

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

COMMITTEE MEMBERS

Richard Ortiz, Chair
Claude Hoover
Deidre Sullivan

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

TIME: 8:30 a.m.
DATE: Wednesday, October 14, 2015
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 September 16, 2015.**
The Committee will consider approval of the Minutes of the above-mentioned meeting.
- 4. Consider receiving the report and recommending Agency Board of Directors approval and recommend to the Agency Board of Supervisors that it approve the Amended and Restated Water Recycling Agreement between Monterey Regional Water Pollution Control Agency and Monterey County Water Resources Agency (“Water Recycling Agreement”), and that it authorize the Agency Board of Supervisors Chair to execute the Water Recycling Agreement.**
David Chardavoyne, General Manager, will present this item to the Committee.
- 5. Consider receiving an update on the Agency’s DRAFT “Comprehensive Salinas Valley Basin Sustainability Program”, and providing direction to Staff.**
Robert Johnson, Deputy General Manager, will present the report for the Committee’s consideration.
- 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 – BMP COMMITTEE**

MEETING DATE:	October 14, 2015	AGENDA ITEM:	
AGENDA TITLE:	Consider recommending Agency Board of Directors approval and recommend to the Agency Board of Supervisors that it approve the Amended and Restated Water Recycling Agreement between Monterey Regional Water Pollution Control Agency and Monterey County Water Resources Agency (“Water Recycling Agreement”), and that it authorize the Agency Board of Supervisors Chair to execute the Water Recycling Agreement.		
Consent ()		Action ()	
Information ()			
SUBMITTED BY: PHONE:	David E. Chardavoyne (831) 755-4860	PREPARED BY: PHONE:	David E. Chardavoyne (831) 755-4860
DEADLINE FOR BOARD ACTION:		October 26, 2015	

RECOMMENDED BOARD ACTION:

Recommend Agency Board of Directors approval and recommend to the Agency Board of Supervisors that it approve the Amended and Restated Water Recycling Agreement between Monterey Regional Water Pollution Control Agency and Monterey County Water Resources Agency (“Water Recycling Agreement”), and that it authorize the Agency Board of Supervisors Chair to execute the Water Recycling Agreement.

SUMMARY:

On October 8, 2015 a Memorandum of Understanding regarding Sources Waters and Water Recycling (“MOU”) was entered into between the Monterey Regional Water Pollution Control Agency (“MRWPCA”), Monterey County Water Resources Agency (“MCWRA”), City of Salinas, Marina Coast Water District (“MCWD”), and Monterey Peninsula Water Management District (“MPWMD”). That MOU provided the framework for agreements among the parties for provision of additional source waters (“New Source Waters”) that could be dedicated to the Pure Water Monterey (“PWM”) Project and provide additional supply to the Castroville Seawater Intrusion Project (“CSIP”). The Water Recycling Agreement is one of the resulting six complementary agreements shown below.

Agreement	Parties
Water Recycling Agreement	MCWRA/MRWPCA
Water Purchase Agreement	Cal Am, MPWMD, MRWPCA
Water Rights – Ag Wash Water	City of Salinas, MRWPCA
Operation of Industrial WW Ponds	City of Salinas, MRWPCA
Marina Coast Water district – RUWAP Pipeline	MCWD, MRWPCA
Umbrella Agreement	MCWRA, MRWPCA, City of Salinas, MCWD, MPWMD

DISCUSSION:

The proposed Water Recycling Agreement provides, *inter alia*, for new source waters from the Blanco Drain, Reclamation Ditch, and the City of Salinas (produce wash water) for CSIP and the Pure Water Monterey Project. It was developed by combining provisions of (i) the MRWPCA agreement with MCWRA, dated June 15, 1992, for construction and operation of a tertiary treatment system (the "1992 Agreement"), with subsequent amendments thereto, as follows: Amendment No. 1 on May 30, 1994; Amendment No. 2 on February 16, 1998; and Amendment No. 3 on May 28, 2002, (ii) agreement between MRWPCA and MCWRA entitled "Operation and Maintenance of the Salinas River Diversion Facility", dated February 3, 2011 ("SRDF Agreement") and, (iii) the MOU.

Specific to the Water Recycling Agreement are the following:

- 4,320 acre-feet/year for PWM (49.6%)
- 4,381 acre-feet/year for CSIP (50.4%)
- New Source Water Facilities capital (44% WRA, 56% MRWPCA)
- Growers have minimum volume of all wastewater flows going to plant, (except MCWD flows and 650 acre-feet that go to MRWPCA)
- MRWPCA has first 4,320 acre-feet./year of New Source Waters
- Revised accounting protocols at MRWPCA
- 30-year term with automatic extensions
- Provisions for Phase II-4,665 acre-feet/year for CSIP

Portions of the Water Recycling Agreement applicable to the New Source Water Facilities will not become effective until the following conditions are met:

1. Water Rights for the Blanco Drain and Reclamation Ditch are obtained from the California State Water Resources Control Board; and,
2. Fully executed, and California Public Utilities Commission approved, Water Purchase Agreement, between MRWPCA, MPWMD, and California-American Water; and,
3. Written finding by the Regional Water Quality Control Board that utilization of the Blanco Drain dry weather flows as New Source Water meets all treatment requirements for the aforesaid dry weather flows; and,
4. An independent third-party review of proposed capital and operating costs, approved by the MCWRA Board of Directors and Board of Supervisors. The costs of the aforesaid third party review shall be shared equally between MCWRA and MRWPCA; and,
5. A successful 218 vote(s) for rates and charges related to the operation and maintenance of the New Source Water Facilities and proportional primary and secondary treatment charges, if required.

OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed the Water Recycling Agreement

The Regional Water Quality Control Board has been consulted and is a proponent of the Source Water/Pure Water Monterey Project

FINANCING:

The Water Recycling Agreement will not require any financing from MCWRA. MRWPCA will finance, or cause to be financed, all capital costs related to the New Source Water Facility.

FINANCIAL IMPACT:	YES () NO (X)
FUNDING SOURCE:	N/A
COMMITTEE REVIEW AND RECOMMENDATION:	None
ATTACHMENTS:	1. Amended and Restated Water Recycling Agreement Between Monterey Regional Water Pollution Control Agency and Monterey County Water Resources Agency 2. MOU
APPROVED:	 <hr/> General Manager Date



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

BOARD ORDER No. _____

RECOMMEND AGENCY BOARD OF DIRECTS APPROVE AND RECOMMEND)
TO THE AGENCY BOARD OF SUPERVISORS THAT IT APPROVE THE)
AMENDED AND RESTATED WATER RECYCLING AGREEMENT BETWEEN)
THE MONTEREY COUNTY WATER RESOURCES AGENCY AND THE)
MONTEREY REGIONAL WATER POLLUTION CONTROL AGENCY)

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

Recommends Agency Board of Directors approval and recommend to the Agency Board of Supervisors that it approve the Amended and Restated Water Recycling Agreement between Monterey Regional Water Pollution Control Agency and Monterey County Water Resources Agency (“Water Recycling Agreement”), and that it authorize the Agency Board of Supervisors Chair to execute the Water Recycling Agreement.

PASSED AND ADOPTED on this _____ day of _____ 2015, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

BY: Claude Hoover, Chair
Board of Directors

ATTEST: David E. Chardavoine
General Manager

**Amended and Restated Water Recycling Agreement Between
Monterey Regional Water Pollution Control Agency and
Monterey County Water Resources Agency**



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- EXHIBIT K: SAMPLE COST ALLOCATION PLAN FOR INDIRECT COSTS

THIS AMENDED AND RESTATED AGREEMENT [hereinafter referred to as “Water Recycling Agreement”] is made this _____ day of _____ 2015, “Effective Date,” by and between Monterey Regional Water Pollution Control Agency (“PCA”) and Monterey County Water Resources Agency (“WRA”) hereinafter “parties.”

The PCA was formed as a California Joint Powers Agency by a Joint Exercise of Powers Agreement for the Monterey Regional Water Pollution Control Agency, effective June 29, 1979. The Monterey County Water Resources Agency (“WRA”) was established by the legislature in 1995 pursuant to the Monterey County Water Resources Agency Act.

WITNESSETH

WHEREAS, PCA and WRA entered into the Memorandum of Understanding Regarding Source Waters and Water Recycling, as amended, dated October 8, 2014, with the City of Salinas (“Salinas”), Marina Coast Water District (“MCWD”), and Monterey Peninsula Water Management District (“WMD”), hereinafter referred to as “Five Party MOU,” to provide a framework for provision of additional source waters that could be dedicated to the Pure Water Monterey Project and provide additional supply to the Castroville Seawater Intrusion Project; and,

WHEREAS, PCA had previously entered into an agreement with WRA, dated June 16, 1992, for construction and operation of a tertiary treatment system (the “1992 Agreement”), with subsequent amendments thereto, as follows: Amendment No. 1 on May 30, 1994; Amendment No. 2 on February 16, 1998; and Amendment No. 3 on May 28, 2002; and,

WHEREAS, PCA and WRA entered into the Agreement between the Monterey County Water Resources Agency and The Monterey Regional Water Pollution Control Agency for the Operation and Maintenance of the Salinas River Diversion Facility, dated February 3, 2011 (“SRDF Agreement”); and,

WHEREAS, in order to facilitate coordination of and accounting for operation and maintenance of Salinas Valley Reclamation Project, (SVRP), and Castroville Seawater Intrusion Project, (CSIP), and Salinas River Diversion Facility, (SRDF), it is desired by the parties to have one comprehensive agreement; and,

WHEREAS, the parties desire to facilitate acquisition of new source waters required for Pure Water Monterey Project and additional waters for CSIP, WRA applied to the California State Water Quality Control Board on May 19, 2014 for water rights to 25,000 acre-ft/year of Drainage Flows from Blanco Drain, Reclamation Ditch, and Tembladero Slough as defined in Section 1.0 D herein; and,

WHEREAS, on July 29, 2015 WRA requested that its water rights application be divided into five separate applications with the first 6,500 acre-ft/year allocated to Application Nos. 32263A, 32263B, and 32263C as part of New Incremental and Interruptible Allocations – Phase I, associated with the Pure Water Monterey Project; and,

WHEREAS, PCA and the City of Salinas (“City”) will enter into an agreement for primary and secondary treatment by PCA of the City’s industrial pond water; and,

WHEREAS, the 1992 Agreement, as amended, needs to be replaced in order to fulfill the terms and conditions of the Five-Party MOU, and to update specific terms and conditions, for current needs and realities, while preserving the parties original intentions to the maximum extent possible.

NOW, THEREFORE, for and in reliance of the foregoing, the parties hereby agree as follows:

1.0 Definitions

For the purposes of this Water Recycling Agreement, the following definitions are provided:

A. The term "Annexation Agreements" refers to the Annexation Agreement between MCWD and PCA dated April 25, 1989, and the Annexation Agreement between MCWD and WRA dated March 26, 1996. The individual Annexation Agreements are referenced herein by their respective dates.

B. The term “Bureau Loan Contract” is used to refer to the Contract Between the United States and the Monterey Regional Water Pollution Control Agency (MRWPCA) for A Loan for Construction of a Small Reclamation Plant,” dated June 2, 1995,

C. The terms “Castroville Irrigation System,” “Castroville Seawater Intrusion Project,” and “CSIP,” as used in this Water Recycling Agreement, refer to the tertiary treated water distribution system and are hereinafter collectively referred to simply as the “CSIP”, owned by WRA. Reclaimed water produced by the Salinas Valley Reclamation Plant for CSIP will be delivered to a distribution system, known as the Castroville Irrigation System, at the points indicated on Exhibit A, attached hereto, as may be amended by agreement of the parties, and through that system it will be delivered to growers in the Castroville area, for use in the irrigation of crops.

D. The term “Drainage Flows” refers to WRA’s portion of New Source Waters originating from Blanco Drain, Reclamation Ditch, and Tembladero Slough.

E. The term “Drought Reserve” shall refer to storage of up to 1,000 acre-ft of water for potential use during a drought.

F. The term "Interruptible Rate" applies to PCA charges for primary and secondary treatment of New Source Waters.

G. The term "New Source Water Facilities" applies to facilities required to be constructed to convey Blanco Drain, Reclamation Ditch and Tembladero Slough waters to the PCA Regional Treatment Facility, and those to be constructed to allow wintertime operation of the SVRP.

H. "New Source Waters" are defined as waters originating at the following:

1. Agricultural Wash Water
2. Blanco Drain Water
3. Reclamation Ditch/Tembladero Slough water
4. Monterey Storm Water
5. Salinas Storm Water

I. The term "Pure Water Monterey Facilities" refers to those advanced treatment facilities necessary to transform secondary treated wastewater from the Regional Treatment Facility into drinking water quality water, and are not included in this Water Recycling Agreement.

J. The terms "reclaimed water", "reclaimed wastewater", "recycled water", and "tertiary treated water" as used in the June 16, 1992 Agreement and Amendments No.1 and 2 all refer to the water produced by the 29.6 MGD (33,154 acre-ft per year) tertiary treatment system and are hereinafter collectively referred to as "tertiary treated water".

K. The term "Regional Treatment Facility" refers to the facilities sized to provide primary and secondary treatment for 29.6 mgd of wastewater flow and which is owned, operated and maintained by PCA.

L. The terms "SVRP" and "Salinas Valley Reclamation Plant" and "recycled water plant" refer to that part of the Salinas Valley Water Project containing the 29.6 mgd (33,154 acre-feet per year) tertiary treatment system that produces recycled water pursuant to Title 22 suitable for irrigation of crops eaten raw, hereinafter collectively referred to simply as the "SVRP," which is owned, operated and maintained by PCA.

M. The terms "SRDF" and "the Salinas River Diversion Facility" both refer to the Salinas River Diversion Facility, which includes the chlorination system as a component, and are hereinafter referred to simply as the "SRDF", owned by WRA.

N. The term "SWRCB Loan Contract" is used to refer to "Contract between the State Water Resources Control Board (SWRCB) and MRWPCA for a State Revolving Fund Loan for Construction of a Tertiary Treatment Facility Project" dated December 15, 1995.

O. Member entities of PCA are the following:

1. City of Salinas (“Salinas”)
2. City of Monterey
3. Castroville Community Services District
4. City of Seaside
5. City of Pacific Grove
6. Marina Coast Water District
7. County of Monterey
8. City of Del Rey Oaks
9. Sand City
10. Boronda County Sanitation District

I. CONSTRUCTION OF THE NEW SOURCE WATER FACILITIES

1.01. PCA to construct New Source Water Facilities.

Upon the receipt of final commitments for the financing described below by all applicable governmental agencies, PCA will finance, design, construct, and install the New Source Water Facilities, in substantial conformity with designs and plans approved by the parties in writing, when conditions precedent of Section 16.15 are met.

1.02. Change orders.

Change orders must be approved in writing. Any change order or related set of change orders that increases the New Source Water Facilities cost by \$100,000 or more shall require the written consent of both parties within 30 days of presentation. Any change order or related set of change orders that increases the New Source Water Facilities cost by less than \$100,000 or that lowers the New Source Water Facilities cost may be approved by PCA alone, without the consent of the WRA, except that a copy of any proposed or executed change order shall promptly be provided to WRA as soon as it is available to PCA. Each party's contract administrator shall be authorized to give consent to change orders for that party. Neither party's consent to a change order will be unreasonably withheld or delayed.

1.03. Location of the New Source Water Facilities.

The New Source Water Facilities shall be located on or near the site of the existing PCA regional treatment plant, on lands owned by PCA, all as shown in Exhibit A, attached hereto and made a part hereof. PCA will acquire any rights-of-way necessary for the construction and maintenance of pipelines from the sources points of delivery to the Regional Treatment Plant.

1.04. Future New Source Water Facilities.

New Source Water Facilities consist of, but are not limited to the following:

1. Blanco Drain Water
 - (a) 2,738 gpm (6.1 cfs) pump station
 - (b) 7,700 feet of 18 inch diameter HDPE, PVC, or Ductile Iron pipe
 - (c) Intake Screen/Wet Well with appropriate appurtenances
2. Reclamation Ditch Water
 - (a) 2,693 gpm (6.0 cfs) pump station
 - (b) 43 feet of 6 and 12 inch diameter DIP or PVC discharge pipe
3. Tembladero Slough Water
 - (a) 1,346 gpm (3 cfs) pump station
 - (b) 120 feet of 16 inch diameter DIP and PVC discharge pipe
 - (c) Intake screen/Wet Well with appropriate appurtenances
4. Monterey Storm Water (Lake El Estero)
 - (a) 2,500+/- gpm pump station
 - (b) 45 feet if 12+/- inch PVC pipe
5. Salinas Storm Water
 - (a) Diversion Point No. 1
 - i. 54" x 54" concrete diversion structure
 - ii. 24" x 24" concrete diversion structure plus weir
 - iii. Parshall Flume
 - iv. Intake Screen/Sluice Gate with appropriate appurtenances

- (b) Diversion Point No. 2
 - i. 66"x 66" concrete diversion structure
 - ii. 24"x 24" concrete diversion structure plus weir
 - iii. Rehabilitate or new 150 feet of -inch pipe
 - iv. Parshall Flume
 - v. Appropriate access points of appurtenances
- (c) Diversion Point No. 3
 - i. 30" x 30" concrete diversion structure
 - ii. Parshall Flume with 12"x 6'x 40 feet diversion structure
 - iii. Appropriate access points and appurtenances
- (d) Diversion Point No. 4
 - i. Cast in place diversion structure
 - ii. 80 feet of 30 inch pipe
 - iii. Parshall Flume and appropriate access points and appurtenances
- (e) Return from Ponds
 - i. Intake Structure
 - ii. 2 45 hp pumps
 - iii. Valve and Meter boxes
 - iv. 20-inch HDPE – 6200 ft
 - v. Appropriate access points and appurtenances
- (f) Return to Pump Station
 - i. 10'x16' wet well
 - ii. 2 45 hp pumps
 - iii. 7,500 feet of HDPE pipe
 - iv. Appropriate access points and appurtenances
- 6. Modifications to Regional Treatment Facility
 - (a) Two 30-inch sluice gates in Chlorine Contact Basins
 - (b) One 72-inch motorized sluice gate at Storage Pond with access structure and stairs
 - (c) 860-feet of 30+/- inch HDPE, DIP, PVC, or concrete pipe

1.05. Cooperation between agencies.

PCA and WRA shall work cooperatively and with diligence to obtain all permits, approvals, and financing to construct the New Source Water Facilities.

1.06. Regular meetings.

After development of the implementation schedule, representatives of the parties will meet on a monthly basis, or more often if necessary, in order to ensure that the New Source Water Facilities is proceeding according to the schedule and in conformity with this contract and the approved plans and designs.

II. ESTIMATED COSTS AND FINANCING FOR NEW SOURCE WATER FACILITIES.

2.01. New Source Water Facilities.

PCA shall bear all the costs of design and construction of the New Source Water Facilities. PCA intends to finance these costs utilizing grants and low interest loans. WRA will repay its share of these costs as provided in Section VI.

2.02. Estimated design and construction costs of New Source Water Facilities.

Table 1.

Component	WRA	PCA	Monterey/Salinas	TOTAL
Blanco Drain Water	\$2.3 Million	\$2.7 Million	0	\$5 Million
Reclamation Ditch	\$0.5 Million	\$0.6 Million	0	\$1.1 Million
Tembladero Slough	\$0.5 Million	\$0.6 Million	0	\$1.1 Million
Monterey Storm Water	0	0	Not Estimated	
Salinas Storm Water	0	0	Not Estimated	
Modifications to Regional Treatment Facility	\$0.6 Million	\$0.7 Million		\$1.3 Million
TOTAL	\$3.9 Million	\$4.6 Million		

WRA's share of capital costs is 45.1% and PCA's share of capital costs is 54.9%. This same allocation of capital costs will be applied to Replacement and Renewal costs associated with the New Source Water Facilities, as identified in Section 9.02.

2.03. Source Water.

WRA shall obtain water rights to Drainage Flows from the California State Water Resources Control Board. Costs of obtaining and maintaining said water rights shall be reimbursed to WRA on a proportional basis for water used as a component of the New Source Facilities.

III. OWNERSHIP, OPERATION AND MAINTENANCE OF CSIP, SVRP, SRDF.

3.01. Ownership, operation, and maintenance, in general.

1. PCA will own, operate, and maintain the SVRP as described in Exhibit B "Operation and Maintenance of SVRP, CSIP, SRDF, and New Source Water Facilities", and will keep the SVRP in good condition and repair for the term of this Water Recycling Agreement. WRA shall be required to reimburse PCA for such costs and expenses of ownership, operation, and maintenance of the SVRP as described in Article VI of this Water Recycling Agreement. After expiration of this Water Recycling Agreement and any extension thereof, the SVRP will remain the property of PCA, except that WRA will own the discharge pipeline from the flange on the discharge side of the storage pond to the connection with the CSIP.
2. WRA will own the CSIP facilities and PCA will operate and maintain the CSIP facilities as described in Exhibit B "Operation and Maintenance of SVRP, CSIP, SRDF, and New Source Water Facilities", and will keep the CSIP in good condition and repair for the term of this Water Recycling Agreement. WRA shall be required to reimburse PCA for such costs and expenses of operation and maintenance of the CSIP as described in Article VI of this Water Recycling Agreement. After expiration of this Water Recycling Agreement, and any extension thereof, the CSIP will remain the property of WRA.
3. WRA will own, and PCA will operate and maintain the SRDF as described in Exhibit B

“Operation and Maintenance of SVRP, CSIP, SRDF, and New Source Water Facilities”, and will keep the SRDF in good condition and repair for the term of this Water Recycling Agreement. WRA shall be required to reimburse PCA for such costs and expenses of operation and maintenance of the SRDF as described in Article VI of this Water Recycling Agreement. After expiration of this Water Recycling Agreement and any extension thereof, the SRDF will remain the property of WRA.

4. PCA will own, operate, and maintain the New Source Water Facilities as described in Exhibit B “Operation and Maintenance of SVRP, CSIP, SRDF, and New Source Water Facilities”, and will keep the New Source Water Facilities in good condition and repair for the term of this Water Recycling Agreement. WRA shall be required to reimburse PCA proportionately for such costs and expenses of ownership, operation, and maintenance of the New Source Water Diversion Facilities as described in Article VI of this Water Recycling Agreement. After expiration of this Water Recycling Agreement and any extension thereof, the New Source Water Diversion Facilities will remain the property of PCA.
5. No changes in ownership, operation or maintenance of SVRP, CSIP or SRDF shall occur except with the mutual consent of both parties.

3.02. Safety and loss prevention program.

PCA will develop, maintain, and implement a safety and loss prevention program for the SVRP, CSIP, SRDF and New Source Water Facilities, and will provide appropriate training for its employees working on the SVRP. This program will conform with all requirements set forth in CAL OSHA’s Process Safety Management Program and US EPA's Risk Management Program, and will be revised and updated as new regulations are promulgated. All costs associated with the program will be included in the annual budget process to be reimbursed by WRA.

3.03. Warranties.

PCA warrants that all water committed to WRA pursuant to this Recycled Water Agreement shall be transferred to WRA free and clear of all claims by any person or entity, and that all water produced by the SVRP, up to the SVRP’s capacity of 29.6 MGD, shall be distributed in conformity with Section IV.

3.04. Right to inspect.

WRA shall have the right to inspect the SVRP and New Source Water Facilities, while under construction and at any time thereafter during the term of this contract, upon the giving of reasonable advance notice to PCA. Such inspections may take place at any time during the day or night; however, night time inspections will not take place without at least one week's notice, except in case of emergency or by agreement between the parties. However, PCA shall have the sole right to direct the construction work and the work of PCA's own employees. WRA's right to inspect is for the purpose of observation only and not for the purpose of supervision of the work observed.

3.05. Daily operation.

The SVRP, the CSIP, SRDF and New Source Water Diversion Facilities will be in operation and will supply water to WRA on a daily basis as described in Exhibit B “Operation and Maintenance of SVRP, CSIP, SRDF, and New Source Water Facilities”, except for temporary periods of shut-down authorized by this Water Recycling Agreement or made necessary by circumstances beyond the

control of PCA.

3.06. Incidental uses.

PCA may use such amounts of tertiary treated water from the SVRP as may be needed for the normal operation and maintenance of PCA's facilities, including, but not limited to, the SVRP and the primary and secondary treatment facilities.

3.07. Notice of temporary cessation of water deliveries.

PCA will give immediate notice to WRA, by telephone to WRA's General Manager, or to the person designated by the General Manager to receive such notices, with a prompt follow-up notice in writing, as soon as PCA becomes aware of the need to cease deliveries to the CSIP, whatever may be the reason for such interruption in service. Whenever an unforeseen cessation of deliveries occurs without prior notice to WRA, PCA shall immediately give notice to WRA as provided above. In addition, whenever a cessation of deliveries occurs, PCA shall use every reasonable effort to restore service as soon as possible.

3.08. Outside Contracts.

When PCA deems it more appropriate for someone other than PCA to make a repair directly, PCA will solicit bids for contracts to perform this work.

3.09. Access to CSIP and SRDF facilities.

WRA shall provide the necessary access arrangements for PCA personnel to carry out their required work on the CSIP and SRDF. WRA shall notify landowners, growers, and others who may be affected by this work in advance that PCA personnel will be entering onto and performing work on their property. Any disputes arising between PCA personnel and these effected parties will cause PCA to discontinue work on the effected facilities until WRA has established necessary access arrangements for the work to continue.

IV. PROVISION OF RECYCLED WATER TO WRA FROM PCA

4.01. Existing Allocations

1. WRA shall be entitled to tertiary treated recycled water for its CSIP Project during the agricultural growing season in a volume not less than total wastewater flows to the Regional Treatment Facility from all PCA members existing at the Effective Date of this Water Recycling Agreement, plus all other areas within PCA's 2001 boundaries less the following amounts:
 - (a) Amount claimed and utilized by MCWD pursuant to Section 4.05(a) as provided pursuant to the Annexation Agreements.
 - (b) Such flows as are lost or as must be diverted in the ordinary course of operating and maintaining the treatment plant and ocean outfall.
 - (c) Such flows as are not needed to meet WRA's authorized demand pursuant to this Water Recycling Agreement.
 - (d) 650 AF of water allocated by WRA to PCA in the following amounts per month:

Table 2.

Month	Typical Monthly Seasonal Spread (AF)
May	138 AF
June	172 AF
July	185 AF
August	155 AF
TOTAL:	650 AF

2. WRA shall be entitled to one-half of the volume of wastewater flows from areas outside of PCA's 2001 Boundary provided; however, at the request of WRA, PCA passes the wastewater flows through the tertiary treatment facility.
 - (a) PCA shall be responsible for incremental tertiary treatment operations, maintenance, repair and replacement costs for any and up to one-half of the flows from areas outside PCA's 2001 Boundary that pass through the tertiary treatment facility and that are utilized by PCA.
 - (b) WRA shall be responsible for incremental tertiary treatment operations, maintenance, repair and replacement costs for any and up to one-half of the flows from areas outside PCA's 2001 Boundary that pass through the tertiary treatment facility and that are utilized by WRA.
 - (c) PCA, for its flows pursuant to Section 4.02 (2)(a) above, will comply with all applicable requirements set forth in Contract No. 5-07-20-W1284, between the Bureau of Reclamation and WRA including, but not limited to, those contained in Paragraphs 10b and 10c, all at PCA's sole cost and expense.

4.02. New Incremental and Interruptible Allocations (New Source Water) – Phase I

1. WRA and PCA agree that Phase I consists of PCA constructing and operating New Source Water Facilities intended to provide New Source Water of approximately 4,320 acre-ft/year for PCA and at 4,381 acre-ft/year for WRA. Of the total volume of approximately 8,701 acre-ft/year, PCA's operation and maintenance cost share is 49.7% and WRA's operation and maintenance cost share is 50.3%. Said percentages shall be adjusted to reflect actual amounts, with such adjustments mutually agreed upon in writing following one year of operation of the Pure Water Monterey Project, and for each year thereafter.
2. PCA's 4,320 acre-ft/year share shall have first priority should any curtailments of the 8,701 acre-ft/year of New Source Water takes place. Said priority shall commence upon completion and operation of New Source Water Facilities.
3. Primary and secondary treatment of Agricultural Wash Water is managed by a separate agreement between the City of Salinas ("Salinas") and PCA, with Salinas making payments for aforesaid treatment. WRA will be responsible for only operations, maintenance, repair and replacement costs related to tertiary treatment of the volume of Agricultural Wash Water that is delivered to CSIP.

Prior to completion and operation of the Pure Water Monterey Project, PCA agrees that 100% of the Agricultural Wash Water delivered to it by Salinas will be dedicated to CSIP.
4. All New Source Waters shall be provided to CSIP, if desired by WRA, in a volume up to 50.3% of the total annual flow entering the Regional Treatment Plant from those sources, subject to the PCA first priority described in Section 4.02 (2) above. Flows not desired by WRA may be utilized by PCA for the Pure Water Monterey Project, other purposes, or be discharged.

- (a) With the exception of any other New Source Waters the primary and secondary treatment costs of which are paid by others, WRA will be proportionately assessed for the incremental operation and maintenance costs of the influent pump station, primary treatment and secondary treatment of its portion of New Source Water flows actually delivered to tertiary treatment.
- (b) WRA will be responsible for incremental tertiary treatment operations, maintenance, repair and replacement costs related to the volume of New Source Waters that are delivered to CSIP.

4.03. Operations and Maintenance Treatment Cost Allocation.

Table 3.

O&M Treatment Cost Allocation			
Source	Primary and Secondary	Tertiary	AWTP
Domestic W/W	Member Entities	WRA ¹	PCA-Winter
Ag Wash Water \$179 ²	Salinas (I.R)	WRA ¹	PCA
Blanco Drain \$74 ²	WRA 55%/PCA 45% (IR)	WRA ¹	PCA
Rec/Tembledero Ditch \$76/\$96 ²	WRA 55%/PCA 45% (IR)	WRA ¹	PCA
Storm Water – Monterey \$69 ²	Monterey (IR)	WRA ¹	PCA
Storm Water – Salinas \$76 ²	Salinas (IR)	WRA ¹	PCA
Future WW in 2001 PCA Bound.	Member Entities	WRA ¹	PCA – Winter
Future WW outside 2001 PCA Bound.	Member Entities	WRA (50% of Flow if through SVRP) ¹	PCA – Winter (50% of Flow if through SVRP; all flows otherwise
MCWD – Delivery	Member Entities	MCWD	MCWD
Interruptible Rate (IR)			

¹PCA – if through tertiary treatment; operations and maintenance and increased interest rate

²Interruptible rates are subject to change pursuant to **Section** .

All treatment costs associated with the New Source Waters will be incorporated into the annual WRA budget process, as identified in Section VII. Annual Source Water costs will be based on the demand schedule provided by WRA to PCA; and PCA’s Interruptible Rate Schedule for New Source Waters.

1. If any party utilizes tertiary treated water, other than water provided to PCA pursuant to Section 3.06, Incidental Uses, it shall be proportionately assessed by PCA for operation, maintenance, repair and replacement costs and increased interest costs, for the amount of water claimed and utilized from tertiary treatment facilities.
2. PCA agrees that it will cause MCWD, or itself, in use of its recycled water entitlements, to comply with all applicable requirements set forth in Contract No. 5-07-20-W1284, between the Bureau of Reclamation and WRA including, but not limited to, those contained in Paragraphs 10b and 10c, all at PCA’s or MCWD’s sole cost and expense.

4.04. New Incremental and Interruptible Allocations – Phase II.

PCA and WRA plan to acquire and treat additional flows up to the Regional Treatment Facility’s capacity of 33,154 acre-ft/year, (hereinafter described as “Additional Flows”). Terms and conditions for accommodating Phase II flows will be subject to a separate future agreement.

4.05. Provisions for Drought Reserve.

PCA commits to produce no greater than 200 acre-ft/year, up to a total quantity of 1000 acre-ft of Pure Water Monterey product water for delivery to WMD for storage as a Drought Reserve.

1. PCA may, from time to time, request that WMD establish a Drought Reserve in excess of 1000 acre-ft.
2. During any fiscal year, PCA will first provide 3,500 acre-ft of Pure Water Monterey product water for delivery to WMD for domestic drinking water requirements before water is produced and delivered to the Drought Reserve.
3. In addition to water supplies provided for this Section IV, WRA may request additional irrigation water from PCA sources. When such a request is made, WMD may make available water from the Drought Reserve to meet domestic drinking water needs, allowing PCA to deliver additional source waters of an equal amount to WRA. In no instance shall PCA be required to reduce deliveries to WMD to make available additional irrigation water to WRA from its sources in an amount exceeding the balance available in the Drought Reserve.

4.06. Water Quality Enhancement Options.

1. In order to protect against possible future recycled water quality deterioration, WRA desires that PCA undertake an expansion of the Pure Water Monterey 3,700 acre-ft/year advanced water treatment facility and construction of a pipeline.
 - (a) PCA shall adopt an amendment to the final EIR for the Pure Water Monterey Groundwater Replenishment Project within 90 days of the Effective Date of this Water Recycling Agreement, to provide for the aforesaid expansion and pipeline.
 - (b) PCA shall avail itself of any available financial grant opportunities to design and construct the aforesaid advanced water treatment facility expansion and pipeline.
 - (c) WRA shall provide written notice to PCA when it desires the aforesaid advanced water treatment facility and pipeline to be operational and the amount of additional treatment capacity desired.
 - (d) WRA and PCA shall negotiate a funding arrangement for the non-grant funded portion of the advanced water treatment facility expansion and pipeline. Related operation and maintenance costs shall be only incremental costs.
2. PCA will allow California-American Water Company to finance, design, construct, own, and operate pipeline facilities connecting its proposed desalination facility to the tertiary treatment facility ponds in order to supply desalination facility basin return water to CSIP.

V. DELIVERY OF WATER TO WRA.

5.01. Quantity of water to be delivered to WRA SVRP.

Each year during the term of this contract, PCA shall deliver tertiary treated water from the SVRP to the Castroville Irrigation System. Subject to PCA's and MCWD's rights to the water as set forth in Article IV, the quantity so delivered shall include water provided in response to WRA's demand, determined as set forth in this Water Recycling Agreement.

5.02. WRA's demand schedule.

For water which will be delivered during the term of this Water Recycling Agreement, WRA shall, not later than November 1 each year, submit to PCA a schedule of requested water deliveries for the next calendar year. The schedule may request water deliveries of amounts up

to amounts provided for WRA pursuant to Section 4.01 and 4.02 as WRA's demand. This demand schedule shall show the amount requested for each calendar month in the year.

5.03. WRA's demand.

It is understood and agreed that the wastewater committed by PCA, to which WRA is entitled pursuant to this Water Recycling Agreement, is dedicated for use by WRA for purposes of the CSIP as that sea water intrusion project may exist from time to time, and thereafter for direct application for such other non-urban agricultural irrigation projects in the Salinas Valley as WRA may develop for the purpose of curing saltwater intrusion and other severe impacts of the groundwater imbalance in the Salinas Valley which threaten the viability of the groundwater basin as a water supply for agricultural and municipal uses, and for no other purpose. Where otherwise consistent with WRA's entitlement pursuant to this Water Recycling Agreement, WRA may use tertiary treated water produced by the SVRP for non-agricultural irrigation applications in the Salinas Valley only if PCA declines in writing to undertake such applications in the Salinas Valley; provided, however, PCA consents in writing to WRA's doing so, which consent shall not be unreasonably withheld. In no event shall PCA's obligation to provide wastewater influent exceed the amount needed to produce the tertiary treated water to which WRA is entitled pursuant to this Water Recycling Agreement.

5.04. PCA'S duty to comply with WRA demand.

PCA shall supply the amount of water demanded in accordance with this Water Recycling Agreement and the demand schedule submitted by WRA, except when the SVRP and SRDF cannot produce enough water to satisfy the WRA's demand, PCA's demand, and MCWD's demand. All as limited by their respective entitlements, either because there is not enough wastewater flowing into the PCA Regional Treatment Plant, or because, for reasons beyond the reasonable control of PCA, the SVRP is unable to operate for a sufficient period of time or the SVRP fails to produce enough water of the quality described in Section 6.01, "Water Quality," for use in the CSIP.

VI. MAINTENANCE OF WATER QUALITY.

6.01. Water Quality.

1. General Water Quality: PCA will produce tertiary treated water of a quality suitable for the irrigation of edible crops, such as artichokes, Brussels sprouts, and row crops (e.g., lettuce, cauliflower, broccoli, and celery) that do not require cooking prior to human consumption. All water produced and delivered to WRA shall meet all applicable standards of quality prescribed by the State of California (including, but not limited to, the regulations promulgated by the State Health Department and set forth in the California Code of Regulations, Title 22), or by separate agreement of the parties, so that the water may be used for the purposes specified herein. The parties clarify in this section 6.01 their intent with regard to the required water quality and further agree that the SVRP has been designed to produce tertiary treated water for the irrigation of food crops where the recycled water comes in contact with the edible portions of the crop. The water quality which the SVRP was designed to produce is defined by the Recycled Water Criteria contained in Chapter 3 of Title 22 of the State of California's Administrative Code. In order to use this water for its intended purpose of irrigating food crops, the specifications contained in Water Reclamation Requirements Order No. 94-82, issued by the State of California Regional Water Quality Control Board, Central Coastal Region, on September 9, 1994, or as said water reclamation requirements may from time to time be revised and reissued by said Regional Water Quality

Control Board, must be met. PCA will conduct a source control program to help provide reclaimed water of the best quality for food crop irrigation. However, the water quality specifications described in this Section 6.01 Water Quality constitute the sole and complete definition of the water quality that the SVRP will be expected to produce under this Water Recycling Agreement. PCA makes no representations as to the water quality the SVRP will produce with respect to other quality parameters not specifically set forth in the documents referred to in this Section 6.01.

6.02. Duty to monitor water quality; cessation in deliveries.

PCA will monitor the quality of water produced by the SVRP and SRDF, in accordance with the Reclaimed Water Monitoring Requirements contained in the Water Reclamation Requirements Order No. 94-82, referred to in Section 6.01, to ensure that the water delivered to the CSIP meets the quality standards set forth in Section 6.01. PCA may perform additional monitoring which it deems appropriate. The parties understand that it may not be possible for the water produced by the SVRP and SRDF to meet these standards 100% of the time, and that water quality will vary from time to time. During periods when the PCA determines that water quality does not meet the standards, set forth in Section 6.01, flows will not be sent to the CSIP. For those occasions, the CSIP's backup water source will be the CSIP's supplemental wells. PCA will provide special attention to minimize any such events to the extent that it has control over them. PCA will notify WRA promptly, whenever it appears that there is or will soon be a change in the quality of water produced by the SVRP that may adversely affect the agricultural users of the water.

6.03. Regulations to protect water quality.

PCA will, to the extent feasible, enact reasonable and appropriate regulations governing the kinds of wastes and other materials that may be discharged into the sewerage system and/or agricultural wash water system, in order to protect the quality of water ultimately produced.

6.04. Water Quality and Operations Committee.

The parties shall maintain a Water Quality and Operations committee which membership shall consist of representatives of the parties and the areas receiving CSIP water. The committee shall have access to and shall share all pertinent information concerning the operation of the SVRP, SRDF, and CSIP, the quality of water produced, and the needs of the growers receiving water, in order to discuss and make recommendations for maintaining or improving the SVRP, SRDF, and CSIP so that it will continue to meet the needs of the agricultural operations served. No private sector member of the committee and no grower or private sector user of water shall be required to disclose proprietary information in connection with the committee's work. The SRDF Water Quality Monitoring Plan shall be presented to the Water Quality and Operations Committee at least once per year or prior to any significant changes, for committee review and input. Any financial changes approved by the Water Quality and Operations Committee at this meeting will be submitted to the WRA Board of Director's for approval and the approved Board Resolution will be forwarded to PCA for any budget modifications.

VII. PAYMENTS BY WRA TO PCA

7.01. Consideration paid by WRA.

As consideration for the water provided and the other obligations performed by PCA under this Water Recycling Agreement, WRA shall make payments to PCA pursuant to this Water Recycling

Agreement.

7.02. Amount to be paid.

The consideration paid by WRA shall be the dollar amount that equals 100% of the annual costs reasonably and necessarily incurred in connection with the SVRP, CSIP, and SRDF (including both direct and indirect expenses), and no more. PCA will make all reasonable efforts to stay within, or below, the amounts budgeted for the SVRP, CSIP and SRDF. All budgetary savings will be applied to the following year's budgets. The annual costs include the following:

1. Amortization of any loans (USBR, SWRCB, etc.), bonds, certificates of participation, and any interim or other financing;
2. The SVRP, CSIP, and SRDF operation, maintenance, repair, replacement, power, capitalized equipment, capital improvements, contingency, and reserve costs as are contained in the budgets for the SVRP, CSIP and the SRDF. WPCA will make all reasonable efforts to stay within the total budget amounts for these budgets, but will have the latitude to incur variances between individual budget accounts, so long as the total budget amounts are not exceeded.
3. Unused funds received from WRA will be placed by PCA in an interest bearing account. All interest earned on WRA accounts will be applied for WRA's benefit on a monthly basis. PCA will adjust the second semi-annual billing and year-end reconciliation statement by any interest earned on WRA accounts. PCA shall be reimbursed by WRA for the reasonable loss of interest earnings on PCA's monies used to cover any SVRP or CSIP operations and maintenance costs until such costs are reimbursed by WRA.

7.03. Payment schedule.

PCA will establish separate accounts for the SVRP, SRDF, and the CSIP. Each year, WRA will fund each account by June 30 with a payment that adjusts seed monies to 50% of the projected operations, maintenance, capital outlay, and reserve expenses for the next fiscal year. Thereafter, PCA will record into this account the payments noted in paragraph 7.04 (a)(iv) and (v) based on cost share estimates determined pursuant to Section 4.02 (1) herein.

1. WRA will make six payments to PCA each year as follows:
 - (a) Thirty (30) days before the date that PCA's annual payment on the USBR loan for the SVRP is due, WRA will pay an amount equal to the then current payment on the USBR loan;
 - (b) Thirty (30) days before the date that PCA's annual payment on the SWRCB loan for the SVRP is due, WRA will pay an amount equal to the current payment on the SWRCB loan;
 - (c) Thirty (30) days before the date the PCA's annual payment on the SWRCB loan for the Source Water Facilities/Pure Water Monterey Project is due, WRA will pay an amount equal to WRA's proportional share of capital costs for the New Source Water Facilities, as provided in Exhibit I.
 - (d) On March 1, WRA will pay the SVRP CSIP, and SRDF operation, maintenance, reserve, and all other SVRP and CSIP costs for the immediately preceding July-December that are allocable to WRA and payable hereunder;
 - (e) On September 1, WRA will pay the SVRP, CSIP, and SRDF operation, maintenance, reserve, and all other costs budgeted for the immediately preceding January-June that are in excess of the payments received allocable to WRA and payable hereunder. All surplus

costs related to SVRP, CSIP, and SRDF operations will be processed in accordance with Section 7.02(e).

- (f) On March 1, WRA pay PCA the proportional share of the amortized replacement/renewal costs of the New Source Water Facilities as identified in Exhibit J.
- (g) On September 1, WRA will pay the SVRP, CSIP, and SRDF operation, maintenance, reserve, and all other costs budgeted for the immediately preceding January-June that are in excess of the payments received allocable to WRA and payable hereunder. All surplus costs related to SVRP, CSIP, and SRDF operations will be processed in accordance with Section 7.02(e).
- (h) Debt Service and Amortization schedules are shown in Exhibit I.

7.04. Payment procedures.

1. At least thirty (30) days before the specified due date for the payments under paragraph 7.04(a), PCA will send to WRA a request for payment, indicating the amount due, the date payment from WRA is due, and the nature of the payment.
2. Payment requests for operation, maintenance, reserve and other costs shall contain the following information: Expenditure reports for SVRP, CSIP, and SRDF that describe year-to-date (YTD) expenditure, YTD encumbrance, and YTD total, for each account along with the YTD total for all accounts, including indirect costs and contingency, and the percentage used YTD of the budgeted amount. Back-up information (original paid invoices, payroll records, time sheets, and vehicle costs) will be maintained by PCA to support each direct charge.
3. WRA shall promptly review all requests for payments and shall approve for payment such requests or portion thereof that are in conformity with this Water Recycling Agreement and shall promptly submit such approved requests to the County Auditor for payment. WRA shall promptly notify PCA of any disputed payment request. Disputes over payments shall be resolved as provided in Article XII of this Water Recycling Agreement.

7.05. Reduction or termination of water delivery for lack of payment; judicial remedies.

1. Notwithstanding anything to the contrary in this Water Recycling Agreement (except for the provisions of paragraph (b), below), if WRA should fail to make any payment to PCA required under this Water Recycling Agreement for a period of ninety (90) days or more after the due date, then PCA, upon fifteen (15) days' written notice to WRA, may act to reduce or terminate the delivery and/or distribution of tertiary treated water from the SVRP and or discontinue operation of the CSIP. Such reduction or termination in the delivery of water or discontinuance of operations of CSIP may continue only for such period of time as payments from WRA to PCA remain delinquent, and may continue even though dispute resolution procedures pursuant to Article XIII are pending between the parties, unless WRA makes full payment of the amount in question, under protest, as provided in paragraph 13.01.
2. For as long as any notes or bonds issued to finance the SVRP or CSIP are outstanding, PCA will not exercise its right to terminate or reduce the water supply of the tertiary treated water to the CSIP, except that PCA may reduce the water supply to the extent that the failure of WRA leaves PCA without all necessary and sufficient funds to operate the SVRP.
3. In addition, if WRA should fail to make any payment to PCA required under this Water

Recycling Agreement for a period of ninety (90) days or more after the due date, the PCA shall have the right to seek any appropriate judicial relief, at law or in equity, for such default. Such relief may include, but need not be limited to, damages, injunctive relief, and the appointment of a receiver.

7.06. Prior approval of budget by WRA.

1. Each year, in accordance with its normal budgeting schedule, PCA will adopt budgets for the operation of the SVRP, CSIP, and SRDF, in advance of the operating year for which the budgets are proposed, including therein all costs to be paid by WRA. In preparing these budgets, the demand schedule approved by WRA's General Manager will be provided to PCA by November 1 of each year. Within six (6) weeks of receipt of the demand schedule, PCA will provide WRA with a preliminary budget estimate. Any additional costs associated with the New Source Waters will be calculated based on the demand schedule and PCA's Interruptible Rate; and will be included as a separate line item in the SVRP, CSIP, or SRDF budget. Upon receipt of the preliminary budget, both agencies will agree to meet in a timely manner sufficient to enable review and approval by both agencies respective boards.
2. Once the budgets are approved by WRA's Board of Directors, WRA's Board of Supervisors, and PCA's Board of Directors, PCA will not modify the budgets so as to exceed the amount of expenditures approved by WRA without first submitting the proposed changes to WRA's Board of Directors and WRA's Board of Supervisors for review and approval, except as provided for in Section 7.11. In addition, both agencies will provide advance notification of any proposed budgetary modifications that will be considered by each agencies respective boards.
3. In the event WRA's revenues to fund the CSIP, SVRP, and SRDF, budgets fall below projected amounts, WRA may request that PCA to revise the operations to incur lower operating costs to stay within the revised revenue projections.

7.07. SWRCB as third party beneficiary.

The State Water Resources Control Board (SWRCB) shall be a third party beneficiary of the WRA's payment obligations under this Article VII, to the extent that the WRA's payment obligations are intended to provide funds to PCA to repay the loan to the PCA from the SWRCB. In the event of default by the PCA in the repayment of said loan, the SWRCB may enforce the loan repayment obligations against the WRA, and to the extent that the WRA makes payment to the SWRCB, the WRA shall be relieved of its corresponding obligation to the PCA. If, through no fault of the WRA, the PCA defaults in its repayment obligation to the SWRCB, and the WRA thereby becomes obligated to pay any penalties, extra charges, or amounts in excess of the basic principal and interest on the loan, then PCA shall reimburse WRA for any such amounts paid by WRA.

7.08. Priorities of payment.

Notwithstanding anything to the contrary contained herein, WRA's obligations to make payments with respect to the SVRP, CSIP, and SRDF shall be prioritized as follows, and the obligations in each category shall be subordinate to the obligations in each prior category, shall be on a parity with all other obligations in such category, and shall be senior to the obligations in each subsequent category:

1. Operation and maintenance costs for the SVRP, CSIP, and SRDF;
2. debt service on obligations (other than USBR or SWRCB loans for the SVRP, CSIP, and the New Source Water Facilities) incurred to finance the SVRP, CSIP, and New Source Water Facilities, payments to replenish any reserve fund for such obligations, and payments to any provider of credit enhancement for such obligations;
3. debt service on the USBR and SWRCB loans for the SVRP;
4. debt service on the New Source Water Facilities;
5. repair, replacement, capital improvements, capitalized equipment, contingency and reserve costs of the SVRP, CSIP, and SRDF (to the extent the same do not constitute operation and maintenance costs);
6. WRA's share of the amortized replacement/renewal costs of the New Source Water Facilities as identified in Exhibit J.

7.09. Application of loan payments by PCA.

All payments made by WRA to PCA for the repayment of the USBR or SWRCB SVRP loans shall be used for such repayment. Upon termination of any loan agreement, any unused funds returned to PCA and retained by PCA shall be returned to WRA within 60 days from the date of the approved PCA audit for the fiscal year in which the agreement was terminated all in accordance with Section 9.01 and 9.02 herein.

7.10. Unanticipated events/Emergency situations

1. Unanticipated events. Circumstances or events may arise which were not anticipated in either the scopes of services or the budgets for SVRP, CSIP, and SRDF. In this case, PCA will submit its plans for addressing such circumstances or events, including justification and estimated amount of expenditures, to the Water Quality Committee, formed in accordance with Section 6.04, for its review and recommendations. Before proceeding with those plans, WRA must first give its written approval to incur any additional costs associated therewith.
2. Emergency situations. If the event or circumstance constitutes an emergency situation which threatens health and safety, damage to property, or injury to persons, PCA will act as promptly and as efficiently as possible to mitigate the situation without waiting for approval by the Water Quality and Operations Committee or WRA. PCA will advise the Water Quality and Operations Committee and WRA as soon thereafter as possible of the mitigating actions taken and of any further action that may be necessary.

7.11. Decision-making authority.

In order to provide for the smooth and efficient operation of SVRP, CSIP, and SRDF, PCA will have the full authority to make and implement decisions with regard to activities and expenditures for these purposes without prior approval of WRA. All such activities shall be within the scope of services described in Exhibit B "Operation and Maintenance of SVRP, CSIP, SRDF, and New Source Water Facilities", respectively. All such expenditures shall be within the overall budget amounts for the SVRP, CSIP and SRDF.

VIII. ACCOUNTING SYSTEM, REPORTS

8.01. Accounting system.

PCA will maintain an accounting system that is in conformity with generally accepted accounting principles (GAAP) and will allow for the segregation and tracking of all revenues and direct costs related to the SVRP, CSIP, and SRDF. The accounting system shall properly allocate costs to the SVRP, CSIP, and SRDF and to PCA's other activities that are not subject to reimbursement by WRA under this Water Recycling Agreement. The accounting system shall provide the ability to adequately identify indirect cost centers and establish allocation factors to assign indirect costs proportionally to the CSIP, SVRP, SRDF, and the Interruptible Rate for New Source Waters. Cost accounting, including any overhead distributions, shall be in accordance with GAAP. PCA shall make the details of such system available to or known to WRA and/or to WRA's auditor, at WRA's request.

8.02. Financial reports.

By the last day of each month PCA will provide to WRA a report on expenditures made during the previous month and year-to-date, for each line item in the SVRP, CSIP, and SRDF budgets. These reports will identify any line items which vary appreciably from anticipated budget to date. PCA will provide WRA an annual report of WRA's proportional share of Reserves retained in the Pure Water Monterey Fund for New Source Water Facilities. This report will be provided by PCA to WRA by September 30 of each year; and include WRA's deposits made to the Repair/Renewal Reserve, proportional interest earned, and the proportional share of any replacement/renewal costs.

8.03. Direct and indirect costs.

1. Direct costs of the SVRP, CSIP and SRDF are costs which can be tracked as costs of these particular activities through invoices, time cards, record keeping systems, and other records that specifically allocate a cost to these activities. Indirect costs are all other costs incurred by PCA in order to manage, maintain, support, and operate the SVRP or the CSIP.
2. PCA shall implement the accounting system described in Section 8.01 to uniformly identify and allocate all direct and indirect costs for the SVRP and the CSIP and for all the PCA's other activities. PCA shall identify the specific functions that are typically considered administrative or support in nature. These functions or departments shall include Human Resources, Finance, Administration, Information Technology, and Safety. The annual budgeted costs of these functions will be allocated proportionally to all operational activities based on a percentage relational to the services provided to SVRP, CSIP, SRDF and all other PCA activities. A sample overview is provided in Exhibit K. The budgets associated with the administrative or support functions will not be directly charged to the SVRP, SRDF, or CSIP. PCA will make reasonable efforts to maximize the extent to which costs to be paid by WRA can be identified as direct costs rather than as indirect costs.
3. For purposes of allocating indirect costs, PCA will not include as a direct cost the debt service (principle and interest) on the loans obtained for the project.
4. PCA and WRA retain the right to transition from the cost allocation plan identified in 8.02 (b) to a cost allocation model that is compliant with the Office of Management and Budget (OMB) Circular A-87 – Cost Principles for State, Local, and Indian Tribe Governments or a subsequent revision. Any cost allocation subject to this provision shall be accompanied by a Certificate of Cost Allocation Plan and be in compliance with Title 2 CFR, Part 200. All indirect costs charged to functional activities will be applied consistently with the results of this plan to ensure equity between costs centers and conformance with OMB standards; provided, however, no allocation of any indirect cost unrelated to SVRP, CSIP or SRDF shall

be made.

5. If PCA elects to engage a consultant to comply with OMB Circular A-87, PCA shall be primarily responsible for the costs associated with the Plan, and WRA shall pay for a portion of the plan consistent with the current year indirect cost allocation factor. If WRA requests that PCA engage a consultant to comply with OMB Circular A-87, the costs associated with the plan shall be divided equally.
6. Implementation of an OMB Circular A-87 Cost Allocation Plan will become effective in the new fiscal year immediately following the cost allocation study.
7. All OMB Circular A-87 Cost Plans will be subject to updates as consistent with industry standards. All costs associated with a consultant retained to update the plan shall be paid in accordance with Section 7.02 (e).

8.04. Annual audit.

The accounting for WRA's funds will be subject to PCA's Annual Audit. Information relating to WRA's activities will be classified as Restricted in PCA's Comprehensive Annual Financial Statement (CAFR). This Restricted classification will remain in effect through the term of this agreement, unless there are any new Governmental Accounting Standards Board (GASB) pronouncements or auditor comments that require a change in classification. A copy of PCA's CAFR will be provided to WRA by January following the close of the subsequent fiscal year.

8.05. Right to inspect and audit records.

WRA shall have the right to inspect PCA's records pertaining to the SVRP, CSIP, and SRDF, upon reasonable advance notice. WRA shall also have the right to audit PCA's records pertaining to the SVRP, CSIP, and SRDF, or to have them audited by an auditor selected by WRA, at WRA's sole cost and expense. Such audit may be performed at any time during regular business hours, upon the giving of reasonable advance notice. If the audit shows that PCA has overcharged annual costs to WRA by more than five percent, PCA shall promptly on demand by WRA reimburse WRA for the cost of the audit.

8.06. Reimbursement for overcharge or undercharge.

If any audit shows that an undercharge or an overcharge has occurred, each agency will have 90 days to comply with the audit findings.

IX. REPAIR AND MODIFICATION OF SVRP, CSIP, SRDF, AND NEW SOURCE WATER FACILITIES AND RELATED FACILITIES.

9.01. SVRP, CSIP, and SRDF Reserve Funds.

PCA shall at all times during the term of this Water Recycling Agreement accumulate and maintain a reclamation reserve fund for SVRP, CSIP, and SRDF. The loan reserve fund will be at a minimum in accordance with each loan agreement found in Exhibit H. The exact amount for each operating reserve shall be determined in the annual budget process. If insurance or self-insurance monies are available for any projects that are intended to be funded by reserves, the insurance monies will be used prior to accessing reserve funds. Upon termination of any agreement, any unused funds retained by PCA shall be returned to WRA within 60 days from the date of the approved PCA audit for the Fiscal Year in which the agreement was terminated.

9.02. Replacement and Renewal Costs Associated with New Source Water Facilities.

WRA shall pay PCA the proportional share of amortized capital renewal costs associated with the New Source Water Facilities. WRA's annual contribution is provided in Exhibit J. All funds received from WRA will be placed in the Pure Water Monterey Fund's Renewal and Replacement Reserve in accordance with Section VI. All funds will be held in the Reserve for the purpose of funding capital outlay projects for the New Source Water Facilities; assist in meeting any fiscal sustainability plan requirements for the Clean Water State Revolving Loans; and maintaining a proportional share of the Loan's debt covenant ratio. At the completion of the thirty-year loan cycle, WRA and PCA will develop a long-term Capital Improvement Plan, which includes establishing an appropriate level of Renewal and Replacement reserves. Any WRA funds that are held in Reserves in excess of the Capital Improvement Plan will be refunded within ninety (90) days of the Plan's establishment.

9.03. Expansion of treatment plant capacity.

PCA may expand the Regional Treatment Facility above the current capacity of 29.6 MGD and may construct additional reclamation facilities, at its sole cost and expense and without receiving the consent of WRA. Any increases in capacity and any additional reclamation facilities so constructed shall be used at PCA's discretion. Provided, however, that PCA is precluded from providing water to customers within WRA's jurisdiction.

9.04. Interruptions of service.

1. No work of construction, remodeling, renovation, replacement, repairs, addition, or expansion authorized under this Water Recycling Agreement and performed on the SVRP, CSIP and SRDF shall, either before, during, or after such work, interfere with, interrupt, or reduce the delivery of tertiary treated water and river water to WRA under this Water Recycling Agreement, except that minor interferences, interruptions, or reductions shall be allowed when necessary, unavoidable, or beyond the control of PCA.
2. PCA shall schedule its planned maintenance activities on the SVRP, CSIP and SRDF to minimize interruption of distribution of tertiary, river and/or well water by the CSIP. Unscheduled work to perform repairs or maintenance will be performed in the manner deemed by PCA to have the least impact on the distribution of tertiary, river and/or well water by the CSIP. In case of any interruption of service, PCA shall give notice in the same manner as required by paragraph 3.07.

9.05. Duty to apply insurance proceeds.

If either party recovers any insurance proceeds on account of loss or damage to the SVRP, CSIP, or SRDF, such proceeds shall be applied to repair or replace the damaged portion of the SVRP, CSIP, or SRDF, and not otherwise. If either party is self-insured and any loss or damage occurs that would have been covered by insurance otherwise required to be maintained by such party under this Water Recycling Agreement, then such party shall provide the funds that would have been recovered had the party been insured and shall apply the funds to repair or replace the damaged portion of the SVRP, CSIP, or SRDF.

9.06. Payment of uninsured losses.

If the SVRP, CSIP, or SRDF is damaged or destroyed during the term of this Water Recycling Agreement, not by an intentional or willful misconduct of a WRA employee, and the amount of available insurance and self-insurance monies plus replacement reserves is insufficient to repair or

replace the damage, then WRA shall pay the balance necessary to restore these facilities to their condition prior to the damage.

9.07. New Water Recycling Agreement on replacement of SVRP.

Should all, or part of, the SVRP, CSIP, or SRDF require replacement, whether from insurance or self-insurance monies or from the reserve for replacement, the parties will in a good faith attempt to reach agreement on a new Water Recycling Agreement on terms substantially in accord with the present Water Recycling Agreement.

X. INDEMNIFICATION.

10.01. Indemnification of WRA.

PCA shall indemnify, defend, and hold harmless WRA and the County of Monterey (the "County"), their officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever against WRA or the County (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 Water Recycling 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 PCA's performance of its obligations pursuant to this Water Recycling Agreement caused in whole or in part by any negligent act or omission of PCA, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence or willful misconduct of WRA.

10.02. Indemnification of PCA.

WRA shall indemnify, defend, and hold harmless PCA, their officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever against PCA (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 Water Recycling 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 WRA's performance of its obligations pursuant to this Water Recycling Agreement caused in whole or in part by any negligent act or omission of WRA, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence or willful misconduct of PCA.

10.03. Procedure for Indemnification.

1. If any legal or administrative proceedings are instituted, or any claim or demand is asserted, by any third party which may give rise to any damage, liability loss or cost or expense with respect to which either party has agreed to indemnify the other party in this contract, then the indemnified party shall give the indemnifying party written notice of the institution of such proceedings, or the assertion of such claim or demand, promptly after the indemnified party first becomes aware thereof. However, any failure by the indemnified party to give such notice on such prompt basis shall not affect any of its rights to indemnification hereunder unless such failure materially and adversely affects the ability of the indemnifying party to

- defend such proceeding.
2. The indemnifying party shall have the right, at its option and at its own expense, to utilize counsel of its choice in connection with such proceeding, claim or demand, subject to the approval of the indemnified party. The indemnifying party shall also have the right to defend against, negotiate with respect to, settle or otherwise deal with such proceeding, claim or demand. However, no settlement of such proceeding, claim or demand shall be made without the prior written consent of the indemnified party, which consent shall not be unreasonably withheld or delayed. The indemnified party may participate in any such proceeding with counsel of its choice at its own expense.
 3. In the event, or to the extent, the indemnifying party elects not to, or fails to, defend such proceeding, claim or demand and the indemnified party defends against, settles or otherwise deals with any such proceeding, claim or demand, any settlement thereof may be made without the consent of the indemnifying party if it is given written notice of the material terms and conditions of such settlement at least ten days before a binding agreement with respect to such settlement is executed.
 4. Each of the parties agrees to cooperate fully with each other in connection with the defense, negotiation or settlement or any such proceeding, claim or demand.

10.04. Payment of indemnified claims.

The indemnifying party shall forthwith pay all of the sums owing to or on behalf of the indemnified party, upon the happening of any of the following events:

1. Upon the rendition of a final judgment or award with respect to any proceeding described in paragraph 10.03, above, by a court, arbitration board or administrative agency of competent jurisdiction and upon the expiration of the time in which an appeal therefrom may be made; or
2. Upon the making of a settlement of such proceeding, claim or demand; or
3. Upon the parties' making of a mutually binding agreement with respect to each separate matter indemnified thereunder.

10.05. Contribution in the event of shared liability.

In the event any proceeding, claim or demand described in paragraph 10.03 is brought, in which allegations of fault are made against both the parties, the extent of indemnification shall be determined in accordance with the agreement of the parties, or, if there is no agreement, then in accordance with the findings of the court as to the relative contribution by each of the parties to the damage suffered by the party seeking indemnity with respect to such proceedings.

10.06. Exclusion from O&M costs.

Amounts payable by either party as indemnification shall not be included in the operations and maintenance costs of the SVRP, CSIP, SRDF, and New Source Water Facilities.

1. The indemnifying party shall have the right, at its option and at its own expense, to utilize counsel of its choice in connection with such proceeding, claim or demand, subject to the approval of the indemnified party, which approval shall not be unreasonably withheld or delayed. The indemnifying party shall also have the right to defend against, negotiate with respect to, settle or otherwise deal with such proceeding, claim or demand. However, no settlement of such proceeding, claim or demand shall be made without the prior written consent of the indemnified party, which consent shall not be unreasonably withheld or delayed, unless, pursuant to the terms and conditions of such settlement, the indemnified

party is released from any liability or other exposure with respect to such proceeding, claim or demand. The indemnified party may participate in any such proceeding with counsel of its choice at its own expense.

2. In the event, or to the extent, the indemnifying party elects not to, or fails to, defend such proceeding, claim or demand and the indemnified party defends against, settles or otherwise deals with any such proceeding, claim or demand, any settlement thereof may be made without the consent of the indemnifying party if it is given written notice of the material terms and conditions of such settlement at least ten days before a binding agreement with respect to such settlement is reached.
3. Each of the parties agrees to cooperate fully with each other in connection with the defense, negotiation or settlement of any such proceeding, claim or demand.

XI. INSURANCE.

11.01. General insurance requirements.

Without limiting PCA's duty to indemnify, PCA shall maintain in effect throughout the term of this Water Recycling Agreement a policy or policies of insurance meeting the requirements hereinafter set forth. All such insurance required by this article shall meet the following requirements:

1. Each policy shall be with a company authorized by law to transact insurance business in the State of California, and shall be written on an occurrence form.
2. Each policy shall provide that both parties shall be given notice in writing at least thirty days in advance of any change, cancellation or non-renewal thereof.
3. Except with respect to workers compensation insurance, each policy shall provide an endorsement naming both parties and its officers, agents and employees as additional insureds, or additional insureds, as applicable, and shall further provide that such insurance is primary to any other insurance maintained by the WRA.
4. Each policy shall provide identical coverage for each general contractor and sub-contractor performing construction work under this contract, or be accompanied by a certificate of insurance showing that the contractor or sub-contractor has identical insurance coverage or an appropriate substitute for such coverage approved by the parties hereto.

11.02. Commercial general liability insurance.

WRA and PCA shall maintain (and be named insured under) commercial general liability insurance covering all operations under this Water Recycling Agreement, with such coverages as the parties may agree upon from time to time. The County of Monterey shall be named as an additional insured. PCA will pay up to 40% of the annual cost, for the term of this Water Recycling Agreement. In addition, should this Water Recycling Agreement be terminated by the parties under Section 11.04 (b) with regard to the operation of the CSIP, the obligation of the PCA to pay for such insurance regarding the CSIP shall be accordingly reduced.

11.03. Motor vehicle insurance.

PCA shall maintain insurance covering all motor vehicles (including owned and non-owned) used in providing services under this Water Recycling Agreement, with a combined single limit of not less than \$2,000,000.

11.04. Property insurance.

1. PCA shall maintain insurance covering the SVRP against loss or damage due to fire and other perils to the extent that such insurance is readily and practically available and within available funds for the SVRP. The amount of the insurance shall not be less than the then-current replacement cost of the SVRP, without depreciation. Insurance coverage for the SVRP under this section shall be reviewed and approved by WRA, which shall not unreasonably withhold or delay its approval. PCA shall provide WRA with a copy of the insurance policy and shall give WRA thirty (30) days' advance notice of any cancellation or proposed change in the insurance required by this section, and any such change shall be subject to review and approval by WRA.
2. WRA shall maintain insurance covering the CSIP and SRDF against loss or damage due to fire and other perils to the extent that such insurance is readily and practically available and within available funds for the SRDF. The amount of the insurance shall be not less than the then-current replacement cost of the CSIP and SRDF, without depreciation. Insurance coverage for the CSIP and SRDF shall be reviewed and approved by PCA, which shall not unreasonably withhold or delay its approval. WRA shall provide PCA with a copy of the insurance policy and shall give PCA thirty (30) days' advance notice of any cancellation or proposed change in the insurance required by this section, and any such change shall be subject to review and approval by PCA.

11.05. Workers' compensation insurance.

PCA shall maintain a workers' compensation plan covering all of its employees as required by Labor Code Sec 3700, either (a) through workers' compensation insurance issued by an insurance company, with coverage meeting the statutory limits and with a minimum of \$100,000 per accident for employer's liability, or (b) through a plan of self-insurance certified by the State Director of Industrial Relations, with equivalent coverage. If PCA elects to be self-insured, the certificate of insurance otherwise required by this Water Recycling Agreement shall be replaced with a consent to self-insure issued by the State Director of Industrial Relations.

11.06. Certificate of insurance.

PCA shall file certificates of insurance with the WRA and with the Monterey County Risk Management Division, showing that PCA has in effect the insurance required by this contract. PCA shall file a new or amended certificate promptly after any change is made in any insurance policy which would alter the information on the certificate then on file.

11.07. Self-insurance.

Each party may, instead of obtaining the insurance required of it by this Water Recycling Agreement, elect to be self-insured or to participate in the self-insurance pool, provided the other party first gives its written consent, which will not be unreasonably withheld or delayed. The parties shall enter into a separate written memorandum of understanding specifying the proportionate amount or share of such self-insurance allocated to SVRP, CSIP, and SRDF.

11.08. Insurance costs.

Insurance expenses and equivalent self-insurance expenses are CSIP/SVRP costs, except for: costs excludable under indemnification, PCA's share of the liability insurance premium costs under Section 11.02; and costs of PCA's workers' compensation insurance covering work outside the scope of this Water Recycling Agreement. All deductibles under Section 11.02 liability insurance

and Section 11.04 property insurance, as well as any self-insured retention under excess insurance held by WRA, PCA, or Monterey County will be borne by WRA. All damages, liabilities, losses and costs, including fines and penalties, that are not covered under a policy of insurance, a self-insurance pool, or other self-insurance program shall be borne by the parties according to this Water Recycling Agreement (see, e.g., Sections 10.01 and 10.02).

11.09. Periodic increases in coverage requirements.

The coverage limits stated herein in dollar values shall be adjusted upwards by 15% for every 15% increase in the consumer price index for all urban consumers in the San Francisco Bay area over the level in effect on the date of this agreement or the previous level, or, if such index is not available, for any substitute or replacement index. Either party shall notify the other when such increase is requested or made.

XII. TERM OF AGREEMENT.

12.01. Term of Agreement.

This Water Recycling Agreement shall become effective on the date hereinabove entered and terminate on the latter of (i) December 31 of year 2045 or (ii) December 31 of the year in which full repayment of debt instruments utilized for financing of New Source Water Facilities.

12.02. Automatic extension.

This Water Recycling Agreement shall be automatically renewed for additional 10-year periods unless one Party provides the other Party written notice by December 31st of the year preceding the year of expiration.

12.03. Conditions of agreement during term.

All the terms of this Water Recycling Agreement shall remain in effect during any term, except as otherwise provided in this contract.

12.04. Rights on Termination.

1. Upon any termination of this Water Recycling Agreement, WRA shall have the continuing right to receive from PCA the same quantity of incoming wastewater flow as originating in the Salinas Valley. WRA shall provide facilities for treating the water beyond secondary treatment level at its sole cost and expense or through a cooperative agreement with PCA or any other entity. Upon any termination of this Water Recycling Agreement, PCA shall have the continuing right to receive the same quantity of tertiary treated water as PCA was or would have been entitled to receive during any term of this Water Recycling Agreement.
2. Upon written notice to PCA within 90 days of termination of this Water Recycling Agreement, WRA shall, at its sole discretion and to the extent permitted by law, have the option to lease or purchase (as determined by PCA) the SVRP and the land upon which it sits, and thereafter to operate, maintain and otherwise be responsible for the SVRP at WRA's sole cost and liability. Upon notice from WRA of its intent to exercise this option, PCA shall, within ninety days, inform WRA whether the land and the SVRP must be acquired, leased, or a combination thereof. WRA shall indemnify and defend PCA with respect to such facilities and lands.
3. If the parties are unable to agree on the fair market value for the sale or lease of the SVRP and of the underlying land, that dispute shall be decided in accordance with the alternative

dispute resolution provisions set forth in Article XIII.

4. PCA's rights to tertiary treated water in accordance with this Water Recycling Agreement shall also survive cancellation, regardless of whether WRA exercises the option pursuant to Section 12.04(2).

XIII. DISPUTE RESOLUTION.

13.01. Dispute resolution procedure.

If any dispute arises between the parties as to the proper interpretation or application of this Agreement and/or the proper operation of the facilities the parties shall first seek to resolve the dispute in accordance with this Article, and the parties must proceed through arbitration under this Article before filing any court action as set out below.

13.02. Duty to meet and confer.

If any dispute under this Agreement arises, the parties shall first meet and confer, in an attempt to resolve the matter between themselves. Each party shall make all reasonable efforts to provide to the other party all the information that the party has in its possession that is relevant to the dispute, so that both parties will have ample information with which to reach a decision.

13.03. Mediation and Arbitration.

1. If the dispute is not resolved by meeting and conferring, the matter may be submitted to mediation. The terms of mediation shall be set by the parties and the mediator. The parties agree that they may elect to convert the mediation into arbitration by or through consensus.
2. If the dispute is not resolved by meeting and conferring, and mediation is not chosen or is unsuccessful, the parties may agree to submit the matter to arbitration. In the event the parties will jointly select a single arbitrator, or, if the parties are unable to agree, they shall each select an arbitrator, and the matter shall be handled by two arbitrators. The two arbitrators may, if they deem it appropriate and warranted by the nature and significance of the dispute and after consultation with the parties, themselves select a third arbitrator. Any person selected as an arbitrator shall be a qualified professional with expertise in the area that is the subject of the dispute, unless the parties otherwise agree. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association. The decision of the arbitrator or arbitrators shall be binding, unless within 30 days after issuance of the arbitrator's written decision, either party files an action in court.

XIV. ADDITIONAL RESPONSIBILITIES.

14.01. Compliance with water reclamation requirements for the CSIP.

PCA shall be responsible for compliance with all of the requirements contained in the "Recycled Water User Requirements for Monterey County Water Resources Agency (User), Castroville Seawater Intrusion Project, Monterey County," Order No. 97-52, issued by the State of California Regional Water Quality Control Board, Central Coast Region, on September 5, 1997, or as said Recycled Water User Requirements Order No. 97-52 may from time to time be revised and re-issued by said Regional Water Quality Control Board. PCA's responsibilities shall be limited to complying with the Water Reclamation Requirements for the SVRP, as described in Section 6.01, and for notifying WRA of any obvious violation of the CSIP requirements.

14.02. Grower and landowner requirements.

WRA shall require the growers and landowners to operate their irrigation systems and to use reclaimed water in accordance with the requirements of Water Reclamation Requirements Order No. 97-52, or as subsequently revised, referred to in Section 15.01.

14.03. Reports to U.S. Department of the Interior, Bureau of Reclamation.

WRA shall prepare and submit all reports required by the Bureau of Reclamation for CSIP, and SRDF and PCA shall submit all such reports for SVRP, as a condition of any loans made by the Bureau of Reclamation. These reports shall include, but not be limited to, the annual excess lands report, and any reports associated with use of reclaimed water for municipal or industrial purposes.

14.04. Permits and approvals.

WRA shall be responsible for obtaining and complying with all permits and approvals for the CSIP and SRDF that are necessary for PCA to perform its work under this Water Recycling Agreement.

14.05. Third-party damages.

WRA shall resolve and pay for all costs resulting from damages to CSIP and SRDF facilities caused by third parties and not covered by insurance maintained by either WRA or PCA. If such damages are caused by a grower who is being served by the CSIP, WRA shall determine whether the associated costs are to be recovered from the grower, or are to be absorbed by WRA, but in no case shall PCA have any cost or other liability with regard to repairing said damages, except that WRA may request PCA to make necessary repairs and reimburse PCA for all costs associated therewith. The budget for the CSIP does not include any amounts for making such repairs, and WRA shall fund the cost of such repairs outside of this Water Recycling Agreement.

14.06. Assessments.

WRA will prepare and submit, and resolve all questions and issues associated with billings for assessments levied in conjunction with SVRP, CSIP and SRDF.

14.07. Physical damage to crops.

Crop damage payments, except those attributed to PCA's failure to produce water which meets the water quality standards specified in Section 5.01 shall be reimbursable costs from the annual CSIP operating budget.

XV. DELIVERY OF WATER TO PCA.

15.01. PCA Demand.

PCA shall have the right to use, on an "as available" basis, amounts of tertiary treated water to which WRA and/or MCWD are entitled, but do not use. WRA shall similarly have the right to use, on an "as available" basis, amounts which PCA and/or MCWD are entitled, but do not use.

15.02. PCA Monthly Demand Schedule.

PCA shall, no later than December 15 of each year, provide to WRA a schedule of tertiary treated water deliveries for the next calendar year. This schedule shall show the amount requested for each calendar month of the year. The demand may vary from month to month, provided the demand neither exceeds PCA's entitlement nor the seasonal limitations set forth in section 17.03 where

applicable, except as otherwise specifically provided by this Water Recycling Agreement. PCA shall promptly inform WRA of any changes in the foregoing schedule.

15.03. PCA Payment.

1. PCA shall pay the Actual Costs of tertiary treated water it takes delivery of for its use, including portions of payments required pursuant to the Bureau Loan Contract and the SWRCB Loan Contract. The "Actual Costs" consist of the sum of: 1) the proportional SVRP operation and maintenance, plus 2) Supplemental Well Pumping Costs, if any plus 3) the proportional cost of SVRP debt service for the SWRCB Loan Contract, plus 4) the proportional cost of principal and interest payments for the SVRP due pursuant to Article 9 (b) of the Bureau Loan Contract, including any proportional interest due pursuant to Article 9 (b) (2) of the Bureau Loan Contract as a result of deliveries of tertiary treated water to the PCA for its M&l use.
2. PCA payments will be determined and made consistent with Exhibit I and, to the extent applicable, Articles VI and VII of this Water Recycling Agreement.

15.04. No Modification of MCWD Contract Entitlement.

Nothing in this Water Recycling Agreement is intended to, nor shall it be interpreted to, expand, limit or otherwise modify MCWD's existing contractual rights, entitlements, and obligations pursuant to either of the Annexation Agreements.

XVI. GENERAL PROVISIONS.

16.01. Compliance with laws.

PCA will comply with all permit and licensing requirements applicable to the SVRP, CSIP and SRDF, and will operate the SVRP in accordance with all requirements of law and governmental regulations. Compliance with water quality requirements will be limited strictly to those set forth in Section 6.01, "Water quality."

16.02. Attorney's fees.

In the event it shall become necessary to commence or defend litigation for purposes of enforcing this Agreement or rights hereunder, the prevailing party shall be entitled to recover reasonable attorney's fees and costs.

16.03. Amendments.

No amendment or modification shall be made to this Water Recycling Agreement, except in writing, approved by the respective Boards and duly signed by both parties.

16.04. Contract administrators.

1. WRA hereby designates its General Manager as its contract administrator for this Agreement. All matters concerning this Agreement which are within the responsibility of WRA shall be under the direction of or shall be submitted to the General Manager or such other WRA employee in the WRA as the General Manager may appoint. WRA may, in its sole discretion, change its designation of the contract administrator and shall promptly give written notice to PCA of any such change.
2. PCA hereby designates its General Manager as its contract administrator for this Agreement. All matters concerning this Agreement which are within the responsibility of PCA shall be

under the direction of or shall be submitted to the General Manager or such other PCA employee in the PCA as the General Manager may appoint. PCA may, in its sole discretion, change its designation of the contract administrator and shall promptly give written notice to WRA of any such change.

16.05. Assignment.

Any assignment of this Water Recycling Agreement shall be void without the written consent of the non-assigning party.

16.06. Negotiated Water Recycling Agreement.

This Water Recycling Agreement has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this Water Recycling Agreement within the meaning of Civil Code Sec. 1654.

16.07. Time is of essence.

Time is of the essence of this Water Recycling Agreement.

16.08. Headings.

The article and paragraph headings are for convenience only and shall not be used to limit or interpret the terms of this Water Recycling Agreement.

16.09. Entire Water Recycling Agreement.

This written Water Recycling Agreement, together with all exhibits attached hereto and incorporated by reference, is the complete and exclusive statement of the mutual understanding of the parties, except to the extent that this Water Recycling Agreement expressly refers to or requires the preparation of additional agreements. Any such additional agreement shall be in writing. This Water Recycling Agreement supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of the contract. The 1992 Agreement Entitled ____, Amendments 1, 2, and 3 dated May 30, 1994, February 16, 1998, and May 28, 2002, respectively, and the SRDF Agreement are hereby rescinded.

16.10. Notices.

All notices and demands required under this Water Recycling Agreement shall be deemed given by one party when delivered personally to the principal office of the other party; when faxed to the other party, to the fax number provided by the receiving party; or five days after the document is placed in the US mail, certified mail and return receipt requested, addressed to the other party as follows:

To PCA:
General Manager
MRWPCA
5 Harris Court, Building D
Monterey, CA 93940
Fax: (831) 372-6178

To WRA:
General Manager
MCWRA
P.O. Box 930
Salinas, CA 93902-0930
Fax: (831) 424-7935

16.11. Execution of documents.

The parties will execute all documents necessary to complete their performance under this Water Recycling Agreement.

16.12. Exhibits.

The following exhibits are attached to this Water Recycling Agreement:

- EXHIBIT A: DIAGRAM OF PROJECT LOCATION AND RIGHTS OF WAY, ALSO SHOWING POINTS OF DELIVERY TO THE CSIP
- EXHIBIT B: OPERATION AND MAINTENANCE OF SVRP, CSIP, SRDF, AND NEW SOURCE WATER FACILITIES
- EXHIBIT C: SAMPLE WRA BASIC DEMAND SCHEDULE
- EXHIBIT D: WASTEWATER RECLAMATION SYSTEM PROJECT DESCRIPTION AND MITIGATION MEASURES
- EXHIBIT E: CALCULATION OF PAYMENTS PURSUANT TO SECTION 17.08 OF THIS WATER RECYCLING AGREEMENT
- EXHIBIT F: NEW SOURCE WATER FACILITY CAPITAL COSTS
- EXHIBIT G: OPERATION AND MAINTENANCE ESTIMATED TREATMENT COSTS
- EXHIBIT H: PROPOSED GWR PROJECT FACILITIES OVERVIEW FIGURE S-1
- EXHIBIT I: DEBT SERVICE OVERVIEW AND AMORTIZATION SCHEDULE
- EXHIBIT J: SCHEDULE OF AMORTIZED REPLACEMENT AND RENEWAL COSTS FOR NEW SOURCE WATER FACILITIES
- EXHIBIT K: SAMPLE COST ALLOCATION PLAN FOR INDIRECT COSTS

16.13. Severability.

If any provision of this Water Recycling Agreement is declared invalid or unenforceable by any court of competent jurisdiction, then such portion or provision shall be deemed to be severable, to the extent invalid or unenforceable, from this Water Recycling Agreement. Such declaration shall not affect the remainder of this contract, which shall remain in full force and effect, as though the invalid portion had never been included.

16.14. Waiver.

No waiver of any right or obligation of any of the parties shall be effective unless in a writing, specifying such waiver, executed by the party against whom such waiver is sought to be enforced. A waiver by any of the parties of any of its rights under this Water Recycling Agreement on any occasion shall not be a bar to the exercise of the same right on any subsequent occasion or of any other right at any time.

16.15. Conditions Precedent.

The portions of this Water Recycling Agreement applicable to the New Source Water Facilities shall not become effective until the following conditions are met:

1. Water Rights for the Blanco Drain and Reclamation Ditch are obtained from the California State Water Resources Control Board; and
2. A fully executed, and California Public Utilities Commission approved, Water Purchase Agreement, between PCA, WMD, and California-American Water; and
3. Written finding by the Regional Water Quality Control Board that utilization of the Blanco Drain dry weather flows as New Source Water meets all treatment requirements for the aforesaid dry weather flows; and
4. A successful 218 vote(s) for rates and charges related to the operation and maintenance of the New Source Water Facilities and proportional primary and secondary treatment charges; and

5. An independent third-party review of proposed capital and operating costs, approved by the WRA Board of Directors and Board of Supervisors. The costs of the aforesaid third party review shall be shared equally between WRA and PCA.

16.16. Use of New Source Water.

If Conditions Precedent in Section 16.15 (1) and 16.15 (2) are met, but Conditions Precedent in Section 16.15 (3) and/or Section 16.15 (4) and/or Section 16.15 (5) are not met:

1. WRA will allow use by PCA of its water rights of 6,500 acre-ft entitlement from Application Nos. 32263A, 32263B, and 32263C. PCA will pay WRA the cost of obtaining and maintaining those water rights.
2. WRA will retain the right to utilize the Agricultural Wash Water component from the City of Salinas.

16.17. Written Authorization.

For any action by PCA which requires written authorization from WRA, the written authorization shall be signed by WRA's General Manager, or the General Manager's written designee.

XVII. EXECUTION

In witness whereof, the parties execute this Water Recycling Agreement as follows:

PCA	WRA
Dated: _____ _____ Board Chair, Board of Directors Approved as to form: Dated: _____ _____ Counsel, PCA	Dated: _____ _____ Chair, Board of Supervisors Dated: _____ _____ Deputy County Counsel, WRA

**MEMORANDUM OF UNDERSTANDING REGARDING
SOURCE WATERS AND WATER RECYCLING**

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made this 8th day of October 2014, by and between Monterey Regional Water Pollution Control Agency, the Monterey County Water Resources Agency, the City of Salinas, the Marina Coast Water District, and Monterey Peninsula Water Management District, collectively the “Parties.”

The Monterey Regional Water Pollution Control Agency (“PCA”) was formed as a California Joint Powers Agency by a Joint Exercise of Powers Agreement for the Monterey Regional Water Pollution Control Agency, effective June 29, 1979. The Monterey County Water Resources Agency (“WRA”) was established in 1995 pursuant to the Monterey County Water Resources Agency Act. The City of Salinas (“Salinas”) is a California charter city and municipal corporation. The Marina Coast Water District (“MCWD”) is a county water district established in 1960 pursuant to Water Code §§30000, *et seq.* The Monterey Peninsula Water Management District (“MPWMD”) was established in 1977 as a California special district pursuant to the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977, as amended, found at Water Code Appendix (Water C. App.) §§118-1, *et. seq.*)

WITNESSETH:

WHEREAS, PCA entered into an Annexation Agreement, dated April 25, 1989, with MCWD providing, among other things, annexation of MCWD and for it to become a member entity of MRWPCA; and,

WHEREAS, the Annexation Agreement between PCA and MCWD provides MCWD a water right entitlement equal, as a minimum, to the “volume of MCWD wastewater treated by PCA”; and,

WHEREAS, PCA entered into an agreement with WRA, dated June 16, 1992, for construction and operation of a tertiary treatment system (the “1992 Agreement”), with subsequent amendments thereto, as follows: Amendment No. 1 on May 30, 1994; Amendment No. 2 on February 16, 1998; and, Amendment No. 3 on May 28, 2002; and,

WHEREAS, the 1992 Agreement, as amended, caused WRA to finance \$29,763,849.56 in tertiary treatment and related facilities; and,

WHEREAS, PCA and Monterey Peninsula Water Management District on May 20, 2013 entered into a Cost Sharing Agreement for the planning and development of the Pure Water Monterey Groundwater Replenishment (“GWR”) Project for the advanced treatment and recycling of a variety of source waters for indirect potable reuse;

NOW, THEREFORE, for and in reliance on the foregoing, the Parties hereby agree to negotiate a Definitive Agreement to establish contractual rights and obligations of all Parties, containing, as a minimum, the following provisions:

1. Protection of MCWD’s Recycled Water Right Entitlement

- a. Reaffirmation by PCA of MCWD’s recycled water right entitlement granted to MCWD pursuant to Paragraph 12 of the April 25, 1989 Annexation Agreement between PCA and MCWD.
- b. Reaffirmation that MCWD’s recycled water right is the senior right.
- c. MCWD, in use of its recycled water entitlement, will comply with all applicable requirements set forth in Contract No. 5-07-20-W1284, between the Bureau of Reclamation and WRA including, but not limited to, those contained in Paragraphs 10b and 10c, all at MCWD’s sole cost and expense.
- d. MCWD’s recycled water right entitlement may be made contractually available by MCWD to another Party and may be made available to WRA for CSIP if not utilized by MCWD, or its assignee, in any given year.

2. Provision of Recycled Water to WRA

- a. WRA to be supplied recycled water during the agricultural growing season in a minimum volume equal to the wastewater flows to the Regional Treatment Plant from all existing PCA members, plus treated waters originating from a variety of newly identified additional “incremental” and interruptible sources described in Section 3.a. hereof, subject to the provisions of Section 3.a.iii.
- b. The cost of primary and secondary treatment of Salinas agricultural wash water, estimated at \$179/acre-foot in 2014, to be paid to PCA by Salinas, the future rates for which to be established pursuant to Section 3(o) hereof.
- c. The cost of tertiary treatment of agricultural wash water to be paid to PCA by WRA, the future rates for which will be established by a protocol to be set forth in the Definitive Agreement.

3. Phase I – GWR Project Water and CSIP Area Additional Water

a. Phase I to provide water from newly identified sources that are “incremental” additions over and above the incoming wastewater flows as identified in the 1992 Agreement, which consists of Salinas agricultural wash water, Salinas stormwater, all recoverable Reclamation Ditch water diverted at Davis Road, a portion of Tembladero Slough water diverted at Castroville, all recoverable Blanco Drain water, Lake El Estero stormwater, and reoperation of the Salinas ponds to store winter flows for summer use. Such waters may also include additional stormwater from other locations on the Monterey Peninsula. Phase I includes both (a) improvements to the SVRP in order to provide winter water to offset pumping at CSIP (contingent upon WRA completing hydraulic modifications to the existing CSIP system), and (b) treatment of wastewater from the Regional Treatment Plant that has been determined to be excess and not processed by the SVRP, provided, however, that PCA not curtail SVRP operations to produce said excess water, but in both cases such sources are not considered “incremental” additions.

- i. Projected annual amounts are 4,320 acre-feet for GWR Project, and 5,292 acre-feet for CSIP Area Replacement Water, and 248 acre-feet GWR to be held in drought reserve. These are approximate amounts based on average year conditions, but actual amounts will vary annually;
- ii. Projected costs of Phase I water are to be defined in the Definitive Agreement, consistent with Sections 3(k) and 3(l) below and subject to third party review as discussed in “Miscellaneous” below;
- iii. Except for the commitments under Section 3.j. below, the Parties agree that Salinas agricultural wash water may be utilized by PCA for the time period necessary for an average annual amount of 4,320 acre-feet for the GWR Project to be achieved from Phase I Additional Sources. However, PCA is obligated to endeavor to develop the additional supplies identified under Section 3.a. and transition a portion of the agricultural wash water for the benefit of CSIP and WRA.

- iv. The Definitive Agreement to only apply to wastewater from existing PCA members and derived from the PCA's 2001 Service Area and water sources identified in Sections 3.a. and 3.q. Any future additions or annexations to the PCA Service Area or future sources outside of the 2001 Service Area will be subject to future agreement(s).

- b. Phase I to be operational in 2017, but the Parties will adjust schedule for construction and operation if and as needed.

- c. WRA's participation in Phase I to be contingent upon its successful completion of the Proposition 218 process, if applicable.

- d. In 2014 WRA filed an application with the State Water Resources Control Board ("SWRCB") for water rights to appropriate waters of the Blanco Drain for the purpose of providing additional waters for CSIP and for domestic supplies within the Salinas River Valley; and, for water rights to appropriate waters of the Reclamation Ditch and Tembladero Slough for the purpose of providing additional waters for CSIP and for domestic supplies within the Salinas River Valley. The Parties agree that such water rights shall be retained exclusively by WRA. The Parties to pay pro rata all costs associated with WRA's procurement and retention of Blanco Drain, Tembladero Slough, and Reclamation Ditch water rights. The Parties agree to work jointly on obtaining the water rights. The Parties may agree to apply for water rights in increments to facilitate issuance of permits.

- e. CSIP participants to be separately responsible for the tertiary treatment costs of the water processed and delivered through the SVRP. GWR participants to be separately responsible for the costs of advanced water treatment through the GWR facilities.

- f. The Parties to work cooperatively and collaboratively among themselves, in good faith, to determine appropriate crop irrigation water quality standards for water supplies.

- g. The Parties to work cooperatively and collaboratively among themselves, in good faith, to determine if, when, and how much of each water will be collected and sent to the RTP for treatment.

- h. Excess flows to be made available to each other Party, as may be desired. “Excess flows” to be defined in the Definitive Agreement, but are generally accepted to mean waters available for treatment at the SVRP or GWR facilities, but not desired by the project participants to be processed and delivered at that period of time.
- i. PCA to have rights to the first 4,320 acre-feet annually of the new “incremental” waters defined under Section 3.a. above, plus amounts in the six winter months to produce 200 acre-feet to be placed in drought reserve. WRA can request that PCA schedule withdrawals from the drought reserve in lieu of processing the incremental waters in order to make a like amount available to CSIP in time of need. Withdrawals will be limited to no more than the amount on deposit in the drought reserve.
- j. WRA to receive the agricultural wash water on terms similar to the *Produce Wash Water Agreement, dated 1 July 2014*, in 2015, 2016, and 2017 and until the GWR project becomes operational.
- k. PCA, at its cost and expense, to use its consultant to prepare a comprehensive rate analysis, to devise appropriate Interruptible Rates that will likely be less expensive than current non-Interruptible Rates for pumping, odor control, primary and secondary treatment. Separate Interruptible Rates to apply to each water source, but each separate Interruptible Rate to be subject to future escalation consistent with standard factors for operation and maintenance inflation over time. WRA will not pay rates for water it does not receive.
- l. Capital costs to be shared by PCA and WRA proportional to the waters projected to be made available on an average annual basis. Fixed pro rata capital costs to be paid annually by the Parties, irrespective of water requested or received. However, the calculation of pro rata shares of capital costs to be based only upon facilities actually built and average annual water expected to be made available vis the constructed facilities. In recognition of potential, yet undetermined, benefits of the existing operations of the Salinas Industrial Ponds to the recharge of the groundwater basin and the Salinas River for purposes of calculating water made available to CSIP 33% of the water attributable to the Salinas agricultural wash water would not be counted in the calculation of the proportional cost to WRA. Annual recovery of fixed capital costs to include any annual capitalized costs for facilities leased by PCA for the furnishing of water to the Parties.

- m. PCA subject to concurrence by the rate study to waive all capacity charges for use of water on an Interruptible basis from presently identified water sources to be included in Phase I or Phase II.
- n. Pursuant to subsequent agreement and lease, PCA and Salinas to negotiate a separate agreement and lease and develop a seasonal working protocol for diversion of Salinas Industrial Ponds (Agricultural Wash Water) and storm water as allowed by available storage. PCA to pay Salinas an annual lease payment to be recovered in the cost of water in accord with criteria to be established in the Definitive Agreement.
- o. PCA, if it uses tertiary treated water for the GWR Project, to comply with all applicable requirements set forth in Contract No. 5-07-20-W1284, between the Bureau of Reclamation and WRA including, but not limited to, those contained in Paragraphs 10b and 10c, all at PCA's sole cost and expense.

Phase II – CSIP Area Additional Water

- p. Phase II to provide water from newly identified sources that are “incremental” additions over and above the incoming wastewater flows as identified in the 1992 Agreement, as amended, and may consist of diversion of remaining Tembladero Slough water, potential future advanced treated water, and UniKool water.
- q. Phase II to approximate up to 3,754 AFA of new water.
- r. Phase II to be operational by 2022.
- s. Projected costs of Phase II will be determined in the future, consistent with engineering feasibility analysis, preliminary design, and third party rate consultant analysis.
- t. Phase II would be contingent on its successful completion of the Proposition 218 process, if applicable.

4. Accounting Protocols

PCA to enter into a separate agreement with WRA by December 31, 2014 to achieve the following:

- a. PCA's adoption of activity-based costing for all its CSIP, SRDF and SVRP activities.
- b. Revision of the various financial protocols currently utilized to achieve one standard protocol for each of CSIP, SRDF and SVRP.
- c. Allocation methodologies for costs associated with CSIP, SRDF, and SVRP.
- d. An annual audit of PCA's financial transactions related to CSIP, SRDF and SVRP at WRA expense.
- e. PCA to credit to the CSIP and SVRP accounts any pro rata revenues it receives from byproducts of tertiary treated wastewater.
- f. A third-party agreed upon by both PCA and WRA to be hired to design and implement these Accounting Protocols.

MISCELLANEOUS

1. This Memorandum of Understanding is intended to provide a framework for negotiation of a Definitive Agreement. This Memorandum is not intended to create binding contractual obligations and other essential terms in addition to those set forth in this Memorandum are to be negotiated and agreed upon before the Parties reach a Definitive Agreement.
2. It is recognized and acknowledged that the Parties may not agree upon or enter into a Definitive Agreement. In such an event, no Party shall make any claim against any other Party related to the failure to enter into a Definitive Agreement.
3. An independent third-party review of proposed capital and operating costs to be performed before WRA Board approval of the Definitive Agreement.
4. The term of the Definitive Agreement to be 30 years or as subsequently agreed upon in the Definitive Agreement.
5. The Definitive Agreement may result in an Amendment to the 1992 Agreement and the amendments thereto. All previous Amendments will be reviewed to ensure conformity and continuity of relevant provisions. Amendment No.3 to be novated by the Definitive Agreement and any terms of Amendment No.3 that remain applicable will be restated in the Definitive Agreement.

6. The Definitive Agreement will incorporate standard contract language to govern enforcement and resolution of disputes.
7. This Memorandum of Understanding will expire the earlier of (i) execution of a Definitive Agreement, or (ii) March 31, 2015.
8. Individuals whose signatures appear on this document represent, warrant, and guarantee they are authorized to execute this document on behalf of those entities on whose behalf they purport to execute this document.


WITNESS, the Monterey Regional Water Pollution Control Agency, the Monterey County Water Resources Agency, the City of Salinas, the Marina Coast Water District, and the Monterey Peninsula Water Management District entered into this Memorandum of Understanding as of the date first written above.

MONTEREY REGIONAL WATER POLLUTION CONTROL AGENCY

By: 

Dennis Allion, Board Chair

MONTEREY COUNTY WATER RESOURCES AGENCY

By: 


Louis R. Calcagno, Chair of the Board of Supervisors

CITY OF SALINAS

By: 

Joe Gunter, Mayor

MARINA COAST WATER DISTRICT

By: 

Thomas P. Moore, Board President

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

By: 

David Potter, Board Chair

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

MEETING DATE:	October 14, 2015	AGENDA ITEM:	
AGENDA TITLE:	Consider receiving an update on the Agency’s DRAFT “Comprehensive Salinas Valley Basin Sustainability Program”, 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:		October 26, 2015	

RECOMMENDED BOARD ACTION:

Receive an update on the Agency’s DRAFT “Comprehensive Salinas Valley Basin Sustainability Program”, and provide 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. The DRAFT Comprehensive Salinas Valley Basin Sustainability Program is being developed by the Monterey County Water Resources Agency (Agency) to provide a path forward, building upon the successes of the projects already implemented in the Salinas Valley.

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 is expected, 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.

Seawater intrusion (SWI) has been an issue in the Salinas Valley for over 60 years. In 1946, the State of California provided a three-prong strategy to halt SWI. The Agency and its predecessor entity, the Monterey County Flood Control and Water Conservation District, have been using this approach as a guide for project development and implementation, adapting each component of the solution to current times. The resulting suite of projects has been dubbed the, ‘Foundational Project Suite’, providing a foundation to solving SWI in the Salinas Valley.

The recently-passed SGMA has caused a new groundwater management paradigm to be put in place. One that is focused on long-term sustainability of water resources, and for the Salinas Valley, will require a new ‘suite’ of projects that will augment the ‘Foundational Project Suite’, and provide sustainable groundwater resources into the future.

The Agency is presenting this comprehensive sustainability program to basin sustainability,

showing that there are a number of components necessary to complete the final comprehensive solution; however, it will take time to implement. Attached is a copy of the DRAFT “Comprehensive Salinas Valley Basin Sustainability Program”.

The BMP Committee heard this item at their August 19, and September 16, 2015, meetings and after discussion with the Committee, and public input, additional language was proposed, and has been incorporated into the version attached.

This document replaces the previously-presented “Comprehensive Salinas Valley Basin Comprehensive Approach” document that was presented to both the Agency Board of Directors and Agency Board of Supervisors at a joint meeting on March 24, 2015.

OTHER AGENCY INVOLVEMENT:

The Monterey County Counsel’s office as well as the Monterey County Resource Management Agency has been involved in the discussions regarding the SGMA and how it relates to Monterey County.

FINANCING:

The extent to which the SGMA will affect budget is unknown at this time. It is believed that the State would provide funding for the development of basin sustainability plans, and there would be fees and other revenues that would come from the enactment of the SGMA. Therefore the financing of or from any activities related to new project implementation are unknown at this time.

FINANCIAL IMPACT:	YES (X) UNKNOWN NO ()
FUNDING SOURCE:	To be determined
COMMITTEE REVIEW AND RECOMMENDATION:	BMP Committee directed staff to make changes to the document at their August 19, and September 16, 2015 meetings
ATTACHMENTS:	1. DRAFT “Comprehensive Salinas Valley Basin Sustainability Program”
APPROVED:	 <hr/> General Manager Date



Monterey County Water Resources Agency
893 Blanco Circle
Salinas, CA 93901



DRAFT
Comprehensive Salinas Valley Basin
Sustainability Program
2015

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Comprehensive Salinas Valley Basin Sustainability Program

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EXECUTIVE SUMMARY

The Salinas Valley in Monterey County is one of the most productive agricultural regions in the world. Revenue from the agricultural industry provides over \$4 billion annually to the State's economy. Water is critical to the success of agriculture, with groundwater being the majority of water utilized. Seawater intrusion (SWI) was identified in the Salinas Valley in the 1930's, and the State analyzed the situation and developed a three-prong approach to stopping seawater intrusion.

The Monterey County Water Resources Agency (Agency) and its predecessor entity, the Monterey County Flood Control and Water Conservation District, have been using this strategy as a guide for project development and implementation, adapting each component of the solution to current times.

The three-prong strategy has been implemented over the years, with the last piece coming on-line in 2010. This foundational 'suite of projects' is now in place, and a time period to determine effectiveness is underway. Unfortunately, the last few years the State of California has been in severe drought, and there has not been enough water to fully utilize the project suite.

The recently-passed Sustainable Groundwater Management Act (SGMA) has caused a new groundwater management paradigm to be put in place. One that is focused on long-term sustainability of water resources, and for the Salinas Valley, will require a new 'suite' of projects that will augment the foundational strategy, and provide sustainable groundwater resources into the future.

This new set of projects, the "Sustainability Project Suite", in conjunction with the foundational projects already in place in the Salinas Valley, will provide the water necessary to halt seawater intrusion, and furthermore, bring sustainability to the Salinas Valley by utilizing local water resources more effectively, without requiring extreme limitations on groundwater pumping for urban or agricultural uses.

The Agency is presenting this comprehensive solution to basin sustainability, showing that there are a number of components necessary to complete the final comprehensive solution; however, it will take time to implement. This document identifies the pieces of a comprehensive basin sustainability program that the Agency is recommending.

This document replaces the previously-presented "Comprehensive Salinas Valley Basin Comprehensive Approach" document that was presented to both the Agency Board of Directors and Agency Board of Supervisors at a joint meeting on March 24, 2015.



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INTRODUCTION

The Monterey County Water Resources Agency (Agency) has developed this “Comprehensive Salinas Valley Basin Sustainability Program” in response to need for the groundwater basin to be managed in a sustainable fashion, once a Groundwater Sustainability Agency (GSA) is formed. This program focuses on four main points:

- Sustainability will be achieved
- Sustainability is not just about water resources
- Implement Physical Solutions versus Imposing Prescribed Restrictions
- Stay Committed to Completion

1.1 Objective

The objective of this Comprehensive Salinas Valley Basin Sustainability Program is to provide a pathway to sustainability through physical solutions that can be implemented over time, work as a suite of projects that together will: 1) halt seawater intrusion and 2) bring sustainability to the Salinas Valley by utilizing local water resources more effectively.

1.2 Background

The Salinas Valley in Monterey County is one of the most productive agricultural regions in the world. Revenue from the agricultural industry provides over \$4 billion annually to the State’s economy. Water is critical to the success of agriculture, with groundwater being the majority of water utilized. Seawater intrusion (SWI) was identified in the Salinas Valley in the 1930’s, with the State Department of Public Works (predecessor to Department of Water Resources) preparing a study of the Salinas Valley in 1946. That study, “Bulletin 52”, provided a strategy to stop SWI in the Salinas Valley. That strategy entails a three-prong approach that involves:

- Develop a new water source;
- Move new water to the coast; and,
- Stop pumping at the coast.

The Agency and its predecessor, the Monterey County Flood Control and Water Conservation District have been using the strategy put forth in Bulletin 52 as a guide for project development and implementation. To date, the following projects have been constructed and implemented:

- New water source – Nacimiento and San Antonio Reservoirs;
- Move water to coast – Salinas Valley Water Project (SVWP); and,
- Stop pumping at the coast – Castroville Seawater Intrusion Project and the Salinas Valley Reclamation Project, jointly referred to as the “Monterey County Water Recycling Projects”

Nacimiento and San Antonio Reservoirs were constructed in 1957 and 1967 respectively. The Salinas Valley Reclamation Project and the Castroville Seawater Intrusion Project (CSIP) were completed around 1998; and these projects, in conjunction with the Salinas Valley Water Project (SVWP) that was completed and operating in 2010, have reduced the pace of seawater intrusion in the Pressure 180-Ft. and Pressure 400-Ft. aquifers. However, the goal of halting seawater intrusion, as envisioned in Bulletin 52, has yet to be achieved.



This “suite of projects” is foundational to solving water issues in the Salinas Valley. This “Foundational Project Suite” can be augmented to increase the effectiveness of using local water resources to solve local water issues. As implementation of the Sustainable Groundwater Management Act (SGMA), which is presented in more detail later in this document, moves forward, this program can be used as a guide for the Groundwater Sustainability Agency (GSA) for Salinas Valley Basin sustainability.

This document replaces the previously-presented “Comprehensive Salinas Valley Basin Comprehensive Approach” document that was presented to both the Agency Board of Directors and Agency Board of Supervisors at a joint meeting on March 24, 2015.

1.3 Challenges

As the Salinas Valley Basin moves towards sustainability, challenges will arise concerning water rights, fair apportionment, as well as possible litigation – that could stall the process for years, which could lead to the GSA missing deadlines, which could cause the state to trigger adjudication.

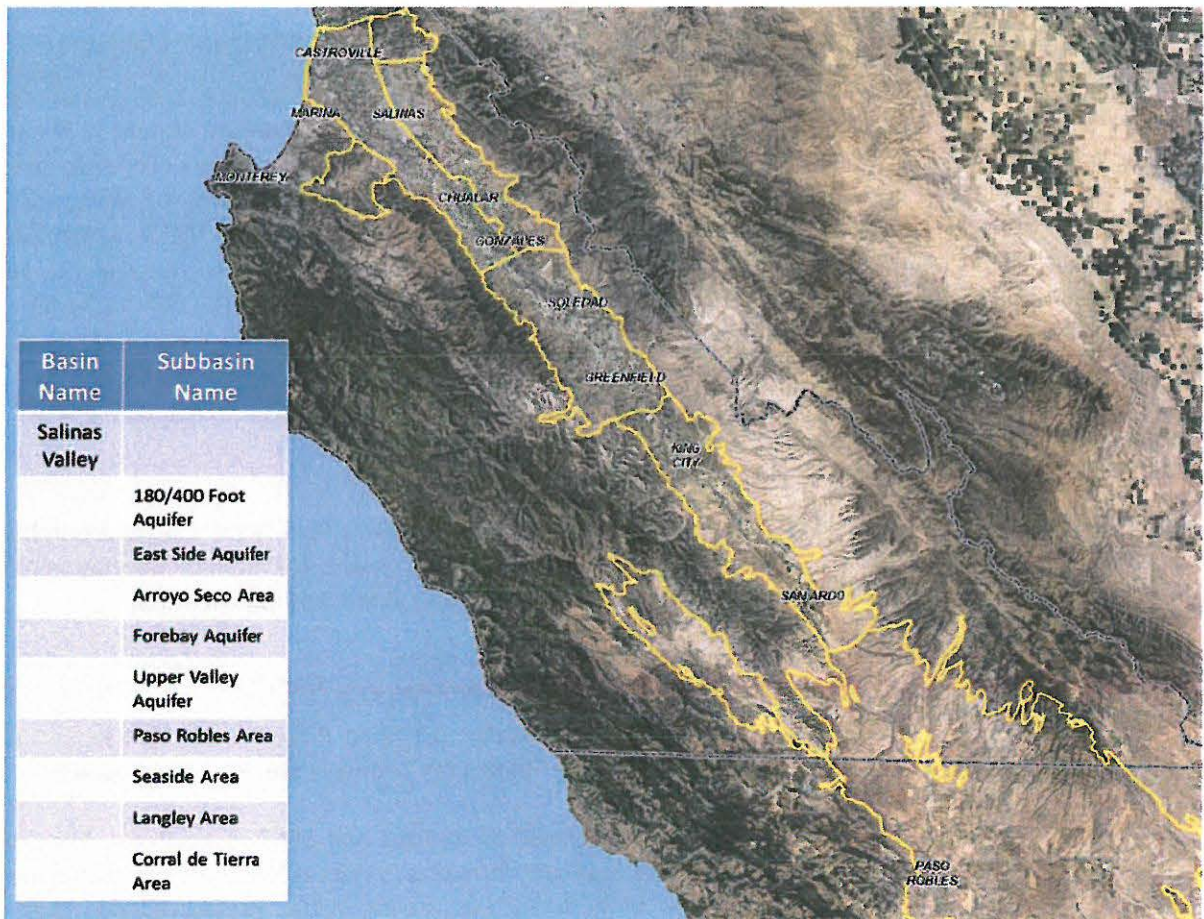


FIGURE 1 - SALINAS VALLEY SUBBASINS AS PER STATE BULLETIN 118



SUSTAINABLE GROUNDWATER MANAGEMENT ACT (SGMA)

On September 16, 2014 Governor Brown signed a three-bill package known as the Sustainable Groundwater Management Act (SGMA).

The legislation allows local agencies to customize groundwater sustainability plans to their regional economic and environmental needs. SGMA creates a framework for sustainable, local groundwater management for the first time in California history.

"A central feature of these bills is the recognition that groundwater management in California is best accomplished locally. Local agencies will now have the power to assess the conditions of their local groundwater basins and take the necessary steps to bring those basins in a state of chronic long-term overdraft into balance."
– Governor Edmund G. Brown Jr.

2.1 Background

The three bills that make up the SGMA are AB 1739 by Assembly Member Roger Dickinson, and SB 1319 and SB 1168 by Senator Fran Pavley.

The Sustainable Groundwater Management Act:

- Provides for sustainable management of groundwater basins
- Enhances local management of groundwater consistent with rights to use or store groundwater
- Establishes minimum standards for effective, continuous management of groundwater
- Provides local groundwater agencies with the authority, technical, and financial assistance needed to maintain groundwater supplies
- Avoids or minimizes impacts for land subsidence
- Improves data collection and understanding of groundwater resources and management
- Increases groundwater storage and removes impediments to recharge
- Empowers local agencies to manage groundwater basins, while minimizing state intervention

SGMA requires local agencies to: 1) establish a new governance structure, known as Groundwater Sustainability Agencies (GSAs), and 2) develop groundwater sustainability plans for groundwater basins or sub-basins that are designated as medium or high priority.

The Department of Water Resources (DWR) has developed a Strategic Plan for its Sustainable Groundwater Management (SGM) Program which will implement the new and expanded responsibilities identified in the SGMA. Some of these expanded responsibilities include: 1) developing regulations to revise groundwater basin boundaries; 2) adopting regulations for evaluating and implementing Groundwater Sustainability Plans (GSPs) and coordination agreements; 3) identifying basins subject to critical conditions of overdraft; 4) identifying water available for groundwater replenishment; and 5) publishing best management practices for the sustainable management of groundwater.

Improved groundwater management will provide protection against drought and climate change, and contribute to water supply dependability that will be independent of weather. California, Monterey County, and the Salinas Valley depend on groundwater for a majority of its annual water supply, and sustainable groundwater management is essential to establish and maintain reliable and resilient water systems.



2.2 Implementation Time line

SGMA will be implemented over the next 20 years and has multiple processes moving along parallel tracks. Here is a list of the major milestones in the overall SGMA process:

- For Successful Implementation –
 - Formation of GSA 6/30/2017
 - Completion of GSP for critically overdrafted basins 1/31/2020
 - Completion of GSP for all other basins 1/31/2022

If these deadlines are achieved on time, there will be no state intervention in that specific basin. If they are not achieved by the deadlines contained in the Legislation, the State Water Resources Control Board (SWRCB) will intervene:

- SWRCB Intervention Time line –
 - No GSA formed 6/30/2017
 - Inadequate / no GSP in critically-overdrafted basins 1/31/2020
 - Other basins, inadequate / no GSP, and basin in long-term overdraft 1/31/2022
 - GSP is inadequate / significant depletions of interconnected streams 1/31/2025

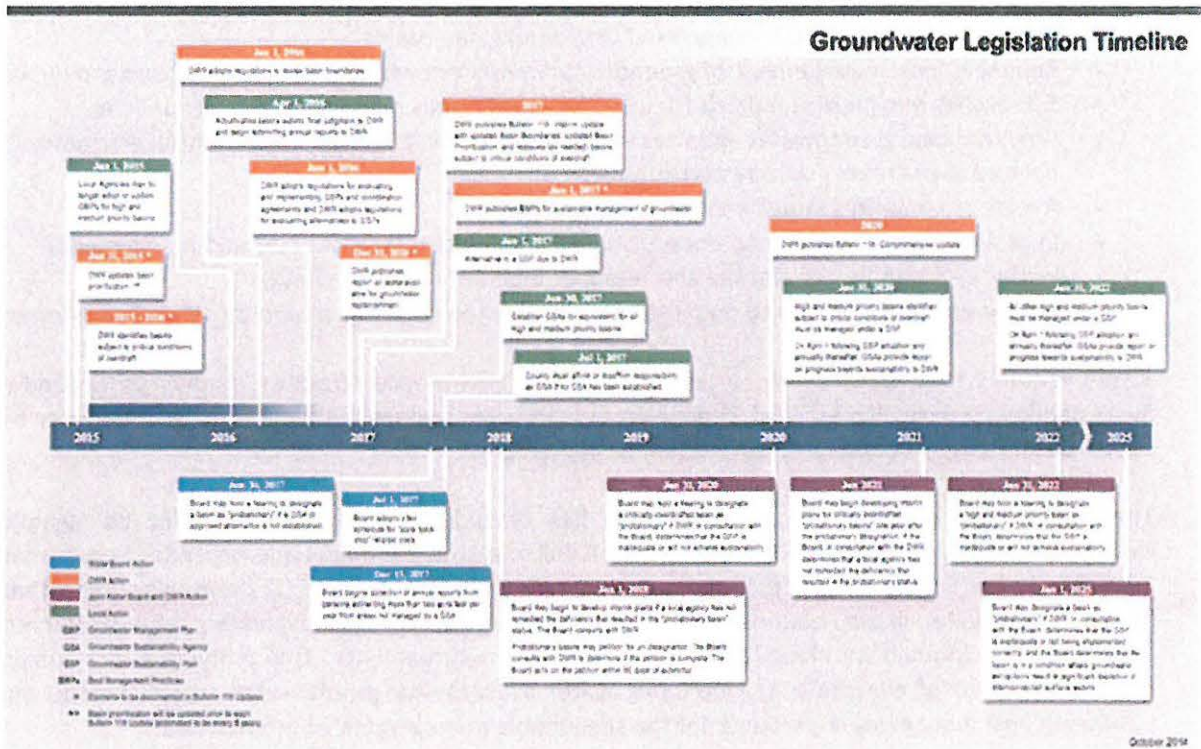


FIGURE 2 - SGMA LEGISLATION TIME LINE



2.3 Groundwater Sustainability Agency formation options

The GSA for the Salinas Valley Basin is not determined at this time. Currently there is a facilitated, public process underway that will result in a GSA for the Basin. For information sake, the various GSA formation options (as described in the SGMA) are as follows:

- Any local agency, or combination of local agencies, overlying a basin may elect to be a GSA for that basin, or
- A combination of agencies may form a Joint Powers Authority (JPA), or use a Memorandum of Understanding (MOU) or other type of legal agreement to become the GSA.

A local agency, as defined in SGMA, is a local public agency that has water supply, water management, or land use responsibility within a basin. A listing of eligible local agencies includes:

- County of Monterey
- Agency
- Cities of Salinas, Soledad, Gonzales, Greenfield and the City of King
- Water Districts such as: Marina Coast Water District; San Ardo Water District, and the San Lucas County Water District
- Community Services Districts (if they have water supply authority)

This section will be updated as the GSA formation process moves forward until a GSA is established.



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COMPREHENSIVE SALINAS VALLEY BASIN SUSTAINABILITY PROGRAM

The Agency's Comprehensive Salinas Valley Basin Sustainability Program (Program) is designed to build upon the success of the "Foundational Project Suite". The Agency has developed this comprehensive approach to present an additional suite of projects that comprise the final comprehensive solution to sustainability; however they will take time to implement.

3.1 Guiding Principles

This Program is based on a series of Guiding Principles that serve to steer the implementation of projects within the proposed "Sustainability Suite" in a manner that provides for sufficient stakeholder input (community engagement), development of appropriate environmental documentation, evaluation of the impacts of the respective projects and the procuring of sustainable funding.

The Guiding Principles for the Program are:

- Utilize the best science and scientific methods practicable to determine basin sustainability
- Build upon the success of the Foundational Project Suite
- Incorporate the Agency Community Engagement Plan to provide ample opportunities for stakeholder input
- Evaluate the benefits of each project on its own merits, and as part of the Sustainability Suite
- Include a natural environment enhancement component in each proposed project
- Advocate water conservation (with regards to pumping, drilling, water usage, etc.) when developing Sustainability Program
- Develop sustainable funding sources for the Sustainability Suite, including routine and emergency operations and maintenance costs.

3.2 Projects Involved

These projects are interrelated and when fully implemented, could cumulatively result in the additional water necessary to halt seawater intrusion and achieve Salinas Valley Basin (Basin) sustainability:

- Source Water Development and Water Recycling Project – 9,000 acre-feet (CSIP Expansion);
- Interlake Tunnel and Spillway Modification Project – 20,000 acre-feet; 59,000 acre-feet additional storage spillway modifications at San Antonio;
- Permit 11043 Utilization – amount of water to be determined; and,
- Salinas River Stream Maintenance Program (short-term) – removal of river channel vegetation that is currently using at least 40,000 acre-feet of water annually.
- Salinas River Management Program (long-term) – development of a "holistic" approach to river system management

These projects, in conjunction with projects already in place in the Salinas Valley, will provide the water necessary to halt SWI. Moreover, they could meet the requirements of the SGMA without requiring cutbacks in groundwater pumping for users of Salinas Valley Basin groundwater.



3.3 Individual Project Information

- **Source Water Development and Water Recycling Project**

- Parties will work together jointly to develop multiple source waters to expand CSIP and create a supply of water for the Peninsula's Groundwater Replenishment Project.
- Phase I would deliver 5,292 acre-feet per year to the Growers and 4,320 acre-feet per year to the Peninsula by 2017 to allow for a reduced-size desalination plant.
- Sources include agricultural wash water from Salinas's industrial ponds, Salinas's stormwater, Reclamation Ditch, Tembladero Slough, Blanco Drain and Monterey's stormwater.
- Commitment to work on Phase II by 2025 for CSIP activities only, equally another 3,754 acre-feet.

- **Interlake Tunnel and Spillway Modification Project**

This project has been a top regional priority; identified in the July 1991 Boyle Engineering report entitled *Monterey County Water Capital Facilities Plan*. In addition to increasing water quantity for drought protection in the region, the Project will provide additional flood control benefits, due to the slow fill rate at San Antonio Reservoir.

The project consists of an 12,000-foot long, 10-foot diameter tunnel with a location in Monterey and San Luis Obispo counties connecting the Nacimiento and San Antonio reservoirs located in the Salinas Watershed HUC 1806005, plus spillway modifications to add 60,000 acre-feet of storage in San Antonio Reservoir.

Benefits include an increase in total controlled releases, modeled at an annual average of 20,686 acre- feet/year, as well as a 60% reduction in the number of spill events, which equates to a 52% reduction in annual average flood volume from the reservoirs.

The current multi-year drought has resulted in limited flow in the Salinas River which has caused a sense of urgency around the Project and the fact that it should be constructed as soon as feasibly possible.

- **Water Rights Permit #11043 Utilization**

Water Rights of 135,000 acre-feet on an intermittent basis is a critical piece of the Agency's solution to seawater intrusion. Pursuant to a July 2013 Settlement Agreement between the Agency and the State Water Resources Control Board, the Agency filed a Notice of Preparation (NOP) of an Environmental Impact Report for a project to utilize this water that is currently not being utilized.

The Agency, to get to the NOP and the basis for an Environmental Impact Report (EIR) for a project, went through a series of stakeholder meetings (Regional Advisory Committee) to gain insight and input from the public on how to utilize the water



allocated to Water Rights Permit #11043. The NOP did not describe a specific project, though it did describe project components that would need to be analyzed. The EIR process will evaluate alternative projects and determine the preferred project, or projects, for utilization of the Water Rights Permit #11043 water.

- **Salinas River Stream Maintenance Program / Salinas River Management Program**

It is estimated that there is approximately 40,000 to 60,000 acre-feet of water annually evapotranspired from non-native invasive vegetation in the Salinas River. This is water that could be utilized for aquifer recharge into the groundwater basin, thus helping combat SWI. Removing overgrown vegetation from the river channel also mitigates flooding damage potential. Maintenance activities occurred from 1997 – 2008 and in 2014.

The Agency manages the program which allows individual property owners to remove vegetation and sediment from portions of the Salinas River Channel, since after the devastating 1995 floods. When the USACE RGP five-year permit expired in 2008, regulators required a new approach to the program.

A new multi-objective approach was developed which joins participants together in a cohesive fashion, forming River Management Units (RMUs), to manage stream maintenance efforts for specific stretches of the river. This program is thought to last about five years, with the Salinas River Management Program building on the success of the RMUs.

The Salinas River Management Program is planned to change the paradigm from Stream Maintenance to River Management. The program is designed to provide a holistic approach to river management for the Salinas River, involving a number of stakeholders and interest groups to come up with a plan and program that is built upon consensus. This program is thought to take roughly seven to ten years to develop and implement.

3.4 Timeline Graphic

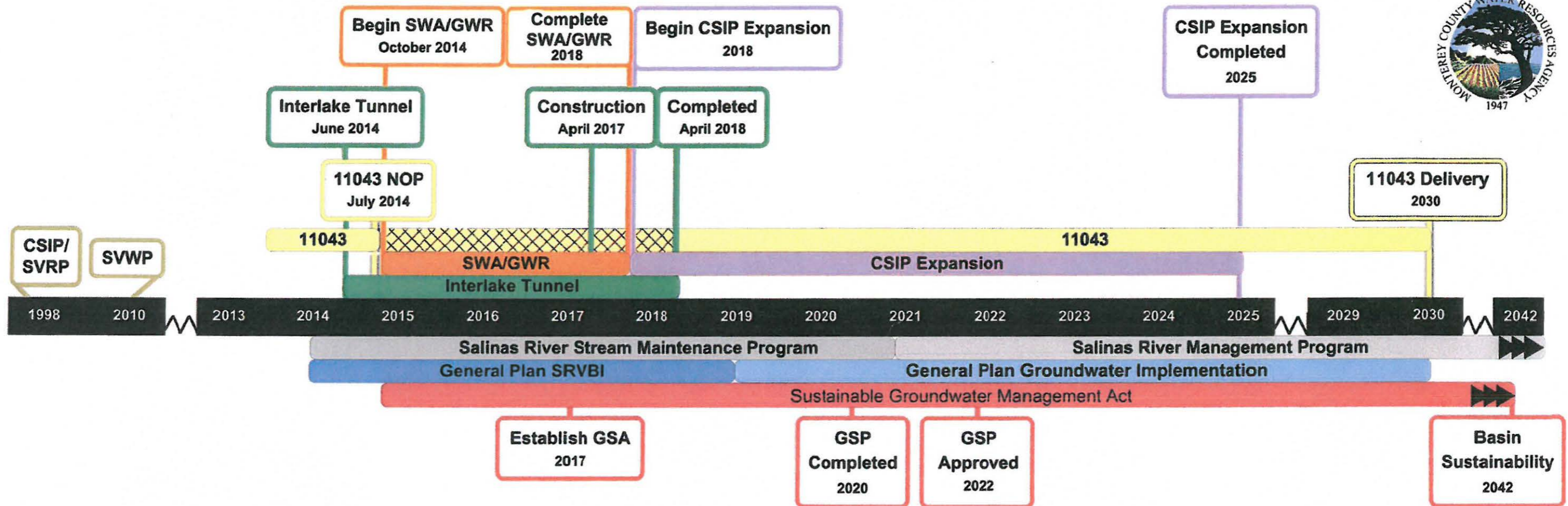
On the following page is a graphic time line that depicts how each of these projects fit within the time frame of SGMA implementation.



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Comprehensive Salinas Valley Basin Sustainability Program



- (CSIP) Castroville Seawater Intrusion Project/
(SVRP) Salinas Valley Reclamation Project
(SVWP) Salinas Valley Water Project
- (SWA/GWR) Source Water Agreement/Ground Water Replenishment
- General Plan (SRVBI) Salinas River Valley Basin Investigation
- General Plan Groundwater Implementation
(address seawater intrusion and falling groundwater levels by 2030)

