



MONTEREY COUNTY WATER RESOURCES AGENCY

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BOARD OF DIRECTORS

BOARD OF DIRECTORS:

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Jesse Avila, Deputy County Counsel

SPECIAL BOARD OF DIRECTORS MEETING WATER RIGHTS PERMIT #11043 ACTIVITIES WORKSHOP

DATE: Wednesday, May 14, 2014
TIME: 9:00 – 11:00 A.M.
PLACE: Monterey County Water Resources Agency – Board Room
893 Blanco Circle
Salinas, CA 93901
(831) 755-4896

Wednesday, May 14, 2014
9:00 - 11:00 A.M.

SPECIAL BOARD OF DIRECTORS MEETING

WATER RIGHTS PERMIT #11043 ACTIVITIES WORKSHOP

AGENDA

Staff reports relative to the agenda items listed below will be available for public review at 6:00 p.m. on Friday, May 9, 2014 at the Monterey County Water Resources Agency (Agency), 893 Blanco Circle, Salinas. If additional documents are produced by the Agency and provided to a majority of the Board regarding any item on the agenda after staff reports have been distributed, they will be available at the Agency during normal business hours and posted on the Agency website at http://www.mcwra.co.monterey.ca.us/BOD/BOD/AgendaCurrent_n.htm. For additional information, please contact Wini Chambliss, Clerk to the Board, at (831) 755-4896.

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **PUBLIC COMMENTS**
*(Limited to three minutes per speaker within Monterey County Water Resources Agency jurisdiction and **not listed** on the agenda. Members of the Public will have the opportunity to ask questions or make statements on agenda items as they are considered by the Board.)*
4. **PROGRESS REPORT ON WATER RIGHTS PERMIT #11043 ACTIVITIES**
 - A. Regional Advisory Committee (RAC) Recommendations
 - B. Other Alternatives for Basin Management Plan (BMP) Committee Consideration
 - C. Discussion of Financing Plan Options
 - D. Next Steps
5. **BOARD OF DIRECTORS' COMMENTS**
6. **ADJOURNMENT**

**MONTEREY COUNTY WATER RESOURCES AGENCY
BOARD OF DIRECTORS – WORKSHOP REPORT**

MEETING DATE:	May 14, 2014	AGENDA ITEM:	
AGENDA TITLE:	Consider receiving a progress report on Water Rights Permit #11043 activities.		
Consent ()		Action ()	
Information (X)			
SUBMITTED BY:	Robert Johnson	PREPARED BY:	Robert Johnson
PHONE:	(831) 755-4860	PHONE:	(831) 755-4860
DEADLINE FOR BOARD ACTION:		June 2, 2014	

RECOMMENDED BOARD ACTION:

Receive a progress report on Water Rights Permit #11043 activities.

PRIOR RELEVANT BOARD ACTION:

January 28, 2013 Regular Board of Directors (BOD) Meeting – the BOD directed Staff to move forward with opposing the proposed revocation of Water Rights Permit #11043 (Permit) by the State Water Resources Control Board (SWRCB).

April 22, 2013 Regular BOD Meeting - the BOD received an update on the proposed revocation of Water Rights Permit #11043 by the SWRCB.

June 24, 2013 Regular BOD Meeting - the BOD approved an amendment to the Downey Brand (DB) contract to pay for work done by DB and GeoScience related to the Permit.

December 17, 2013 Joint Meeting of the Water Resources Agency BOD and Board of Supervisors (BOS) – Staff provided an update on Water Rights Permit #11043 activities.

April 17, 2014 Joint Meeting of the Water Resources Agency BOD and BOS – Staff provided an update on Water Rights Permit #11043 activities.

April 28, 2014 Regular BOD Meeting – Directors requested a workshop regarding the Permit and progress made by Staff to date.

DISCUSSION/ANALYSIS:


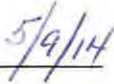
This progress report will provide an update on Permit-related activities related on three specific fronts:

- 1) The recommendations from the Regional Advisory Committee (RAC) regarding a proposed conceptual project suite;
- 2) Other alternatives for BMP Committee consideration; and,
- 3) The development of a financing plan for the entire project.

The following attachments are included for your review:

- Attachment 1 – RAC recommendations;
- Attachment 2 – Other Alternatives for consideration; and,
- Attachment 3 – Financing Plan building blocks.

The workshop will provide opportunities for the BOD, members of the public and Staff to comment and provide input related to the above-mentioned subjects. There will also be an opportunity for the BOD to discuss the next steps in this process. The outcomes from this workshop will be subsequently reviewed by the Agency Basin Management Planning Committee for direction to Staff.

FINANCIAL IMPACT:	YES ()	NO (X)
FUNDING SOURCE:		
COMMITTEE REVIEW AND RECOMMENDATION:		
ATTACHMENTS:	1. RAC Recommendations 2. Possible additional alternatives for consideration 3. Foundational information for Financing Plan development 4. Water Rights Permit #11043	
APPROVED:	<div style="text-align: center;">  General Manager </div> <div style="text-align: right;">  Date </div>	

ATTACHMENT 1

Regional Advisory Committee (RAC) Conceptual Project Recommendation

The conceptual project conceived by the RAC consists of the following components:

- **Extraction Facility at Diversion Point 1 (DP1) (near the City of Soledad)**
 - Facility could either be a diversion facility similar to the SRDF, or
 - Ranney Collectors (shallow collectors that would draw surface water)
- Conveyance Facility
 - Pipeline, though additional parameters need to be analyzed and evaluated –
 - Size (diameter)
 - Length (to be determined)
 - Destination (to be analyzed for most beneficial benefits)
 - Turnouts along the way (number and locations)
 - Layout – use County Right-Of-Way when possible
- Delivery Facility
 - Location
 - Type of water – Ag and/or urban
 - Treatment method
 - Where and how would the water be treated? (NWP model)
- **Extraction Facility at Diversion Point 2 (DP2) (south of City of Salinas)**
 - Same intake alternatives as above
- Conveyance Facility
 - Same items as above
- Delivery Facility
 - Same items as above

Some alternatives that were discussed may require a change to Permit #11043:

- Possible addition or movement of a diversion point
- Adding storage as a component to the project

The committee wanted it to be noted that changes to the Permit could cause delays that may jeopardize the timely completion of Permit-related milestones. The Agency experienced changing a water rights permit for the Salinas Valley Water Project (SVWP) and that process and timeline was presented to the RAC as well as the BMP Committee. In that process, changes to the permit were presented to the State Water Resources Control Board *after* the SVWP EIR was completed, project alternatives evaluated, and a preferred project identified. Proposed changes to the permit were submitted to the SWRCB only once without an iterative process to obtain the final permit for the project.

Also discussed at the RAC meeting was utilizing a parallel process for handling changes to the permit.

ATTACHMENT 2

Possible Alternatives for Consideration

1. Process Alternatives
 - a. Add Storage to Permit
 - b. Move or add a Diversion Point
 - c. Run any of these processes in parallel with approved process
2. Develop a more comprehensive solution to seawater intrusion (may require the incorporation of existing or additional water rights)
 - a. Inter-lake Tunnel Project
 - b. Surface water Treatment Plant in north end of Salinas Valley
 - c. Additional storage (either surface or underground)
3. Evaluate giving up the Permit altogether
4. Others...

ATTACHMENT 3

Foundational Information for Financing Plan Development

As part of the Water Rights Permit #11043 (Permit) revocation process, a Settlement Agreement (SA) was reached with the State Water Resources Control Board, placing the revocation process in suspense. The SA provided a series of milestones to guide the implementation of the utilization of the water allocated to the Permit. The SA milestones represent an aggressive schedule that results in the delivery of water by 2026.

The SA milestones are the following:

1. Submit a Petition for Extension – 60 Days – COMPLETED
2. Release a Notice of Preparation – July 2014
3. Release DRAFT Environmental Impact Report (EIR) – July 2015
4. Release DRAFT Financing Plan – July 2016
5. Certify FINAL Project EIR – July 2017
6. Submit Permit Applications to Regulatory Agencies – July 2018
7. Approve Financing Plan – July 2019
8. Finalize Construction Drawings – July 2020
9. Submit Project Financing Plan for Construction and Operation – July 2021
10. Obtain Final Permits from Regulatory Agencies – July 2023
11. Issue Notice to Proceed with Construction – July 2024
12. Complete Construction / Begin Diverting Water – July 2026

To complete the EIR and Financing Plan, **the Agency will be making a request to the County for one million dollars a year for three years.** Currently there are not funds for an EIR Consultant in the Fiscal Year 2014-15 Agency Budget. Estimates are being developed for the tasks related to the milestones and their respective completion within the timeline.

Options for funding include:

- Grants – State / Federal / Other
- Monterey County
- Establish an Agency Foundation
- Other...

The development of a DRAFT Financing Plan will involve identifying costs related to the completion of the milestones, and possible sources of revenue.



STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

RIGHT TO DIVERT AND USE WATER

APPLICATION 13225

PERMIT 11043

Right Holder: Monterey County Water Resources Agency
P.O. Box 930
Salinas, CA 93902-0930

The State Water Resources Control Board (State Water Board) authorizes the diversion and use of water by the right holder in accordance with the limitations and conditions herein SUBJECT TO PRIOR RIGHTS. The priority of this right dates from **July 11, 1949**. This right is issued in accordance with the State Water Board delegation of authority to the Deputy Director for Water Rights (Resolution 2012-0029) and the Deputy Director for Water Rights redelegation of authority dated July 6, 2012. This right supercedes any previously issued right on **Application 13225**.

Right holder is hereby granted a right to divert and use water as follows:

1. Source of water: **(1) Salinas River**
tributary to: **(2) Pacific Ocean**
within the County of **Monterey**

2. Location of points of diversion

By California Coordinate System of 1983 in Zone 4	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
<u>Eastside Canal Intake:</u> North 2,038,821 feet and East 5,891,976 feet	NW ¼ of SW ¼	36	17S	6E	MD
<u>Castroville Canal Intake:</u> North 2,118,722 feet and East 5,796,575 feet	NW ¼ of NE ¼	23	15S	3E	MD

3. Purpose of use	4. Place of use					
	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian	Acres
Irrigation	86,500 net acres within a gross of 107,000 acres within portions of Zone 2 of the Monterey County Water Resources Agency					
Municipal	Within portions of Zone 2 of the Monterey County Water Resources Agency					

The place of use is shown on map filed with the State Water Board.

5. The water appropriated under this right shall be limited to the quantity which can be beneficially used and shall not exceed **400 cubic feet per second** by direct diversion to be diverted from January 1 to December 31 of each year. The maximum amount diverted under this right shall not exceed **135,000 acre-feet per year**.
(000005A)
6. Construction of both the Castroville and Eastside Canal projects shall commence by January 1, 1987.
(0000007)
7. Construction work on Castroville and Eastside projects shall be completed by December 1, 1988.
(0000008)
8. Complete application of the water to the authorized use shall be made by December 1, 2008.
(0000009)
9. Based upon right holder's Arroyo Seco Project implementation schedule, right holder shall:
 - (a) Form assessment district by January 1, 1984
 - (b) File final P.L. 984 loan applications by June 30, 1984
(0320300)
10. This permit shall stand revoked and of no further effect if right holder fails to meet any of the dates specified unless:
 - (a) Right holder petitions the Board for an extension of time prior to the date in question, and
 - (b) The Board finds good cause for a time extension.
(0010300)
11. The Board specifically reserves jurisdiction to impose further terms and conditions on this permit requiring right holder to use reclaimed wastewater to satisfy all or some of its water needs should the public interest so require.
(0000600)
12. Any right which may be consummated under this application and permit is subject to the prior right for municipal use only which the City of Paso Robles may consummate under Application 17123.
(0000112)

13. Right holder shall not divert water unless the natural flow of the Salinas River at Eastside Canal Intake (NAD 83, Zone 4, North 2,038,821 feet and East 5,891,976 feet) is greater than the amounts listed in the table below. The natural flow shall be calculated by subtracting reservoir releases from Nacimiento and San Antonio Reservoirs from total flows at the Soledad gaging station on a three-day running average.

Month	Amount (cubic feet per second)
January	3.3
February	6.2
March	6.41
April	16.43
May	17.21
June	20.62
July	24.02
August	18.89
September	20.97
October	10.51
November	4.56
December	2.64

(0160300)

14. This permit is subject to timely completion of the following actions towards implementation of Phase II of the Salinas Valley Water Project (Project):
- (a) Submitting a petition for extension of time by October 8, 2013.
 - (b) Issuing a Notice of Preparation for the Project by July 1, 2014.
 - (c) Releasing a Draft Environmental Impact Report for the Project by July 1, 2015.
 - (d) Issuing a draft financing plan for construction and operation of the Project by July 1, 2016.
 - (e) Certifying a Final Environmental Impact Report for the Project by July 1, 2017.
 - (f) Submitting necessary permit applications for regulatory agency approvals for the Project by July 1, 2018.
 - (g) Approving a financing plan for construction and operation of the Project by July 1, 2019.
 - (h) Finalizing Project construction drawings by July 1, 2020.
 - (i) Submitting a financing plan for construction and operation of the Project for public approval by July 1, 2021.
 - (j) Obtaining final permits and other agency approvals for the Project by July 1, 2023.

- (k) Issue notice to proceed with construction of the Project by July 1, 2024.
- (l) Complete construction of the Project and make initial diversion of water under the permit by July 1, 2026.

Right holder shall file documentation of its progress and completion of each milestone with the annual electronic report of water diversion and use. In the event that right holder fails to timely complete a milestone, right holder shall also file a letter by September 1 of the year noted in the milestone, advising the Division of such failure, providing the basis for failing to meet the milestone and identifying when the milestone will be met.

(0270700)

THIS RIGHT IS ALSO SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. Right holder is on notice that: (1) failure to timely commence or complete construction work or beneficial use of water with due diligence, (2) cessation or partial cessation of beneficial use of water, or (3) failure to observe any of the terms or conditions of this right, may be cause for the State Water Board to consider revocation (including partial revocation) of this right. (Cal. Code Regs., tit. 23, § 850.) (0000016)
- B. Right holder is on notice that when the State Water Board determines that any person is violating, or threatening to violate, any term or condition of a right, the State Water Board may issue an order to that person to cease and desist from that violation. (Wat. Code, § 1831.) (0000017)
- C. Right holder is not authorized to make any modifications to the location of diversion facilities, place of use or purposes of use, or make other changes to the project that do not conform with the terms and conditions of this right, prior to submitting a change petition and obtaining approval of the State Water Board. (0000018)
- D. Once the time to develop beneficial use of water ends under this permit, right holder is not authorized to increase diversions beyond the maximum annual amount diverted or used during the authorized development schedule prior to submitting a time extension petition and obtaining approval of the State Water Board. (0000019)
- E. Only the amount of water applied to beneficial use during the authorized diversion season, as determined by the State Water Board, shall be considered when issuing a license. (Wat. Code, § 1610.) (0000006)
- F. Right holder shall maintain records of the amount of water diverted and used under this right to enable the State Water Board to determine the amount of water that has been applied to beneficial use. (0000015)
- G. Right holder shall promptly submit any reports, data, or other information that may reasonably be required by the State Water Board, including but not limited to documentation of water diversion and use under this right and documentation of compliance with the terms and conditions of this right. (0000010)
- H. No water shall be diverted under this right unless right holder is operating in accordance with a compliance plan, satisfactory to the Deputy Director for Water Rights. Said compliance plan shall specify how right holder will comply with the terms and conditions of this right. Right holder shall comply with all reporting requirements in accordance with the schedule contained in the compliance plan. (0000070)
- I. Right holder shall grant, or secure authorization through right holder's right of access to property owned by another party, the staff of the State Water Board, and any other authorized representatives of the State Water Board the following:
1. Entry upon property where water is being diverted, stored or used under a right issued by the State Water Board or where monitoring, samples and/or records must be collected under the conditions of this right;

2. Access to copy any records at reasonable times that are kept under the terms and conditions of a right or other order issued by State Water Board;
3. Access to inspect at reasonable times any project covered by a right issued by the State Water Board, equipment (including monitoring and control equipment), practices, or operations regulated by or required under this right; and,
4. Access to photograph, sample, measure, and monitor at reasonable times for the purpose of ensuring compliance with a right or other order issued by State Water Board, or as otherwise authorized by the Water Code.

(0000011)

- J. This right shall not be construed as conferring right of access to any lands or facilities not owned by right holder.

(0000022)

- K. All rights are issued subject to available flows. Inasmuch as the source contains treated wastewater, imported water from another stream system, or return flow from other projects, there is no guarantee that such supply will continue.

(0000025)

- L. This right does not authorize diversion of water dedicated by other right holders under a senior right for purposes of preserving or enhancing wetlands, habitat, fish and wildlife resources, or recreation in, or on, the water. (Wat. Code, § 1707.) The Division of Water Rights maintains information about these dedications. It is right holders' responsibility to be aware of any dedications that may preclude diversion under this right.

(0000212)

- M. No water shall be diverted or used under this right, and no construction related to such diversion shall commence, unless right holder has obtained and is in compliance with all necessary permits or other approvals required by other agencies. If an amended right is issued, no new facilities shall be utilized, nor shall the amount of water diverted or used increase beyond the maximum amount diverted or used during the previously authorized development schedule, unless right holder has obtained and is in compliance with all necessary requirements, including but not limited to the permits and approvals listed in this term.

Within 90 days of the issuance of this right or any subsequent amendment, right holder shall prepare and submit to the Division of Water Rights a list of, or provide information that shows proof of attempts to solicit information regarding the need for, permits or approvals that may be required for the project. At a minimum, right holder shall provide a list or other information pertaining to whether any of the following permits or approvals are required: (1) lake or streambed alteration agreement with the Department of Fish and Wildlife (Fish & G. Code, § 1600 et seq.); (2) Department of Water Resources, Division of Safety of Dams approval (Wat. Code, § 6002); (3) Regional Water Quality Control Board Waste Discharge Requirements (Wat. Code, § 13260 et seq.); (4) U.S. Army Corps of Engineers Clean Water Act section 404 permit (33 U.S.C. § 1344); and (5) local grading permits.

Right holder shall, within 30 days of issuance of any permits, approvals or waivers, transmit copies to the Division of Water Rights.

(0000203)

- N. Urban water suppliers must comply with the Urban Water Management Planning Act (Wat. Code, § 10610 et seq.). An "urban water supplier" means a supplier, either publicly or privately owned, providing water

for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually.

Agricultural water users and suppliers must comply with the Agricultural Water Management Planning Act (Act) (Water Code, § 10800 et seq.). Agricultural water users applying for a permit from the State Water Board are required to develop and implement water conservation plans in accordance with the Act. An "agricultural water supplier" means a supplier, either publicly or privately owned, supplying more than 50,000 acre-feet of water annually for agricultural purposes. An agricultural water supplier includes a supplier or contractor for water, regardless of the basis of right, which distributes or sells for ultimate resale to customers.

(0000029D)

- O. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this right, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this right with a view to eliminating waste of water and to meeting the reasonable water requirements of right holder without unreasonable draft on the source. Right holder may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this right and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the State Water Board also may be exercised by imposing further limitations on the diversion and use of water by right holder in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution, article X, section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- P. The quantity of water diverted under this right is subject to modification by the State Water Board if, after notice to right holder and an opportunity for hearing, the State Water Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the State Water Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

- Q. This right does not authorize any act which results in the taking of a candidate, threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, § 2050 et seq.) or the federal Endangered Species Act (16 U.S.C. § 1531 et seq.). If a "take" will result from any act authorized under this right, right holder shall obtain any required authorization for an incidental take prior to construction or operation of the project. Right holder shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this right.

(0000014)

This right is issued and right holder takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer .

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:
PHILLIP CRADER FOR

*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: SEP 18 2013