CHARITY KENYON
BILL YEATES

kenyon | yeates LLP

JASON FLANDERS
CHRISTINA MORKNER BROWN

2001 N STREET, SUITE 100, SACRAMENTO, CALIFORNIA 95811
916.609.5000 FAX 916.609.5001
WWW.KENYONYEATES.COM

Sent Via Email and Overnight Mail

February 2, 2009

Carl Holm
RMA-Planning Salinas Permit Center
168 W. Alisal St. 2nd Floor
Salinas, CA 93901
ceqacomments@co.monterey.ca.us

Re: *Comments to Monterey County 2007 General Plan and Draft Environmental Impact Report*, SCH# 2007121001

Dear Mr. Holm:

On behalf of Friends, Artists, and Neighbors of Elkhorn Slough ("FANS"), please accept the following comments and concerns regarding the Monterey County 2007 General Plan ("GPU5") and Draft Environmental Impact Report ("DEIR").

I. CHANGES IN AGRICULTURAL USE SHOULD REQUIRE ENVIRONMENTAL REVIEW.

GPU 5 allows for changes in agricultural use operations without further environmental review. The DEIR states:

> The County will, after consultation with the Agricultural Commissioner and with appropriate review by the Agricultural Advisory Committee, establish by ordinance a list of "Routine and Ongoing Agricultural Activities" that will be allowed without discretionary permits. These may include, but are not limited to: . . . Conversion of agricultural land to other agricultural uses . . . . "Routine and Ongoing Agricultural Activities" are exempt from [specified] General Plan . . ., except for activities that would create significant soil erosion impacts or violate adopted water quality standards . . . .

1

(DEIR 3-46 to 3-47.) The DEIR concludes that the environmental impact of this policy would be less-than-significant, but, the DEIR fails to actually evaluate the potentially significant environmental impacts that conversion of agricultural land from one agricultural use to another agricultural use could have. For example, such conversion could result in: a significantly increased water demand, by changing the type of crop grown; or increased runoff or erosion in areas within the Elkhorn Slough watershed of North Monterey County. These activities could have significant environmental impacts, including potential impacts to listed species, but the DEIR fails to discuss such impacts, and fails to include criteria for consideration of such impacts

in the formulation of the "Routine and Ongoing Agricultural Activities" ordinance. The DEIR does state that such uses would not be permitted to "create significant soil erosion impacts or violate adopted water quality standards," but the DEIR fails to describe how the County would review or monitor these changes in agricultural operations in order to evaluate whether any significant soil erosion or water quality impacts could occur. 1

II. WATER RESOURCES

A. THE DEIR'S WATER QUALITY ANALYSIS IS CIRCULAR AND INCONSISTENT.

The DEIR says that project impacts to water quality would be significant if the project would result in the violation of any water quality standard or regulation. (DEIR 4.3-89 to 4.3-90.) The DEIR discusses the project's impacts as being potentially significant, but concludes that the existence of relevant local, state, and federal water quality standards and regulations would necessarily render the project's impacts to water quality to less-than-significant levels. (DEIR 4.3-97; see also DEIR 4.3-105.) This analysis is circular. The threshold of significance cannot act as the significance conclusion itself. This bare conclusion fails to explain how local, state, and federal regulations will reduce the project's admittedly significant impacts to less than significant levels.

The DEIR provides a similarly circular and contradictory analysis for water quality impacts from agricultural operations, stating that "land uses consistent with the 2007 General Plan would increase sediment and nutrients in downstream waterways and violate water quality standards." (DEIR 4.3-107.) Then, the DEIR concludes that "overall impacts will be less than significant with implementation of 2007 General Plan policies." (DEIR 4.3-112.) If land uses "consistent with the 2007 General Plan would . . . violate water quality standards," how do the General Plan policies themselves avoid a violation of water quality standards? 2

Similarly, the DEIR admits that "Land uses and development consistent with the 2007 General Plan would result in increased soil erosion and sedimentation during construction activities, substantially degrading water quality in downstream waterways." (DEIR 4.3-90.) Again, the DEIR concludes that applicable General Plan policies would result in the project having a less-than-significant impact to water quality. This analysis contradicts itself. The EIR states that development *consistent* with the General Plan would "substantially degrade[e] water quality," and then claims that the General Plan policies would avoid substantial degradation of water quality. While the use might be consistent with these General Plan policies the EIR must describe the impact of the consistent use on the existing environment, and then describe how policies within the General Plan conditioning the use will reduce or avoid the identified significant adverse impact.

B. THE DEIR FAILS TO ADEQUATELY DESCRIBE OR MITIGATE THE PROJECT'S SIGNIFICANT EROSION IMPACTS.

The DEIR relies in part on "existing County, state, and federal requirements; proposed policies of the 2007 General Plan; and existing central coast RWQCB regulatory initiatives, such as the 3

WMI, NPDES Phase II stormwater, and TMDL programs, [to] substantially reduce the extent of erosion and sedimentation from most construction activities on gentle slopes and where an erosion control plan is required." (DEIR 4.3-105.) However, as discussed in section III.D of this comment, below, these regulations and policies do not reduce erosion from project construction to less-than-significant levels, because these regulations are as of yet undeveloped, would not apply to all potentially significant activities, and lack specific performance standards or mitigation measures that would bind development to reduce project specific impacts to less-than-significant levels.

The DEIR also cites several General Plan policies to avoid impacts from soil erosion but these policies, individually, and collectively, fail to minimize or avoid this significant adverse impact, because all purported mitigations defer the development of binding, specific performance standards, to some future date.

The General Plan's Open Space Element, Policies OS-3.1 through 3.8, all defer development of avoidance and mitigation standards for soil erosion to some unknown future time. For example, OS-3.3 states that "Criteria for studies to evaluate and address . . . soil instability, moderate and high erosion hazards . . . shall be established for new development and changes in land use designations. Routine and on-going agricultural uses shall be exempt from this policy except where there are highly erodible soils." This policy fails to offer any guidance as to what the criteria should include, and fails to impose any binding standards, merely requiring the County to "evaluate and address" erosion. Nothing in this policy requires the County to avoid or mitigate soil erosion impacts to less-than-significant levels. 3

Policy OS-3.5 requires, for activities on slopes from 15-25%, a ministerial permit that "addresses" erosion on "highly erodible soils." (DEIR 4.3-109.) This vague language contains no performance standards or binding requirements, and therefore does not commit the County to avoiding significant impacts to soil erosion. The General Plan also requires a permit for development on slopes greater than 25%, but this permit also imposes no binding standards. (DEIR 4.3-101.) Rather, the permit requires the applicant to "evaluate" alternatives, "identify" erosion control techniques, and "minimize" development that poses a "substantial risk to public health or safety." Nothing in this permit process *requires* the implementation of binding standards that would assuredly minimize impacts to soil erosion to a less-than-significant level, unless the project would otherwise present a "substantial risk to public health or safety." However, neither the General Plan nor the EIR explain the criteria for determining whether a project would present a "substantial risk to public health or safety," nor whether significant individual and/or cumulative soil erosion impacts could occur without presenting a "substantial risk to public health or safety."

Further, the General Plan would allow for development on slopes greater than 30%, and the General Plan again fails to establish standards to avoid or minimize the impacts of development on such steep slopes. Policy OS-3.7 requires the Monterey County Water Resources Agency to prepare a manual that will include, among other things, erosion control measures. However, neither the General Plan nor the DEIR identify what specific standards this manual will impose, nor when such standards will be implemented.

The DEIR relies heavily on General Plan Policy OS 3.9, which states:

> The County will develop a Program that will address the potential cumulative hydrologic impacts of the conversion of hillside rangeland areas to cultivated croplands. The Program will be designed to address off-site soil erosion, increased runoff-related stream stability impacts and/or potential violation of adopted water quality standards. The County should convene a committee comprised of county staff, technical experts, and stakeholders to develop the Program, including implementation recommendations.

(DEIR 4.3-105.) Again, however, this policy fails to mitigate project impacts to less-than-significant levels because the policy fails to establish any performance standards or other requirements that would necessarily *ensure* that cumulative erosion impacts are reduced to less-than-significant levels. The policy merely requires the County to "address" such impacts, but does not require the County to reduce them to less-than-significant levels. Under CEQA, "[w]hen the success of mitigation is uncertain, an agency cannot reasonably determine that significant effects will not occur."[1] 3

The DEIR also states that "[a]n Agricultural Permit shall recognize unique grading criteria for agricultural purposes and the process shall include criteria when a discretionary permit is required." (DEIR 4.3-101.) This policy provides no guidance on the potentially significant erosion impacts of the General Plan, failing to provide any information about what criteria would be used to determine whether the permit should be ministerial or discretionary, and, if discretionary, what standards would be used to determine whether impacts are significant, and what types of mitigation measures would be required.

The DEIR references Timber Harvest Plans ("THP") as mitigating potentially significant erosion impacts. (DEIR 4.3-111.) However, a THP may permit significant and unavoidable impacts to soil erosion to occur through its certified functional equivalency program, and therefore cannot be said to necessarily reduce project impacts to less-than-significant levels. Similarly, the DEIR relies on the Surface Mining and Reclamation Act ("SMARA") to mitigate impacts to soil erosion caused by mining activities, yet the DEIR fails to show exactly how SMARA *requires* mitigation of impacts to less-than-significant levels.

C. THE DEIR FAILS TO EVALUATE WATER QUALITY IMPACTS TO MONTEREY BAY.

The DEIR acknowledges that most, if not all, Project impacts to stream water quality will eventually drain into Monterey Bay. For example, the DEIR states: 4

- "the Salinas River empties into Monterey Bay" (DEIR 4.3-6.)

---

[1] Remy, Thomas, Moose, Manley, Guide to the California Environmental Quality Act, at 426, citing *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 306-308.

- "Much of the runoff from the Salinas River either evaporates or discharges into Monterey Bay during the wet season." (DEIR 4.3-7.)

- "Urban runoff, often called "stormwater pollution," is difficult to prevent because this nonpoint source pollution is spread throughout the watershed. Any deposits of natural (sediment) and human-made pollutants (e.g., oils, pesticides, and heavy metals) in these areas are flushed by rainwater, landscape irrigation, and other means down storm drains and directly into streams, rivers, or Monterey Bay. This problem becomes worse with population growth and urbanization because such activities alter natural hydrologic processes." (DEIR 4.3-18 to 4.3-19.)

- "Urban runoff has the potential to directly affect Salinas River waters. Urban runoff transported by the river also affects water quality in Monterey Bay." (DEIR 4.3-19.)

- "[Nitrate] remains in the soil or enters the groundwater with subsequent irrigation or is flushed into irrigation drainage ditches to join other nitrate-laden waters flowing toward creeks, rivers and estuaries, and eventually into Monterey Bay." (DEIR 4.3-22.)

However, despite acknowledging that most if not all water pollution caused by the General Plan would eventually impact Monterey Bay, the DEIR fails to assess the significance of this direct, indirect, and cumulative impact. The DEIR does list a number of plans that pertain to Monterey Bay water quality. However, the DEIR fails to provide sufficient detail to understand the specific goals and requirements of these plans, and the DEIR fails to assess whether development under the General Plan would be consistent with these plans. For example: 4

The DEIR states that "[t]he *Salinas River Watershed Management Action Plan* . . . outlines the watershed characteristics and management actions recommended to control point source and nonpoint source pollution within the Salinas River watershed." (DEIR 4.3-61.) What policies does this Plan include? Does this Plan impose enforceable restrictions on discharges? Would the General Plan development be consistent with the goals of this Plan? Would consistency with this Plan ensure that General Plan impacts to Monterey Bay will be less than significant?

The DEIR states that "[t]he [Monterey Bay National Marine Sanctuary] is a federally protected marine area offshore of the central coast, encompassing 5,322 square miles of ocean and 276 miles of shoreline, from Marin County to San Luis Obispo County. . . . In October 2006, the Monterey Bay National Marine Sanctuary (MBNMS) released a comprehensive watershed management and ecosystem plan, the *Big Sur Coastal Ecosystem Action Plan,* as part of the MBNMS draft management plan (Monterey Bay National Marine Sanctuary 2006)." Again, this statement provides no information about regulations that would protect the water quality of Monterey Bay, and fails to consider whether the planned General Plan development and infrastructure would complement, be consistent with, or implement recommendations within these plans.

The DEIR states, "[i]n 1992, eight federal, state, and local agencies signed a memorandum of agreement with the MBNMS to develop collaboratively a Water Quality Protection Program (WQPP) for the MBNMS and its watersheds. The WQPP is now a partnership of 25 federal, state, and local agencies, as well as public and private groups. Four detailed plans have been completed as part of the WQPP: the *Urban Runoff Plan, Marinas and Boating Plan, Water Quality Monitoring Plan,* and *Agriculture and Rural Lands Plan*." (DEIR 4.3-87.) The DEIR discusses these plans individually, but again fails to indicate (1) the precise mandatory restrictions (if any) that each plan will place on General Plan development, or (2) what specific impacts to Monterey Bay could occur from General Plan development that is consistent or inconsistent with these Plans. (DEIR 4.3-87 to 4.3-88.) 4

The DEIR must be revised and recirculated to inform the public and decision-makers of the potentially significant impacts that development under the General Plan could have upon Monterey Bay. The DEIR contains no information regarding the anticipated types or amounts of pollutants that will reach Monterey Bay as a result of development under the General Plan, nor does the EIR evaluate the significance of this obvious impact. The DEIR asserts that coastal streams will suffer less pollution than inland streams (DEIR 4.3-92), yet the DEIR contains considerable evidence showing that upstream pollutants will accumulate and pollute downstream waters. Without evaluating this impact in the DEIR, the DEIR is "so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded." (CEQA Guidelines, § 15088.5; *Mountain Lion Coalition v. California Fish and Game Commission* (1989) 214 Cal.App.3d 1043.)

D. THE DEIR RELIES ON INCOMPLETE FEDERAL POLICIES.

The DEIR relies on National Pollutant Discharge Elimination System (NPDES) phase II to mitigate runoff impacts, yet the DEIR offers no standards for any minimization measures to achieve. Instead, the DEIR states:

> Designated Phase II MS4 areas in the unincorporated county include Carmel Valley; Corral de Tierra/San Benancio; Toro Park; a large area bounded by the Salinas River, Davis Road, SR 68, and the city of Salinas; a second large area southeast of San Juan Grade Road and northeast of Salinas; Pajaro and its surroundings; Castroville; and Prunedale. Since 2001, the Monterey Regional Storm Water Permit Participants Group, composed of the Cities of Monterey, Carmel-by-the-Sea, Del Rey Oaks, Sand City, Seaside, Marina, and Pacific Grove; the County; and the Pebble Beach Co., have been developing a regional stormwater program for the Monterey Peninsula and surrounding areas to prepare an NPDES Phase II permit application. The MRWPCA acts as the group's administrative agent. 5

When will this permit program be complete? What specific impacts will this permit mitigate? The DEIR does not say. (DEIR 4.3-50.) With these plans only in a developmental phase, it is completely uncertain whether the plans will necessarily mitigate significant impacts of the General Plan buildout to less-than-significant levels.

The DEIR lists waterways in the County that are designated "impaired." DEIR table 4.3-8.) However, TMDLs have not been completed for many of these impaired waterways. (DEIR 4.3-54.) Development under the General Plan will continue to pollute these already impaired waterways, resulting in a significant impact. (DEIR 4.3-90.) The DEIR fails to demonstrate any binding requirement to prevent this impact. The DEIR does show that the completion date for establishing some TMDLs (i.e., Alisal Creek, Galiban Creek, Monterey Harbor, Moro Cojo Slough, Moss Landing Harbor, Old Salinas River Estuary, Salinas Reclamation Canal, Salinas River (lower), Salinas River Lagoon, and Tembladero Slough) was 2006-2007. (DEIR 4.3-54.) Have those TMDLs been completed, and, if so, what limits do they set for future authorized activities to comply with? 5

The DEIR's significance conclusions rely on the federal TMDL program to mitigate agricultural impacts to water quality, yet the DEIR acknowledges that few TMDLS have been established, despite the existence of many impaired watersheds. (DEIR 4.3-105, 108, 111.)

E. THE DEIR FAILS TO FULLY DESCRIBE OR MITIGATE THE PROJECT'S SIGNIFICANT IMPACTS TO GROUNDWATER.

i. SALINAS VALLEY

The DEIR fails to adequately evaluate the Project's potentially significant impacts to groundwater within the Salinas Valley. Specifically, the DEIR's discussion of the Salinas Valley Water Project ("SVWP") fails to follow the principles recently articulated by the California Supreme Court in *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* for evaluation of water supply impacts of a proposed land-use project:

> First, CEQA's informational purposes are not satisfied by an EIR that simply ignores or assumes a solution to the problem of supplying water to a proposed land use project. Decision makers must, under the law, be presented with sufficient facts to "evaluate the pros and cons of supplying the amount of water that the [project] will need." [Citation.] 6
>
> Second, an adequate environmental impact analysis for a large project, to be built and occupied over a number of years, cannot be limited to the water supply for the first stage or the first few years. While proper tiering of environmental review allows an agency to defer analysis of certain details of later phases of long-term linked or complex projects until those phases are up for approval, CEQA's demand for meaningful information "is not satisfied by simply stating information will be provided in the future." [Citation.] . . . An EIR evaluating a planned land use project must assume that all phases of the project will eventually be built and will need water, and must analyze, to the extent reasonably possible, the impacts of providing water to the entire proposed project. [Citation.]
>
> Third, the future water supplies identified and analyzed must bear a likelihood of

> actually proving available; speculative sources and unrealistic allocations ("paper water") are insufficient bases for decisionmaking under CEQA. [Citation.] An EIR for a land use project must address the impacts of *likely* future water sources, and the EIR's discussion must include a reasoned analysis of the circumstances affecting the likelihood of the water's availability. [Citation.]
>
> Finally, where, despite a full discussion, it is impossible to confidently determine that anticipated future water sources will be available, CEQA requires some discussion of possible replacement sources or alternatives to use of the anticipated water, and of the environmental consequences of those contingencies. [Citation.] The law's informational demands may not be met, in this context, simply by providing that future development will not proceed if the anticipated water supply fails to materialize. But when an EIR makes a sincere and reasoned attempt to analyze the water sources the project is likely to use, but acknowledges the remaining uncertainty, a measure for curtailing development if the intended sources fail to materialize may play a role in the impact analysis. [Citation.]
>
> The ultimate question under CEQA, moreover, is not whether an EIR establishes a likely source of water, but whether it adequately addresses the reasonably foreseeable *impacts* of supplying water to the project. If the uncertainties inherent in long-term land use and water planning make it impossible to confidently identify the future water sources, an EIR may satisfy CEQA if it acknowledges the degree of uncertainty involved, discusses the reasonably foreseeable alternatives-including alternative water sources and the option of curtailing the development if sufficient water is not available for later phases-and discloses the significant foreseeable environmental effects of each alternative, as well as mitigation measures to minimize each adverse impact. [Citation.] In approving a project based on an EIR that takes this approach, however, the agency would also have to make, as appropriate to the circumstances, any findings CEQA requires regarding incorporated mitigation measures, infeasibility of mitigation, and overriding benefits of the project. [Citation.]

6

(*Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 430-432). The County's DEIR for the GPU fails to satisfy the principles articulated above by the California Supreme Court in *Vineyard Area Citizens*.

The DEIR admits that short- and long-term groundwater demands of the Project would exceed the existing available surface and groundwater supplies, leading to lost aquifer storage and further saline intrusion, but the DEIR asserts that these significant impacts will be avoided through implementation of the SVWP. However, the DEIR fails to provide sufficient information about the SVWP to meaningfully apprise the public and decision-makers of the pros and cons of relying on the SVWP as a water source for buildout of GPU5. The DEIR fails to acknowledge the uncertainties faced for multiple phases of the SVWP, fails to specifically identify all water sources relied on by the SVWP, fails to evaluate the water sources that would be necessary to meet Project demands if the full and complete implementation of the SVWP does

not occur, and fails to assess the significant impacts to the groundwater basin that would occur without the full and complete implementation of the SVWP as it is described in the DEIR. Moreover, the DEIR fails to include binding mitigation measures capable of ensuring that the Project's impacts will necessarily be mitigated to less-than-significant levels. (See Pub. Resources Code, § 21081.6, subd. (b); *Federation of Hillside and Canyon Associations v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1260-1262.)

The DEIR fails to articulate each planned source of water for the SVWP. First, the DEIR fails to inform the public exactly what water diversion rights Monterey County Water Resources Agency ("MCWRA") and Monterey Regional Water Pollution Control Agency ("MRWPCA") do have for the SVWP, and what water rights must still be acquired. The DEIR indicates that "Operation of the SVWP will divert an average of 9,700 AF and up to 12,800 AF of additional Salinas River water (available from reoperation of upstream reservoirs) to the CSIP [Castroville Seawater Intrusion Project] during the peak irrigation season," resulting in "up to 25,000 AF to the CISP [sic] for injection into the groundwater aquifer." However, DEIR then goes on to state that only "if an additional 14,300 AF of SVWP water is delivered outside the CSIP" would future seawater intrusion be prevented. (DEIR 4.3-34 to 4.3-35.) The DEIR fails to explain the source of this 14,300 AF of water, and fails to discuss what uncertainties, if any, the SVWP faces in delivering up to 25,000 AF to the CSIP. Since the DEIR relies on yearly averages, what impacts will the Project have when SVWP water arrives in below average years, or multiple consecutive below average years? If seawater intrusion increases during dry years, can the aquifer recover simply through in-lieu recharge in wet years? The DEIR indicates that once groundwater quality is compromised, recovery becomes more difficult, but the DEIR fails to provide any discussion of such impacts. 6

The DEIR also relies on uncertain and incomplete components of the SVWP to avoid long-term groundwater impacts:

> [C]omponents of the project are believed sufficient to halt seawater intrusion in the short term but may not be sufficient to meet water demand through the year 2030. Modeling conducted for the SVWP EIR/EIS determined that groundwater levels would be raised to varying degrees in all four sub-basins of the Salinas Valley groundwater basin (100-Foot/400-Foot, East Side, Forebay, and Upper Valley Subareas) due to decreased pumping and increased recharge along the Salinas River (Monterey County Water Resources Agency 2001). With the SVWP, benefits would be distributed more uniformly throughout the Salinas Valley. An expanded distribution system and expanded deliveries would be necessary to halt seawater intrusion in the long term. This subsequent phase would consist of an additional pipeline extending southeast of the existing CSIP service area, as well as other improvements. The pipeline and its impacts are discussed in concept in the SVWP EIR/EIS, but it has not yet been planned in detail.

(DEIR 4.3-38.) Thus, the DEIR states that the SVWP will not prevent seawater intrusion into the aquifer that would be caused by buildout water demand of the General Plan, unless future

conceptual phases of the SVWP are built. The DEIR, however, provides almost no information about such future phases, except a general reference to a pipeline evaluated in the SVWP EIR.

To adequately inform the public and decision-makers about the pros and cons of relying on future phases of the SVWP to mitigate or avoid the significant adverse groundwater impacts of development authorized by GPU5, the DEIR must provide more information as to what actual phases of the SVWP must still be designed and approved, what uncertainties these future phases entail, and what alternative water sources GPU5 buildout would rely on if some or all future SVWP phases are not realized. (See *Vineyard Area Citizens*, *supra*, 40 Cal.4th at 430-432.) Where the success of mitigation measures is uncertain, the lead agency should consider this impact to be significant and unmitigated. (See *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1394-1395; *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 306-307; *Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1028-1029 [if mitigation measures are uncertain, the lead agency "should treat the impacts in question as being significant at the time of project approval."]) However, the DEIR fails to provide this information, and provides no possible assurances that any future SVWP phases will be built. Instead, the GPU5 DEIR concludes that the Project's impacts to groundwater would be less-than-significant in the Salinas Valley, relying on complete implementation of the SVWP, including these conceptual future phases.

The DEIR does propose mitigation measures in an attempt to reduce this uncertainty, but the mitigation measures themselves lack any substantive requirements to ensure that long-term impacts will in fact be mitigated to less-than-significant levels. The DEIR provides: 6

> The following mitigation measures would reduce impacts in the Salinas Valley and Monterey Peninsula. . . .
>
> WR-1: Support a Regional Solution for the Monterey Peninsula in addition to the Coastal Water Project
>
> This measure is described above.
>
> WR-2: Initiate Planning for Additional Supplies to the Salinas Valley
>
> The County will revise the draft 2007 General Plan to include the following new policies:
>
> PS-3.17. The County will pursue expansion of the SVWP by initiating investigations of the capacity for the Salinas River water storage and distribution system to be further expanded. This shall also include investigations of expanded conjunctive use, use of recycled water for groundwater recharge and seawater intrusion barrier, and changes in operations of the reservoirs. The County's overall objective is to have an expansion planned and in service by 2030.

> PS-3.18. The County will convene and coordinate a working group made up of the Salinas Valley cities, the MCWRA [Monterey County Water Resources Agency], and other affected entities for the purpose of identifying new water supply projects, water management programs, and multiple agency agreements that will provide additional domestic water supplies for the Salinas Valley. These may include, but not be limited to, expanded conjunctive use programs, further improvements to the upriver reservoirs, additional pipelines to provide more efficient distribution, and expanded use of recycled water to reinforce the hydraulic barrier against seawater intrusion. The County's objective will be to complete the cooperative planning of these water supply alternatives by 2020 and have projects online by 2030.
>
> . . .
>
> **Significance Conclusion**
>
> A second phase of the Salinas Valley Water Project is feasible, according to MCWRA. From a water supply point of view, implementation of Mitigation Measures WR-2 would mitigate the water supply impact in the Salinas Valley of 2007 General Plan buildout to a less-than-significant level (see separate discussion of water supply infrastructure under Impact WR-5 below).

(DEIR 4.3-134.) These mitigation measures are wholly inadequate to ensure a new long-term SVWP supply to meet Project demands without adversely impacting groundwater. Whether or not a new water source is ultimately acquired is wholly speculative. Rather than imposing binding standards to ensure that water demands do not exceed sustainable supply, these mitigation measures merely require the County to engage in investigation, conceptual plans, objectives, and working groups. Reliance on future studies and reports is an impermissible deferral of mitigation measures under CEQA. 6

The DEIR fails to identify any specific potential water sources, or to evaluate what impacts new future diversions would cause to such sources. Thus, the DEIR fails to inform the public of the potentially significant groundwater impacts of the Project, and fails to impose binding mitigation measures to necessarily reduce such impacts to less-than-significant levels. (See *Vineyard Area Citizens*, *supra*, 40 Cal.4th at 430-432; *Gentry*, *supra*, 36 Cal.App.4th 1359, 1394-1395.)

In addition, the DEIR's evaluation of infrastructure impacts reveals that the SVWP may not prevent seawater intrusion into the aquifer. Discussing the necessary future pipelines to deliver water for the SVWP, the DEIR states:

> The diversion structure would be constructed near the current point where the CSIP pipeline crosses the Salinas River. The pipeline has sufficient capacity to deliver project water to the CSIP area also. Hydrologic modeling shows that the project may not halt seawater intrusion in the long-term future (year 2030). *If this were to occur*, additional distribution capacity will be created in a new pipeline and water would be delivered outside the CSIP area to ensure project objectives are met and seawater intrusion is halted.

(DEIR 4.3-136 [emphasis added].) The DEIR implies that any expansion of the SVWP would *only* happen "if [seawater intrusion in the long-term future] were to occur." Thus, the planned mitigation of seawater intrusion would not occur until *after* the significant adverse and irreversible impact to groundwater has occurred. Moreover, the DEIR provides no concrete discussion of where any pipeline would be located, nor where any additional water diversions would come from. Therefore, the DEIR must consider the Project's impacts to long-term seawater intrusion to be significant and unavoidable, since conceptual SVWP expansions may only occur after additional seawater intrusion takes place, and no binding plans to construct all necessary future SVWP components exist.

The SVWP EIR is eight years old, and did not evaluate the County's long-term water demands against the presently-existing environmental conditions. The following public comments on the SVWP EIR need to be addressed, before the County relies on the out-dated SVWP EIR:

> The Salinas Valley Water Project EIR/EIS significantly underestimated 2030 population growth in the Salinas Valley Cities and excluded growth considerations in all unincorporated communities except Castroville. (Attachment 5) Instead of an urban population in the Salinas Valley of 355,829, AMBAG forecasts an urban population of 416,427 (including the EIR/EIS assumption for Castroville). This is an underestimate of almost 61,000 urban water users. Furthermore, it does not include any of the unincorporated towns in the Salinas Valley, which according to the 2000 census, totaled more than 20,000 urban water users. (Attachment 6) Clearly, the Salinas Valley Water Project EIR/EIS underestimated urban demand and urban population by more than 80,000 residents. 6
>
> Nor does the EIR/EIS contemplate the water impacts of a rapidly expanding wine industry or the 500 million square feet of industrial and commercial space allowed in the County's unincorporated areas under the 2006 General Plan. According to a June 2007 San Francisco Chronicle story, modern vineyards plant 2500 vines per acre and use 100 to 200 gallons of water per vine per season, or 250,000 gallons of water per acre. (Attachment 7) According to the "Survey of Water Use in the California Food Processing Industry," processing those grapes uses an average of 1000 – 1250 gallons of water per ton of grapes processed. (Attachment 8)

(See June 19, 2007 comments of Julie Engell, attached hereto (with highlights in attachments) and fully incorporated herein by reference.)

The SVWP has yet to be completed. Cost increases that have occurred since the SVWP EIR, and which continue to occur, make the actual implementation date of the SVWP questionable. The GPU5 EIR has failed to evaluate the environmental consequences if the SVWP is delayed or not completed. What additional hurdles does the SVWP face for full implementation, and when will each permitting and construction component be completed? In response to the cost overruns

has the SVWP project design been changed since completion of the EIR for that project? If so, what components of the SVWP plan are different, and how do these changes modify the conclusions in the SVWP EIR?

Finally, the Highlands North and South sub-basins are connected to and up gradient from the Salinas Valley Aquifer. (North Monterey County Hydrogeologic Study – Critical Issues Report and Interim Management Plan, May 1996, Final, Fugro West, Inc., page 3.)

> [Although] Groundwater is readily available within this subarea, [] the aggregate pumping is contributing to chronic storage depletion. Storage depletion is resulting in falling water levels and seawater intrusion.

6

(Fugro West, *supra*, page 3.) As long as the Salinas Basin is over-drafted, groundwater will continue to flow from the elevated Highlands South sub-basin down into the Salinas Aquifer, leading to significant and adverse impacts to the Highlands South subarea. The DEIR must analyze the environmental consequences of the continuing groundwater depletion in the Salinas sub-basin, which affects groundwater levels at Highlands North and South.

ii. NORTH COUNTY

The DEIR states that "[t]here are an estimated 577 vacant residential lots in the North County Plan area. The 2007 General Plan proposes to limit development in the North County to a single residence on each such lot. GPU5 also proposes to relieve new single family residential development from the requirement to demonstrate a sustainable water supply prior to development under Policy PS-3.1. Development of any portion of these existing lots of record by 2030 will exacerbate current problems. (DEIR 4.3-129.) Nevertheless, while recognizing this significant adverse impact on the existing groundwater supply, the DEIR fails to evaluate any mitigation measures or project alternatives to reduce or avoid this impact.

Further, the DEIR states that, "[a]lthough Monterey County has mandatory programs (water conservation ordinances) for urban water conservation—for instance, its low-flush toilet requirement for new development and retrofit program for certain types of remodeling projects—community education, outreach, and program enforcement have not been adequately funded. . . . More also can be done to achieve increased agricultural water conservation through increased outreach, education, and coordination efforts by the County and by increased enforcement of existing agricultural water conservation regulations. This would require fully funding a water conservation program and providing adequate staff resources." (DEIR 4.3-148.) Therefore, the EIR should propose a feasible water conservation program to reduce or avoid the impact of new single family residential development on existing legal lots on the overdrafted ground water supply.

7

Public Services Element Policy PS-2.2 (groundwater quality and groundwater monitoring) requires the Water Resources Agency to assure adequate monitoring of wells in those areas experiencing rapid growth. (DEIR 4.3-149.) Historically, County agencies have lacked funds

and personnel to complete adequate monitoring: what specific funds will be available to ensure that all necessary monitoring occurs?

The DEIR acknowledges that new development will create impervious surfaces that will reduce and alter groundwater recharge:

> Public Services Element Policy PS-2.9 mandates that the County use discretionary permits to manage the construction of impervious surfaces in important groundwater recharge areas.

(DEIR 4.3-149.) However, this policy provides no instructions on how construction of impervious surfaces in important recharge areas will be managed.

Policy PS-3.2 of the Public Services Element allows credits for projects that significantly reduce the historical water use in order to allow for additional development. (DEIR 4.3-123.) The DEIR fails to explain the anticipated water savings with urban conversion of agricultural uses. First, the creation of urban demand creates a fixed, unavoidable demand, whereas agricultural demands can lie fallow during a drought. Second, where groundwater exists in a state of overdraft, such credits should not be issued until the overdraft is corrected. Any water demand reduction by a project should first be applied to eliminating overdraft. Only after the overdraft is corrected should a project be able to take credits for reduction in groundwater demand, since any demand contributing to overdraft is a significant adverse impact on the existing over-utilized groundwater supply. 7

The DEIR relies on future ordinances to mitigate the project's significant impacts to groundwater. But, the DEIR and General Plan fail to provide sufficient information for the interested public to understand how such future rules will mitigate the project's impacts to less-than-significant levels. The DEIR notes that "Public Services Element Policy PS-3.12 requires the County to establish an ordinance identifying conservation measures that reduce agricultural water demand," and "Public Services Element Policy PS-3.13 mandates establishment of an ordinance identifying urban conservation measures that reduce potable water demand." (DEIR 4.3-150.) These ordinances merely require the County to "identify" conservation measures, but such policies cannot be relied on to *require* that conservation measures be imposed. Similarly, "Public Services Element Policy PS-4.4 encourages the use of reclaimed wastewater for groundwater recharge." (DEIR 4.3-150.) Given the County's difficulties in securing reliable water sources, the General Plan and DEIR must do more than merely "encourage" such recharge, to reduce impacts to groundwater to less-than-significant levels.

"The North County Area Plan Policy NC-5.1 requires new development to maximize groundwater recharge capabilities. North County Area Plan Policy NC-5.2 (surface and groundwater water supply) states that water development projects that can offer a viable water supply to water-deficient areas in North County shall be a high priority." (DEIR 4.3-152.) The General Plan and DEIR should consider implementing such a policy/mitigation measure, in order to conserve long-term groundwater resources county-wide. Instead, GPU5 proposes "Public Services Element Policy PS-2.8[, which] requires that all projects be designed to maintain or

increase the site's predevelopment absorption of rainfall (minimize runoff) and to recharge groundwater where appropriate." (DEIR 4.3-158.) The benefits of this policy are unclear. Will PS-2.8 minimize or maintain recharge rates? And, what criteria will be used to determine whether maintaining absorption rates, or recharging groundwater, is "appropriate"?

The DEIR states:

> Outside the PVWMA jurisdictional area, new agricultural wells also can be brought into production with few restrictions on groundwater pumpage (other than on well construction standards and usage reporting requirements). Larger development projects on individual or new small community system wells would be subject to issuance of discretionary permits and thus CEQA review, which would provide a means for addressing the potential for saltwater intrusion and the application of appropriate use restrictions. However, smaller projects in conformance with the land use plan and zoning code would likely not require discretionary review and approval.

7

(DEIR 4.3-158.) The DEIR is unclear what "smaller projects" it refers to. Moreover, CEQA review alone does not prohibit significant and unavoidable impacts for "larger" projects. Because the DEIR finds short term and long term impacts to groundwater basins to be significant, the DEIR should require discretionary approvals for new groundwater uses. Also, the General Plan should prohibit new large pumps that create significant and adverse impacts to groundwater quality, quantity, or adversely impact adjacent pumps.

The DEIR's discussion of well-interference states:

> Generally, however, development of individual parcels on lots of record, including small businesses and residences, if consistent with the General Plan and Zoning Code, do not require discretionary approval and typically would not be required to conduct pump tests or hydrogeologic studies.

(DEIR 4.3-171.) Because single-lot development under the General Plan may potentially result in significant well-interference, the DEIR inappropriately concludes that impacts to well interference will be less-than-significant. The DEIR should have evaluated the feasibility of creating a discretionary permit process for all new wells that would evaluate a new well's potential to interfere with existing wells.

General Plan Policy PS-3.5 requires that,

> Where pump tests or hydrogeologic studies show the potential for significant adverse well interference, the County shall require that the well be relocated or otherwise mitigated to avoid significant well interference.

(DEIR 4.3-172.) Under this policy, when would well interference be considered to be significant? Will such wells be permitted if relocation or mitigation is not feasible to reduce the interference to a less-than-significant level?

Proposed Policy PS-3.6 of the Public Services Element "requires the County and all applicable water management agencies" to prohibit the drilling or operation of any new wells in known areas of saltwater intrusion "until such time as a program has been approved and funded that would minimize or avoid expansion of saltwater intrusion into useable groundwater supplies in that area." (DEIR 4.3-159) This program does not prevent seawater intrusion, because it permits uses that would merely "minimize" (but not stop) the *increase* of seawater intrusion, rather than only permitting projects that would "avoid" expansion of seawater intrusion. The cumulative impact of projects that could be authorized consistent with this policy creates a potentially significantly increase of seawater intrusion.

The DEIR concludes that development on existing lots of record will result in a significant and unavoidable impact to groundwater: 7

> In the Pajaro Valley, this impact is considered significant and unavoidable due to the lack of an established feasible comprehensive solution to address existing sweater intrusion as well as future water demands.

(DEIR 4.3-163; DEIR 4.3-129). However, the DEIR fails to describe the actual physical changes that will occur as a result of this significant impact. For example, how much will seawater intrusion progress into the groundwater supply? What is the anticipated rate of overdraft? The DEIR indicates that once groundwater quality is compromised, recovery becomes more difficult. Will the seawater intrusion caused by the development on existing lots of record authorized by the General Plan make recovery of the groundwater sub-basin more difficult? The DEIR must make some attempt to describe the physical impacts to the environment, including the degree and location of the impacts. (See *Vineyard Area Citizens, supra*, 40 Cal.4th at p. 430-432.)

Finally, recent news articles indicate that a proposed $28 million water pipeline for the Granite Ridge area has been postponed indefinitely. Does this change in water supply infrastructure change the DEIR's assumptions and evaluation of short- and long-term Project impacts to groundwater in this area?

F. THE DEIR FAILS TO ADEQUATELY EVALUATE WASTEWATER IMPACTS.

The DEIR acknowledges that wastewater disposal by privately owned treatment facilities, and by individual septic systems, may result in significant impacts to groundwater. (DEIR 4.3-165.) 8
The DEIR concludes that the GPU5 policies would mitigate these impacts to less-than-significant levels. However, the General Plan policies on which the DEIR relies fail to impose concrete and tangible restrictions on future development that would ensure that no significant adverse impacts to the existing environment will occur. For example, the DEIR states:

> A number of these policies discourage the use of individual septic systems in favor of community systems that are subject to a higher level of regulatory supervision.

(DEIR 4.3-166.) However, merely discouraging the use of septic systems does not ensure the development of community systems. PS-2.6 requires the creation of maps of areas containing hazards and development constraints, but this policy includes no stated restrictions on development. Policies PS-4.1 through PS-4.4 do not provide any water quality restrictions relevant to privately owned treatment facilities, or septic disposal. Policies PS-4.5 and PS-4.6 discourage such development, but *do* permit individual, private septic disposal when connection to an existing regional facility is not feasible. The General Plan and the DEIR do not indicate when or where such connections would not be feasible, or what the impacts will be in those areas when individual, private septic systems are allowed to proliferate.

Policies PS-4.7 and PS-4.8 defer formulation of specific performance standards for new wastewater facilities until after project approval. These policies provide criteria that "may" apply to new development, including the financial capability of owners to operate, maintain, repair, or remediate discharge, of a facility. These policies need to be mandatory to ensure that significant impacts are avoided. In addition, these policies do not specify what water quality standards apply to new individual septic or wastewater treatment systems. 8

PS-4.9 does impose Regional Water Quality Control Board Standards, but this only applies to new subdivisions or zone changes. This policy does not cover new wastewater facilities, permitted under the General Plan, independent of new subdivisions or zone changes, nor does this policy address septic disposal.

PS-4.10 requires the County to develop a future management system "consistent with" AB885 and RWQCB requirements, but the DEIR does not explain whether "consistent with" means identical to, and does not describe what restrictions these policies entail. PS-4.11 merely encourages upgrades to tertiary treatment levels. PS-4.12 requires the future formulation and adoption of "On-site Wastewater Management Plans" ("OWMP") for areas with high concentrations of development that are served primarily by individual sewage systems such as North County and Carmel Valley," but neither the General Plan nor the DEIR offer any relevant performance standards or timeframe for this policy. (DEIR 4.3-167 to 4.3-169.)

III. THE DEIR FAILS TO DESCRIBE AND MITIGATE ALL SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES.

The DEIR cites to GPU5 land use policies 1.1 through 1.9 as mitigating a development project's significant adverse impacts to biological resources; yet, none of these policies actually impose any mandatory requirements to directly protect special-status plant and animal species. (DEIR 4.9-67.) The voluntary and indirect benefits to biological resources that these policies provide may not necessarily mitigate developmental impacts to less-than-significant levels, because there is no mandatory requirement that they be applied. 9

The DEIR references GPU5 open space policy OS-3.5 applicable to development on steep slopes. (DEIR 4.9-67.) This policy, however, as described above in section II.B of this comment, fails to impose meaningful standards that ensure project impacts to soil erosion and stream sedimentation will be less-than-significant. Moreover, this policy makes no mention of impacts to special status species.

The DEIR references additional open space policies in GPU5, but the actual protection offered by these policies is unclear. Policy OS-4.1 "stipulates that Federal and state designated native marine fresh water plant and animal species be protected." The DEIR fails to explain how these freshwater species will be protected. Also, this policy only applies to fresh water species, and offers no protection for anadromous species or Monterey Bay.

Proposed Policies OS-5.1 through OS-5.5 merely encourage or promote protection of biological resources. These policies do not direct county agencies to protect these resources; and, these policies do not ensure mitigation or avoidance to less-than-significant levels. For example,

> Policy OS-5.3 stipulates that development be carefully planned to provide for the conservation and maintenance of plant and animal communities or species listed by state or federal agencies for protection.

9

Does this policy require all development impacts to special status plant or animal species to be mitigated to less-than-significant levels? Interpreting this policy in the context of the other GPU5 policies, which permit significant and unavoidable impacts to biological resources, a project applicant may argue that OS-5.3 does not require all impacts to be mitigated to less-than-significant levels.

Policy OS 5.12 merely requires consultation with CDFG. The policy is silent about implementing any mitigation measures proposed by CDFG. (DEIR 4.9-69.) The DEIR states,

> Policy OS-5.16 requires biological surveys and implementation of mitigation measures for development that would potentially disturb listed species or its critical habitat.

(DEIR 4.9-69.) This policy does not require that such mitigation measures reduce impacts to less-than-significant levels, and fails to address projects where mitigation measures necessary to reduce impacts to less-than-significant levels are infeasible. Therefore, the DEIR is wrong to conclude that projects under the GPU5 would necessarily have less-than-significant impacts to biological species. Similarly, policy OS 5.17 requires the County to develop a program to mitigate the loss of critical habitat. Deferring the development of this program to a future time, without prescribed goals and performance standards, does not show that impacts to critical habitat will be mitigated to less-than-significant levels.

The DEIR states that the General Plan requires avoidance of impacts to state or federally listed species. (DEIR 4.9-97.) In turn, General Plan policy OS-5.4 requires that:

> Development shall avoid impacts to State and federally listed plant and animal species and designated critical habitat for federally listed species. Measures may include but are not limited to:
>
> a. clustering lots for development to avoid designated critical habitat areas,
> b. dedications of permanent conservation easements; or
> c. other appropriate means.
>
> Where new development cannot avoid critical habitat, consultation with United States Fish and Wildlife Services (USFWS) may be required and impacts may be mitigated by expanding the resource elsewhere on-site or within close proximity off-site. Final mitigation requirements would be determined by USFWS.

Thus, Policy OS-5.4 permits development that would impact state and federally listed plant and animal species and designated critical habitat. The Policy merely requires that, "[w]here new development cannot avoid critical habitat," consultation "may" be required and impacts "may" be mitigated. The DEIR may not simply rely on USFWS to mitigate all project impacts to less-than-significant levels. (See *Citizens for Quality Growth v. City of Mt. Shasta* (1988) 198 Cal.App.3d 433, 442 [holding that "[*e*]*ach* public agency is required to comply with CEQA and meet its responsibilities, including evaluating mitigation measures"].) The General Plan Policy itself expressly allows significant and unavoidable impacts to occur, and therefore cannot conclude that all project impacts permitted by GPU5 will be less-than-significant. 9

The DEIR relies on the "Region 3 Conditional Agriculture Waiver Program" to mitigate or avoid agricultural water quality impacts to sensitive species downstream. (DEIR 4.9-75.) However, the DEIR fails to describe exactly how this program will necessarily avoid such impacts. The DEIR says that the waiver program requires farmers to complete 15 hours of educational training within three years of obtaining this waiver, and to "develop farm water quality management plans that address, at a minimum, irrigation management, nutrient management, pesticide management, and erosion control, and implementing management practices identified in their plans." (DEIR 4.9-52.) This educational and management program makes no mention of special status species, and the DEIR fails to explain what performance standards will be imposed by this program, or how such benefits will ensure that significant impacts, and cumulative impacts, to aquatic species will be avoided.

In addition, mitigation measure BIO-2.3 should be strengthened to impose requirements that minimize impacts to instream flows to less-than-significant levels. Instead, the mitigation measure as proposed merely requires the County to consider, but not to minimize, such impacts. (DEIR 4.9-87.) Mere consideration of the issue does not mitigate the impact.

In sum, none of these General Plan policies, taken individually or collectively, require that all development impacts to special status plant or animal species be mitigated to less-than-significant levels prior to approval of any project consistent with the 2007 General Plan. Thus, the DEIR inaccurately concludes that "2007 General Plan Policies OS-5.1,-5.2,-5.3, -5.4, -5.12,

-5.16,-5.17, and -5.18 require avoidance, minimization, and compensation of impacts to listed 'special status species'."

Because these policies address state and federal listed species, but do not necessarily cover all "special status" species as defined by CEQA, the DEIR proposes mitigation measure MMBio-1.3, which states:

> The County shall require that any development project that could potentially impact a CEQA-defined special status species or sensitive natural community shall be required to conduct a biological survey of the site. If CEQA-defined special-status species or sensitive natural communities are found on the site, the project biologist shall recommend measures necessary to avoid, minimize, and/or compensate for identified impacts to CEQA-defined special-status species and sensitive natural communities. An ordinance establishing minimum standards for a biological report shall be enacted.

(DEIR 4.9-74.) This mitigation measure fails to mitigate impacts to less-than-significant levels, because it requires only the identification and recommendation of mitigation measures necessary to avoid or minimize impacts to less-than-significant levels, but *does not* require projects to actually *implement* the recommended measures. (DEIR 4.9-74.) Moreover, there is no reason to believe that every biological survey will be able to identify feasible mitigation measures that will necessarily mitigate project impacts to less than-significant-levels. Therefore, the DEIR is wrong to conclude that biological impacts of development consistent with GPU5 would necessarily be less-than-significant. Further, the DEIR erroneously concludes that: 9

> These mitigation measures would address impacts from discretionary large scale residential, commercial, public infrastructure and agricultural development. In combination with the application of Area Plan policies targeting specific CEQA-defined special-status species, impacts to special status species (both listed and CEQA-defined) from discretionary development would be considered less than significant.

(DEIR 4.9-75.) However, like the General Plan policies, and the DEIR's proposed mitigation measures, the Area Plan policies also fail to impose binding standards to avoid all significant impacts to special status species. Therefore, the DEIR is wrong to conclude that projects permitted under GPU5, including application of all relevant Area Plans, would necessarily have less-than-significant impacts to special status species. For example, the DEIR's discussion of the North County Area Plan states, in its entirety:

> Policy NC-3.3 prioritizes conservation of North County's native vegetation in order to retain the viability of threatened or limited vegetative communities and animal habitats and preserve rare, endangered, and endemic plants for scientific study. Policy NC-3.4 discourages removal of healthy, native oak and madrone trees and requires a permit for the removal of any of these trees with a trunk diameter in excess of six inches at breast height. Trees removed must be replaced

> at a 1:1 ratio using nursery-grown trees of the same species that are a minimum of one gallon in size. Policy NC-3.5 promotes the preservation of critical habitat areas as open space.

(DEIR 4.9-72) Encouraging and promoting the avoidance of impacts to special status species and habitat does not ensure that significant impacts will be avoided. As to the required replacement of native oak and madrone trees, the DEIR fails to provide evidence that replacement at a 1:1 ratio with one gallon trees, necessarily mitigates the quality of removed trees to less-than-significant levels, in every case.

Future development authorized by 2007 General Plan could result in the removal of significant tree species, including oak, madrone, redwood, fir, elder, laurel, cottonwood, and sycamore trees. The DEIR notes that policy OS-5.10 requires the establishment of a permit process for tree removal, but this policy contains no standards to regulate tree removal, nor any standards for determining the feasibility of mitigation. (DEIR 4.9-100.)

Despite the DEIR's claim to the contrary, the policies in GPU5 relating to tree removal and preservation are not consistent with the County's existing tree preservation ordinance. The County's existing ordinance contains specific requirements for removal of oak, madrone, and redwood trees within each Area Plan area (see Monterey County Code, § 16.60, et seq), while the General Plan leaves the formulation of specific guidelines to a future date. If future guidelines authorized by GPU5 have less specific preservation requirements than the current ordinance, the guidelines authorized by the General Plan would supersede the existing ordinance. The GPU5 DEIR has failed to evaluate the environmental consequences of providing fewer protections for existing tree species protected by the current tree preservation ordinance. 9

Mitigation measure BIO-3.2 requires vegetation removal to avoid the nesting season, but does not mitigate the loss of potential nesting habitat, when nests are not active. (DEIR 4.9-98.) Nevertheless, the removal of vegetation that could provide nesting for migratory birds or raptors would be a potentially significant impact to the range of such species. Therefore, the General Plan and the DEIR should propose mitigation measures to avoid or offset this significant impact.

The DEIR asserts,

> Legal lot development without subdivision would result in conversion of habitat, but would have highly dispersed effects on CEQA-defined special status species and their habitat that on a landscape level is also considered less than significant.

(DEIR 4.9-76.) What evidence does the DEIR base this conclusion on? Has the DEIR undertaken an inventory of legal lots, considering their size and whether they comprise any portion of significant habitat for special status species? This evidence is not presented in the DEIR's analysis.

Similarly, the DEIR claims that development authorized by the 2007 General Plan will not result in significant impacts to special status species, because the DEIR assumes that development will

be sporadic. However, this assumption overlooks two things. First, individual development consistent with the proposed General Plan may, alone, have a significant impact on special status species. As the DEIR admits, "development under the 2007 General Plan would result in reduced range, quality and extent of sensitive natural communities." (DEIR 4.9-85.) Second, the cumulative impact of development consistent with the General Plan may be cumulatively considerable. The DEIR may not simply conclude that all impacts to special status species, and their habitat, will be less-than-significant because development under the General Plan would be sporadic. Instead, the DEIR should map areas of biological concern, consider the likelihood of development in and around those areas, and consider whether General Plan policies and DEIR mitigation measures would or would not allow for a significant adverse impact to sensitive species. 9

IV. THE RESOURCE CONSERVATION DESIGNATION SHOULD NOT PERMIT TIMBER OPERATIONS.

The 2008 General Plan errata adds "timber operations" as a permitted use for the "resource conservation" designation in the General Plan. However, this use conflicts with the stated purposes of the resource conservation designation, which applies to "areas with sensitive resources and areas planned for resource enhancement," which are "envisioned to create important open space amenities for the entire community." Removal of live timber does not create an open space amenity, nor enhance a sensitive resource. The General Plan's designation of timber operations as resource conservation is internally inconsistent and creates potentially significant environmental impacts to open space and/or sensitive biological resources. 10

V. CONCLUSION

For each of the foregoing reasons, FANS respectfully requests that the County provide the significant additional information necessary to fully evaluate the proposed General Plan's significant and adverse environmental impacts on the existing environment, and recirculate the revised GPU5 DEIR for public review and comment. 11

Sincerely,

/s/ Jason Flanders
On behalf of FANS

ATTACHMENT

June 19, 2007

Julie Engell, Chair
Rancho San Juan Opposition Coalition
15040 Charter Oak Blvd.
Prunedale, CA 93907

Dave Potter, Chair
And Monterey County Board of Supervisors Members
County of Monterey
Salinas, CA 93901

RE: Item S-11 – Salinas Valley Water Project Assessment Increases

Since 2003, North County residents have invested in a water project that has made our lives worse instead of better. Despite four years of being un-permitted, un-built and un-proven, the Salinas Valley Water Project has been used by the County to rationalize subdivision throughout the unincorporated Salinas Valley.

North County's water supply has been threatened for decades. Continued subdivision only makes things worse. Some residents are completely out of water, many are being warned by the Environmental Health Department to locate an "alternative water supply." But there is no affordable alternative supply.

Subdivision continues. Our crisis worsens while we pay for paper water. Today you're considering charging us more.

I'm here to ask you to reject the proposed rate increases for Zone 2C until you hold a public hearing to inform the public about the true status of the Salinas Valley Water Project.

Today's staff report did not include information we requested several weeks ago when this item was pulled off the consent agenda. Once again we need to know the following:

- What changes have been made to the project, by whom and for whose benefit
- Why is a project that differs significantly from the project approved by voters moving forward without any public review or environmental review
- Why has the project cost doubled from the project cost approved by voters
- Who will pay those doubled costs
- When will the project receive final permits
- When will the project be built and put into operation
- What mechanisms are in place to prevent growth from outstripping the project's capacity
- When, if ever, will North County residents receive benefit from a water project we pay the highest assessments to construct

Until you and the public have a thorough understanding of all these issues, you should not consider increasing our assessments for the Salinas Valley Water Project. Furthermore, you should follow the advice of Curtis Weeks in a staff report dated December 9, 2003, recommending that until additional follow-on projects are developed growth in the Salinas Highlands "should not be intensified." (Attachment 1)

Among these "follow-on projects" is a distribution system the project's EIR/EIS identified as necessary by 2030 for the north end of the valley. At that time the cost to construct such a distribution system was estimated at $42.8 million. However, the distribution system was not included in the Salinas Valley Water Project and has not been presented to or approved by voters. Since 2003, the cost of that system has almost doubled.

Additionally, in NOAA's Draft Biological Opinion, the agency makes it clear that expansion for direct distribution is not being permitted and may not be permitted in the future.

"As currently proposed, maximum rate of diversion will be 85 cubic feet per second (cfs). The diversion facility will be built to support future expansion to a diversion rate of 135 cfs. Future diversion rates above 85cfs were not considered by NMFS in this opinion, because the flow prescription to minimize project impacts and benefit steelhead was jointly developed by MCWRA and NMFS based on an assumed maximum diversion rate of 85 cfs." (Attachment 2)

The project has been significantly modified by agricultural interests concerned about the quality of the water diverted from the Salinas River for irrigation. (Attachment 3) This was not a concern agriculture expressed when they supported a project that would only directly benefit some coastal farmers. It was not a concern they expressed when they supported a weighted vote for a project designed to cost North County, including residential water users, the most. Now they want to change the project without including the public and without further environmental review. Finally, although North County residential water users are paying for uncertain and indirect benefits of the project, the Farm Bureau in a letter dated February 28, 2003, expressed concern that project "water could be diverted to urban uses." (Attachment 4)

Apparently urban water users in North Monterey County are expected to pay four to six times more for the project than agricultural water users do up valley, but we shouldn't expect the direct benefits of a distribution system that the project's own EIR/EIS identified as necessary.

While we wait for that distribution system that the Farm Bureau opposes and NOAA may not permit, there is no mechanism to prevent the project's capacity from being outstripped. The Salinas Valley Water Project EIR/EIS significantly

underestimated 2030 population growth in the Salinas Valley Cities and excluded growth considerations in all unincorporated communities except Castroville. (Attachment 5) Instead of an urban population in the Salinas Valley of 355,829, AMBAG forecasts an urban population of 416,427 (including the EIR/EIS assumption for Castroville). This is an underestimate of almost 61,000 urban water users. Furthermore, it does not include any of the unincorporated towns in the Salinas Valley, which according to the 2000 census, totaled more than 20,000 urban water users. (Attachment 6) Clearly, the Salinas Valley Water Project EIR/EIS underestimated urban demand and urban population by more than 80,000 residents.

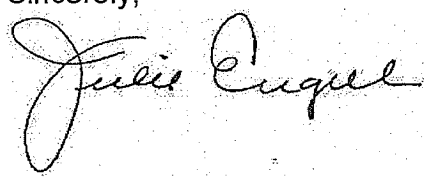
Nor does the EIR/EIS contemplate the water impacts of a rapidly expanding wine industry or the 500 million square feet of industrial and commercial space allowed in the County's unincorporated areas under the 2006 General Plan. According to a June 2007 San Francisco Chronicle story, modern vineyards plant 2500 vines per acre and use 100 to 200 gallons of water per vine per season, or 250,000 gallons of water per acre. (Attachment 7) According to the "Survey of Water Use in the California Food Processing Industry," processing those grapes uses an average of 1000 – 1250 gallons of water per ton of grapes processed. (Attachment 8)

The residents of North Monterey County are paying the highest rates for a project we have every reason to conclude will never benefit us. Worse, it is causing us actual harm. It is used consistently to approve subdivision, like Rancho San Juan, that further endangers our already-threatened water supplies. Please remember that you certified the EIR for the 2006 General Plan. Here's what it said about the Salinas Valley Water Project and Rancho San Juan. (Attachment 9)

"Because of these current constraints, in the absence of additional methods for bringing supplemental water supply to the site, above and beyond the indirect and uncertain benefits of the SVWP, development of the Rancho San Juan Community Area will....substantially deplete groundwater supplies, resulting in a net deficit in aquifer volume and lowering the local groundwater table, and create water demands that exceed water supply available for existing resources."

We are the "existing resources" and we're paying the most for the SVWP. It is only right that we know what we're paying for.

Sincerely,



Julie Engell, Chair
Rancho San Juan Opposition Coalition

ATTACHMENT 1

BOARD OF SUPERVISORS OF THE
MONTEREY COUNTY WATER RESOURCES AGENCY

MEETING:	December 9, 2003	**AGENDA NO.:**
SUBJECT:	Receive report describing the formation of the Monterey County Water Resources Agency Zone 2C and its impacts on long-term water supply for the Salinas Highlands Area of North County.	
DEPARTMENT:	Water Resources Agency	

RECOMMENDATION:

It is recommended that the Board of Supervisors of the Monterey County Water Resources Agency (Agency) take the following actions:
Receive report describing the formation of the Monterey County Water Resources Agency Zone 2C and its impacts on long-term water supply for the Salinas Highlands Area of North County.

SUMMARY:

The Salinas Highlands Area (also known as Highlands South and Granite Ridge subareas of the North County Hydrogeologic Area) was included in the formation of the Agency Zone 2C due to its hydrogeologic connection with the Salinas Valley Ground Water Basin (Basin). Runoff and percolating ground water from this area become part of the overall supply of ground water within the Basin and are positively impacted by the existing operation of the Nacimiento and San Antonio Reservoirs and the proposed Salinas Valley Water Project (SVWP).

The implications are that the Salinas Highlands area will have a long-term water supply for the future. Even though the hydrologic analysis that defines the formation of the Agency Zone 2C indicates the entire Basin will be balanced with the implementation of the SVWP, it is likely that additional focused projects will be necessary in the future to solve specific localized water supply issues.

DISCUSSION:

In today's California post-Proposition 218 legislative setting, if the County, or County Department wishes to build a project, it is first necessary to determine which parcels of land would benefit from the proposed project. If a parcel were to receive benefit from the proposed project, it would then be charged with a proportional amount of the project's cost that is commensurate to the amount of benefit received from the proposed project. The project may move forward only if the project is approved by a popular vote weighted by the same proportion of benefit.

During the development of the SVWP and Proposition 218 process, a review of the Basin geology and hydrology was necessary to evaluate the amount of special benefit received by parcels overlying the Basin. This review of the geology and hydrology of the Basin verified that the Highlands South and portions of the Granite Ridge subareas were in hydrologic connection with the Basin. As part of

a previous analysis (Agency Historic Benefits Analysis – 1997), this area was shown to receive benefit from years of reservoir operation.

The benefit comes from the alluvial soils in the Salinas Highlands area that are in connection with the soils in the East Side and Pressure subareas of the Basin; in short, water that runs off or percolates into the soil moves from the Salinas Highlands area towards the Basin. As the operation of the SVWP increases the ground water table in the East Side and Pressure subareas, there will be less of a gradient for water to move from the Salinas Highlands area to the Basin, thus allowing more water to remain in storage in the Salinas Highlands area.

It will take time to build up storage in the Basin. Implementation of the SVWP will not immediately solve all water supply issues of the Salinas Highlands area. During this time, the Agency is committed to the planning of additional follow-on projects that will springboard from the foundation developed from the SVWP. Localized projects that will augment natural supplies will facilitate improved water supply option for the North County area. Until such a time, it is recommended that growth should not be intensified.

The Agency is currently searching for additional resources to plan follow-on projects for increased water supplies in Monterey County. The Agency is initiating work on a "Monterey County Integrated Water Management Plan" that will provide a regional planning tool for water management into the future. This plan will provide the forum necessary to propose, evaluate, and coordinate water supply project options for the future.

OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed this report as to form.

FINANCING:

Curtis V. Weeks
General Manager

12/2/03
Date

Attachments:

Enclosure

ATTACHMENT 2

BIOLOGICAL OPINION

ACTION AGENCY: U.S Army Corps of Engineers, San Francisco District

ACTION: Monterey County Water Resources Agency, Salinas Valley Water Project in Monterey County, California

CONSULTATION CONDUCTED BY: National Marine Fisheries Service, Southwest Region

FILE NUMBER: SWR/2003/2080
(Admin. No.: 151422SWR2003SR8711)

DATE ISSUED: JUL 28 2006

I. INTRODUCTION

Section 7 of the Endangered Species Act (ESA) of 1973, as amended, requires Federal agencies to insure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of threatened or endangered species or destroy or adversely modify critical habitat. The section 7 regulations define "jeopardize the continued existence of" as "to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, number, or distribution of that species." The regulatory definition of critical habitat has been invalidated by Federal courts. This biological opinion does not rely on the regulatory definition of "destruction or adverse modification" of critical habitat at 50 CFR §402.02. Instead, we have relied upon the statutory provisions of the ESA to complete the following analysis with respect to critical habitat (NMFS 2005a).

The National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) is conducting a formal consultation with the U.S. Army Corps of Engineers (Corps) on the issuance of a permit to the Monterey County Water Resources Agency (MCWRA). MCWRA proposes to control seawater intrusion and to improve the efficiency of water delivery in the Salinas Valley, primarily for agriculture, through the construction of the Salinas River Diversion Facility (SRDF) and changes to the operation of Nacimiento and San Antonio dams. This diversion facility and operational changes, collectively, are known as the Salinas Valley Water Project (SVWP). The SVWP may adversely affect South-Central California Coast (SCCC) steelhead (*Oncorhynchus mykiss*) protected as threatened under the ESA and its designated critical habitat, and, therefore, requires a formal consultation pursuant to section 7(a)(2) of the ESA.

U.S. Fish & Wildl. – Snowy Plover

and San Antonio reservoirs and modifying the Nacimiento Dam spillway. Also, the SVWP would offset current groundwater pumping in some areas of the coastal Basin by installing a seasonal river diversion facility with a small dam and diversion structure to impound and distribute increased spring, summer, and early fall reservoir releases (reoperated aquifer conservation releases) to provide surface water deliveries for irrigation. The SVWP does not provide a new source of water for the Basin, rather it will release less stored water in the fall and winter and release more stored water during the late spring and early fall – a period with historically low precipitation.

All of the activities proposed by MCWRA, if undertaken, may affect ESA-listed species or designated critical habitat. Some of the activities proposed by MCWRA will require a discretionary CWA section 404 permit from a Federal agency – the Corps. Therefore, the Corps is consulting with NMFS to insure that issuance and implementation of the Corps permit is not likely to jeopardize the continued existence of ESA-listed species or result in the destruction or adverse modification of designated critical habitat. MCWRA has proposed some actions which, although they do not require Federal permits, are interrelated or interdependent to the Corps permitted activities. Interrelated activities are activities that are part of a larger action and depend on the larger action for their justification. Interdependent activities are activities that have no independent utility apart from the action under consultation. Interdependent and interrelated activities are analyzed under section 7 of the ESA along with the Federal action. These Federal and nonfederal activities are described in the following subsections.

1. Corps Permitted Activities

MCWRA proposes to install a surface water diversion facility with a small dam and intake structure, fish bypass facilities, a pump station, and a pipeline connection to the Castroville Seawater Intrusion Project (CSIP) system, collectively called the SRDF. The SRDF will be located at river mile 4.8. When the Salinas River lagoon is closed to the ocean and the lagoon is above approximately 2.0 feet (ft) water surface elevation, standing water will be present at the downstream side of the diversion dam of the SRDF. The SRDF will operate seasonally from April 1 through October 31, if enough surface water is available. As currently proposed, maximum rate of diversion will be 85 cubic feet per second (cfs). The diversion facility will be built to support future expansion to a diversion rate of 135 cfs. Future diversion rates above 85 cfs were not considered by NMFS in this opinion, because the flow prescription to minimize project impacts and benefit steelhead was jointly developed by MCWRA and NMFS based on an assumed maximum diversion rate of 85 cfs. With this assumption, the average diversion of the SRDF will be about 9,700 AF per year (AFY).

The proposed dam will be built with pneumatically controlled interlocking steel gates that will span the width of the Salinas River. The height of the spillway gate will be controlled by inflatable bladders. The foundation of the dam will be set at an elevation slightly below the existing river bed and will be constructed of reinforced concrete with vinyl coated sheet piles driven at the upstream and downstream ends. When in operation, the dam will maintain the upstream water surface elevation of the impoundment within an operating range of approximately 5.0 to 9.0 ft elevation. The total operational storage volume of the impoundment within this range is approximately 108 AF.

ATTACHMENT 3

MONTEREY COUNTY WATER RESOURCES AGENCY
BOARD OF DIRECTORS

MEETING DATE:	April 23, 2007	**AGENDA ITEM:**	
AGENDA TITLE:	APPROVE THE SALINAS VALLEY WATER PROJECT (SVWP) CONSTRUCTION IMPLEMENTATION PLAN AND DIRECT STAFF TO COMPLETE THE IDENTIFIED TASKS		
Consent ( )	**Action (X)**		**Information ( )**
SUBMITTED BY: **PHONE:**	Manuel L. Quezada 755-4860	**PREPARED BY:** **PHONE:**	Manuel L. Quezada 755-4860
DEADLINE FOR BOARD ACTION:		April 23, 2007	

RECOMMENDED BOARD ACTION:

Approve the Salinas Valley Water Project (SVWP) Construction Implementation Plan and direct staff to complete the identified tasks.

PRIOR RELEVANT BOARD ACTION:

The Board of Directors approved the original Professional Service Agreement(s) for design services for the Nacimiento Dam Spillway Modification Project and the Salinas River Diversion Facility Project, along with several contract amendments.

DISCUSSION:

Nacimiento Dam Spillway Modification Project

Recently, the Agency submitted the 100% design submittal to both the Federal Energy Regulatory Commission (FERC) and State Division of Safety of Dams (DSOD) for their review. Both represent the main regulatory agencies that must give final construction approvals and provide inspection during the actual construction. All other permits have been obtained or will be obtained (such as a traffic control plan and NPDES Permit compliance) by the contractor.

The following tasks have been identified as part of the SVWP Construction Implementation Plan and are to be completed prior to distribution of construction bid documents:

1. Implement FERC and DSOD's comments on the 100% design submittal, granting tentative construction approval, pending the final design from Obermeyer. This step will allow bid documents to be distributed to qualified construction contractors.

2. Enter into a Pre-Purchase Agreement with Obermeyer, Inc. to complete the performance specification, design, acquisition of raw materials, and establishment of a manufacturing and cost payment schedule for the Obermeyer Gate (rubber dam).

3. Distribute a Statement of Qualifications to be completed by prospective construction contractors. The Agency and its consultant will review and evaluate each submittal and determine those contractors which are qualified and not qualified. Those deemed qualified

will receive the construction bid documents to complete and submit back to the Agency for consideration.

4. Hire a Construction Manager to assist in the review and evaluation of bid submittals, providing a recommendation to the Agency, and manage the selected construction contractor and overall construction activities.

alinas River Diversion Facility Project

he following tasks have been identified as part of the SVWP Construction Implementation Plan for ne Salinas River Diversion Facility project and are to be completed prior to distribution of onstruction bid documents:

1. Obtain permits: Federal Endangered Species Act Biological Opinions from the National Marine Fisheries Service and U.S. Fish and Wildlife Service; Clean Water Act Section 404 permit to construct and National Environmental Policy Act Record of Decision from the U.S. Army Corps of Engineers; Change in Point of Diversion permit from the State Water Resources Control Board; Clean Water Act Section 401 Water Quality Certification from the Regional Water Quality Control Board; California Department of Fish and Game Stream Alteration Agreement; Administrative Permit from Monterey County Planning Department

2. Complete 60% and 90% design plans and specifications.

3. Enter into a Pre-Purchase Agreement with Obermeyer, Inc. to complete the performance specification, design, acquisition of raw materials, and establishment of a manufacturing and cost payment schedule for the inflatable gate (dam).

4. Complete 100% design plans and specifications and implement DSOD final comments on the 100% design submittal, granting tentative construction approval. This step will allow bid documents to be distributed to qualified construction contractors.

5. Distribute a Statement of Qualifications to be completed by prospective construction contractors. The Agency and its consultant will review and evaluate each submittal and determine those contractors which are qualified and not qualified. Those deemed qualified will receive the construction bid documents to complete and submit back to the Agency for consideration.

6. Hire a Construction Manager to assist in the review and evaluation of bid submittals, providing a recommendation to the Agency, and manage the selected construction contractor and overall construction activities.

7. Issue construction bid documents, receive construction bids, determine low responsive, responsible bidder and award construction contract.

8. Issue Notice-to-Proceed to construction contractor.

Salinas Valley Water Project – Financing Plan

Funding sources for construction of the SVWP:	(in million of dollars)
Short-term Loan (Bridge Financing) A short-term loan from the County of Monterey is anticipated to be available by the summer of 2007 as bridge financing until the revenue for carrying a new debt issue is confirmed.	$10.0
Proposition 50 Grant: Funding from Propositions 50 is projected to be available for use in the spring of 2008.	$5.5
Bonds A bonding issue will be in place and the proceeds available for use by January-March of 2008 depending on cash flow requirements.	$16.9
Assessment revenue received during 24 months of construction	$2.2
Total Construction Funding	$34.6

Estimated Costs During Construction	
Salinas River Diversion Facility	$18.6
Spillway Modification	$11.3
Total Estimated Construction Costs	$29.9
Estimated First Half-Year of O&M Costs	$0.6
Loan Origination Costs (2% Advisor, Underwriter, Counsel	$0.3
Capitalized Interest (27 Months)	$2.6
Interest Earned During Construction	$(1.3)
Net Interest	$1.3
Principal Payments During Construction	$0.4
Estimated Costs to be Financed	$32.5

Diversion Facility Operations and Maintenance (O&M)

The annual estimated cost of O&M is $1.5 million. This translates into potential Water Delivery charges of approximately $71.00/Acre Foot of water delivered. A Proposition 218 process will be required to implement the Water Delivery Charges for O&M. The Proposition 218 process should be completed in 2008. Operations and maintenance costs on the CSIP could be reduced by as much as $300,000 annually depending on the pumping requirements for groundwater.

FINANCIAL IMPACT:	**YES (X) Exact amount unknown** **NO ( )**
FUNDING SOURCE:	1. **Zone 2C, Funds: 278 and 279 in FYs 06-07 and 07-08.**
COMMITTEE REVIEW AND RECOMMENDATION:	1. BMP Committee received an update on the construction implementation tasks.
ATTACHMENTS:	1. Board Order
APPROVED:	Scott V. Ward 4/16/07 **General Manager** **Date**

ATTACHMENT 4

FEB 2 6 2003

Monterey County Farm Bureau

Mailing address: P. O. Box 1449, Salinas, California 93902, USA
Street address: 931 Blanco Circle, Salinas, California 93901, USA
Telephone 831/751-3100 - *E-Mail MoCoFB@redshift.com* - *FAX 831/751-3167*
Visit our website at **www.MontereyCountyFarmBureau.org**

February 19, 2003

Board of Directors
Monterey County Water Resources Agency
P.O. Box 903
Salinas, Ca 93902

Subject: Salinas Valley Water Project

Dear MCWRA Directors:

Monterey County Farm Bureau requests that the Monterey County Water Resources Agency provide answers to two questions regarding the Salinas Valley Water Project, about the benefit relative to assessment for certain landowners and about the protection of water distribution for the Castroville Seawater Intrusion Project.

Benefit relative to assessment

We ask that the Agency work with our members, Eastside and upper Pressure Area landowners, to answer their questions about the amount of benefit they receive in relation to the their assessments under the Salinas Valley Water Project.

We believe it is important to resolve these questions because

- It protects the interests of landowners.
- It promotes support for the Salinas Valley Water Project.
- It enhances the credibility of MCWRA.
- It reduces the likelihood of legal challenges to the Project.

The Agency should be prepared to demonstrate how assessments are supported by evidence of benefit. If benefit cannot clearly be demonstrated, the Agency should be prepared to reach an agreement or adjustment satisfactory to the affected landowners.

We ask this on behalf of our members, the farmers and ranchers throughout Monterey County, who include Eastside and upper Pressure Area landowners. All of us who have endorsed the Salinas Valley Water Project extended our support on the understanding that the property owners will share the cost in proportion to the benefit each receives. We could not, in good conscience, support a project that benefits some landowners at the expense of others. All of us need to be reassured that the distribution of assessments is equitable or that, if it is subsequently found not to be equitable, some satisfactory remedy is offered.

The Agency crafted a system of zones of benefit to allocate Project costs. It may be impractical to expect a perfect correlation between benefit and assessment for every property. However, we believe there is reason for some Eastside and upper Pressure Area landowners to question the proportionality of benefit to assessment.

For many landowners, the receipt of the Project ballot with accompanying information and the availability of the associated engineering report is their first opportunity to analyze how the Project's benefits and assessment relate to their properties. The Agency should expect questions to arise. At the same time, the Agency should expect to resolve those questions, with answers or remedies.

Farm Bureau applauds MCWRA General Manager Curtis Weeks for his commitment to work with the landowners to find a resolution to their concerns.

We support the letter of comment on this same subject that was filed by the Salinas Valley Water Coalition on February 7.

Water distribution to CSIP

We ask the Agency to provide assurances that the water, distributed from the Salinas Valley Water Project to the Castroville Seawater Intrusion Project, is protected for its intended use, agricultural irrigation. We are worried that the intended use could change over time and that the water could be diverted to urban uses. This question was raised when The Californian reported on February 8, 2003, that "(Bob) Meyer and (Alex) Hulanicki said the project is only the first phase of a three-pronged plan to fix the region's water supply. Later projects would build distribution systems to bring new surface water to the cities of Salinas and Marina."

We ask that Monterey County Water Resources Agency take steps to resolve landowner questions and that the Agency inform Farm Bureau and other interested groups about the steps it is taking. We also ask that Agency to provide reassurances about the intended use of water from the Salinas Valley Water Project.

Sincerely,

Bob Martin
President

Cc: Supervisor Butch Lindley
Curtis Weeks, General Manager, MCWRA
Board of Directors, SVWC
Kevin Piearcy
Bill Hammond

ATTACHMENT 4

beyond the AMBAG 2020 forecasts for either Fort Ord or Marina. This is because MCWRA has existing agreements with each of the U.S. Army (for Fort Ord) and the Marina Coast Water District (which serves Marina) providing for use of fixed amounts of water from the basin into the future, irrespective of growth within those areas. Nevertheless, to the degree that this water could facilitate growth, these communities are included in this analysis. Figure 3-1 on page 3-2 of this EIR/EIS depicts the locations of each of these communities.

Table 7-1
Population Growth Projections For Communities Within the Salinas Valley: 1995 –2030

City/Community [1]	1995 [2]	2020 [3]	2030 [4]	Percent Change: 1997-2030 (average annual % change)
Salinas	119,643	170,059	194,407	63% (1.8%)
King City	9,479	25,389	29,024	206% (5.9%)
Greenfield	8,951	13,145	15,027	68% (1.9%)
Castroville [5]	5,700	6,200	7,088	24% (0.6%)
Soledad (does not include prisons)	9,018	14,555	16,639	83% (2.4%)
California State Prisons near Soledad	6,433	17,000	17,000	164% (4.7%)
Gonzales	5,972	12,562	14,361	140% (4%)
Fort Ord	6,225	37,370 [6]	37,370 [6]	600% (17%) [7]
Marina	17,528	24,913 [8]	24,913 [8]	42% (1.2%)
Total	**188,949** [9]	**321,193** [9]	**355,829**	**88% (2.5%)**

Source: AMBAG, 1997; MCWRA, 1998.

[1] Includes growth forecasted in the spheres of influence of each city.

[2] Source: AMBAG 1997 (estimated population)

[3] Source: AMBAG 1997 (forecasted population)

[4] Source: MCWRA staff calculations, 1998 (forecasted population), except for Fort Ord and Marina for 2030 (see 6 and 8 below)

[5] Census Tract 104

[6] Represents population based on the MCWRA's and United State Army's contract with Fort Ord to allow 6,600 AFY of water to be taken from the Salinas River Basin. Includes all residences, including 10,000 students at C.S.U. Monterey Bay. Source: Fort Ord Reuse Plan (1997).

[7] The population on Fort Ord in 1990, prior to its closure as a military facility, was 28,591. The 37,370 population for 2030 represents an increase of 31% over the 1990 total.

[8] This represents the total growth that would be supported by the 4,400 AFY that MCWRA has contracted for Marina Coast Water District's use from the Salinas River Basin. Total population in Marina is forecasted by AMBAG to be 46,607 by the year 2020.

[9] Totals differ slightly (approximately 2%) from AMBAG projections for Zone 2/2A due to EIR reliance on water use factors for both Fort Ord and Marina.

ATTACHMENT 6

TABLE 4

2004 AMBAG POPULATION, HOUSING UNIT & EMPLOYMENT FORECASTS
MONTEREY COUNTY

	CARMEL	DEL REY OAKS	GONZALES	GREENFIELD	KING CITY	MARINA	MONTEREY	PACIFIC GROVE	SALINAS	SAND CITY	SEASIDE	SOLEDAD	UNINCORP MO CO	TOTAL
EMPLOYMENT 2000	2,390	616	1,743	1,749	8,295	5,557	42,488	8,323	68,233	2,331	6,603	5,198	68,915	222,441
EMPLOYMENT 2005	2,527	648	1,834	1,883	8,682	5,894	45,327	8,598	74,363	2,466	7,125	6,236	73,389	238,972
EMPLOYMENT 2010	2,666	685	2,653	3,463	10,366	7,277	47,493	8,815	81,572	2,693	7,866	7,242	73,334	256,125
EMPLOYMENT 2015	2,714	730	3,432	4,252	11,301	8,658	49,714	9,002	86,550	2,909	8,775	8,007	78,714	274,758
EMPLOYMENT 2020	2,761	774	4,211	5,040	12,235	10,038	51,934	9,188	91,527	3,125	9,683	8,771	84,094	293,381
EMPLOYMENT 2025	2,841	865	4,708	5,976	13,186	12,643	53,471	9,415	96,414	3,269	11,379	9,614	90,604	314,385
EMPLOYMENT 2030	2,920	955	5,204	6,912	14,136	15,248	55,008	9,641	101,300	3,413	13,075	10,456	97,113	335,381
HOUSING UNITS 2000	3,331	680	1,730	2,864	2,835	7,100	13,478	8,009	39,469	88	10,366	2,561	37,047	129,578
HOUSING UNITS 2005	3,342	680	2,091	3,282	3,231	8,553	13,516	8,058	40,411	136	10,688	4,386	40,006	138,380
HOUSING UNITS 2010	3,342	660	2,911	4,327	3,877	11,799	13,545	8,066	46,696	136	11,193	5,554	39,718	151,844
HOUSING UNITS 2015	3,342	680	3,399	5,070	4,327	12,600	13,545	8,066	49,564	136	11,237	6,583	42,704	161,255
HOUSING UNITS 2020	3,342	680	3,886	5,812	4,777	13,400	13,545	8,070	52,431	136	11,280	7,612	45,689	170,660
HOUSING UNITS 2025	3,342	680	5,150	6,423	5,223	13,495	13,545	8,073	55,243	136	11,280	9,059	47,180	178,832
HOUSING UNITS 2030	3,342	680	6,414	7,033	5,669	13,596	13,545	8,075	58,055	136	11,280	10,506	48,670	187,001
POPULATION 2000	4,081	1,650	7,525	12,583	11,094	19,163	29,674	15,522	143,776	261	33,097	22,634	100,252	401,312
POPULATION 2005	4,095	1,652	9,229	15,097	12,885	23,172	29,863	15,586	146,667	384	34,221	29,647	110,083	432,600
POPULATION 2010	3,947	1,594	12,463	18,627	15,484	30,567	28,824	15,046	165,141	370	34,886	32,413	105,485	464,847
POPULATION 2015	3,924	1,586	14,627	21,570	17,433	32,465	28,653	14,963	174,787	368	34,871	35,938	114,776	495,961
POPULATION 2020	3,900	1,577	16,791	24,512	19,381	34,362	28,481	14,880	184,434	365	34,855	39,463	124,067	527,069
POPULATION 2025	3,923	1,586	22,968	27,183	21,371	34,860	28,648	14,976	198,749	367	35,002	45,549	129,721	564,903
POPULATION 2030	3,945	1,594	29,145	29,854	23,360	35,357	28,815	15,073	213,063	369	35,148	51,634	135,375	602,731

Adopted by the AMBAG Board of Directors on 4-14-04

2000 CENSUS

BORONDA	1325
PRUNEDALE	16432
CHUALAR	1444
MOSS LANDING	300
SAN ARDO	501
TOTAL	20,002

ATTACHMENT 7

Activist's Corner

Northern California River Watch Activist's Blog

Archive for the 'Groundwater' Category

« Previous Entries

News Conference of SCWA's Mandatory Conservation

Sunday, June 17th, 2007

KCBS-TV has posted the entire SCWA 6/14 news conference on Mandatory Conservation Orders at:
http://cbs5.com/environment/local_story_164203446.html
33 minutes and 35 seconds of unedited pure delight, with all the details you've been waiting for...

The adjacent posted broadcast news clip also has an interview with Nick Frey, (Grapegrower's Assoc.)
No mention of dry farmed (non-irrigated) grapegrowing practices, tho.

No mention of restrictions on building, either.

Grab your popcorn and 6-pack and enjoy.

David Keller

Posted in Streams and Wetlands, Waste Discharge, Groundwater | No Comments »

Turning Water into Wine

Tuesday, June 12th, 2007

To water grapevines or not—the roots of the wine industry's next great controversy

Alice Feiring, Special to The Chronicle June 2007

For years, I took the New World's thirst for vineyard irrigation for granted. I believed what I was told: Napa Valley was a desert and needed its 100 to 200 gallons of water per vine per season.

I never realized how complex an issue water was until I visited northern Oregon's Willamette Valley, where I noticed black irrigation pipes snaking through the vineyards. The region gets 40 inches of rain annually, double the oft-quoted number necessary to grow wine grapes without delivering any extra water to the vineyard. I accepted the need for water in California and even more so in desert-like eastern Washington. But the Willamette Valley?

In the best vineyards of Europe, the practice of dry farming — relying solely on natural precipitation to water grapevines — is almost universally accepted. Yet in the New World, irrigation is now viewed as essential to the wine industry's survival. And what began as a novel innovation — drip irrigation — has become standard practice, such that throwing dry farming into a viticulture conversation is like pitching a lit match into a brittle summer forest. Who knew that something as simple as watering plants could be so, well, hot?

Here's one reason why: California is anticipating drought conditions this year. Most vintners who dry-farm aren't worried; they've seen it before and have gotten through just fine. But some, like Kunde's Steve Thomas, acknowledge that the future of viticulture will have to be sensitive to water shortages. With global warming, drought-tolerant practices are likely to become a way of life.

"We're going to have to start to think of it. It's got to be coming down the road," Thomas says.

Whether adding water or withholding it, water management is a crucial aspect of wine-grape growing, and drip irrigation can be found in about 70 percent of the state's 471,000 acres of wine grapes.

Originally, the preferred watering method was flood irrigation, in which parcels of vineyard were deluged with water. According to Peter H. Gleick, president of the Pacific Institute in Oakland, which studies global water issues, flooding was quite wasteful, using 20 percent more water than the current technology. It was replaced by drip irrigation, a method that applies water in drops to each individual vine, which was devised more than a century ago but refined by Israeli researchers after World War II. Drip irrigation arrived in California in the 1970s.

And it was firmly in place when the devastating vine louse phylloxera hit the state in the late 1980s. Large swaths of California vineyards were replanted. One key decision during replanting was to ditch the drought-resistant rootstock most of the state was planted on — phylloxera-resistant St. George as well as the popular hybrid AxR1, which had been thought to fend off phylloxera but turned out to be vulnerable.

They were replaced with riparian rootstock — water-loving stuff. Roots that previously had to dig deep now hung out close to the ground — and that's where University of California Davis viticulture and enology professor Larry E. Williams likes them.

"If you're a grape grower, you want to have that vine dependent on what you do so you can manipulate them," says Williams, whose academic work focuses on irrigation management. Williams further explained: "Since the vine is getting most of its water from the drip system, then a grape grower has greater control on how much the vine gets water."

The other objective for replanting was to mirror the density in Bordeaux and Burgundy, up to 2,500 vines per acre instead of the previous status quo of 450. Vines competed for the soil's water and prompted the need for 100 to 200 gallons of water per vine per season — each vine typically produces two to four bottles of quality wine per year. Though water consumption in California rose as a result, replanting helped revive the state's fine wine industry, and the practices became standard.

But not all vintners are convinced. In Oregon, the Deep Roots Coalition views irrigation as an unnecessary, terroir-occluding manipulation.

"When Oregon's wine pioneers ... planted the first vinifera wine grapes in the north Willamette Valley, they understood that with the abundant rainfall and careful attention to timely cultivation of the soil,

1993 Food Industry Environmental Conference

ATTACHMENT 8

SURVEY OF WATER USE IN THE CALIFORNIA FOOD PROCESSING INDUSTRY

Jatal D. Mannapperuma
Project Engineer
California Institute of Food and Agricultural Research
Department of Food Science and Technology
University of California
Davis, California, 95616

E. D. Yates
Senior Vice President
California League of Food Processors
660 J Street, Suite 290
Sacramento, California, 958 14

R. Paul Singh
Professor of Food Engineering
Department of Agricultural Engineering
University of California, Davis
Davis, California, 95616

ABSTRACT

Recent droughts in California and increased awareness of pollution from processing plants has renewed the interest in water management in the food industry. To assess the opportunities for improved water management, a survey of water use within the food processing industry in California was conducted. The survey included mailing a questionnaire to 453 food processing plants.

The requested information included quantity and cost of fresh water supply and wastewater disposal, seasonal water use pattern, commodity specific statistics for quantity and quality of water use, and treatment plant rates. A total of 71 plants responded to the survey. Responses from product groups were, fruit and vegetable (52), wine and beverages (9), seafood (4), meat (3), dairy (2), and oils (1).

The total water use by the responding industries was 12 billion gallons per year. The total cost was $ 18 million of which 23% was for fresh water supply and 77% was for wastewater disposal. There were 5 plants spending over one million dollars for water annually. More than half of the plants spent over $1000 per million gallons of water while 15 plants exceeded $5000 per million gallons of water. At these costs, membrane treatment of wastewater for reuse becomes an attractive alternative. Cost of freshwater supply and wastewater disposal varied widely among plants.

Specific water consumption rates of tomato, peach, olive and wine industries were found to be 890, 2830,7250, and 1320 gallons per ton of raw materials processed. The variation within each sector was high. These water consumption rates were significantly lower than the rates reported in earlier surveys.

Six responses were received from the wine industry. The specific water use in wine production ranged from 625 to 2800 gallons per ton of grapes and the median was 1000-1250. None of the wine makers provided data on BOD or TSS in wastewater.

The peach industry also provided six responses. The specific water use ranged from 1800 to 3900 gallons per ton of peaches and the median was 2700-2900. The BOD was reported by only four plants and the values were 9, 38, 41 and 67 lb per ton of peaches. The TSS was reported by the same four plants and the values were 4, 10, 12, and 18 lb per ton of peaches.

The olive industry provided four responses with data on specific water use and effluent strength. The reported values of flow were 3000,7100, 8400 and 10400 gallons per ton of olives. Only two plants provided data on BOD and suspended solids. The values were 63 and 90 lb of BOD and 5 and 28 lb of TSS per ton of olives.

Another 24 plants provided specific water use and effluent strength data on 22 different products ranging from apple sauce to zucchini. Table 3 is a complete listing of these data.

Water Agency Rates

There were 38 food plants that obtained fresh water from 29 water agencies. The rate structure of these water agencies differed widely. Most water agencies had a service charge that varied with the size of the meter from about $5.00 per month for a half inch meter to about $200 per month for 12 inch meter. The rate for quantity of water use was usually in multiple steps. The unit of water use and the steps were in million gallons, hundred cubic feet and acre feet. Exact comparison of charges was made difficult by these discrepancies.

However, an approximate comparison done using the rate at the highest quantity step, is presented in Table 4 for 10 water agencies. These rates do not include service charges. This table indicates the wide differences in rates that exist among the water agencies. The rate structure of some agencies penalized the high users with higher rates while some others rewarded the high users with lower rates.

Table 5. Fresh Water Rates in Some California Communities

Community	Price of Water $ per million gallons
Turlock	160.00
Orland	250.00
Modesto	433.30
Hollister	784.00
King City	823.00
Oroville	1038.00
Los Angeles	1132.00
Santa Rosa	1570.00
Santa Cruz	1805.00
San Jose	1925.00

ATTACHMENT 9

Rancho San Juan

As noted in the Existing Conditions section, the RSJ is within an area (the Eastside Area I of the Salinas basin) that is subject to chronic water level declines due to overpumping (groundwater extractions in excess of aquifer recharge). While the SVWP is expected to reduce seawater intrusion in the Pressure Area, it is not anticipated that it will offset the chronic groundwater level declines in the Eastside Area. While the seawater intrusion impact may be mitigated, continued depletion of water supply in the Eastside Area as a result of a net deficit in water use would remain a potentially significant impact.

The effect of development at Rancho San Juan will be to establish long-term conditions for overdraft and continued decline of water levels in the Eastside Area through urban uses. The Final Adopted Rancho San Juan Specific Plan provides for up to 1,147 dwelling units, approximately 1 acre of commercial development, a 202-acre golf course, 71 golf villas, 12 acres of park, and 141 acres of conservation open space. The Plan estimates that the projected development demands of 488 AFY will adequately be met on-site by the facilities (two wells connected to Cal-Water's system, two 400,000-gallon storage tanks, and reclaimed wastewater used for irrigation). However, this is based on projections for the Specific Plan area only. It does not include the expansion area and associated development proposed as part of the Rancho San Juan Community Area. Development of these areas would result in additional water demand. All of the area's current 265 acres of agricultural land use would be converted to commercial, residential, and public/quasi-public acreage (221 acres, 165 acres, and 129 acres, respectively). While this would allow some offset of future water use through land conversion, the net water budget would still likely be in deficit. Development of the proposed Expansion Area at less than urban densities will not reduce the problem, since residential water consumption rates tend to increase with decreasing density, typically due to large area landscaping (the largest increment of water consumption related to residential land use is for irrigation of landscaped areas), a potential impact that can be controlled with water conservation and strict landscape irrigation restrictions.

Because of these current constraints, in the absence of additional methods for bringing supplemental water supply to the site, above and beyond the indirect and uncertain benefits of the SVWP, development of the Rancho San Juan Community Area will result in impacts directly related to significance thresholds. It will substantially deplete groundwater supplies, resulting in a net deficit in aquifer volume and lowering of the local groundwater table, and create water demands that exceed water supply available for existing resources.

Urbanization of Rancho San Juan would necessitate facilities for conveyance, storage, and distribution to the Community Area. Construction of these new facilities may result in environmental impacts that cannot be evaluated until site-specific plans are reviewed in conjunction with the Community Plan.

Chualar

Chualar is situated in a portion of the Salinas Basin that receives sufficient groundwater recharge and is not subject to seawater intrusion. Past and current agricultural practices have resulted in water quality degradation of the shallow aquifers (primarily high nitrate); however, potable water supply is available from deeper in the aquifer system. According to Cal-Am's UWMP, Chualar is one of the company's six Highway 68 Corridor systems, which are managed independently of the larger basin systems and represent only 5 percent of the District's demand. Consequently, the area is not subject to the District's overall shortage conditions. The level of growth anticipated for the proposed Community Area will not incur significant water supply impacts.

O-9b

Calderon, Vanessa A. x5186

From: Kimberly Smith [KSmith@kenyonyeates.com]
Sent: Monday, February 02, 2009 11:53 AM
To: ceqacomments
Subject: Monterey County General Plan Update 5 DEIR Comments

Attached please find comments submitted on behalf of Friends, Artists, and Neighbors of Elkhorn Slough regarding the Monterey County 2007 General Plan and Draft Environmental Impact Report.

Sincerely,

Kimberly Smith
Legal Assistant
2001 N Street, Suite 100
Sacramento, CA 95811
Telephone: (916) 609-5000
Facsimile: (916) 609-5001
ksmith@kenyonyeates.com

Calderon, Vanessa A. x5186

From: Calderon, Vanessa A. x5186
Sent: Monday, February 02, 2009 5:34 PM
To: 'KSmith@kenyonyeates.com'
Subject: RE: CEQA Comment Email

Good Evening Kimberly,

The attachments for this CEQA Comment could not be opened...please resend.

Thank you,

Vanessa A. Calderon O.A. III - Administrative Permits Clerk

County of Monterey
Resource Management Agency
Planning Department
831-755-5186 (w)
831-757-9516(fax)
CalderonVA@co.monterey.ca.us

-----Original Message-----
From: Kimberly Smith [mailto:KSmith@kenyonyeates.com]
Sent: Monday, February 02, 2009 11:53 AM
To: ceqacomments
Subject: Monterey County General Plan Update 5 DEIR Comments

Attached please find comments submitted on behalf of Friends, Artists, and Neighbors of Elkhorn Slough regarding the Monterey County 2007 General Plan and Draft Environmental Impact Report.

Sincerely,

Kimberly Smith
Legal Assistant

2001 N Street, Suite 100

Sacramento, CA 95811

Telephone: (916) 609-5000

Facsimile: (916) 609-5001

O-9b

ksmith@kenyonyeates.com

O-9b

Calderon, Vanessa A. x5186

From: Kimberly Smith [KSmith@kenyonyeates.com]
Sent: Tuesday, February 03, 2009 8:58 AM
To: Calderon, Vanessa A. x5186
Subject: Monterey County 2007 General Plan Update DEIR Comments

Hi Vanessa,

Thanks for letting me know that you couldn't open the attachment. Hopefully you have more luck with this one. We also sent our comment letter Federal Express, addressed to Mr. Holm, with priority delivery. It should be there by 10:30 a.m. this morning.

Sincerely,

Kimberly Smith
Legal Assistant
kenyon yeates
2001 N Street, Suite 100
Sacramento, CA 95811
Telephone: (916) 609-5000
Facsimile: (916) 609-5001
ksmith@kenyonyeates.com