination Date shall pay a minimum Initial Contribution of twenty thousand dollars (\$20,000) per year for the two fiscal years. New Members not listed above executing this Agreement after the

Determination Date shall pay a minimum Initial Contribution of fifty thousand dollars (\$50,000) per year for the two fiscal years.

Should the Board determine that additional funding for each of Fiscal Years 2017 – 2018 and 2018 – 2019 is necessary for Agency operations the Board shall adopt a resolution requesting each of the Members to consider additional funding and demonstrating in detail 1) the need for the funding, and 2) the purposes for which the additional funding will be utilized. Such requested funding shall be in the same proportion as the Initial Contributions set forth in Section 10.4 (a) unless the Members unanimously agree otherwise.

Upon receipt of the resolution requesting additional funding representatives of the Members may meet and confer regarding the request; however, each Member shall consider and act upon the request no later than 30 (thirty) days following the adoption of the resolution by the Board.

c) Reimbursement of Initial Contributions

To the extent the Agency is able to secure other funding sources, and to the extent permitted by law, the Agency shall reimburse these Initial Contributions to the Members on a proportionate basis in relation to their cumulative Initial Contributions to the Agency.

Section 10.5 – Payments To The Agency.

All costs and expenses of the Agency may be funded from: (i) voluntary contributions from third parties; (ii) grants; (iii) contributions from Members from time to time to supplement financing of the activities of the Agency; (iv) advances or loans from the Members or other sources; (v) bond revenue; and, (vi) taxes, assessments, fees and/or charges levied by the Agency under the provisions of SGMA or as otherwise authorized by law.

Section 10.6 – Directors’ Stipends and Expenses.

Directors shall be eligible to receive a stipend in the amount of \$ 100 for each Board meeting actually attended plus mileage to and from Board meetings. In addition, Directors shall be reimbursed for the actual and necessary expenses incurred in the discharge of their duties pursuant to an adopted Board policy. Directors are not required to accept the stipend or mileage, or expenses, and may decline the same by written notice to the Board.

Article XI: Relationship Of Agency And Its Members

Section 11.1 – Separate Entity.

In accordance with Sections 6506 and 6507 of the Act, the Agency shall be a public entity separate and apart from the Members.

Section 11.2 – Liabilities.

In accordance with Section 6507 of the Act, the debt, liabilities and obligations of the Agency shall be the debts, liabilities and obligations of the Agency alone and not of its Members. The Members do not intend hereby to be obligated either jointly or severally for the debts, liabilities or obligations of the Agency, except as may be specifically provided for in California Government Code Section 895.2 as amended or supplemented.

Section 11.3 – Insurance.

The Agency shall procure appropriate policies of insurance providing coverage to the Agency and its Directors, officers and employees for general liability, errors and omissions, property, workers compensation, and any other coverage the Board deems appropriate. Such policies shall name the Members, their officers and employees as additional insureds.

Section 11.4 – Indemnity.

Funds of the Agency may be used to defend, indemnify, and hold harmless the Agency, each Member, each Director, and any officers, agents and employees of the Agency for their actions taken within the course and scope of their duties while acting on behalf of the Agency. To the fullest extent permitted by law, the Agency agrees to save, indemnify, defend and hold harmless each Member from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney’s fees and costs, court costs, interest, defense costs, and expert witness fees, where the same arise out of, or are attributable in whole or in part, to negligent acts or omissions of the Agency or its employees, officers or agents or the employees, officers or agents of any Member, while acting within the course and scope of an Member relationship with the Agency. Notwithstanding the foregoing, the sole negligence, gross negligence, or intentional acts of any Member is exempted from this Section 11.3 - Indemnity.

Section 11.5 – Agreements With Members

The Agency intends to carry out activities in furtherance of its purposes consistent with the powers established by this Agreement and with the participation of all Members. Notwithstanding the foregoing, the Board shall have the authority to approve any agreements with one or more Members in order to further the purposes of the Agency, including, but not limited to, the commencement of a condemnation action within the jurisdictional boundary of the agreeing Member or Members.

Section 11.6 – Withdrawal Of Members.

a) Any Member shall the have the ability to withdraw by providing ninety (90) days written notice of its intention to withdraw. Said notice shall be given to the Board and to each of the other Members. If such Member is an Appointing Authority, the Member’s withdrawal shall not be effective unless and until the non-withdrawing Members agree to an amendment to this

Agreement providing for the composition of and appointment to the Board.

b) A Member shall not be fiscally liable for any contribution to an adopted budget provided that the Member provides written notice ninety (90) days prior to the adoption of the budget of its intention to withdraw.

c) In the event of a withdrawal, this Agreement shall continue in full force and effect among the remaining members as set forth in Section 11.8, below.

d) Notwithstanding the foregoing, Members shall not have the ability to withdraw if there is outstanding bonded debt or other long term liability of the Agency unless and until it is determined by the Board by Super Majority Vote that the withdrawal of the Member shall not adversely affect the ability of the Agency to perform its financial obligations pursuant to the bonded debt or other liability. The Board shall communicate its finding to the non-withdrawing Members who may approve the withdrawal by unanimous vote.

Section 11.7 – Termination Of Members.

a) As an alternative to pursuing litigation against a Member for failure to meet its funding obligations set forth in this Agreement or as may be adopted by the Board from time to time, the Board may vote to terminate such Member. The Board shall transmit its determination to the Members who may approve the termination by unanimous vote of the Members not proposed to be terminated. If such Member is an Appointing Authority, the Member's termination shall not be effective unless and until the non-terminated Members agree to an amendment to this Agreement providing for the composition of and appointment to the Board.

b) In the event of a termination, this Agreement shall continue in full force and effect among the remaining members as set forth in Section 11.8, below.

c) Notwithstanding the foregoing, Members may not be terminated if there is outstanding bonded debt or other long term liability of the Agency unless and until it is determined by the Board by Super Majority Vote that the termination of the Member shall not adversely affect the ability of the Agency to perform its financial obligations pursuant to the bonded debt or other liability. The Board shall communicate its finding to the Members who may approve the termination by unanimous vote of the Members not proposed to be terminated.

Section 11.8 – Continuing Obligations; Withdrawal Or Termination.

a) Provided that at least two Members remain, the withdrawal or termination of one or more Members shall not terminate this Agreement or result in the dissolution of the Agency; this Agreement shall remain in full force and effect among the remaining Members; and the Agency shall remain in operation.

b) Except as provided in Section 11.6 (b), any withdrawal or termination of a Member shall not relieve the Member of its financial obligations under this Agreement in effect prior to the effective date of the withdrawal or termination.

Section 11.9 – Disposition Of Money Or Property Upon Board Determination Of Surplus.

Upon determination by the Board that any surplus money is on hand, such surplus money shall be returned to the then existing Members in proportion to their cumulative contributions to the Agency, or such surplus money may be deposited in a Board designated reserve account. Upon determination by the Board that any surplus properties, works, rights and interests of the Agency are on hand, the Board shall first offer any such surplus for sale to the Members and such sale shall be based on highest bid received. If no such sale is consummated, the Board shall offer the surplus properties, works, rights and interests of the Agency for sale in accordance with applicable law to any governmental agency, private entity or persons for good and adequate consideration.

Section 11.10 – Termination And Dissolution.

a) Mutual Consent

i) Except as otherwise provided in this Section 11.10 (a), this Agreement may be terminated and the Agency dissolved at any time upon the unanimous approval of the Members provided that provision has been made by the Members for the payment, refunding, retirement, or other disposition of any bonded debt or other long term liability in the name of the Agency.

ii) Upon Dissolution of the Agency, each then existing Member shall receive a proportionate share, based upon the cumulative contributions of all then remaining Members, of any remaining assets after all Agency liabilities and obligations have been paid in full. The distribution of remaining assets may be made “in kind” or assets may be sold and the proceeds thereof distributed to the Members. The Agency shall remain in existence for such time as is required to determine such distribution, and the Board, or other person or entity appointed by the Members, shall be responsible for its determination. Such distribution shall occur within a reasonable time after a decision to terminate this Agreement and dissolve the Agency has been approved by the Members. No former Member that previously withdrew or was terminated as of the effective date of the decision to terminate this Agreement and dissolve the Agency shall be entitled to a distribution upon dissolution.

b) Insufficient Members

Subject to the provisions of Sections 11.6 and 11.7, should Members either be terminated or withdraw such that only one Member remains, this Agreement shall terminate and the Agency dissolved. In such event the last remaining Member shall be entitled to all assets of the Agency.

c) Failure to be Financially Sustainable

In the event that the Agency does not take the necessary actions to create a sustainable revenue stream necessary to fully finance its operating budget by the end of Fiscal Year 2018 – 2019 this Agreement shall terminate and the Agency shall be dissolved, unless otherwise agreed to by amendment to this Agreement approved unanimously by all then-existing Members. In the event of such termination and dissolution, the process of dissolution shall begin on July 1, 2019, and proceed as set forth in Section 11.10 (a) (ii), above.

d) Legislative Determination

Should the State adopt legislation specifying that the Basin should be managed by a statutorily designated entity this Agreement shall terminate and the Agency shall be dissolved upon such terms and conditions as the legislation may designate. Upon such dissolution, the assets and liabilities of the Agency shall be disposed of in the manner specified by the legislation. If the legislation does not so specify, the assets and liabilities of the Agency shall be disposed of in the manner provided in Section 11.10 (a), above.

Article XII: Miscellaneous Provisions

Section 12.1 – Complete Agreement.

The foregoing constitutes the full and complete Agreement of the Members. This Agreement supersedes all prior agreements and understandings, whether in writing or oral, related to the subject matter of this Agreement that are not set forth in writing herein.

Section 12.2 – Amendment.

This Agreement may be amended from time-to-time by the unanimous consent of the Members, acting through their governing bodies. Such amendments shall be in the form of a writing signed by each Member.

Section 12.3 – Successors And Assigns.

The rights and duties of the Members may not be assigned or delegated without the written consent of all other Members. Any attempt to assign or delegate such rights or duties in contravention of this Agreement shall be null and void. Any assignment or delegation permitted under the terms of this Agreement shall be consistent with the terms of any contracts, resolutions or indentures of the Agency then in effect.

This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the Members hereto. This section does not prohibit a Member from entering into an independent agreement with another person, entity, or agency regarding the financing of that Member's contributions to the Agency or the disposition of proceeds, which that Member receives under this Agreement so long as such independent agreement does not affect, or purport to affect, the rights and duties of the Agency or the Members under this Agreement.

Section 12.4 – Dispute Resolution.

In the event there are disputes and/or controversies relating to the interpretation, construction, performance, termination, breach of, or withdrawal from this Agreement, the Members involved shall in good faith meet and confer within twenty-one (21) calendar days after written notice has been sent to all the Members. In the event that the Members involved in the dispute ("Disputing Members") are not able to resolve the dispute through informal negotiation, the Disputing Members agree to submit such dispute to formal mediation before litigation. If Disputing Members cannot agree upon the identity of a mediator within ten (10) business days

after a Disputing Member requests mediation, then the non-Disputing Members shall select a mediator to mediate the dispute. The Disputing Members shall share equally in the cost of the mediator who ultimately mediates the dispute, but neither of the Disputing Members shall be entitled to collect or be reimbursed for other related costs, including but not limited to attorneys' fees. If mediation proves unsuccessful and litigation of any dispute occurs, the prevailing Member shall be entitled to reasonable attorneys' fees, costs and expenses in addition to any other relief to which the Member may be entitled. If a Disputing Member refuses to participate in mediation prior to commencing litigation, that Member shall have waived its right to attorneys' fees and costs as the prevailing party.

Section 12.5 – Execution In Parts Or Counterparts.

This Agreement may be executed in parts or counterparts, each part or counterpart being an exact duplicate of all other parts or counterparts, and all parts or counterparts shall be considered as constituting one complete original and may be attached together when executed by the Members hereto. Facsimile or electronic signatures shall be binding.

Section 12.6 – Member Authorization.

The governing bodies of the Members have each authorized execution of this Agreement, as evidenced by their respective signatures below.

Section 12.7 – No Predetermination Or Irrevocable Commitment of Resources.

Nothing herein shall constitute a determination by the Agency or any Members that any action shall be undertaken or that any unconditional or irrevocable commitment of resources shall be made, until such time as the required compliance with all local, state, or federal laws, including without limitation the California Environmental Quality Act, National Environmental Policy Act, or permit requirements, as applicable, have been completed.

Section 12.8 – Notices.

Notices authorized or required to be given pursuant to this Agreement shall be in writing and shall be deemed to have been given when mailed, postage prepaid, or delivered during working hours to the addresses set forth for each of the Members hereto on Exhibit "A" of this Agreement, or to such other changed addresses communicated to the Agency and the Members in writing.

Section 12.9 – Severability And Validity Of Agreement.

Should the participation of any Member, or any part, term or provision of this Agreement, be decided by the courts or the legislature to be illegal, in excess of that Member's authority, in conflict with any law of the State, or otherwise rendered unenforceable or ineffectual, the validity of the remaining portions, terms or provisions of this Agreement shall not be affected thereby and each Member hereby agrees it would have entered into this Agreement upon the same remaining terms as provided herein.

Section 12.10 – Singular Includes Plural.

Whenever used in this Agreement, the singular form of any term includes the plural form and the plural form includes the singular form.

IN WITNESS WHEREOF, the Members hereto, pursuant to resolutions duly and regularly adopted by their respective governing boards, have caused their names to be affixed by their proper and respective officers as of the day and year so indicated.

COUNTY OF MONTEREY

By _____
Chair of the Board of Supervisors

Dated: _____

APPROVED AS TO FORM

CHARLES J. MCKEE, County Counsel

By _____

WATER RESOURCES AGENCY OF THE COUNTY OF MONTEREY

By _____
Chair of the Board of Supervisors of the Water Resources Agency

Dated: _____

APPROVED AS TO FORM

CHARLES J. MCKEE, County Counsel

By _____

CITY OF SALINAS

By _____
Mayor

Dated: _____

APPROVED AS TO FORM

CHRISTOPHER CALLIHAN, City Attorney

By _____

CITY OF SOLEDAD

By _____
Mayor

Dated: _____

APPROVED AS TO FORM

_____, City Attorney

By _____

CITY OF GONZALES

By _____
Mayor

Dated: _____

APPROVED AS TO FORM

_____, City Attorney

By _____

CITY OF GREENFIELD

By _____
Mayor

Dated: _____

APPROVED AS TO FORM

_____, City Attorney

By _____

CITY OF KING

By _____
Mayor

Dated: _____

APPROVED AS TO FORM

_____, City Attorney

By _____

CASTROVILLE COMMUNITY SERVICES

By _____
Chair of the Board of Directors

APPROVED AS TO FORM

_____, District Counsel

EXHIBIT A

MEMBERS

COUNTY OF MONTEREY
County Administrative Officer
168 W. Alisal St., Salinas, CA 93901

WATER RESOURCES AGENCY OF MONTEREY COUNTY
General Manager

CITY OF SALINAS
City Manager

CITY OF SOLEDAD
City Manager

CITY OF GONZALES
City Manager

CITY OF GREENFIELD
City Manager

CITY OF KING (KING CITY)
City Manager

CASTROVILLE COMMUNITY SERVICES DISTRICT
General Manager

EXHIBIT B

BOARD OF DIRECTORS

<u>Director</u>	<u>Representing</u>	<u>Specific Qualifications</u>	<u>Appointing Authority</u>
a) City of Salinas.	City of Salinas.	To be determined by the Appointing Authority.	Salinas City Council.
b) South County Cities.	Cities of Gonzales, Soledad, Greenfield, and King City.	To be determined by the Appointing Authority.	Appropriate City Council as recommended by the City Selection sub-Committee.
c) Other GSA Eligible Entity.	GSA Eligible Entities but not including the cities of Salinas, Gonzales, Soledad, Greenfield or King City.	Must be a representative of a GSA Eligible Entity but not including the cities of Salinas, Gonzales, Soledad, Greenfield or King City.	Monterey County Board of Supervisors.
d) Disadvantaged Community, or Public Water System, including Mutual Water Companies serving residential customers.	Unincorporated Disadvantaged Communities, or Public Water Systems, including Mutual Water Companies serving residential customers only.	Must be a resident of a Disadvantaged Community in the unincorporated area, or a representative Public Water System, including Mutual Water Companies serving residential customers only.	Castroville Community Services District.
e) CPUC Regulated Water Company.	CPUC Regulated Water Companies in the Basin.	Must be a representative of a CPUC Regulated Water	Salinas City Council.

f)	Agriculture.	Agricultural interests.	<p>Company.</p> <p>Must be an individual that is: 1) engaged in, and derives the majority of his or her gross income or revenue from, commercial agricultural production or operations; or 2) designated by an entity this is engaged in commercial agricultural production or operations, and the individual derives the majority of his or her gross income or revenue from agricultural production or operations, including as an owner, lessor, lessee, manager, officer, or substantial shareholder of a corporate entity.</p>	Monterey County Board of Supervisors.
g)	Agriculture.	Agricultural interests.	Same as (f).	Monterey County Board of Supervisors.
h)	Agriculture.	Agricultural interests.	Same as (f).	Monterey County Board of Supervisors.
i)	Agriculture.	Agricultural interests.	Same as (f).	Monterey County Board of Supervisors.
j)	Environment.	Environmental users and interests.	Must be a representative of an	Monterey County

		established environmental organization that has a presence or is otherwise active in the Basin.	Board of Supervisors.
k)	Public Member.	Interests not otherwise represented on the Board.	Monterey County Board of Supervisors.

DRAFT

EXHIBIT C

OTHER GSA ELIGIBLE ENTITY DIRECTOR POSITION NOMINATING GROUP

COUNTY OF MONTEREY

WATER RESOURCES AGENCY OF MONTEREY COUNTY

MONTEREY REGIONAL WATER POLLUTION CONTROL AGENCY

DRAFT

EXHIBIT D

**DISADVANTAGED COMMUNITY, OR PUBLIC WATER SYSTEM, INCLUDING
MUTUAL WATER COMPANIES SERVING RESIDENTIAL CUSTOMERS DIRECTOR
POSITION NOMINATING GROUP**

CASTROVILLE COMMUNITY SERVICES DISTRICT (Group Contact)

Eric Tynan, General Manager

11499 Geil St.

Castroville, CA 95012

(831) 633-2560 phone

(831) 633-3102 fax

info@castrovillecsd.org

ENVIRONMENTAL JUSTICE COALITION FOR WATER

SAN JERARDO COOPERATIVE

SAN ARDO WATER DISTRICT

SAN VICENTE MUTUAL WATER COMPANY

EXHIBIT E

CPUC REGULATED WATER COMPANY DIRECTOR POSITION NOMINATING GROUP

ALISAL WATER CORPORATION DBA ALCO WATER SERVICE (Group Contact)

Thomas R. Adcock, President

249 Williams Road

Salinas, CA 93905

831-424-0441 phone

831-424-0611 fax

tom@alcowater.com

CALIFORNIA WATER SERVICE COMPANY

EXHIBIT F

ENVIRONMENT DIRECTOR POSITION NOMINATING GROUP

SUSTAINABLE MONTEREY COUNTY

LEAGUE OF WOMEN VOTERS OF MONTEREY COUNTY

LANDWATCH MONTEREY COUNTY

FRIENDS AND NEIGHBORS OF ELKHORN SLOUGH

CALIFORNIA NATIVE PLANT SOCIETY, MONTEREY CHAPTER

TROUT UNLIMITED

SURFRIDERS

THE NATURE CONSERVANCY

CARMEL RIVER STEELHEAD ASSOCIATION



Monterey County

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Report

Legistar File Number: WRAG 17-003

January 17, 2017

Introduced: 1/6/2017

Version: 1

Current Status: Agenda Ready

Matter Type: WR General Agenda

Consider options for the 2017 nomination and election of officers of the Board of Directors:

- (a) Adopt a Resolution suspending By-Law 3.2 for the 2017 nomination and election of officers; and either
- (b) Receive nominations from the floor and elect officers; or
- (c) Appoint a committee to nominate candidates for officers and conduct elections at the January 30, 2017 Board of Directors meeting.

RECOMMENDATION:

It is recommended that the Monterey County Water Resources Agency Board of Directors:

- a. Adopt a Resolution suspending By-Law 3.2 for the 2017 nomination and election of officers; and either
- b. Receive nominations from the floor for Chair and Vice Chair and elect officers at this meeting; or
- c. Appoint a committee to nominate candidates for officers and conduct elections at the January 30, 2017 Board of Directors meeting.

SUMMARY/DISCUSSION

Agency By-Law 3.02 provides how candidates are to be nominated and elected for the offices of Chair and Vice Chair of the Board of Directors. That By-Law provides:

3 .02. Qualification, Selection, and Term. Each Chair and Vice-Chair shall be members of the Board of Directors. The General Manager of the Agency shall be the Secretary for the Board but shall not vote at Board meetings. The Chair and Vice-Chair shall be elected by the Board at the Board's first meeting of January of each year, and shall serve for a period of one year or until a successor has been duly elected. A Board member shall not simultaneously hold more than one office. At the last regular meeting of the year, the Chair shall appoint an ad hoc nominating committee consisting of a chairperson and two directors. The Chair shall be an ex-officio member.

A nominating committee was not appointed by the last Board of Directors meeting on November 21, 2016. Therefore, it is necessary to suspend (waive) By-Law 3.02 to either waive the appointment of a nominating committee, or to appoint a nominating committee at this time. It would also be necessary to suspend By-Law 3.02 in order to hold elections after this first meeting in January, 2017.

OTHER AGENCY INVOLVEMENT:

None

FINANCING:

There is no fiscal impact as a result of suspending By-Law 3.02 and choosing either option listed in this report.

Prepared by: Jesse J. Avila, Deputy County Counsel, (831) 755-5045

Approved by: 
David E. Chardavoine, General Manager, (831) 755-8906

Attachments:

Resolution Suspending By-Law 3.2 for the 2017 Nomination and Election of Officers



*Before the Board of Directors of the Monterey County Water Resources Agency
County of Monterey, State of California*

RESOLUTION No. 17-R01

- Adopt Resolution to suspend By-Law 3.2 for the 2017 nomination and election of officers; and either**)
- a. Receive nominations from the floor and elect officers; or,**)
- b. Appoint a committee to nominate candidates for officers and conduct elections at the January 30, 2017 Board of Directors meeting.**)

WHEREAS, Agency By-Law 3.02 provides the process for the nomination and election of the Chair and Vice Chair of the Agency Board of Directors.

WHEREAS, By-Law 3.02 provides:

3 .02. Qualification, Selection, and Term. Each Chair and Vice-Chair shall be members of the Board of Directors. The General Manager of the Agency shall be the Secretary for the Board but shall not vote at Board meetings. The Chair and Vice-Chair shall be elected by the Board at the Board's first meeting of January of each year, and shall serve for a period of one year or until a successor has been duly elected. A Board member shall not simultaneously hold more than one office. At the last regular meeting of the year, the Chair shall appoint an ad hoc nominating committee consisting of a chairperson and two directors. The Chair shall be an ex-officio member.

WHEREAS, a nominating committee was not appointed by the last Board of Directors meeting on November 21, 2016. Therefore, the Board desires to suspend (waive) By-Law 3.02 to either waive the appointment of a nominating committee and proceed to elections at the Board's January 17, 2017 meeting, or to appoint a committee to nominate candidates for consideration and election at the Board's January 30, meeting.

WHEREAS, it would also be necessary to suspend By-Law 3.02 to preserve the Board option to hold elections on January 30, 2017, instead of this first meeting of January 20.

NOW THEREFORE, BE IT RESOLVED, that the Monterey County Water Resources Agency Board of Directors:

1. Hereby suspends By-Law 3.2 for the 2017 nomination and election of officers in order to either

- a. Receive nomination from the floor and elect officers on January 20, 2017; or
- b. Appoint a committee on January 20, 2017, to nominate candidates for Chair and Vice Chair, and conduct elections at the January 30, 2017 Directors meeting.

PASSED AND ADOPTED this **17th** day of **January, 2017**, at a regular meeting of the Monterey County Water Resources Agency Board of Directors by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

BY: David Hart, Chair
Board of Directors

ATTEST: David E. Chardavoyne
General Manager



Monterey County

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Report

Legistar File Number: WRAA 17-002

January 17, 2017

Introduced: 1/9/2017

Current Status: Agenda Ready

Version: 1

Matter Type: WR Agreement

Consider recommending the Monterey County Water Resources Agency Board of Supervisors approve an Agreement for And Consent to Co-Location and Compatible Use Pipeline Easement; and authorize the General Manager to Execute the Agreement.

RECOMMENDATION:

It is recommended that the Monterey County Water Resources Agency Board of Directors recommend the Monterey County Water Resources Agency Board of Supervisors:

- a. Approve an Agreement for And Consent to Co-Location and Compatible Use Pipeline Easement.
- b. Authorize the General Manager to Execute the Agreement.

SUMMARY/DISCUSSION:

In 2008, Monterey County Water Resources Agency (Agency) purchased a 20-foot wide easement from Monterey Regional Waste Management District (District) along the perimeter of the District property to convey water from the Agency's Salinas River Diversion Facility (SRDF) for use in the Castroville Seawater Intrusion Project. The Monterey Regional Water Pollution Control Agency (MRWPCA) now seeks to obtain from the District its own pipeline easement, to run parallel with and mostly within the SRDF easement of the Agency, to convey water from its Blanco Drain facility for use in its Pure Water Monterey Project. In order for the District to meet this request, the Agency must agree and consent to the District's grant of a second easement allowing the placement by MRWPCA of a parallel ("co-located") pipeline.

The Agency, District, and MRWPCA have all met and agreed upon the general process for accomplishing the new co-location easement to incorporate MRWPCA's Blanco Drain pipeline. This Co-Location Agreement has been approved by the District Board of Directors.

OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed and approved the attached Co-Location Agreement.

FINANCING:

Compensation to the Agency will be worked out among all three parties based on the Agency's purchase price, updated by cost of living increases, or the appraised value and incorporated into the easement conveyance agreement as agreed upon by the parties. MRWPCA has hired an appraiser to develop a fair assessment of the value of the easement and the conditions.

Prepared by: Brent Buche, Deputy General Manager, (831) 755-4860

Approved by:


David E. Chardavoyne, General Manager, (831) 755-4860

Attachments

1. Board Order
2. Agreement for and Consent to Co-Location and Compatible Use Pipeline Easement



***Before the Board of Directors of the Monterey County Water Resources Agency
County of Monterey, State of California***

BOARD ORDER No. _____

**RECOMMEND THAT THE MONTEREY COUNTY WATER RESOURCES)
AGENCY BOARD OF SUPERVISORS APPROVE AN AGREEMENT FOR)
AND CONSENT TO CO-LOCATION AND COMPATIBLE USE PIPELINE)
EASEMENT; AND AUTHORIZE THE GENERAL MANAGER TO)
EXECUTE THE AGREEMENT)**

Upon motion of Director _____, seconded by Director _____, and carried by those members present, the Board of Directors hereby:

Recommend that the Monterey County Water Resources Agency Board of Supervisors:

- a. Approve an Agreement for And Consent To Co-Location and Compatible Use Pipeline Easement.
- b. Authorize the General Manager to Execute the Agreement.

PASSED AND ADOPTED on this **date** day of **Month Year**, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

BY: David Hart, Chair
Board of Directors

ATTEST: David E. Chardavoyne
General Manager

[MRWPCA/Replenishment/mrwmdwraesementagmtamend110316]

**AGREEMENT FOR AND CONSENT TO CO-LOCATION AND COMPATIBLE USE
PIPELINE EASEMENT**

THIS AGREEMENT FOR CO-LOCATION AND COMPATIBLE USE OF PIPELINE EASEMENT ("2017 Agreement") FIRST AMENDMENT TO EASEMENT AGREEMENT ("Amendment") is entered into between the Monterey County Water Resources Agency, a California flood control, water conservation, and water resources agency (Agency"), and the Monterey Regional Waste Management District, a California Garbage and Refuse Disposal District ("District"). The Agency and District are sometimes referred to herein individually as "party" and collectively as "parties."

Recitals

A. By agreement entitled "AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY," ("2008 Agreement"), consisting, with attachments, of ___ pages, executed on _____, and recorded in the Office of the Monterey County Recorder on _____, as Document [no.] _____, Agency agreed to purchase from District certain interests in real property, including a permanent underground pipeline easement ("Pipeline Easement") set out in an attachment at _____ to the Agreement, entitled "Easement Deed." The 2008 Agreement is attached as Exhibit A. The Easement Deed, in the form set out in the referenced attachment, was executed by Grantor District on March 13, 2008, accepted by Grantee Agency on March 17, 2008, and recorded in the Office of the Monterey County Recorder on May 23, 2008 as Document 2008033083. The Easement Deed, as recorded, is attached as Exhibit B. The Pipeline Easement is a 20 feet wide, 2.29 acre permanent easement currently occupied by Agency's Salinas River Diversion Facility Pipeline, constructed by Agency to serve its Castroville Seawater Intrusion Project.

B. The Monterey Regional Water Pollution Control Agency ("the PCA") is involved in a number of water reclamation projects, one being the Blanco Drain

Diversion (“BDD”) Facility, comprised in part of facilities for pipeline conveyance of water from Blanco Drain to PCA’s Regional Treatment Plant. PCA, having concluded that the most economical and convenient routing for the BDD pipeline includes a section of District property subject of the Agency’s pipeline easement, has requested Agency and District to agree to allow PCA to share use, by means of a grant of easement from District to PCA, of certain dimensions of Agency’s pipeline easement for installation and construction of a portion of the sixteen inch pipeline for BDD water.

C. Agency and District desire to accommodate PCA’s request. In order to do so, District wishes to grant a Co-Location and Compatible Use Pipeline Easement as set forth below.

Now, therefore, in consideration of the foregoing and the mutual covenants, agreements, and warranties contained in this 2017 Agreement, the parties hereto agree as follows:

1. INCORPORATION OF RECITALS

1.01 The Recitals set forth above are hereby incorporated into this 2017 Agreement.

2. CONSENT TO GRANT EASEMENT TO PCA

2.01 The Easement Deed granted by District and accepted by Agency, referenced in Recital A, above, provides in full at subsection (a) of Section V thereof:

“Grantor reserves the right to use the easement areas and the right of way for any and all purposes which will not interfere with Agency’s full enjoyment of the rights hereby granted; provided that Grantor not erect or construct any building or other structure, or drill or operate any well, or construct any reservoir or other obstruction within the underground pipeline easement, or diminish to within a minimum of five feet (5’) of ground cover over the pipeline, or add to for a total of more than (20’) of ground cover over pipeline, or

construct any fences that will interfere with the maintenance and operation of said facilities.”

2.02 The parties hereto agree that District may grant PCA an easement to co-locate pipeline within the Pipeline Easement described in Recital B, above. Agency hereby consents to District’s grant of the co-location easement. Agency and District agree that no party shall assert that PCA’s co-location of a pipeline shall constitute a violation of either the Agency’s or District’s right in the easement area described in the 2008 Agreement, so long as all conditions, limitations, and restrictions of the 2008 Agreement and this 2017 Agreement are observed.

2.03 The Agency shall be reserved the right to make non-disruptive use of the co-location easement area.

2.04 Attached hereto as Exhibit C is a form of Co-Location Agreement easement negotiated between PCA and District. Agency hereby consents to and approves this form of Co-Location Agreement, and consents to the grant of the co-location easement by district in the form set out in Exhibit C, and to acceptance of the grant of easement by PCA, subject to terms and conditions set out herein.

3. COMPENSATION

3.01 By written agreement, District shall require PCA to compensate Agency and District for all expenses, if any, incurred by Agency and District attributable to construction activities required for placement of the PCA pipeline pursuant to the grant of easement co-location subject of this 2017 Agreement. District shall require PCA to provide Agency and District proof of insurance covering Agency and District as an insured for any such expenses.

3.02 District shall compensate the Agency directly for the prorated value of the area in the Pipeline Easement upon which the PCA pipeline is to be placed, based on the original easement cost adjusted for inflation or the current fair market value of the area, whichever is less.

4. ENVIRONMENTAL MITIGATION MEASURES

4.01 PCA shall implement and maintain those mitigation measures relating to the placement and alignment of its pipelines, as identified in Environmental Impact Report SCH _____, certified on _____, by the PCA.

5. CONSTRUCTION AND MAINTENANCE

5.01 Pipeline installed by PCA shall be installed and maintained (including separation by distance from any Agency pipelines, if appropriate) according to the contents flowing through the PCA and Agency pipelines.

5.02 In exercising any right granted by the PCA co-location easement, temporary construction easement, or right of entry or access, PCA shall not adversely affect operations or activities by the Agency or District, or by any person with legal right to possession or access to the property.

6. DEFENSE AND INDEMNITY OF AGENCY

6.01 PCA shall defend and indemnify the Agency and District against any and all claims resulting from the grant of the co-location easement, and any activities relating to the PCA easement. The form of defense and indemnity shall be the Agency's standard indemnity clause.

6.02 PCA shall obtain and continuously maintain insurance (or permissible self-insurance) approved by the Agency's ex officio Risk Management Division, naming the District, Agency, and County of Monterey as additional insureds.

7. AMENDMENTS AND MODIFICATIONS

7.01 No modification or amendment of this agreement shall be valid unless it is set forth in writing and executed by the parties.

8. NON-DISCRIMINATION

8.01 Throughout the performance of this Agreement, the PCA will not unlawfully discriminate against any person because of race, color, religion, gender, national origin, ancestry, physical disability, medical condition, marital status, age older than 40, sexual preference, or any other status protected under federal, state or local law either in employment practices or in the furnishing of services to recipients. The parties shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. PCA shall comply fully with all federal, State and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to any target population designated herein shall not be deemed prohibited discrimination.

9. GOVERNING LAWS.

9.01 This Agreement is entered into in the County of Monterey, State of California, and shall be construed and enforced in accordance with the laws of the State of California. The parties hereby agree that the County of Monterey shall be the proper venue for any dispute arising hereunder.

10. COMPLIANCE WITH APPLICABLE LAW.

10.01 The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.

11. CONSTRUCTION OF AGREEMENT

11.01 The parties agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any exhibit or amendment. To that end, it is understood and agreed that this Agreement has been arrived at through negotiation, and that neither party is to be deemed the party which prepared this Agreement within the meaning of Civil Code Section 1654. Section and paragraph headings appearing herein are for convenience only and shall not be used to interpret the terms of this Agreement.

12. WAIVER

12.01 Any waiver of any term or condition hereof must be in writing. No such waiver shall be construed as a waiver of any other term or condition herein.

13. SUCCESSORS AND ASSIGNS

13.01 This Agreement and all rights, privileges, duties and obligations hereunder, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns and heirs.

14. CONTRACTOR

14.01 The obligations imposed by this Agreement, to the extent they apply to PCA, include PCA's officers, agents, employees, and contractors acting on behalf of PCA in the performance of this Agreement.

15. INTERPRETATION OF CONFLICTING PROVISIONS

15.01 In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

16. TIME IS OF THE ESSENCE

16.01 The parties mutually acknowledge and agree that time is of the essence with respect to every provision hereof in which time is an element. No extension of time for performance of any obligation or act shall be deemed an extension of time for performance of any other obligation or act, nor shall any such extension create a precedent for any further or future extension.

17. NOTICES

Notices required under this Agreement shall be delivered personally or by electronic facsimile, or by first class or certified mail with postage prepaid. Notice shall be deemed effective upon personal delivery or facsimile transmission, or on

the third day after deposit with the U.S. Postal Service. Each party shall give the other party prompt notice of any change of address. Unless otherwise changed according to these notice provisions, notices shall be addressed as follows:

To DISTRICT

To AGENCY

Name:

Name:

Address:

Address:

Telephone:

Telephone:

Fax:

Fax:

E-Mail:

E-Mail:

18. EXHIBITS

The following Exhibits are attached hereto and incorporated by reference:

Exhibit A - Scope of Work/ Work Schedule

Exhibit B -

Exhibit C -

19. ENTIRE AGREEMENT

19.01 As of the effective date of this Agreement, this document, including all exhibits hereto, constitutes the entire agreement between the parties, and supersedes any and all prior written or oral negotiations and representations between the parties concerning all matters relating to the subject of this Agreement.

**MONTEREY COUNTY WATER
RESOURCES AGENCY**

**MONTEREY REGIONAL WASTE
MANAGEMENT DISTRICT, A CALIFORNIA
GARBAGE AND REFUSE DISPOSAL
DISTRICT**

By: _____
General Manager Date

By: _____
Date

**Approved as to Form and Legality:
Office of the County Counsel**

Approved as to Form and Legality:

By: _____
Deputy County Counsel Date

_____ Date

Approved as to Fiscal Provisions:

By: _____
Auditor-Controller Date

Approved as to Indemnity, Insurance Provisions:

By: _____
Risk Management Date



Monterey County

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Report

Legistar File Number: WRAG 17-012

January 17, 2017

Introduced: 1/12/2017

Current Status: Agenda Ready

Version: 1

Matter Type: WR General Agenda

Consider authorizing the General Manager of the Monterey County Water Resources Agency, in consultation, and with the approval of, National Marine Fisheries Service (NMFS) to release up to 460 cfs from Nacimiento Reservoir for an agreed upon period of time prior to February 1, 2017, in order to enhance adult steelhead upstream migration.

RECOMMENDATION:

It is recommended that the Monterey County Water Resources Agency Board of Directors:

Authorize the General Manager of the Monterey County Water Resources Agency, in consultation, and with the approval of, National Marine Fisheries Service (NMFS) to release up to 460 cubic-feet per second (cfs) from Nacimiento Reservoir for an agreed upon period of time prior to February 1, 2017, in order to enhance adult steelhead upstream migration.

SUMMARY/DISCUSSION:

After five years of drought conditions, NFMS and the Monterey County Water Resources Agency (Agency) staff started working together last fall to develop a plan for winter reservoir releases. These releases are to enhance adult steelhead upstream migration conditions during winters following a period of two consecutive dry years that result in a lack of sufficient migration flows in the Arroyo Seco and Salinas river watersheds. This plan is anticipated to be completed during the first quarter of this calendar year.

Prior to the completion of the operations plan currently being worked on by NMFS and Agency staff, NMFS mailed a letter on January 5, 2017, recommending the Agency follow these parameters to enhance adult upstream migration conditions for the end of January:

1. MCWRA should release 400 cfs for up to 40 days starting late January if the combined storage of Nacimiento and San Antonio reservoirs was greater than 135,000 acre-feet,
2. MCWRA should confer with NMFS to evaluate other flow management options if the combined storage of Nacimiento and San Antonio reservoirs was less than 135,000 acre-feet.
3. Monitor streamflow and adult steelhead migration conditions in the Salinas River and Arroyo Seco, and implement sandbar management activities if needed.

These recommendations were based on expectations of conditions drier than has actually been experienced in the first two weeks in January. Hydrologic conditions have dramatically changed in January. The Arroyo Seco River is currently flowing to the ocean after the Salinas River mouth opened on January 12, 2017, for the first time since January 2013. It is anticipated that contiguous flow from the upper Salinas River will also reach the ocean soon. The resulting inflows to both reservoirs from the last series of storms have increased the combined reservoir

storage to approximately 250,000 acre-feet.

These hydrologic conditions are likely to provide natural river flows for adult upstream migration. With more rain in the forecast, staff recommends to continue evaluating hydrologic and river channel flow conditions to determine if there is an opportunity to make releases from Nacimiento Reservoir before February 1. This will increase the number of passage days for adult upstream migration for the remainder of the month of January.

For the months of February and March, the Biological Opinion for the Salinas Valley Water Projects contains a flow prescription requiring the Agency to provide reservoir releases to enhance adult upstream migration as long as the Salinas River Lagoon is open to the ocean and flow triggers are met in the Arroyo Seco.


OTHER AGENCY INVOLVEMENT:

National Marine Fisheries Services

FINANCING:

There is a possibility for increased revenue from hydroelectric power generation, depending on the number of days of reservoir releases above 60 cfs, up to 460 cfs.

Prepared by: Germán Criollo, Associate Hydrologist, (831) 755-4860

Approved by: 
David E. Chardavoyne, General Manager, (931) 755-4860

Attachments:

NMFS letter dated January 5, 2017



*Before the Board of Directors of the Monterey County Water Resources Agency
County of Monterey, State of California*

BOARD ORDER No. _____

AUTHORIZE THE GENERAL MANAGER, IN CONSULTATION, AND)
WITH THE APPROVAL OF, NATIONAL MARINE FISHERIES SERVICES)
(NMFS), TO RELEASE UP TO 460 CFS FROM NACIMIENTO RESERVOIR)
FOR AN AGREED UPON PERIOD OF TIME PRIOR TO FEBRUARY 1, 2017)
IN ORDER TO ENHANCE ADULT STEELHEAD UPSTREAM MIGRATION.)

Upon motion of Director _____, seconded by Director _____, and carried by those members present, the Board of Directors hereby:

Authorizes the General Manager, in consultation and with the approval of National Marine Fisheries Services (NMFS), to release up to 460 cfs from Nacimiento Reservoir for an agreed upon period of time prior to February 1, 2017 in order to enhance adult steelhead upstream migration.

PASSED AND ADOPTED on this 17th day of January, 2017, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

BY: David Hart, Chair
Board of Directors

ATTEST: David E. Chardavoyne
General Manager



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

West Coast Region
777 Sonoma Avenue, Room 325
Santa Rosa, California 95404

January 5, 2017

Refer to NMFS No: SWR-2003-2080

David Hart, Chair
Monterey County Water Resources Agency
Board of Directors
893 Blanco Circle
Salinas, California 93901-4455

Dear Mr. Hart:

This letter is in response to the Monterey County Water Resources Agency's (MCWRA) December 12, 2016, *Winter 2016-2017 Reservoir Release Analysis* memorandum provided to NOAA's National Marine Fisheries Service (NMFS) on December 13, 2016 (MCWRA 2016a). The memorandum summarizes MCWRA's analysis of potential water release scenarios from Nacimiento Reservoir during winter of 2016/2017 in order to supplement natural flows from Arroyo Seco and increase the likelihood of successful adult steelhead (*Oncorhynchus mykiss*) migration to spawning habitat in Arroyo Seco. Steelhead in the Salinas River watershed are part of the South-Central California Coast steelhead Distinct Population Segment which is listed as a threatened species under the U.S. Endangered Species Act of 1973.

Over the last five years, the Salinas River watershed has experienced extreme drought conditions that severely impacted stream flows throughout the Salinas basin, reservoir storage, groundwater elevations, sea water intrusion rates, and agricultural water supplies. The Salinas Valley Water Project (SVWP) did not include a drought contingency plan for reservoir operations following consecutive drought years. As a result, significant stretches of the lower Salinas River have remained dry since 2013. NMFS is concerned the lack of sufficient migration flows during this prolonged drought period has and will continue to adversely affect the Salinas River steelhead population. For example, according to the criteria developed for the SVWP, there have been no suitable passage days¹ for adult steelhead to enter the Salinas River watershed since the 2010/2011 migration season.

NMFS and MCWRA are working diligently to develop a drought contingency plan for ongoing water operations under the SVWP, which is expected to be completed by winter 2017/2018. For this migration season, however, an interim release strategy is necessary to ameliorate the impacts of another dry year on steelhead. NMFS and MCWRA met several times between October and

¹ Adult upstream passage conditions are considered represented as five or more consecutive days of mean daily flow of 260 cubic feet per second or larger mean daily flow, as measured by USGS Salinas River near Chualar stream gauge (11152300), when the mouth of the Salinas River is open to the ocean (MCWRA 2005); the first day of passage is the beginning date of the first period with five consecutive days (NMFS 2007).



December 2016, to discuss potential 2016/2017 winter release scenarios. The scenarios were summarized in MCWRA December 13 memorandum.

Based on those discussions, our review of the memorandum, and MCWRA's water budget for the 2017 water year (*i.e.*, summer irrigation demands and reservoir storage), we offer the following recommendations:


1. If the combined storage of Nacimiento and San Antonio reservoirs is at or near 150,000 acre-feet by the end of January (greater than 135,000 acre-feet), MCWRA should provide releases from Nacimiento Reservoir at a rate of approximately 400 cubic feet per second (cfs) for up to 40 days, starting in late January. Starting releases in late January is expected to maximize the chances of reservoir releases reaching the confluence of Arroyo Seco and supplementing naturally-occurring Arroyo Seco stream flows, which are most likely to occur between mid-February and early March. Following the 40 days, minimum Nacimiento Reservoir releases of 60 cfs should be maintained if reservoir inflow conditions are similar to water year 2016. The combined storage of 150,000 acre-feet is approximately equal to the peak combined reservoir storage for the 2016 water year.
2. If the combined reservoir storage is less than 135,000 acre-feet by late January, MCWRA and NMFS should confer to evaluate reservoir storage conditions, weather forecasts, and evaluate different flow management options.
3. In conjunction with Nacimiento Reservoir releases, MCWRA should: (a) monitor the effectiveness of reservoir releases via their Adult Steelhead Escapement Monitoring Program (FISHBIO 2014); (b) monitor stream flow in the Salinas River and Arroyo Seco (*e.g.*, Salinas Valley Water Project Annual Flow Monitoring Report [MCWRA 2016b]); and (c) be prepared to implement sandbar management activities, if necessary.

NMFS recognizes that even with the recommended Nacimiento Reservoir releases, a large flow event (or series of smaller flow events) are necessary to create connectivity between the Arroyo Seco and the Salinas River lagoon and enable adult steelhead to successfully migrate upstream to suitable spawning habitat. MCWRA's proposal is an attempt to increase the likelihood of suitable migration flows for adult steelhead for the first time since the 2010/2011 migration season. NMFS believes the potential benefits of the increased reservoir releases outweigh the immense risk of taking no action that may result in a sixth year of no adult steelhead migrating into the watershed.

We thank MCWRA for working diligently and collaboratively with NMFS on this matter which we expect will serve as a pilot drought contingency plan for ongoing water operations by the MCWRA. We look forward to working with MCWRA as they: (1) develop a project description (*i.e.*, drought contingency plan) pursuant to the reinitiation of consultation between NMFS and the U.S. Army Corps of Engineers on the SVWP; and (2) begin developing a framework for a habitat conservation plan for their water operations and infrastructure.

Please direct questions regarding this letter to Mr. William Stevens at (707) 575-6066, or via e-mail at William.Stevens@noaa.gov.

Sincerely,



Alecia Van Atta
Assistant Regional Administrator
California Coastal Office

cc: David Chardavoyne, Howard Franklin, Germán Criollo, Elizabeth Krafft, MCWRA, Salinas
Holly Costa, Katerina Galacatos, U.S. Army Corps, San Francisco
Jacob Martin, U.S. Fish and Wildlife Service, Watsonville, California
Carrie Swanberg, California Department of Fish and Wildlife, Fresno
Kim Sanders, Central Coast Regional Water Quality Control Board, San Luis Obispo
Copy to ARN 151422SWR2003SR8711
Copy to Chron File

Literature Cited

- FISHBIO. 2014. Salinas River Basin Adult Steelhead Escapement Monitoring, 2014 Annual Report. *Submitted to:* Monterey County Water Resources Agency. FIHSBIO, Oakdale, California. June 2014. 14 pp.
- MCWRA (Monterey County Water Resources Agency). 2005. Salinas Valley Water Project Flow Prescription for Steelhead Trout in the Salinas River. Monterey County Water Resources Agency, Salinas, California. October 11, 2005. 42 pp + appendices.
- MCWRA (Monterey County Water Resources Agency). 2016a. Memorandum from Jason Demers to Howard Franklin. Winter 2016 – 2017 Reservoir Release Analysis. Monterey County Water Resources Agency, Salinas, California. December 12, 2016. 16 pp.
- MCWRA (Monterey County Water Resources Agency). 2016b. Salinas Valley Water Project Annual Flow Monitoring Report, Operational Season 2015. Monterey County Water Resources Agency, Salinas, California. May 2016. 17 pp + appendices.
- NMFS (National Marine Fisheries Service). 2007. Biological opinion issued to the U.S. Army Corps of Engineers for the Monterey County Water Resources Agency's Salinas Valley Water Project in Monterey County, California. National Marine Fisheries Service, Southwest Region, Long Beach, California. File No: SWR/2003/2080; ARN: 151422SWR2003SR8711. June 21, 2007. 123 pp.

INFORMATION ITEMS



Monterey County

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Report

Legistar File Number: WRAG 17-006

January 17, 2017

Introduced: 1/9/2017

Version: 1

Current Status: Agenda Ready

Matter Type: WR General Agenda

Receive an update on the Salinas River Lagoon Sandbar Management activities.

RECOMMENDATION:

It is recommended that the Monterey County Water Resources Agency Board of Directors:

Receive an update on the Salinas River Lagoon Sandbar Management activities.

SUMMARY/DISCUSSION:

On Friday January 6, 2017, the California-Nevada River Forecasting Center forecasted extremely high flows in the Salinas River, specifically flowing past the Spreckels Gage at Highway 68. Staff contacted the Office of Emergency Services to inform them of the situation. They in turn, drafted an Emergency Proclamation which was signed by the CAO's Office. Staff arranged a conference call for Monday January 9, 2017 at 9:00 am with the US Army Corps of Engineers (Corps), NOAA National Marine Fisheries Service (NMFS), US Fish and Wildlife Services, Central Coast Regional Water Quality Control Board (RWQCB), California Department of Fish and Wildlife, California State Parks, and California Coastal Commission to discuss the probability of flooding due to these extreme flows.

On Monday only the Corps, NMFS and the RWQCB participated in the call. Staff pointed out that the Corps has determined that the Sandbar Management activities are outside their jurisdiction. RWQCB stated without a Corps permit they had no nexus to issue an Emergency 401 Certification. Therefore, the Corps committed to issuing an Emergency 404 Permit. It was agreed by all parties that the Monterey County Water Resources Agency (MCWRA) would commence sandbar management activities at 2:00 pm with the paperwork following close behind. Staff initiated work as agreed at 2:00 pm and worked until dark, completing approximately 75% of the work. However, at approximately 3:00 pm the Corps called the MCWRA to inform them that they had hastily stated that they would issue an Emergency Permit; and subsequently did not issue an Emergency Permit that would have covered the activities already performed. Because of this, staff is working with RWQCB in case a General Waste Discharge Requirement for dredge or fill discharges to waters deemed by the US Army Corps of Engineers to be outside federal jurisdiction is needed.

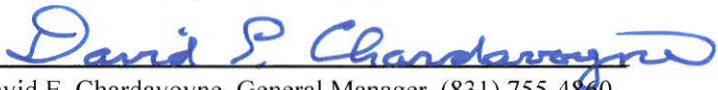
OTHER AGENCY INVOLVEMENT:

US Army Corps of Engineers, NOAA National Marine Fisheries Service, US Fish and Wildlife Services, Central Coast Regional Water Quality Control Board, California Department of Fish and Wildlife, California State Parks, and California Coastal Commission were requested to participate in the development the plan of action.

FINANCING:

Funding for this activity will come from Fund 116 Zone 2C Operations Account 9940 Salinas River Mouth.

Prepared by: Brent Buche Deputy General Manager, 755-4860

Approved by: 
David E. Chardavoyne, General Manager, (831) 755-4860

Attachments:

1. Proclamation of a Local Emergency by County Administrative Office.

**PROCLAMATION OF A LOCAL EMERGENCY
BY COUNTY ADMINISTRATIVE OFFICER**

In the Matter of Proclaiming the Existence)
of a Local Emergency within Monterey County)

WHEREAS, Section 2.68.060 of the Monterey County Code and Section 8630 of the Government Code empower the County Administrative Officer or his designee to proclaim the existence of a local emergency when the County is affected by a public calamity and the Board of Supervisors is not in session, subject to confirmation of the Board of Supervisors within seven days thereafter, and

WHEREAS, said County Administrative Officer or his designee does hereby find as follows;

Sandbar management activities are required at the Salinas River Lagoon Mouth. From modeling results performed by the National Weather Service California-Nevada River Forecast Center, this action is necessary effective January 6, 2017, due to flows into the Salinas River lagoon are forecasted to exceed 8,000 cubic feet per second. These conditions could lead to possible loss of life and property in areas near and adjacent the lagoon. Forecasted conditions may result in the following:

- Inundation of residences, including Twin Bridges Cabin Association
- Loss of safe ingress and egress
- Inundation of agricultural fields
- Erosion and excessive transport of sediment

This action is supported by the National Marine Fisheries Services (NMFS) in order to increase the likelihood of successful adult steelhead migration to spawning habitat in the Arroyo Seco River. The urgency of the aforementioned may necessitate actions at a time when the Board of Supervisors of the County of Monterey is not in session and immediate action is necessary to address these public health and safety issues: and

WHEREAS, The foregoing conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the Monterey County Water Resources Agency and the County of Monterey and require the combined forces of other political subdivisions to combat;

WHEREAS, That the aforesaid conditions of extreme peril warrant and necessitate the proclamation of the existence of a local emergency and immediate action is necessary to mitigate the effects of the local emergency; and

WHEREAS, That this emergency does not permit a delay resulting from a competitive solicitation to let contracts for bids, and immediate action is necessary to respond to the emergency, and

WHEREAS, said County Administrative Officer has made every reasonable effort to confer with one or more members of the Board of Supervisors, and declares that such a conference is impossible;

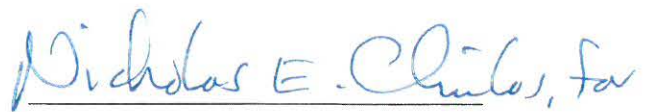
NOW, THEREFORE, IT IS PROCLAIMED, as defined in Government Section 8558c and Public Contract Code Section 1102 that a local emergency now exists throughout said County; and

That during the existence of said local emergency the powers, functions, and duties of the County Administrative Officer and the Emergency Organization of this County shall be those prescribed by State law and the ordinances, resolutions, and approved plans of the County of Monterey in order to mitigate the effects of said local emergency; and

During the existence of said local emergency, the powers, functions, and duties of the County Administrative Officer, Water Resources Agency General Manager, and the Public Works Director shall be those prescribed in State and local law in order to mitigate the effects of the local emergency.

Pursuant to Public Contract Code Sections 20134, 22050, and 20395, the General Manager of the Water Resources Agency, the Public Works Director or their respective designee is hereby authorized to engage independent contractors to complete all necessary work to mitigate the effects of said local emergency. Contracts for this work may be executed without prior Board approval of the plans, specifications, and working details, without giving notice for bids to let contracts.

SIGNED AND SUBSCRIBED at Monterey, California this 6th day of January, 2017.

A handwritten signature in blue ink that reads "Nicholas E. Chiles, for". The signature is written in a cursive style and is positioned above the printed name of the County Administrative Officer.

Lew C. Bauman
County Administrative Officer

CORRESPONDENCE



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

West Coast Region
777 Sonoma Avenue, Room 325
Santa Rosa, California 95404

January 5, 2017

Refer to NMFS No: SWR-2003-2080

David Hart, Chair
Monterey County Water Resources Agency
Board of Directors
893 Blanco Circle
Salinas, California 93901-4455

Dear Mr. Hart:

This letter is in response to the Monterey County Water Resources Agency's (MCWRA) December 12, 2016, *Winter 2016-2017 Reservoir Release Analysis* memorandum provided to NOAA's National Marine Fisheries Service (NMFS) on December 13, 2016 (MCWRA 2016a). The memorandum summarizes MCWRA's analysis of potential water release scenarios from Nacimiento Reservoir during winter of 2016/2017 in order to supplement natural flows from Arroyo Seco and increase the likelihood of successful adult steelhead (*Oncorhynchus mykiss*) migration to spawning habitat in Arroyo Seco. Steelhead in the Salinas River watershed are part of the South-Central California Coast steelhead Distinct Population Segment which is listed as a threatened species under the U.S. Endangered Species Act of 1973.

Over the last five years, the Salinas River watershed has experienced extreme drought conditions that severely impacted stream flows throughout the Salinas basin, reservoir storage, groundwater elevations, sea water intrusion rates, and agricultural water supplies. The Salinas Valley Water Project (SVWP) did not include a drought contingency plan for reservoir operations following consecutive drought years. As a result, significant stretches of the lower Salinas River have remained dry since 2013. NMFS is concerned the lack of sufficient migration flows during this prolonged drought period has and will continue to adversely affect the Salinas River steelhead population. For example, according to the criteria developed for the SVWP, there have been no suitable passage days¹ for adult steelhead to enter the Salinas River watershed since the 2010/2011 migration season.

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¹ Adult upstream passage conditions are considered represented as five or more consecutive days of mean daily flow of 260 cubic feet per second or larger mean daily flow, as measured by USGS Salinas River near Chualar stream gauge (11152300), when the mouth of the Salinas River is open to the ocean (MCWRA 2005); the first day of passage is the beginning date of the first period with five consecutive days (NMFS 2007).



December 2016, to discuss potential 2016/2017 winter release scenarios. The scenarios were summarized in MCWRA December 13 memorandum.

Based on those discussions, our review of the memorandum, and MCWRA's water budget for the 2017 water year (*i.e.*, summer irrigation demands and reservoir storage), we offer the following recommendations:

1. If the combined storage of Nacimiento and San Antonio reservoirs is at or near 150,000 acre-feet by the end of January (greater than 135,000 acre-feet), MCWRA should provide releases from Nacimiento Reservoir at a rate of approximately 400 cubic feet per second (cfs) for up to 40 days, starting in late January. Starting releases in late January is expected to maximize the chances of reservoir releases reaching the confluence of Arroyo Seco and supplementing naturally-occurring Arroyo Seco stream flows, which are most likely to occur between mid-February and early March. Following the 40 days, minimum Nacimiento Reservoir releases of 60 cfs should be maintained if reservoir inflow conditions are similar to water year 2016. The combined storage of 150,000 acre-feet is approximately equal to the peak combined reservoir storage for the 2016 water year.
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3. In conjunction with Nacimiento Reservoir releases, MCWRA should: (a) monitor the effectiveness of reservoir releases via their Adult Steelhead Escapement Monitoring Program (FISHBIO 2014); (b) monitor stream flow in the Salinas River and Arroyo Seco (*e.g.*, Salinas Valley Water Project Annual Flow Monitoring Report [MCWRA 2016b]); and (c) be prepared to implement sandbar management activities, if necessary.

NMFS recognizes that even with the recommended Nacimiento Reservoir releases, a large flow event (or series of smaller flow events) are necessary to create connectivity between the Arroyo Seco and the Salinas River lagoon and enable adult steelhead to successfully migrate upstream to suitable spawning habitat. MCWRA's proposal is an attempt to increase the likelihood of suitable migration flows for adult steelhead for the first time since the 2010/2011 migration season. NMFS believes the potential benefits of the increased reservoir releases outweigh the immense risk of taking no action that may result in a sixth year of no adult steelhead migrating into the watershed.

We thank MCWRA for working diligently and collaboratively with NMFS on this matter which we expect will serve as a pilot drought contingency plan for ongoing water operations by the MCWRA. We look forward to working with MCWRA as they: (1) develop a project description (*i.e.*, drought contingency plan) pursuant to the reinitiation of consultation between NMFS and the U.S. Army Corps of Engineers on the SVWP; and (2) begin developing a framework for a habitat conservation plan for their water operations and infrastructure.

Please direct questions regarding this letter to Mr. William Stevens at (707) 575-6066, or via e-mail at William.Stevens@noaa.gov.

Sincerely,



Alecia Van Atta
Assistant Regional Administrator
California Coastal Office

cc: David Chardavoine, Howard Franklin, Germán Criollo, Elizabeth Krafft, MCWRA, Salinas
Holly Costa, Katerina Galacatos, U.S. Army Corps, San Francisco
Jacob Martin, U.S. Fish and Wildlife Service, Watsonville, California
Carrie Swanberg, California Department of Fish and Wildlife, Fresno
Kim Sanders, Central Coast Regional Water Quality Control Board, San Luis Obispo
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Literature Cited

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- MCWRA (Monterey County Water Resources Agency). 2016a. Memorandum from Jason Demers to Howard Franklin. Winter 2016 – 2017 Reservoir Release Analysis. Monterey County Water Resources Agency, Salinas, California. December 12, 2016. 16 pp.
- MCWRA (Monterey County Water Resources Agency). 2016b. Salinas Valley Water Project Annual Flow Monitoring Report, Operational Season 2015. Monterey County Water Resources Agency, Salinas, California. May 2016. 17 pp + appendices.
- NMFS (National Marine Fisheries Service). 2007. Biological opinion issued to the U.S. Army Corps of Engineers for the Monterey County Water Resources Agency's Salinas Valley Water Project in Monterey County, California. National Marine Fisheries Service, Southwest Region, Long Beach, California. File No: SWR/2003/2080; ARN: 151422SWR2003SR8711. June 21, 2007. 123 pp.