



**MONTEREY COUNTY WATER RESOURCES AGENCY
BOARD OF DIRECTORS**

BOARD MEMBERS:

David Hart, Chair
Manager
Silvio Bernardi
Ken Ekelund
Claude Hoover
Fred Ledesma
Richard Ortiz
Mike Scattini
Deidre Sullivan
Vacant

STAFF:

David Chardavoyne, Interim General

Wini Chambliss, Clerk to the Board
Patrick McGreal, Deputy County Counsel

January 28, 2013

M I N U T E S

1. CALL TO ORDER

David Hart, Chair of the Monterey County Water Resources Agency Board of Directors, called the regular meeting to order @ 12:02 PM

2. ROLL CALL

Directors Present: David Hart, Ken Ekelund, Silvio Bernardi, Claude Hoover, Fred Ledesma, Richard Ortiz and Deidre Sullivan

Directors Absent: Director Mike Scattini (arrived @ 12:05 PM)

3. ADJOURNED TO CLOSED SESSION @ 12:03 PM

4. RECONVENED @ 1:04 PM

Deputy County Counsel Patrick McGreal reported the Board received informational updates on the Closed Session items and:

- a) gave direction regarding one matter of potential initiation of litigation;
- b) took no action on another matter; and,
- c) provided direction regarding the appointment of a General Manager.

5. PLEDGE OF ALLEGIANCE (led by Director Fred Ledesma).

6. ELECTION OF OFFICERS

Ken Ekelund and Claude Hoover were nominated as Chair and Vice Chair of the Board respectively.

ACTION:

Motion and Second by Directors Richard Ortiz and Fred Ledesma to close nominations.

Motion carried unanimously.

ACTION:

Motion and Second by Directors Fred Ledesma and Silvio Bernardi to elect Directors Ken Ekelund and Claude Hoover as Chair and Vice Chair respectively of the Monterey County Water Resources Agency respectively.

Motion carried unanimously.

Director Ekelund thanked the Board on his election as Chair.

7. PUBLIC COMMENTS

On behalf of the Grower-Shipper Association Foundation, Darlene Din invited Board member participation in the 2013AgKnowledge Class VII program. The nine-month course provides a better understanding of agricultural systems. The deadline for applications is February 15, 2013. Ms. Din noted that Director Hoover graduated recently from the program.

Margie Kay, North County, reported the first draft of the Pajaro Valley Water Management Agency's Revised Basin Management is available and is undergoing revision.

8. PRESENTATIONS

A. California-American Settlement

David Hart recused himself from this discussion due to ongoing negotiations between California-American and Dole, his employer.

Interim General Manager, David Chardavoyne, reviewed the California-American Settlement utilizing tables provided in the Board packet.

Board Questions/Comments (*Staff responses are emboldened and italicized*):

1. To what does "unresolved claims" refer? ***To vendors disputing costs (which have not yet been paid).***

How is the \$2.1 million reconciled? ***A) \$644,290 from the line of credit is currently unspent; B) \$779,968 payment to the Agency upon settlement approval; and, C) \$718,315 deposit in an escrow account by Cal-Am that the Auditor will hold to pay the unresolved claims. The Agency spent roughly \$4 million and approximately \$3.5 million is covered. The unresolved claims relate to vendors where there is a***

dispute. These costs have not actually been paid. That money is not out of pocket as of now.

2. If Cal-Am is paying for the unresolved claims, how is it in our best interest not to pay them? *On the surface it appears better to simply pay the claims. However, those claims are linked to other litigation matters which should be resolved before making payment. In addition, the Agency has counterclaims with regard to the unresolved claims. There is no financial incentive not to pay those claims. Any remaining monies will be returned to Cal-Am.*
3. If CPUC approval is not obtained, what happens to the reconciliation? *Without approval, the \$1.1 million comes back into play again as well as the \$718,315.*
4. What is our obligation to participate in the approval process? *Cal-Am's obligation is to put the filing together. The Agency's obligation is to support their filing as it is in our best interest.*
5. Does that mean it is an affirmative requirement rather than contesting? *Yes.*
6. Except with respect to slant wells? *The agreement says we will support the perched aquifer withdrawal. But the Agency will not support the 180' aquifer withdrawal.*

Public Comments:

Marc Del Piero, Monterey County resident, asked Board members if they had been provided a copy of the Settlement Agreement. Board members responded they received a copy of the draft agreement. Mr. Del Piero believes it contains their agreement to slant wells in perched formation. And, based upon information the Agency received in 1991, there is a direct and adverse interaction between slant wells and perched formations. He also asked the status of the Settlement Agreement being released to the public. Staff responded the Agreement has been made public and has been approved by the Board of Supervisors.

Director Mike Scattini requested a copy of the study referred to by Marc Del Piero.

Nancy Isakson, Salinas Valley Water Coalition, voiced her appreciation for Mr. Del Piero's statements as it is her belief the Settlement Agreement was a disservice to the community because the Agency must support it. She stated the science is necessary. Ms. Isakson indicated her belief the decision was premature because we do not know the potential harm that might be created.

Director Hart returned to the dais at the conclusion of this discussion.

B. Well Permit Application Process

Rob Johnson, Assistant General Manager, reported the day's presentation stemmed from a request made during a Joint Board Leadership meeting at the Government Center. Mr. Johnson stated changes in the process are associated with the new General Plan, which requires the Agency to conduct well impact assessments for all new domestic and high capacity wells. He then introduced Richard LeWarne of Environmental Health (EH) as well as several EH staff members. Mr. LeWarne gave a very lengthy explanation of the components of Environmental Health's portion of the well permit application process, stating the entire process may take from five days to two weeks depending upon the complexity of the application. The Agency's portion of the process requires

approximately three days.

Mr. Johnson reported the Agency only receives fees for review work on wells within Zone 2C. He noted the following next steps for the Agency: continuing to provide technical support; tracking staff efforts; determining/implementing appropriate fees; establishing a fee collection mechanism; and, continuing to provide technical support to Environmental Health. Mr. Johnson also stated 81% of applications possessed no impact for well and zero well applications were denied.

Board Questions/Comments (*Staff responses are emboldened and italicized*):

1. Are well applications public documents? *Yes*
2. Where would you go to access them? *Environmental Health*
3. Is process on line? *No...that is a good idea.*
4. Does WRA have veto power or something required for WRA to sign off? *EH has authority to sign off. Disagreements occur; but, again EH has authority to sign off.*
5. Are applicants aware of discussions occurring between agencies with regard to sign off on wells? *Sometimes.*
6. Since the Board of Supervisors holds appeal rights. do they have power to override sign offs? *No*
7. With regard to fees collected, can the Agency receive money directly rather than going through County? *We can look at the process; and we will try to bring this to the Board of Supervisors' attention.*
8. Is there a list of approved drillers? *Drillers must have certification and licensure.*
9. How many applicants had water quality issues? *Only one.*

Marc Del Piero, Monterey County resident, stated the presentation was very helpful although 95% of the water comes from groundwater and there was no mention of the owner of groundwater rights in the process. To avoid litigation, applicants should be asked if they have groundwater rights.

9. CONSENT CALENDAR

- A. Approve the minutes of the **Special** Board of Directors meeting held on December 3, 2012
- B. Approve purchase orders/contracts in excess of \$500 and credit card purchases over \$500 in November/December 2012
- C. Receive Report on Salinas Valley Water Conditions for the First Quarter of Water Year 2012-2013
- D. Approve Budget Revision No. 3 and recommend approval of same to the Board of Supervisors to authorize the Auditor-Controller to amend the Monterey County Water Resources Agency's FY 2012-13 Budget for identified funds due to timing differences of expenditures between FY 2011-12 and FY 2012-13 and contingencies for higher USBR loan payments

- E. Approve the Annual Joint Funding Agreement with the United States Geological Survey for Stream Gaging work in Monterey County in the amount of \$233,900; and, ratify execution of the Joint Funding Agreement for Water Year 2012-2013 by the Assistant General Manager
- F. Approve a Dry Period Loan request of \$1,035,000 from the County of Monterey General Fund Pool Cash Fund to the Monterey County Water Resources Agency to provide interim financing for the Pajaro River Bench Excavation Project Phase I; and, ratify the Interim General Manager's execution of the loan request
- G. Recommend approval of a Budget Amendment to the Board of Supervisors to Fiscal Year 2012-2013 Fund 111 (Administration Fund) Budget to recognize the utilization of funds held in the Canyon Del Rey Improvement Reserve: 1) increase appropriation in Fund 111 (Administration), Dept. 9300, Unit 8267, Appropriation Unit WRA001, Account 6835 (Other Special Departmental Expense) by \$60,000 (4/5th vote required); and, 2) decrease Canyon Del Rey Improvement Reserve in Fund 111 (Administration Fund), Dept. 9300, Unit 8267, Appropriation Unit WRA001, Account 3066 (Other Reserves) by \$60,000 (4/5th vote required)
- H. Recommend approval of a Budget Amendment to the Board of Supervisors to authorize the Auditor-Controller to amend the Monterey County Water Resources Agency's Fiscal Year 2012-2013 Budget authorizing a \$100,000 transfer from Fund 114 (Nacimiento Non-O&M Fund) to Fund 113 (Countywide Fund) to cover increased labor charges and a \$100,000 transfer from Fund 114 (Nacimiento Non-O&M Fund) to Fund 116 (Zone 2C Dam Operations Fund) to partially cover unbudgeted repairs at the Nacimiento Dam. Decrease the budgeted transfer from Fund 114 (Nacimiento Non-O&M Fund) to Fund 134 (Salinas River Diversion Facility) by \$200,000. Appropriate an additional amount of \$89,000 to cover Fund 116 Emergency Repairs financed by available unassigned Fund Balance: 1) increase appropriation in Fund 113 (Countywide Fund), Dept. 9300, Unit 8267, Appropriation Unit WRA003, Account 6835 (Other Special Departmental Expense) by \$100,000 (4/5th vote required); 2) increase estimated revenues in Fund 113 (Countywide Fund), Dept. 9300, Unit 8267, Appropriation Unit WRA003, Account 5940 (Operating Transfers In) by \$100,000 (4/5th vote required); 3) increase appropriation in Fund 116 (Zone 2C Operations Fund), Dept. 9300, Unit 8267, Appropriation Unit WRA006, Account 6613 (Other Professional and Special Services) by \$189,000, of which \$89,000 is financed by available unassigned fund balance Account 3100 (4/5th vote required); 4) increase estimated revenues in Fund 116 (Zone 2C Operations Fund), Dept. 9300, Unit 8267, Appropriation Unit WRA006, Account 5940 (Operating Transfers In) by \$100,000 (4/5th vote required); and, 5) decrease estimated revenues in Fund 134 (River Diversion Facility Fund), Dept. 9300, Unit 8267, Appropriation Unit WRA028, Account 5940 (Operating Transfers In) by \$200,000 financed by available unassigned Fund Balance Account 3100 (4/5th vote required)
- I. Recommend approval of a Budget Amendment to the Board of Supervisors to authorize the Auditor-Controller to amend the Monterey County Water Resources Agency's Fiscal Year 2012-2013 Budget authorizing a \$100,000 transfer from Fund 114 (Nacimiento Non-O&M Fund) to Fund 113 (Countywide Fund) to cover increased labor charges and a \$100,000 transfer from Fund 114 (Nacimiento Non-O&M Fund) to Fund 116 (Zone 2C

Dam Operations Fund) to partially cover unbudgeted repairs at the Nacimiento Dam. Decrease the budgeted transfer from Fund 114 (Nacimiento Non-O&M Fund) to Fund 134 (Salinas River Diversion Facility) by \$200,000. Appropriate an additional amount of \$89,000 to cover Fund 116 Emergency Repairs financed by available unassigned Fund Balance: 1) increase appropriation in Fund 113 (Countywide Fund), Dept. 9300, Unit 8267, Appropriation Unit WRA003, Account 6835 (Other Special Departmental Expense) by \$100,000 (4/5th vote required); 2) increase estimated revenues in Fund 113 (Countywide Fund), Dept. 9300, Unit 8267, Appropriation Unit WRA003, Account 5940 (Operating Transfers In) by \$100,000 (4/5th vote required); 3) increase appropriation in Fund 116 (Zone 2C Operations Fund), Dept. 9300, Unit 8267, Appropriation Unit WRA006, Account 6613 (Other Professional and Special Services) by \$189,000, of which \$89,000 is financed by available unassigned fund balance Account 3100 (4/5th vote required); 4) increase estimated revenues in Fund 116 (Zone 2C Operations Fund), Dept. 9300, Unit 8267, Appropriation Unit WRA006, Account 5940 (Operating Transfers In) by \$100,000 (4/5th vote required); and, 5) decrease estimated revenues in Fund 134 (River Diversion Facility Fund), Dept. 9300, Unit 8267, Appropriation Unit WRA028, Account 5940 (Operating Transfers In) by \$200,000 financed by available unassigned Fund Balance Account 3100 (4/5th vote required)

Public Comments: None

ACTION:

Motion and Second by Directors Richard Ortiz and Fred Ledesma to approve the Consent Agenda with necessary corrections.

Motion carried unanimously.

10. ACTION ITEMS

- A. Consider approving a license to allow military maneuvers on Agency land at the San Antonio Reservoir; recommending approval of the license by the Monterey County Water Resources Agency Board of Supervisors; and, authorizing the Interim General Manager to sign the license

Chris Keehn, Right-of-Way Specialist, distributed a revised agreement to the Board including information about hazardous materials that also includes an asterisk next to the Bivouac provision. Mr. Keehn stated this license allows the US army to use the reservoir twice annually for military operations on the dam including convoy training, storage for vehicles and equipment, movement of troops and equipment, bivouac of troops and equipment, and other small boat traffic and diving operations. Indemnification is illegal; but a provision is included that protects the Agency to the fullest extent possible.

Board Questions/Comments (*Staff responses are boldened and italicized*):

1. Since we cannot include indemnification, can we require a deposit for potential damages? ***That was not discussed; but County Counsel suspects that would fall into the same category as indemnification.***

Board members requested a legible copy of the Quitclaim Deed.

Public Comments: None

ACTION:

Motion and Second by Directors David Hart and Deidre Sullivan to approve a license to allow military maneuvers on Agency land at the San Antonio Reservoir; recommending approval of the license by the Monterey County Water Resources Agency Board of Supervisors; and, authorizing the Interim General Manager to sign the license.

Motion carried unanimously.

- B. Consider adopting the Greater Monterey County Integrated Regional Water Management Plan

Ken Ekelund recused himself from this discussion and vote due to his participation in the GMC IRWMP process for many years. Newly-elected Vice Chair Claude Hoover conducted this portion of the meeting.

Rob Johnson, Assistant General Manager, presented this agenda item stating the Planning Committee did not make a recommendation as there was no quorum established at that meeting. It is important that the Agency participate in this process in order to be eligible for future State funding. In Round 2 for the funding area of which the Agency is a part, \$7.5 million is available. The Agency has several projects in the plan, including the following: Salinas River Flood Risk Reduction; Salinas River Fisheries Enhancement; Granite Ridge; Coastal Dedicated Monitoring Well Drilling; and, anything related to Aquatic Invasive Species. These will not be considered in Round 2 implementation. – not be considered in Round 2. Round 3 will amount to approximately \$21 million dollars. Mr. Johnson reviewed the timeline associated with formally adopting the Plan.

Board Questions/Comments (*Staff responses are emboldened and italicized*):

1. If we choose not to adopt, are we eligible for funding? No. ***If we choose not to adopt the Plan, we are out of the Regional Water Management Group.***

Public Comments:

Brad Hagemann, Monterey Regional Water Pollution Control Agency, indicated PCA staff will be taking the Plan to their Board for approval this evening.

ACTION:

Motion and Second by Directors Fred Ledesma and Silvio Bernardi to adopt the Greater Monterey County Integrated Regional Water Management Plan.

Motion carried unanimously. (Director Ken Ekelund did not vote)

(Director Ken Ekelund returned to the dais at 2:42 PM.)

(Director Ledesma left the dais @ 2:43 PM and returned @ 2:44 PM.)

- C. Consider recommending that the Board of Supervisors of the Monterey County Water Resources Agency recognize the importance of controlling and reversing seawater intrusion and nitrate levels in the Salinas Valley Groundwater Basin and commit to all steps necessary to collaborate with stakeholders and the public to develop further measures, including contesting the proposed revocation of State Water Resources Control Board Permit 11043, to assure the integrity of basin resources

Rob Johnson, Assistant General Manager, noted the Planning Committee reviewed this item on January 23, 2013. Mr. Johnson provided background information related to Water Permit #11043 dating back to November 1982. He noted the item will also be considered by the Board of Supervisors. At the time of this report, the financial impact was unknown and will depend upon actions of the Board of Directors and Board of Supervisors. The draft resolution included in the day's packet seeks the Board's direction in establishing an ad hoc committee as well as identifying financial resources. The State Water Resources Control Board is considering tentative dates in mid-April to consider revocation of #11043; although no final date has yet been established.

Public Comments:

Margie Kay, North County, asked what happens to CSIP (Castroville Seawater Intrusion Project) if the revocation goes through. ***Staff provided no response to this question.***

Nancy Isakson, Salinas Valley Water Coalition (SVWC), emailed a letter that was distributed to Board members. The concerns centered around exportation of water from Zone 2C and extra surface water being sent to the Peninsula. The SVWC is a party to the revocation and has not decided whether to support Agency or revocation. They do however support formation of an ad hoc committee. We need to know how much water is available and then we can discuss how it would be used and where it would be best used. The SVWC's membership is broad in Salinas Valley and would not support any change in use and exportation of water outside the basin.

Norm Groot, Monterey County Farm Bureau, stated his agency is also a party to the action and echoed concerns voiced by Ms. Isakson. If the water right is lost, it may never return.

If nothing is done, it will be a tremendous loss to the basin. However, if the direction is to retain the water right, knowledge of where the water is going and how it will be used is essential.

Marc Del Piero, Monterey County resident, voiced his concerns about the tragic loss of losing this water right particularly because water associated with the rubber dam has been promised to three different groups. He does not believe the State Water Resources Control Board (SWRCB) will grant another extension based upon the resolution submitted. He recommended the Board consider the development of a water delivery system that emanates from the rubber dam; ask for a change in the point of diversion for the permit to the rubber dam; and divert that water into the systems owned by the California Water Company and Alco Water Company – the two private water delivery systems entities for the City of Salinas – to demonstrate the water is planned for municipal and industrial uses. The SWRCB might consider holding off on the revocation. Mr. Del

Piero was unaware of the cost of building a conveyance system; but stated this plan seems far better than the resolution presented for approval.

Directors asked if there was a response to the question about CSIP. Interim General Manager David Chardavoyne stated the water right involved here is separate and distinct from the water right for the rubber dam; so, there should be no impact.

Board Questions/Comments (*Staff responses are emboldened and italicized*):

1. Establishment of the committee is very important in maintaining this water right.
2. This water right is definitely an asset and would oppose anything short of maintaining it.
3. Water for the future of this valley must be secured for those who have paid for it.
4. Concern was voiced over timing and how the Board can accelerate its planning process to decide upon a forward direction to protect this water right.
5. The Agency does not have a choice in this matter – we must move to protect the water right.
6. What can we do in the next 30-45 days and how can we pay for it?
7. Do we need to identify funding at this time?
8. We need to show the State Board that we have funding resolved for the future.
9. Why is the nitrate level wording included in the resolution? ***The nitrates and seawater intrusion are of concern to the State Board and some of these projects will help the nitrate issue. Thus, it was thought important to include nitrates in the discussions.***
10. Must the Board of Supervisors approve the Resolution before establishing the Ad Hoc Committee? ***To meet the mid-April deadline, we must move forward immediately and we will not wait until the Board of Supervisors approves the Resolution.***
11. What is the timetable for the process? ***We have established weekly meetings with Downey Brand. We will set up the ad hoc committee immediately. We will dedicate staff to specific assignments in order to meet the deadline.***

Marc Del Piero reiterated the Board must do something. He added that Downey Brand should determine the Agency's next steps to demonstrate movement toward full and complete beneficial use of the water right under the Water Code. He restated his plan for change of point of diversion to the rubber dam where industrial and municipal consumptive use exists to demonstrate an actual project.

The motion should include an urgency clause to give it priority.

County Counsel Patrick McGreal asked if the Board would make a motion to adopt the resolution and add a provision acknowledging this is an urgent matter and also requesting the Board of Supervisors to consider this as an urgent matter also.

ACTION:

Motion and Second by Directors Richard Ortiz and David Hart to adopt the resolution as it is written and add an urgency clause. ~~to recommend that the Board of Supervisors of the Monterey County Water Resources Agency recognize importance of controlling and reversing seawater intrusion and nitrate levels in the Salinas Valley Groundwater Basin and commit to all steps~~

~~necessary to collaborate with stakeholders and the public to develop further measures, including contesting the proposed revocation of State Water Resources Control Board Permit 11043, to assure the integrity of basin resources.~~

Motion carried unanimously.

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- D. Consider approving a Proposal from Hayashi & Wayland Accounting and Consulting, LLP for an amount not-to-exceed \$33,330 for an audit of the Monterey Regional Water Pollution Control Agency for verification of compliance with the existing June 16, 1992 Agreement, as amended, including review of existing Reserve Fund Management protocol; and, authorizing the Interim General Manager to execute the Proposal

(Director Ortiz left the dais @ 3:24 PM and returned at 3:26 PM)

David Chardavoyne, Interim General Manager, introduced Mike Nolan of Hayashi & Wayland to answer Board questions. Mr. Chardavoyne provided background information related to this item, and stated pursuant to Paragraph 7.04 of the Agreement between the Agency and MRWPCA, as modified by Amendment No. 2, dated February 10, 1998 the Agency retains authorization to inspect and audit records. Mr. Chardavoyne reviewed the deliverables and emphasized the Board's concerns as to whether proper controls and procedures are in place with regard to the reserves held by the PCA. This audit complements the Agency's ongoing review of its own financial processes and procedures. Transactions between MRWPCA and the Agency are material as approximately \$6 million per year of our budget is paid directly to PCA (approximately 28% of our budget). PCA also holds \$2 million of Agency reserves that will also be audited. No audits have ever taken place; but, institution of audits is just good business.

Board Questions/Comments (*Staff responses are emboldened and italicized*):

1. Is PCA aware of this audit? ***Yes. Once the audit is approved by the Board, we would sit down with PCA to discuss the nature of the audit.***
2. From what fund is the \$33,330 taken? ***CSIP and SVRP Operations.***

Public Comments: None.

ACTION:

Motion and Second by Directors David Hart and Claude Hoover to approve a Proposal from Hayashi & Wayland Accounting and Consulting, LLP for an amount not-to-exceed \$33,330 for an audit of the Monterey Regional Water Pollution Control Agency for verification of compliance with the existing June 16, 1992 Agreement, as amended, including review of existing Reserve Fund Management protocol; and, authorizing the Interim General Manager to execute the Proposal.

Motion carried unanimously.

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- E. Consider approval of a First Amendment to the Agreement concerning Maintenance, Repair and Operation of Drainage and Flood Control Systems and Required Provisions of CC&RS, by and among, the County of Monterey, the Monterey County Water Resources Agency, and UCP East Garrison, LLC; recommend the Board of Supervisors approve the

amended Agreement; and, authorize the Interim General Manager to execute the amended Agreement

Tom Moss, Senior Hydrologist, indicated there was no previous committee action on this agreement. In the past, issues such as this were taken directly to the Board of Supervisors; however, procedures have changed. This action results in no financial impact to the Agency's budget. This amendment reflects drainage improvements and the Agency's right to collect the cost for repairs, maintenance or improvements from the property owners upon their property tax bills, and primarily the change to the current developer, UCP East Garrison, LLC.

Board Questions:

1. How are monitoring and staff time paid? *Through development fees (initial review fee and mitigating/monitoring fee).*
2. Are inspection dates included in the Agreement? *The developer must submit an annual report and must inspect annually.*
3. Has the Agency had to clean out any of these storm drains? If so, have we actually collected the fees? *We have about 50 projects and to date we have not had to do any work, although there have been problems. We are trying to do a better job in receiving the annual reports. There was a one-time fee but the mitigation and monitoring was ongoing. We are attempting to collect fees for the annual inspections.*
4. If the drainage does not work properly, is there language to allow amendment? *If there is non compliance, it would be addressed in the language of the conditions of approval.*

Public Comments: None.

ACTION:

Motion and Second by Directors Claude Hoover and Mike Scattini to approve a First Amendment to the Agreement concerning Maintenance, Repair and Operation of Drainage and Flood Control Systems and Required Provisions of CC&RS, by and among, the County of Monterey, the Monterey County Water Resources Agency, and UCP East Garrison, LLC; recommend the Board of Supervisors approve the amended Agreement; and, authorize the Interim General Manager to execute the amended Agreement.

Motion carried unanimously.

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- F. Consider approval of Amendment No. 1 to the Legal Services Agreement with Downey Brand Attorneys, LLP re: *In the Matter of the Application of California-American Water Company (U 210 W) for a Certificate of Public Convenience and Necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs in Connection Therewith in Rates, California Public Utilities Commission Application No. 04-09-019 in the amount of \$100,000; and, authorizing the Interim General Manager to execute the Amendment.*

David Hart recused himself from this item due to issues related to negotiations of his employer Dole with California-American Water.

Patrick McGreal, Deputy County Counsel, reported the Agency had an initial maximum amount for this particular contract for negotiations with Cal Am. This amendment will cover the overage and a buffer in the event litigation is eventuated. Funding will come from the County Risk Pool.

Board Questions/Comments (*Staff responses are emboldened and italicized*):

1. Does this include the Settlement with Cal-Am and also the new application for Cal-Am to recover their costs? ***Yes.***
2. Do the supervisors need to approve this? We will take it to the Board of Supervisors? ***Yes, and we will forward this on to the Board of Supervisors.***

Public Comments: None.

ACTION:

Motion and Second by Directors Claude Hoover and Deidre Sullivan to approve Amendment No. 1 to the Legal Services Agreement with Downey Brand Attorneys, LLP re: *In the Matter of the Application of California-American Water Company (U 210 W) for a Certificate of Public Convenience and Necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs in Connection Therewith in Rates, California Public Utilities Commission Application No. 04-09-019 in the amount of \$100,000; and, authorize the Interim General Manager to execute the Amendment; recommend that BOS also approve this amendment.*

Motion carried unanimously.

(Director Hart returned to the meeting @ 3:47 PM)

11. KEY INFORMATION AND CALENDAR OF EVENTS

Regular meeting dates will be retained for the month of February. Director Deidre Sullivan will serve on the Basin Management Plan and Planning Committees.

12. INTERIM GENERAL MANAGER'S REPORT

- a) Personnel: New Staff Members, Cathy Paladini (Finance Manager II) and Clayton Leal (Water Resource Biologist), were formally introduced to the Board.
- b) PCA/Growers/WRA Meetings: The last meeting was held December 6 with no resolution of the disagreement regarding the rights to 19,500 acre-feet recycled water. A meeting was held today with Ocean Mist to discuss other sources of water available to increase summer water availability. A meeting will be held in mid-February to approve their budget item and advise their Board of alternatives. PCA staff agreed to present proposals developed by the Agency's Ad Hoc Committee to resolve some of the outstanding issues.

- c) Salinas River Channel Maintenance Program: A Joint Meeting of the Water Resources Agency Board of Directors and Board of Supervisors is planned for late February. At that meeting, a presentation will be made including information developed at a November 2012 meeting. Additionally, the Cardno ENTRIX EIR should be available.
- d) Pajaro Bench Excavation Project Phase 2: A kickoff meeting will be held February 5.
- e) Hydroelectric Plant Repairs: Site Constructors has been issued a Notice to Proceed on the emergency repairs.
- f) Department Heads Workshop: Roadblocks in navigating County processes and procedures were discussed and five processes were selected for analysis, including Human Resources, with the goals of increasing efficiency and effectiveness.
- g) Performance Evaluation: Held on December 18, 2012 wherein the Agency's critical projects were discussed.
- h) 12/20/12 – attended Watermaster celebration
- i) 1/16/13 – attended Special Districts Managers meeting.
- j) Attended overview of governmental Accounting, joined by Director Hoover, that was worthwhile. Ms. Paladini would like to present some of the information provided to the full Board.

Public Comments: None

13. COMMITTEE REPORTS – Board members had no questions/comments related to these items.

14. INFORMATION ITEMS – Board members had no questions/comments related to these items.

15. CORRESPONDENCE – Directors commended the excellent letter sent to Dr. Bauman and questioned whether a response had been received to which Staff responded negatively.

**16. BOARD OF DIRECTORS' COMMENTS – Directors recognized deceased staff member, Jim Slater, for his service to the Agency and requested next month's Board meeting be adjourned in his memory.
Director Ekelund thanked Board members for electing him as their Chair.**

17. ADJOURNMENT – Chair Ekelund adjourned the meeting @ 4:07 PM.

SUBMITTED BY: Wini Chambliss
APPROVED ON: February 25, 2013

Wini Chambliss, Clerk to the Board