

**MONTEREY COUNTY WATER RESOURCES AGENCY
BOARD OF DIRECTORS
SALINAS RIVER BASIN MANAGEMENT PLANNING (BMP) COMMITTEE**

COMMITTEE MEMBERS

Richard Ortiz, Chair
Claude Hoover
Deidre Sullivan
Abby Taylor-Silva

David Bunn, Public Member
Don Chapin, Public Member
Dennis Sites, Public Member

TIME: 8:30 a.m.
DATE: Wednesday, February 10, 2016
PLACE: Monterey County Water Resources Agency, Board Room
893 Blanco Circle
Salinas, CA 93901
(831) 755-4860

A G E N D A

1. Call to Order

2. Public Comment

(Limited to three (3) minutes per speaker on matters within the jurisdiction of the Agency not listed on this agenda. The public will have the opportunity to ask questions and make statements on agenda items as the Committee considers them.)

3. Approve the Minutes of the Meeting held on January 13, 2016.

The Committee will consider approval of the Minutes of the above-mentioned meeting.

4. Consider receiving an update on the Sustainable Groundwater Management Act Basin Boundary adjustment requests; and, providing direction to Staff.

Robert Johnson, Deputy General Manager, will present this item to the Committee.

5. Consider receiving an update on the Interlake Tunnel and Spillway Modification Projects presentation given to the Agency Board of Supervisors on February 9, 2016.

David Chardavoyne, General Manager, will present this item to the Committee.

6. Set next meeting date and discuss future agenda items.

The Committee will discuss and determine details for its next meeting.

7. Adjournment

**MONTEREY COUNTY WATER RESOURCES AGENCY
BOARD OF DIRECTORS
SPECIAL SALINAS RIVER BASIN MANAGEMENT PLAN (BMP) COMMITTEE**

Richard Ortiz, Chair
Claude Hoover
Deidre Sullivan
Abby Taylor-Silva

Dennis Sites, Public Member
Don Chapin, Public Member
David Bunn, Public Member

TIME: 8:30 a.m.
DATE: Wednesday, January 13, 2016
PLACE: Monterey County Water Resources Agency
Board Room
893 Blanco Circle
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(831) 755-4860

MINUTES

1. **Call to Order @ 9:47 a.m.** by Committee Chair Richard Ortiz.

Members present: Directors Ortiz, Hoover and Taylor-Silva.

Members absent: Director Sullivan and Public Members Bunn, Chapin and Sites

Due to the lack of a quorum, the meeting was adjourned @ 9:48 AM.

Submitted by: Wini Chambliss

Approved on: _____

**MONTEREY COUNTY WATER RESOURCES AGENCY
BOARD OF DIRECTORS – BMP COMMITTEE**

MEETING DATE:	February 10, 2016	AGENDA ITEM:	
AGENDA TITLE:	Consider receiving an update on the Sustainable Groundwater Management Act Basin Boundary adjustment requests; and, providing direction to Staff.		
Consent ()		Action (X)	
Information ()			
SUBMITTED BY:	Robert Johnson	PREPARED BY:	Robert Johnson
PHONE:	(831) 755-4860	PHONE:	(831) 755-4860
DEADLINE FOR BOARD ACTION:		February 29, 2016	

RECOMMENDED BOARD ACTION:

Consider receiving an update on the Sustainable Groundwater Management Act Basin Boundary adjustment requests; and, providing direction to Staff.

SUMMARY:

The recently-passed Sustainable Groundwater Management Act (SGMA) is complex legislation that changes the paradigm on how groundwater will be managed in California. By the end of March 2016, suggestions to possible basin boundary adjustments are due. The Agency has been working with the County on this effort.

DISCUSSION:

In September 2014, Governor Brown signed into law the SGMA, which took effect on January 1, 2015. This act is complex, and clean-up language has been introduced, however in the meantime, entities that would be required to implement the SGMA need to embark on a series of steps to meet a timeline where the clock is already ticking.

Last month, the Board of Directors (BOD) received an update on the facilitated process for the formation of a Groundwater Sustainability Agency (GSA) that would be the entity to manage the Salinas Valley Groundwater Basin towards sustainability. Another SGMA-related activity that has a short time frame is possible adjustments to basin boundaries. The County and the Agency are looking at refining the boundaries of specific basins. The County/Agency will be proposing to modify or seek clarification of boundaries of the Paso Robles Groundwater Basin, the Seaside Groundwater Basin, and the Pajaro Groundwater Basin.

A report will be provided to the Committee regarding options related to each of the basins mentioned above. Staff will be seeking recommendations from the Committee first, then the BOD, with the final decision going to the County Board of Supervisors.

**MONTEREY COUNTY WATER RESOURCES AGENCY
BOARD OF DIRECTORS – BMP COMMITTEE**

MEETING DATE:	February 10, 2016	AGENDA ITEM:	
AGENDA TITLE:	Consider receiving an update on the Interlake Tunnel and Spillway Modification Projects presentation given to the Agency Board of Supervisors on February 9, 2016		
Consent ()		Action (X)	
Information ()			
SUBMITTED BY:	Robert Johnson	PREPARED BY:	Robert Johnson
PHONE:	(831) 755-4860	PHONE:	(831) 755-4860
DEADLINE FOR BOARD ACTION:		February 29, 2016	

RECOMMENDED BOARD ACTION:

Consider receiving an update on the Interlake Tunnel and Spillway Modification Projects presentation given to the Agency Board of Supervisors on February 9, 2016.

SUMMARY:

A synopsis of the presentation to the Monterey County Water Resources Agency Board of Supervisors is described below. The presentation (which has not occurred at the time of this writing) is scheduled for February 9, 2016; and, will focus on Project Labor Agreement (PLA) direction along with the review of a DRAFT Decision Matrix that compares AB 155 and Private-Public Partnership (P3) procurement methods for the Interlake Tunnel and Spillway Modification Projects.

DISCUSSION:

At the December 15, 2015, Monterey County Water Resources Agency (Agency) Board of Supervisors’ meeting (WRABOS), the Agency provided an update on the Interlake Tunnel and Spillway Modification Projects (Projects), as well as an alternative funding method to facilitate keeping the Projects moving forward. At that meeting, the WRABOS approved the Third Reimbursement and Funding Agreement in the amount of \$971,000 for: 1) Phase 1 of the Environmental Consulting work, and 2) continued Program Management Services for the Projects. At that meeting, Assembly Member Luis Alejo spoke and indicated that he would seek to secure funding for the Projects via special legislation; however, it would take additional time.

Subsequent to the December 15, 2015, meeting, the Assembly Member introduced AB 1585 on January 6, 2016, with principal coauthor Senator Cannella and coauthor Senator Monning. The bill has been going through revisions, and a pdf copy of the current revised bill is attached to this report. If adopted and signed in its current form, AB 1585 would require no less than \$25M to be allocated, upon appropriation of the legislature, to construct (revision) both the tunnel and spillway modification components of the project, using a PLA. Since AB 1585 is an urgency bill, it requires a 2/3 vote, and if passed becomes effective immediately. The first hearing of AB

1585 will be sometime between February 8 and the beginning of March at a Policy Hearing.

Assembly Member Alejo has made it clear that the Agency/County needs to follow the process set forth in AB 155 related to the PLA to access funding related to AB 1585. In other words, the Assembly Member wants the PLA negotiated as soon as possible, and before AB 1585 is enacted. To that end, counsel has reached out to Building Trades representatives.

It is important to understand how the PLA negotiation process affects or is affected by using the AB 155 design-build or the Infrastructure Financing design-build-finance methods of awarding the construction projects. To assist in the decision-making process and facilitate the Board's action to keep the Projects moving forward, three informational attachments are included with this report. They are: 1) a PLA Checklist; and 2) a DRAFT Decision Matrix discussed at the December 15, 2015 meeting. Gaining an understanding of these attachments will benefit those not familiar with PLA's and/or Decision Matrices, and keep this process transparent.

OTHER AGENCY INVOLVEMENT:

The County Administrative Office - IGLA and County Counsel have been involved with the continued progress of the Projects.

FINANCING:

The Agency and County are following the progress of AB 1585 in hopes that no less than \$25 million will be allocated to the Projects. The total cost for both components of the Project is estimated to be \$68 million. A Proposition 218 ballot measure will be required to fill the gap between state-received monies and the total cost of the Projects.

FINANCIAL IMPACT:	YES (X)	UNKNOWN	NO ()
FUNDING SOURCE:	To be determined		
COMMITTEE REVIEW AND RECOMMENDATION:			
ATTACHMENTS:	1. AB 1585 as proposed to be amended 2. Checklist of Issues to Consider in Drafting a Project-Labor Agreement 3. Interlake Tunnel and Spillway Modification – Delivery Approach Decision Matrix (DRAFT)		
APPROVED:	<hr/> <div style="display: flex; justify-content: space-between;"> General Manager Date </div>		

2015-2016 AB-1585 Alejo (A)

99 - Introduced 1/6/16

AS PROPOSED TO BE AMENDED

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares as follows:

(a) Over the past four years, California has grappled with one of the worst ongoing droughts in the state's history.

(b) The state is riddled with water supply and water quality challenges posed by the relentless drought and is now facing weather forecasts of one of the most powerful El Niño storms ever recorded.

(c) A major flood event in California has the potential to devastate communities, regional agriculture-based economies, and seriously impact the state's economy.

(d) In Monterey County alone, agriculture generates eight billion one hundred twenty million dollars (\$8,120,000,000) into the local economy and supports more than 76,000 jobs. An additional 20,352 jobs are created as a direct result of the industry.

(be) The Monterey County Water Resources Agency manages Lake Nacimiento and Lake San Antonio, two reservoirs that ~~provide supply~~ water ~~supply for consumption and groundwater recharge~~, flood control, ~~prevention of salt water intrusion~~ and recreation in the Salinas Valley.

(ef) Lake Nacimiento's watershed fills ~~its the Lake Nacimiento~~ reservoir nearly three times faster than Lake San Antonio's watershed fills ~~that its~~ reservoir. ~~The Monterey County Water Resources Agency~~ often ~~causing water in Lake Nacimiento to exceed capacity and overflow from the releases water from Lake Nacimiento spillway to the ocean because it reaches its capacity~~, even when Lake San Antonio still has ~~excess storage~~ available ~~storage capacity~~.

(dg) The Monterey County Water Resources Agency is planning to ~~correct these wasteful and potentially harmful consequences as follows: (1) build construct~~ a tunnel or pipeline between Lake Nacimiento and Lake San Antonio ~~that has the potential to reduce water overflow events by 60%, and (2) construct spillway modifications at Lake San Antonio to increase storage by approximately 60,000 acre feet. to redirect water from Lake Nacimiento that would otherwise be released out to sea and use it to fill excess capacity in Lake San Antonio.~~

(eh) These ~~interlake tunnel two~~ projects will mitigate the impact of the drought and improve the economic viability of the Salinas Valley, the environmental sustainability of the region, and agricultural production.

(f) The Lake Nacimiento and Lake San Antonio region scores 40 percent to 50 percent as a disadvantaged community under CalEnviroScreen.

~~(g) The state is riddled with water supply and water quality challenges posed by the relentless drought and is now facing weather forecasts of one of the most powerful El Niño storms ever recorded.~~

~~(h) A major flood event in California has the potential to devastate communities, regional agriculture based economies, and seriously impact the state's economy.~~

~~(i) In Monterey County alone, agriculture generates eight billion one hundred twenty million dollars (\$8,120,000,000) into the local economy and supports more than 76,000 jobs. An additional 20,352 jobs are created as a direct result of the prosperous industry. Flooding of our agricultural lands could put all of that into jeopardy.~~

(j) Given the Salinas Valley's economic contribution to the state's agricultural economy and the stress the El Niño storms will put on the region, the Lake Nacimiento and Lake San Antonio areas are considered distressed communities and therefore are a priority for state funding.

~~SEC. 2. Upon appropriation by the Legislature, no less than twenty-five million dollars (\$25,000,000) from ____ shall be allocated to the Monterey County Water Resources Agency for the purpose of constructing, in accordance with the design-build process authorized by Section 11.1 of the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990, as amended by Chapter 865 of the Statutes of 2014), a project including both: (1) a water conveyance tunnel, in accordance with the design-build process authorized by Section 11.1 of the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990, as amended by Chapter 865 of the Statutes of 2014), between Lake Nacimiento and Lake San Antonio within zone 2c, and (2) spillway modifications at Lake San Antonio to increase storage by approximately 60,000 acre feet in order to maximize water storage, water supply, and groundwater recharge at the lakes, within the Salinas River groundwater basin, and the Salinas Valley.~~

SEC. 3. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the emergency circumstances of the ongoing drought and the benefits this of these projects between involving Lake Nacimiento and Lake San Antonio managed by the Monterey County Water Resources Agency will provide to the region.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to responsibly store water during California's prolonged drought and to protect the Salinas Valley from flooding, **and to protect water supply, water quality, distressed communities, and urban and rural property and structures** during a historic El Niño weather pattern, it is necessary that this act take effect immediately.

CHECKLIST OF ISSUES TO CONSIDER IN DRAFTING A PROJECT LABOR AGREEMENT

1. Purpose

- If there is a specific date by which the project must be completed, and is it included?
- Is the need for harmonization of hours and the stabilization of wages mentioned?
- Is the need for the maintenance of labor peace mentioned along with a dedication to the mutual resolution of disputes?
- Does the clause contain a no-strike/no-lockout statement?

2. Scope of agreement

- Is it clear that the PLA is intended only to cover construction work?
- Is work that is not included clearly stated?
- Are the various projects and geographic parameters of the site well defined?
- Does language address site preparation and/or dedicated offsite work?
- Does the clause clearly state that all contractors, of whatever tier, must accept and be bound by the agreement through a letter of assent?
- Does the agreement clearly state that the property owner's employees are not covered and the PLA does not create joint-employer status?
- Is there a supremacy clause stating that the PLA supersedes all other agreements (including CBAs)?

3. Union recognition

- Are the signatory unions recognized as the sole and exclusive representatives of all craft employees?

4. Management's rights

- Is management specifically given the right to hire, promote, transfer, lay off, or discharge employees, subject only to the provisions of the agreement?
- Is just cause protection granted?
- Are restrictions on output, crew size, or the introduction of technology prohibited?

5. Referral of employees

- Do signatories agree to use the referral procedures maintained by the unions?
- Is there a provision for unions that do not have an established referral system?
- Is there a nondiscrimination clause in the agreement?
- Is there a period (e.g., 48 hours) after which contractors may seek labor from other sources if the union is unable to fulfill a request?
- Is there language relating to the appointment of foremen?
- Does the agreement allow for testing or evaluation for those who require special skills?
- Is there a "key man" or core personnel provision?
- Is there a clause that prohibits the union from reassigning project employees to another site?
- Is there a provision for the reemployment of individuals who quit or are terminated for cause, e.g., ineligibility to return to the site for 90 days?

6. Apprentices and trainees

- Is there language about the employment of apprentices?
- Does the PLA allow for a uniform journeyman/apprentice ratio?
- Are helpers, trainees, or other sub-journeymen allowed on the project?
- Is the ratio of these other trainees defined?
- Are apprentice or trainee wages defined in the PLA?
- Does the PLA establish any special program for the recruitment or training of apprentices or other trainees, such as minority or female targeting, or a school-to-work program?

7. Wages and benefits

- Does the PLA contain any direct concessions on wages?
- Does the PLA contain any direct concession on overtime pay?
- Does the PLA limit forms of premium pay, such as travel time, high time, etc.?
- Does the agreement limit the joint funds to which contractors must contribute?
- Does the agreement limit amounts to be contributed to straight-time wages?

8. Work rules

- These are unique to each project, but may include such matters as rules on the use of equipment, smoking, absenteeism, etc.
- Often this section is used as a residual category for items that do not fit easily into other sections.

9. Work stoppages and lockouts

- Is there strong language prohibiting strikes and lockouts, as well as other types of job actions, e.g., slowdowns?
- Is striking allowed over certain matters, such as delinquency in payments to joint funds?
- If striking is allowed, is it limited in any way (e.g., must not be accompanied by picketing, hand billing, etc.)?
- Is notice required for striking?
- Is there a procedure for determining if a proscribed job action has occurred, and for enforcing the no-strike/no-lockout clause?

10. Grievances and arbitration

- Does the agreement contain a grievance and arbitration procedure?
- Are arbitrators named in the PLA?
- If not, is the source of arbitrators (e.g., AAA, FMCS) defined?
- Does the agreement define the types of disputes or grievance that are subject to the procedure?
- Are exceptions made to the grievance/arbitration procedure for industries that have their own settlement procedures?
- Is the procedure, including the number of steps and individuals involved, clearly defined?
- Is the employer allowed access to the grievance procedure?
- Are limits to the arbitrator's authority defined?

11. Jurisdictional disputes

- Does the PLA reference the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry?
- Is a provision made for parties that are not stipulated to the plan?

- Are pre-job conferences required to work out jurisdictional issues?
12. Union security
- Is there a requirement to join the appropriate union within the statutorily defined period?
 - Is there a maintenance of membership provision?
 - Is an exception made if the project is in a “right-to-work” state?
13. Union representation
- Is provision made for access to the project by union officials?
 - Are the rules for union access defined?
 - Are rules governing stewards defined?
14. Hours of work
- Is the workday defined?
 - Are hours of work standardized across crafts?
 - Are break times defined?
 - Are any statements about overtime or overtime distribution included?
 - Are there provisions for shift work and/or flex time?
 - Are uniform holidays specified?
 - Are rules concerning the celebration of holidays that fall on weekends defined?
 - Is there a provision for make-up time?
15. Subcontracting
- Is subcontracting restricted to those willing to sign a letter of assent?
16. Safety and health
- Are any special safety programs or safety committees specified in the agreement?
 - Are employees required to receive special safety training or be certified in particular safety procedures?
 - Is a drug and alcohol abuse monitoring or prevention program specified?
 - Is immediate dismissal allowed for safety violations?
17. Saving clause
- Does the clause preserve the contract if any particular provision is voided by a court of law?
 - Does the clause require the parties to negotiate a substitute agreement for any provision voided under law?
18. Term of agreement
- Are the start and end dates of the project clearly defined?
 - Is there a provision for rework or a contractor’s subsequent involvement with the project

Interlake Tunnel and Spilway Modification - Delivery Approach Decision Matrix

DRAFT

Scoring: 1 - 5 based on lowest to highest probability of benefit to the project.

Criteria	Description	Alternative 1 AB 155 - Design Build under CA Public Contract Code	Alternative 2 P3 - Design, Build, Finance under CA 5956 - Infrastructure Financing Act
Category	Weight	SCORE	SCORE
Financing	Provides interim financing for project development to Prop 218 election	NO - Requires \$4+ million interim financing. No known source	YES - provides funding for development work to Prop 218 election.
	Optimizes potential success of Prop 218 election	NO - PLA requirement may discourage votes. Substantial delay before election.	YES - Guaranteed Maximum Price assures confidence with electorate.
	Provides expediency to accomplish Prop 218 election	NO - 18 months to complete engineering/environmental and Engineer's Report for Prop 218	YES - focused intensive effort and risk management to prepare Engineer's Report for Prop 218 in 6 - 8 months.
	Allows opportunity for State funding participation	YES - state funding amounts, conditions, and availability unknown.	NO - CA 5956 precludes state funding participation. Splitting project into 2 may accommodate state funds.
	Allows opportunity for Federal Funding participation	NO - Presidential Executive Order No. XXXX precludes Federal funds if PLA in place.	YES - CA 5956 allows Federal Funds Participation.
	Allows opportunity for local funding	YES - local funding participation likely will be required.	YES - CA 5956 allows local funding sources.
	Allows opportunity for private financing	NO - difficult to structure equity participation on return on investment for private capital.	YES - CA 5956 specifically designed to utilize private financing for the project.
	Provides Guaranteed Maximum Price	NO - Full costs are not known until design and construction are completed.	YES - P3 contractor provides Guaranteed Maximum Price as basis for Proposition 218 financing.
	Provides overall lowest cost to stakeholders	NO - higher cost potential from PLA costs, longer project duration, change orders.	YES - Incentive for P3 contractor to manage risks and control costs to achieve the lowest cost project.
Schedule	Achieves project schedule for construction start in 2018	NO - if \$4 mil development funding for engineering/ environmental work is not provided in FY16.	YES - if P3 can be solicited and secured by June 30, 2016.
	Provides engineering services to support current environmental clearance work.	NO - no identified funding for engineering work in FY15	YES - P3 contractor will perform engineering work to support environmental work, define costs, and prepare Engineer's Report for Prop 218.
	Provides fast track project development	NO - conventional design build approach with lengthy procurement processes.	YES - P3 contractors risk mitigation includes fast track performance and completion objectives as soon as possible.
PLA	Project Labor Agreement required	YES - AB 155 requires PLA.	NO - PLA is optional at the discretion of project owner.
	PLA increases project costs	YES - PLA adds additional labor costs for union dues and fees.	YES - PLA adds additional labor costs for union dues and fees.
	PLA enhances securing project financing	YES - Labor support for AB 1585 may obtain \$25 mil with a PLA stipulation. NO - Prop 218 may not be fully supported by electorate if PLA included.	NO - PLA adds to project costs, complexity and duration of project development and may jeopardize Prop 218 election.
OCIP	Allows OCIP programs	Yes- but OCIP not required.	YES - but OCIP not required.
	Provides expedient means to address regulatory demands	NO - conventional process followed during project development phase without leverage.	YES - P3 contractor can be responsive in negotiating and incorporating regulatory demands in the project.
Regulatory	CEQA approval required before procurement	YES - CEQA approval required before solicitation of DB contractor. June 2017 earliest forecast FEIR.	NO - P3 contractor can be procured before CEQA approval.
	Provides strongest unified support for the project from stakeholders.	NO - Lack of State funding and requirement to use PLA threatens strong stakeholder support..	YES - P3 approach can be fast and responsive without the requirement for additional local funding or PLA obligations.
	Removes/reduces stakeholder actions to advance the project.	NO - AB 155 implementation requires \$4 million funding from undefined sources to advance the project to Prop 218 election.	YES - P3 contractor provides private capital for development work removing the need for stakeholder action to secure interim funding.
Procurement	Requires compliance with Public Contract Code	YES - lengthy public procurement process required.	NO - P3 contractor selected expeditiously by competitive solicitation & negotiation. No bidding required.
	Provides expedient procurement of design build contract services	NO - Design Build services cannot be secured until CEQA approved. DB legislation requires lengthy procurement of DB services.	YES - Timely procurement of P3 contractor can commence design build services as soon as possible.
	Provides off-ramps to change course and use alternative delivery methods	NO - AB 155 and related regulations and codes restrict flexibility in project financing and procurement of services.	YES - off ramps can be designed into the P3 process to change course or restructure as needed.
	Provides options to separate projects into different procurements	NO - AB 155 addresses the tunnel only. There is not an option to include the spillway project.	YES - P3 approach can accommodate multiple configurations of project financing and delivery including separating the tunnel and spillway into 2 separate projects.
Risk Management	Optimizes management of risks	NO - Risks of cost overruns and schedule delays are difficult to manage in the conventional risk shifting process.	YES - Risk management by P3 contractor provides lowest cost project and Guaranteed Maximum Price with off ramps if needed.
	Project delivery approach increases project costs.	NO - Project cost estimate is based on conventional Proposition 218 financing model.	YES - Private financing costs for development capital add increased project costs.
Cost			