

**MONTEREY COUNTY WATER RESOURCES AGENCY
BOARD OF DIRECTORS
RESERVOIR OPERATIONS ADVISORY COMMITTEE**

COMMITTEE MEMBERS

David Hart, Chair
Richard Ortiz
Ken Ekelund
Glen Dupree
John Baillie
Benny Jefferson
Michael Tozzi

Kevin Pearcy
Eric Morgan
Bill Lipe
Mark Sandoval
Dean Benedix
Mark Nielsen
Matthew Simis

NOTE: Place of meeting has changed due to Agency's move to Schilling Place

TIME: 1:30 p.m.
DATE: Thursday, August 31, 2017
PLACE: Monterey County Water Resources Agency
Cayenne Conference Room
1441 Schilling Place
Salinas, CA 93901

AGENDA

- 1. Call to Order**
- 2. Public Comment**
(Limited to three (3) minutes per speaker on matters within the jurisdiction of the Agency not listed on this agenda. The public will have the opportunity to ask questions and make statements on agenda items as the Committee considers them.)
- 3. Approve the Minutes of the Reservoir Operations Advisory Committee Meeting held on July 27, 2017**
The Committee will consider approval of the minutes of the above-mentioned meetings (Attachment 1).
- 4. Discussion of establishment of assessment zones for dam maintenance**
Cathy Paladini, Finance Manager II, will present options and a timeline for establishing assessment zone(s) dedicated to complete deferred dam maintenance.

- 5. Review the status of both reservoirs, current releases, and release schedule**
Staff will present a summary of current conditions at both reservoirs, as well as provide a synopsis of release changes that have occurred since the last meeting (Attachments 2, 2a, 3, 3a, 4).
- 6. Consider receiving an updated Operation Policy for Nacimiento Dam and make recommendations to staff for moving the document forward**
Staff will present a summary of the process followed by the Reservoir Operations Policy Subcommittee to develop the draft operation policy manual (Attachment 5) being considered by the Committee.
- 7. Report regarding Operations and Maintenance activities at the Reservoirs**
Staff will present a verbal report discussing the Operations and Maintenance activities at both reservoirs over the last month.
- 8. Report regarding Interlake Tunnel Project**
Staff will report on current activities regarding the Interlake Tunnel Project.
- 9. Status reports on:**
 - A. Lake recreation by Concessionaire and Parks Department**
 - B. Easements and Agency Leases**
 - C. Quagga / Zebra Mussel Plan**
 - D. San Luis Obispo County Activities**
 - E. National Marine Fisheries Service**
 - F. Cloud Seeding**
 - G. Legislative items**
- 10. Set next meeting date and discuss future Agenda items**
The Committee will discuss and determine details for its next meeting.
- 11. Adjournment**

**MONTEREY COUNTY WATER RESOURCES AGENCY
BOARD OF DIRECTORS
RESERVOIR OPERATIONS ADVISORY COMMITTEE**

David Hart, Chair
Richard Ortiz
Ken Ekelund
Glen Dupree
John Baillie
Benny Jefferson
Michael Tozzi

Kevin Pearcey
Eric Morgan
Bill Lipe
Mark Sandoval
Dean Benedix
Mark Nielsen
Matthew Simis

TIME: 1:30 PM
DATE: Thursday, July 27, 2017
PLACE: Monterey County Water Resources Agency
Saffron Conference Room
1441 Schilling Place
Salinas, CA 93901

MINUTES

1. **Call to Order at 1:33 P.M. by Chair Dave Hart and a quorum was established.**
Members present: Hart, Ortiz, Ekelund, Dupree, Baillie, Jefferson, Morgan, Lipe
(left at 3:09 P.M.), Benedix, Nielsen, and Simis
Members absent: Tozzi, Pearcey, Sandoval

Bill Stevens, NOAA National Marine Fisheries Service (NMFS), participated in the meeting via Conference Call (left at 3:00 P.M.)

2. **Public Comments: None**
3. **Approve the Minutes of the Reservoir Operations Advisory Committee Meeting held on June 29, 2017.**

ACTION: On motion and second of Committee members Baillie and Dupree, the Committee approved the minutes.

VOTE: Motion carried unanimously by those members present.

4. **Review the status of both reservoirs, current releases, and release schedule**
Jason Demers, Hydrologist, reported on this item.
5. **Status of the Operations Policy Manual for San Antonio and Nacimiento Reservoirs**
Germán Criollo, Associate Hydrologist, reported on this item.

6. **Report regarding Operations and Maintenance activities at the Reservoirs**
Chris Moss, Senior Water Resources Engineer, reported on this item and provided a Hand-out.

Public Comments: Colby Pereira

7. **Discussion of establishment of assessment zones for dam maintenance**
Eric Morgan led the discussion on this item.

ACTION: On motion and second of Committee members Morgan and Jefferson, the Committee voted to continue this discussion and direct staff to open discussions with Raftelis Financial Consultants about following-up on additional funding for Zone 2C.

VOTE: Motion carried unanimously by those members present.

8. **Report regarding Interlake Tunnel Project**
No report provided.

9. **Status reports on:**

A. **Lake recreation by Concessionaire and Parks Department**
No report provided

B. **Easement and Agency Leases**
No report from staff. Discussion by Committee and question from Gary Hazard

C. **Quagga / Zebra Mussel Plan**
Dean Benedix reported on this item.

D. **San Luis Obispo County Activities**
Dean Benedix reported on this item.

E. **National Marine Fisheries Service**
No report provided.

F. **Cloud Seeding**
Germán Criollo reported on this item.

ACTION: On motion and second of Committee members Baillie and Morgan, the Committee voted to recommend the cloud seeding presentation to the Board of Directors to seek their support in moving forward.

VOTE: Motion carried unanimously by those members present.

G. **Legislative items**

No report provided.

10. Set next meeting date and discuss future Agenda items

The next meeting is scheduled for Thursday August 31, 2017 at the Agency. Items to discuss include planning a Meeting/Tour to be held at the Reservoirs.

11. Adjournment by Dave Hart at 3:45 P.M.

SUBMITTED BY: TERESA CAMPA

**AMONTEREY COUNTY WATER RESOURCES AGENCY
BOARD OF DIRECTORS – RESERVOIR OPERATIONS ADVISORY COMMITTEE**

MEETING DATE:	August 31, 2017	AGENDA ITEM:
Consent () Action () Information (X)		
DEADLINE FOR BOARD ACTION:	August 31, 2017	

..Title

Reservoir Release Update

..Report

RECOMMENDATION:

None – item presented for informational purposes.

SUMMARY/DISCUSSION:

The Reservoir Operations Advisory Committee receives monthly updates on the status of Agency reservoirs.

RESERVOIR ELEVATION / STORAGE: As of August 24, 2017, San Antonio Reservoir is at an elevation of approximately 730.6 feet mean sea level (msl), 132,110 acre-feet of storage. Nacimiento Reservoir is at elevation 768.2 feet msl, 219,800 acre-feet of storage. San Antonio Reservoir is currently at 39% of storage capacity and Nacimiento Reservoir is at 58% of capacity.

The Salinas River mouth opened to the ocean on January 12th as a result of sandbar management activities in response to flow from the Arroyo Seco River. As of August 22nd the Salinas River lagoon remains open to the ocean.

RESERVOIR RELEASES: Reservoir releases are currently being made to meet Salinas River Diversion Facility (SRDF) pumping demands and bypass requirements in accordance with the Salinas Valley Water Project Biological Opinion.

Minor fluctuations in release rates are not presented in this report but are documented in the Salinas Valley Water Project Annual Flow Reports.

Releases as of August 24, 2017:

- Nacimiento Reservoir: 500 cfs
- San Antonio Reservoir: 275 cfs

Total releases from both reservoirs to the Salinas River are approximately 775 cfs. The following “provisional” flows have been recorded by the USGS:

- Salinas River near Spreckels: 43 cfs (steady)
- Salinas River near Chualar: 136 cfs (steady)
- Salinas River at Soledad: 367 cfs (steady)
- Salinas River near Bradley: 788 cfs (steady)

OTHER AGENCY INVOLVEMENT:

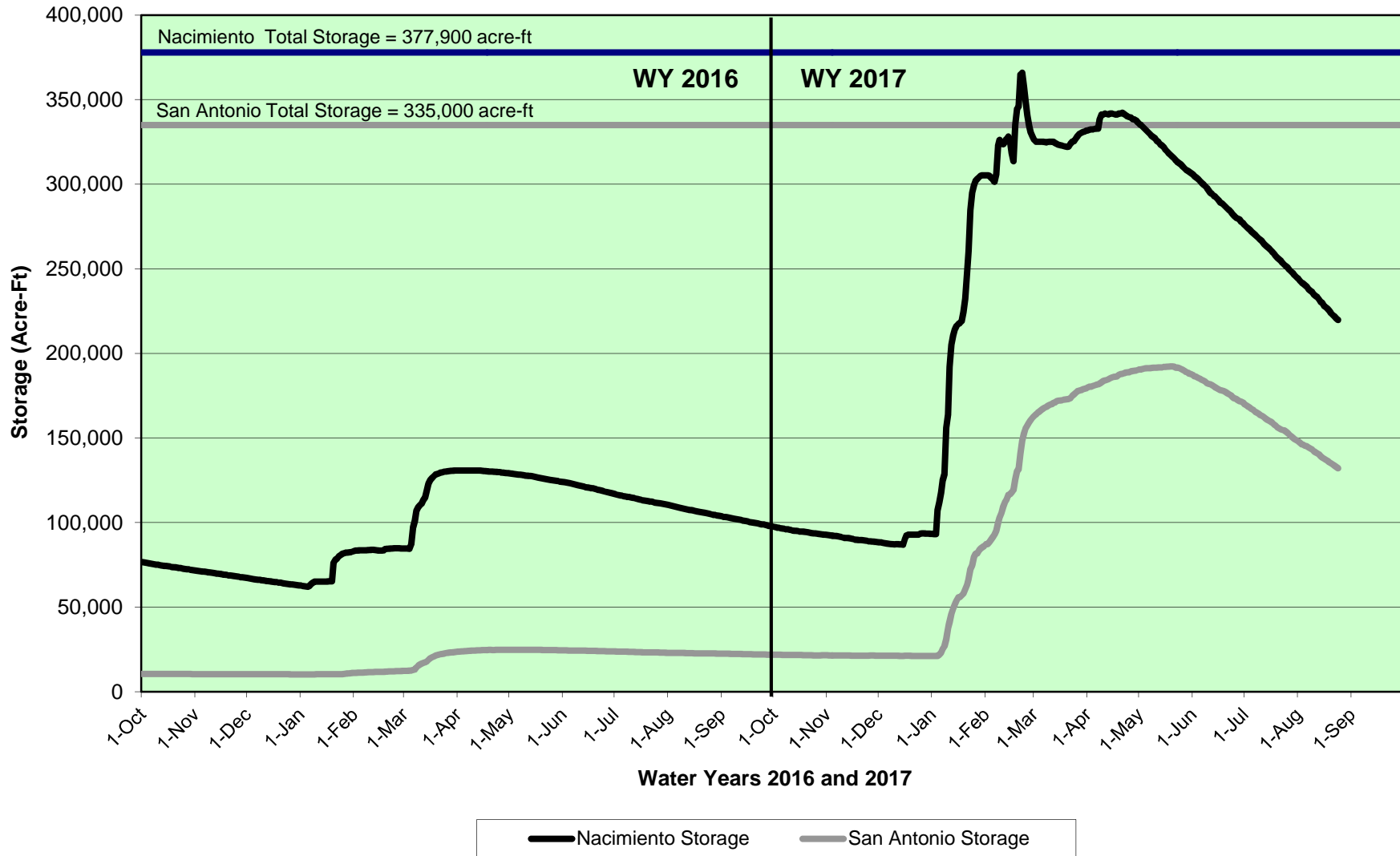
None

FINANCING:

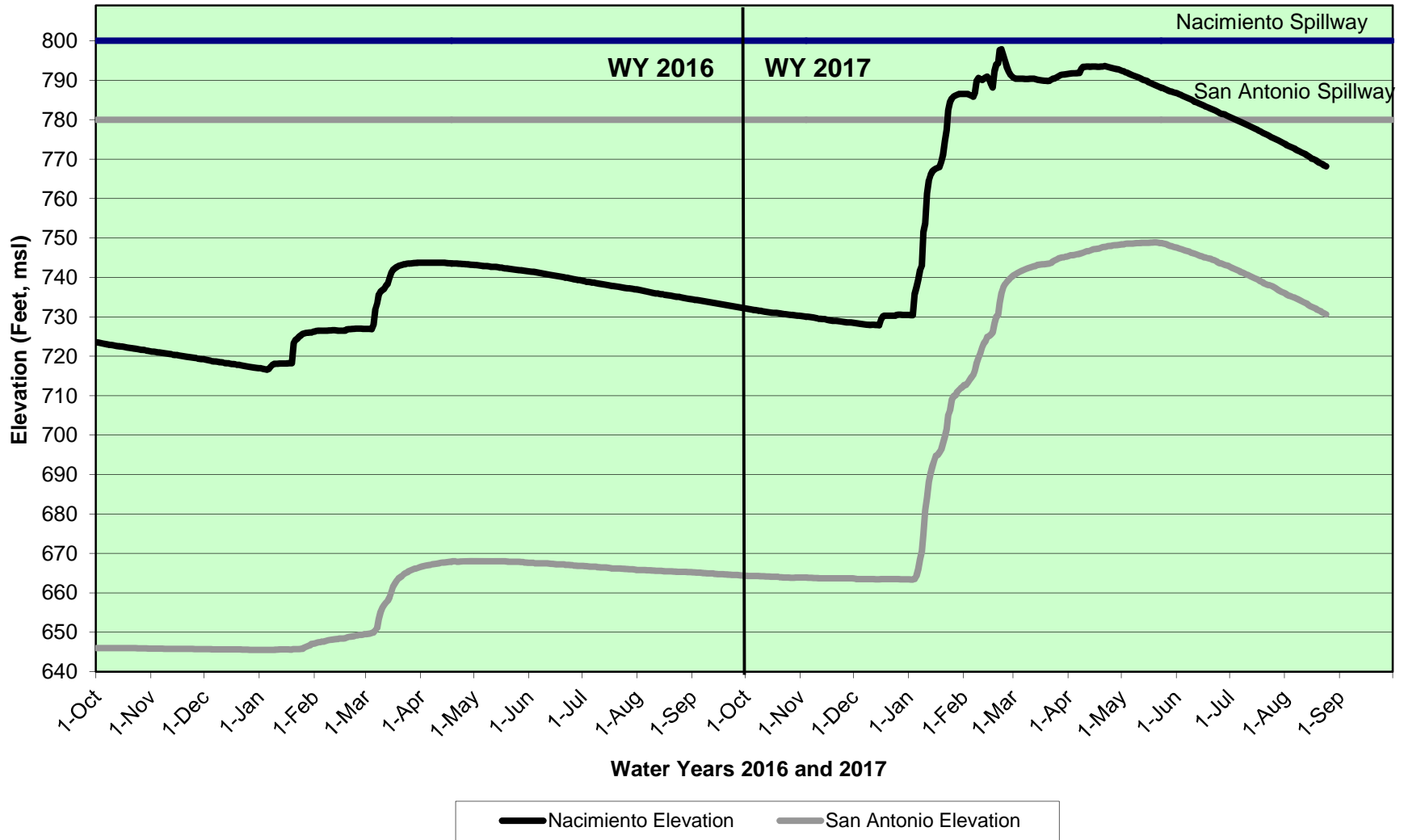
None

Prepared by: Germán Criollo, Associate Hydrologist, (831) 755-4860
Jason Demers, Hydrologist, (831) 755-4860

Reservoir Storage



Reservoir Elevation



MONTEREY COUNTY WATER RESOURCES AGENCY

PRELIMINARY - Estimated Elevation/Storage/NWP Diversions; after August 1st

8/24/2017

	RESERVOIR RELEASE SCHEDULE FOR 2017													
	NACIMIENTO								SAN ANTONIO					
	Combined Releases (cfs)*	Combined Releases (ac-ft)	Evap. Losses (ac-ft)**	Reservoir Releases (cfs)*	Reservoir Releases (ac-ft)	NWP Orders (ac-ft)	NWP Diversions (ac-ft)	Storage (ac-ft)	Elev. (ft)	Evap. Losses (ac-ft)**	Reservoir Releases (cfs)*	Reservoir Releases (ac-ft)	Storage (ac-ft)	Elev. (ft)
1/1/2017								93,275	730.5				21,150	663.4
2/1/2017	159	9,804	494	156	9,620	386	330	305,178	786.6	161	3	184	87,205	712.7
3/1/2017	3,403	189,022	566	3,400	188,855	760	101	326,230	790.6	404	3	167	162,993	740.6
4/1/2017	320	19,706	1,161	317	19,522	784	332	331,828	791.7	747	3	184	179,848	745.5
5/1/2017	310	18,437	1,338	307	18,258	881	434	335,573	792.4	1,122	3	179	190,460	748.4
6/1/2017	617	37,925	1,879	526	32,357	2,012	483	305,683	786.7	1,629	91	5,568	187,175	747.5
7/1/2017	739	43,974	2,780	458	27,263	2,206	534	275,780	780.6	2,121	281	16,711	169,920	742.6
8/1/2017	787	48,382	3,057	453	27,852	2,221	547	244,160	773.8	2,083	334	20,529	148,040	735.9
9/1/2017	825	50,712	2,858	481	29,588	2,221		211,172	766.1	1,926	344	21,124	126,258	728.5
10/1/2017	718	42,744	2,196	460	27,372	2,106		179,498	758.0	1,424	258	15,372	109,462	722.3
11/1/2017	500	30,724	1,430	398	24,447	1,189		152,433	750.4	922	102	6,278	102,262	719.3
12/1/2017	63	3,749	701	60	3,570	631		147,531	749.0	483	3	179	101,601	719.1
1/1/2018	63	3,874	430	60	3,689	354		143,058	747.7	301	3	184	101,115	718.9
TOTALS:	499,053	18,889	18,889	412,393	15,750	2,760		13,324	86,659					

* Mean daily flow for the month in cubic feet per second.

** Future Evap. Losses estimated from long term pan evaporation data at Nacimiento and San Antonio Reservoirs and replaced with calculated values once available.

NOTES:

1. Nacimiento Reservoir storage capacity 377,900 acre feet.
2. San Antonio Reservoir storage capacity 335,000 acre feet.
3. Reservoir Operations Committee may make release considerations for fish spawn and holiday periods to benefit recreation.
4. Shaded areas represent periods when elevations are influenced by inflow/runoff; releases may include flood control releases.
5. Preliminary Schedule assumes no inflow to reservoirs after June 1st.
6. "NWP Diversions" are San Luis Obispo County - Nacimiento Water Project conveyance facilities diversions. Max. allowable diversions for water year (Oct. 1 - Sept. 30) are 15,750 ac-ft.
7. NACIMIENTO "NWP Diversions" do not include lakeside water use which is estimated at approximately 1,750 acre feet per year.
8. NACIMIENTO "NWP Orders" after 9/1/17 are estimated and will be replaced with actual orders once they are received.

Draft Nacimiento Dam Operation Policy



Monterey County Water Resources Agency

Adopted by the Board of Directors
[Date]

Recommended by the Reservoir Operations Advisory Committee
[Date]

August 24, 2017

DRAFT

Contents

Section I – Introduction and Background	1
General Description / Information	2
Nacimiento River.....	2
Nacimiento Dam	3
Nacimiento Hydroelectric Plant.....	3
Nacimiento Water Project (NWP).....	4
Pertinent Nacimiento Reservoir Elevations.....	4
Section II – Governance and Water Rights	7
Monterey County Water Resources Agency Board of Supervisors	7
Monterey County Water Resources Agency Board of Directors	7
Reservoir Operations Advisory Committee	7
Agency Staff	8
Agreements for Diversion and Use of Water.....	8
Water Rights License 7543.....	8
Water Rights Permit 21089.....	8
Water Rights Permit 19940.....	9
San Luis Obispo County Agreement.....	9
Nacimiento Water Company Agreement	10
Section III – Operations	11
Salinas Valley Water Project	11
SRDF/Water Conservation Operation.....	11
Reservoir Yield	11
Reservoir Release Considerations.....	12
Environmental Compliance Operations.....	14
National Marine Fisheries Service Requirements.....	14
California Department of Fish and Wildlife Requirements	23
Flood Control Operation	24
Recreation Management Plan	26
Drought Contingency Plan	26
Section IV – Safety and Maintenance	27

Emergency Preparedness 27

Dam Safety 27

 Jurisdictions, Hazard, Critical Infrastructure..... 27

 Inspections 28

 Monitoring and Reporting 28

 Operation 29

 Maintenance 29

Section V – Reporting 30

 Annual Reports 30

References 31

DRAFT

Figures

Figure 1. Schematic of Nacimiento Reservoir Pools.....	6
Figure 2. SVWP Facilities and Flow Data Collection Points.....	16
Figure 3. Proposed flow release schedule to enhance upstream migration conditions for adult steelhead.....	18
Figure 4. Proposed flow release schedule to enhance outmigration conditions for smolts.....	20
Figure 5. Proposed flow release schedule to enhance downstream migration conditions for juvenile steelhead and kelts.	22
Figure 6. Periods of the Year with Reservoir Operation Environmental Compliance Requirements.....	24

Appendices

Appendix A. Hollenbeck Consulting Technical Memorandum Regarding Recommended Maximum Velocity in Low Level Outlet at Nacimiento Dam	
Appendix B. Agency Water Rights Documents	
a. License 7543	
b. Permit 21089	
c. Permit 19940	
Appendix C. San Luis Obispo County Agreements	
Appendix D. Nacimiento Water Company Agreement	
Appendix E. Fish & Game November 13, 1985 Memorandum of Agreement	
Appendix F. Certificate of Approval for the Operation of Nacimiento Dam from the California Department of Water Resources Division of Safety of Dams	
Appendix G. High Flow Operations Plan for Nacimiento Reservoir	
Appendix H. Definitions	
Appendix I. River Mile Maps	

DRAFT

Section I – Introduction and Background

Nacimiento Dam began operating in 1957. From 1957 to 1996, the Monterey County Water Resources Agency (Agency), then the Monterey County Flood Control and Water Conservation District, operated this facility according to a combined written and oral policy. Various documents comprised the written part of the policy and the oral portion was passed from one Agency staff member to another. Inquiries about the policy from the public or other agencies were answered on an as needed basis.

In 1996, it became apparent that a more comprehensive written policy was needed for both Nacimiento and San Antonio dams. In August 1997, the Agency Board of Directors approved the Nacimiento Dam Operation Policy as recommended by the Reservoir Operations Committee and Agency staff.

Following the recommendation of the Reservoir Operations Committee, the Agency Board of Directors adopted a policy change for Nacimiento and San Antonio dams on April 24, 2000, that shifted the target area for the location of end of flow in the Salinas River during water conservation releases from the vicinity of Chualar to the vicinity of Spreckels.

In 2002, the Agency Board of Supervisors certified the Final Environmental Impact Report / Environmental Impact Statement (EIR / EIS) and applied to the U.S. Army Corps of Engineers (Corps) for a permit to construct the Salinas Valley Water Project (SVWP). The SVWP consists of three components: modification of the Nacimiento Dam spillway, reoperation of Nacimiento and San Antonio Reservoirs, and the Salinas River Diversion Facility (SRDF).

In 2003 a Proposition 218 mail-in election was approved by property owners in the Salinas Valley to fund the SVWP through the creation of assessment Zone 2C.

During the SVWP permitting process, the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) initiated a formal Section 7 consultation with the Corps on the issuance of a permit for the SVWP. This consultation resulted in the Agency authoring the SVWP Flow Prescription for Steelhead Trout in the Salinas River (Flow Prescription) in 2005. This Flow Prescription was incorporated into the National Marine Fisheries Service Biological Opinion (BO), issued on June 21, 2007, to govern flows and related monitoring activities. This Flow Prescription also refined fish migration objectives to protect steelhead initially described in the Final EIR / EIS certified in 2002. These new Flow Prescription objectives to enhance steelhead season migrations and modifications to the SVWP are described in the addendum to the Final EIR / EIS, adopted July 30, 2007, and supersede any previously identified flow regimes in the final EIR/EIS.

The new Flow Prescription objectives were added to applicable water rights held by the Agency in 2008. Reoperation of the reservoirs under BO requirements began in 2010 with the startup of the SRDF.

This version of the Nacimiento Dam Operation Policy incorporates changes resulting from the construction of the SVWP, including a Nacimiento Dam rule curve change, and reoperation of the Nacimiento Dam and Reservoir in accordance with BO and water rights license requirements.

As a multi-use facility, Nacimiento Dam and Reservoir is operated with consideration to many factors including dam safety, flood protection, groundwater recharge, operation of the SRDF, water supply, fish migration, fish habitat requirements, agriculture, and recreation.

This document does not reflect new policy but rather consolidates all existing operational procedures, permits, and requirements into a single concise report.

This document is subject to revision due to future projects, changes in regulatory requirements, agreements with outside entities, or the need for changes in operational procedures. Revisions are subject to approval by the Agency Board of Directors.

All reservoir elevations referenced in this document are based on the National Geodetic Vertical Datum of 1929 (NGVD29).

General Description / Information

Nacimiento Dam (Dam) and its reservoir, Nacimiento Reservoir (Reservoir), are located in northern San Luis Obispo County, about 20 miles from the coast, in central California. The Dam is owned by the Agency. The seven million dollar issuance to construct the Dam in the mid-1950s was retired in 1996, and the Agency owns the facility outright.

As a multi-use facility, Nacimiento Dam and Reservoir is operated with consideration to many factors including dam safety, flood protection, groundwater recharge, operation of the SRDF, water supply, fish migration, fish habitat requirements, agriculture, and recreation. This Operation Policy defines parameters and describes guidelines and requirements the Agency will follow to operate the Dam and meet the challenges of balancing the sometimes competing interests involved in operating this multi-use facility.

Nacimiento River

The Nacimiento River originates in the Santa Lucia Mountains south of Cone Peak within the Ventana Wilderness of Los Padres National Forest. The river flows southeasterly through the Los Padres National Forest, Fort Hunter Liggett and Camp Roberts and a few private parcels as

well as the Nacimiento reservoir before it reaches its confluence with the Salinas River. The river is 54.2 miles in length of which 9.5 miles are located within the Los Padres National Forest. With the exception of the upper section including the headwaters, much of the Nacimiento River streambed remains dry during the summer. However, year round water can be found in various pools along portions of the river¹.

Nacimiento Dam

Completed in 1957, the earth fill dam has a height of 215 feet and a crest length of 1,650 feet. The crest elevation is 825 feet with a spillway elevation of 787.75 feet which can be raised to an elevation of 800 feet by use of an inflatable spillway gate system. In addition to the inflatable spillway gates which can be used to regulate spillway releases above elevation 787.75 feet, the Dam has two outlets. The High Level Outlet Works (HLOW) is composed of two eight-foot by eight-foot square steel slide gates under the spillway with an invert elevation of 755 feet. The HLOW has a maximum capacity of approximately 5,500 cubic feet per second (cfs) when the reservoir elevation is 800 feet. The Low Level Outlet Works (LLOW) consists of an inlet structure with an invert elevation of 670 feet, a 53-inch diameter conduit located near the southern side of the Dam, and six 24-inch discharge outlets with valves at the downstream end of the conduit. Releases from the LLOW can be made from either the conduit outlet valves or the hydroelectric power plant. The LLOW has a maximum release capacity of 460 cfs².

Nacimiento Hydroelectric Plant

A 4.351 Megawatt/hour capacity hydroelectric power plant began operation downstream of the Dam in 1987. The plant contains a larger (Unit 1) and a smaller (Unit 2) turbine that are operated in the ranges of 150 cfs to 460 cfs, and 25 cfs, respectively. The hydroelectric plant requires a minimum reservoir elevation of 690 feet for the operation of Unit 1 and 728 feet for the operation of Unit 2. To maximize power production, two turbine runners have been

¹ As described in the San Antonio and Nacimiento Rivers Watershed Management Plan, October 2008.

² At reservoir elevation 800 feet (full reservoir), flow through the LLOW can reach up to approximately 585 cfs. However, after the hydroelectric plant was constructed in 1987, the LLOW has been operated more conservatively, as the Nacimiento Hydroelectric Project Operations and Maintenance Manual by R.W. Beck & Associates, August 1987, recommends maximum water velocity below 30 feet per second (fps) to prevent accelerated wear of the low level conduit lining. 30 fps water velocity corresponds to 460 cfs flow through the 53-inch diameter low level conduit. The 1997 and 2000 Nacimiento Dam Operations Policy states “At Lake elevation 800 feet, maximum [LLOW] capacity is about 460 cfs...” consistent with the Hydroelectric Project Operations and Maintenance Manual. In September 2016, the Agency requested Hollenbeck Consulting to evaluate the maximum water velocity recommendation through the LLOW. Hollenbeck concluded: “Based on longevity of conduit performance with no reported issues, a maximum velocity of no more than 30 fps appears acceptable; however, based on accepted engineering references, it is recommended that MCWRA consider limiting the low level outlet conduit velocity to a maximum of 20 fps if such operations meet ...release goals.” (Appendix A). MCWRA staff recommends that maximum water velocity through the LLOW conduit remain below 30 fps to prevent accelerated wear of the conduit lining, which corresponds to a maximum flow of 460 cfs.

provided for Unit 1. The high head runner is used for elevations above 735 feet. The low head runner is required for operation between elevations of 690 feet and 735 feet.

Nacimiento Water Project (NWP)

The NWP is owned and operated by the San Luis Obispo County Flood Control and Water Conservation District (SLO District). The project, which came on line in 2007, consists of an intake system near Nacimiento Dam and approximately 45 miles of pipeline to deliver water to communities within San Luis Obispo County.

Pertinent Nacimiento Reservoir Elevations

The following reservoir elevations are referenced to NGVD29:

NWP Intake

The NWP intake consists of a 48-inch diameter stainless steel pipe with screened intakes between elevation 660 feet and 780 feet allowing SLO District to pump water starting at elevation 670 ft. The intakes supply a 52-inch diameter shaft leading to a 180-foot deep, 20-foot diameter shaft and pump station.

Dead Pool

The storage between the bottom of the reservoir and elevation 670 feet, the invert of the Intake Structure of the LLOW. The volume of the Dead Pool is 10,300 acre-feet (AF) but water cannot flow by gravity out of the reservoir below elevation 670 feet.

Minimum Pool

The storage above the Dead Pool, elevation 670 feet, and below the Conservation Pool (defined below), elevation 687.8 feet, is the Minimum Pool. The volume of this pool is 12,000 AF which is reserved for use by the County of San Luis Obispo per the 1959 San Luis Obispo County Agreement³.

Minimum Recreation Elevation

At an elevation of 730 feet most of the boat ramps around the reservoir are useable and most private property owners have access to the reservoir. The Agency, to the extent possible, will keep this elevation in mind when making the release schedule and consider a goal each year of keeping the Reservoir above 730 feet until after Labor Day.

³ Article 11(j) of the October 19, 1959 Agreement (Appendix C).

Conservation Pool

The storage above the Minimum Pool, elevation 687.8 feet, and below the Flood Pool (defined below), elevation 787.75 feet, is used to store water for release to the Salinas Valley for groundwater recharge, operation of the SRDF, water supply, fish migration, and fish habitat requirements. The volume of the Conservation Pool is 289,013 AF. It is dedicated to storing winter inflow from the Nacimiento watershed for later release.

Flood Pool

The bottom of the Flood Pool is the concrete spillway elevation of 787.75 feet. The top of the Flood Pool is the top of the raised inflatable spillway gates, elevation 800.0 feet, which is the maximum reservoir elevation (see below). During the winter, flood protection is provided by maintaining empty space within the Flood Pool to temporarily store flood water. The maximum flood pool storage volume is 66,587 acre feet. The actual volume of the flood pool reserved for flood protection will vary based on factors such as current conditions, time of year, and forecasted weather. If conditions allow, winter inflow stored in this pool can be used for later release to the Salinas Valley for groundwater recharge, operation of the SRDF, water supply, fish migration, and fish habitat requirements.

Maximum Reservoir Elevation

The top of the raised inflatable spillway gate system is at elevation 800 feet, 377,900 AF. This is the maximum reservoir elevation and is the level at which the reservoir is full.

Top of Dam

The top of the Dam is at elevation 825 feet (the dam crest). The Agency has flood easements around the reservoir up to this elevation. The Agency requires that any construction of habitable structures, or structures that can be damaged by inundation, be above elevation 825 feet. Construction of any structures, such as boat ramps, roads, or grading, that occurs below elevation 825 feet requires approval from the Agency prior to beginning work.

The maximum reservoir elevation reached under the Probable Maximum Flood Analysis is 823 feet, two feet below the dam crest (GEI Consultants, Inc., 2003).

Figure 1 shows pertinent Nacimiento Reservoir elevations and storage volumes.

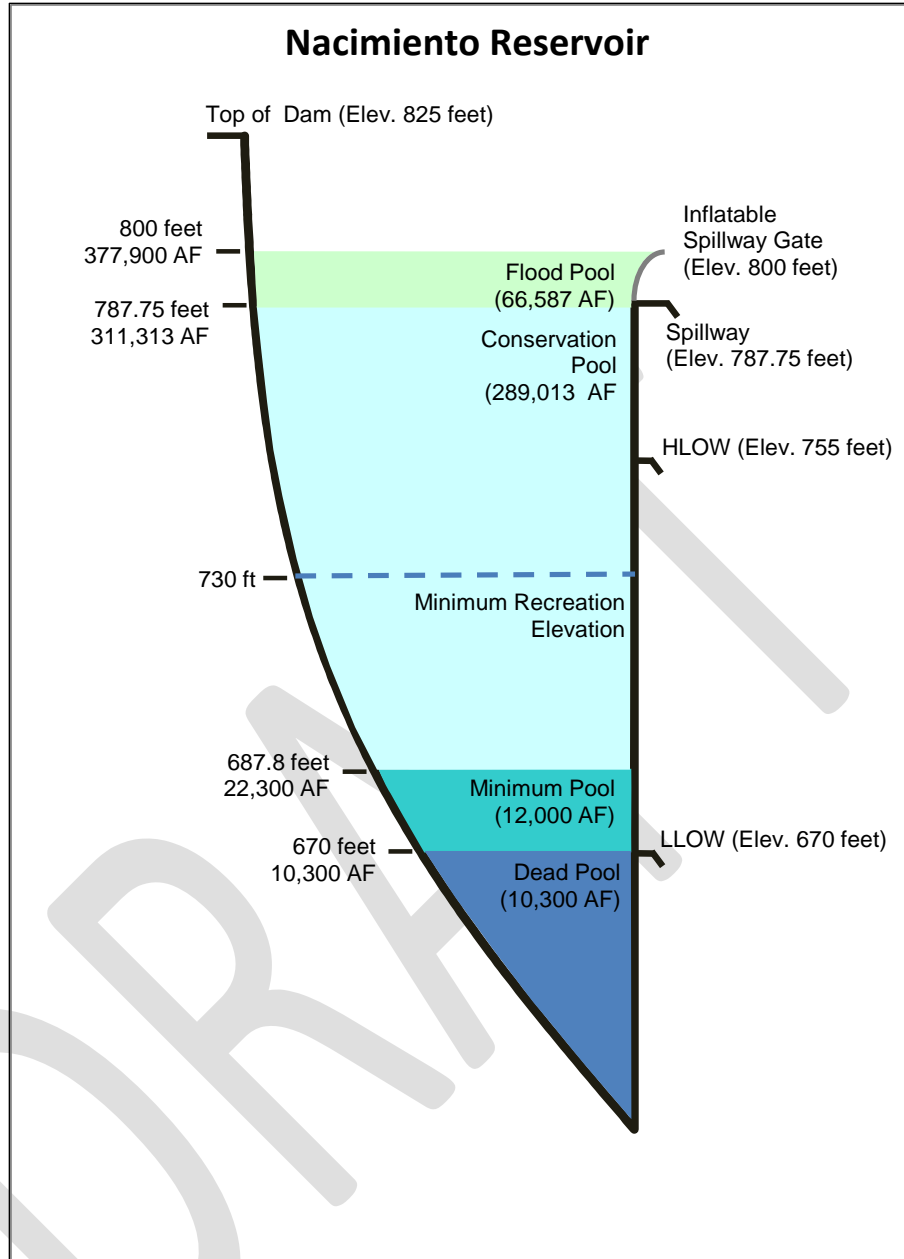


Figure 1. Schematic of Nacimiento Reservoir Pools

Section II – Governance and Water Rights

Monterey County Water Resources Agency Board of Supervisors

The Agency Board of Supervisors has overall responsibility for passing ordinances, conducting litigation matters, and adopting budgets for the Agency.

Monterey County Water Resources Agency Board of Directors

The Agency Board of Directors establishes long-term and short-term operations policy for the Agency, establishes standing and advisory committees, lets construction contracts, holds public hearings, and recommends action to the Agency Board of Supervisors for all aspects of the Agency.

The Board of Directors has taken the following actions of note related to operational policy of Nacimiento Dam:

- Adopted release priorities on September 28, 1992,
- Established an Ad-Hoc Reservoir Operations Committee in December 1993,
- Changed the Committee’s status to a standing committee in October 1996,
- Adopted a Nacimiento Dam Operation Policy on August 25, 1997,
- Amended the Nacimiento Dam Operation Policy on April 24, 2000. The April 24, 2000 Nacimiento Dam Operation Policy is superseded by this document.
- Changed the Committee’s status to an advisory committee in April 2016,
- Established a 17-member Reservoir Operations Advisory Committee in September 2016.

Reservoir Operations Advisory Committee

The Reservoir Operations Advisory Committee consists of three Board members, the Board Chair, and non-Director members. The Chair shall appoint non-Director members to the Reservoir Operations Advisory Committee as follows: one representative of a Salinas Valley City; one representative each of the Pressure, East Side, Forebay, and Upper Valley groundwater subareas; three members of the public at large; the San Luis Obispo County Public Works Department, Monterey County Parks Department, the lakes resort concessionaire, Nacimiento Regional Water Management Advisory Committee, and the Salinas River Channel Coalition⁴.

⁴ As per Agency Bylaws amended September 19, 2016.

The purpose of the Reservoir Operations Advisory Committee is to review all matters pertaining to Nacimiento and San Antonio Reservoirs and to make recommendations on those matters for consideration by the Agency Board of Directors.

Agency Staff

The General Manager, or his designee, is responsible for the safe and professional operation of Nacimiento Dam. Staff shall operate the Dam according to this Policy, using the professional judgment of qualified engineers. The Dam shall be operated with safety as the primary consideration. Operational considerations for flood protection, groundwater recharge, operation of the SRDF, water supply, fish migration, fish habitat requirements, agriculture, and recreation will be given careful and professional consideration.

Agreements for Diversion and Use of Water

This section describes the water rights the Agency holds for water of the Nacimiento River and the water use agreements the Agency has with San Luis Obispo County and the Nacimiento Water Company. Water rights held by private land owners and other water use agreements with private properties around Nacimiento Reservoir are not detailed in this Policy.

Water Rights License 7543

License for Diversion and Use of Water, No. 7543, from the California State Water Resources Control Board, was issued August 6, 1964. This license was last amended September 5, 2008 (Appendix B) to specify that the place of use of water from this license changed to include 421,435 acres of land comprising the Agency's Zone 2C assessment zone, to add a point of rediversion at the Salinas River Diversion Facility (SRDF), and to add fish flow requirements consistent with the June 21, 2007, National Marine Fisheries Service BO.

License No. 7543 gives the Agency the right to store 350,000 AF from October 1 of each year to July 1 of the succeeding year and to use 180,000 AF per year for irrigation, domestic, municipal, industrial, and recreational uses.

Water Rights Permit 21089

Permit for Diversion and Use of Water, No. 21089, from the California State Water Resources Control Board, was issued March 23, 2001. This license was last amended September 5, 2008 (Appendix B) to specify that the place of use of water from this license changed to include 421,435 acres of land comprising the Agency's Zone 2C assessment zone, to add a point of rediversion at the SRDF, and to add fish flow requirements consistent with the BO.

The original reservoir volume computations submitted and subsequently approved in License No. 7543, were based on United States Geological Survey (USGS) Quad sheets from the 1940s. In the early 1990s, aerial surveys with increased accuracy showed that the actual volume of Nacimiento Reservoir was greater than the 350,000 AF in License 7543. In order to correct this discrepancy, the Agency filed water rights Application No. 30532. Nacimiento Dam has never been modified in any way to increase storage and the reservoir volume is unchanged from the time of the dam's construction, with the exception of the inflow of silt from natural runoff which has decreased storage volume.

As a result of this application, the Agency has a permit to store 27,900 AF per annum to be collected from October 1 of each year to July 1 of the succeeding year. The total quantity of water collected to storage under this permit and License 7543 shall not exceed 377,900 AF per year.

Water Rights Permit 19940

Permit for Diversion and Use of Water, No. 19940, from the California State Water Resources Control Board, was issued December 31, 1986 (Appendix B).

Permit 19940 gives the Agency the right to divert up to 500 cfs through the Hydroelectric Plant from January 1 to December 31 of each year for irrigation, domestic, municipal, industrial and recreational uses. Diversion under this permit is incidental to releases being made for other purposes.

San Luis Obispo County Agreement

The Agency's Water Rights License No. 7543 is subject to an agreement between the Agency and SLO District which gives SLO District the right to use 17,500 AF of water annually from Nacimiento Reservoir. A portion of the total, approximately 1,750 AF, is designated for use around Nacimiento Reservoir. Heritage Ranch Community Services District (HRCSD) has an agreement with SLO District to use 1,100 AF of the 1,750 AF; HRCSD takes their allotment from a well gallery in the Nacimiento River downstream of the Dam. SLO District can use up to the remaining 15,750 AF per water year through the NWP. It was also agreed that the Agency will not make conservation releases during the water year that result in a reservoir elevation below 687.8 feet on September 30 of each year. The 12,000 acre foot Minimum Pool below elevation 687.8 feet will be reserved for SLO District use. SLO District maintains agreements with users within their 17,500 acre-foot allotment.

The original agreement is dated October 19, 1959, and it has been amended six different times in 1959, 1967, 1970, 1977, 1988, and 2007. These documents are collectively referred to as the Nacimiento Water Agreement. (Appendix C).

Nacimiento Water Company Agreement

The 1984 agreement with the Agency (Appendix D) allows the Nacimiento Water Company a water allocation of up to 600 AF per year to be extracted from wells within the floodage easement of Nacimiento Reservoir. The Nacimiento Water Company shall pay the Agency quarterly for water from the allocation on the basis of AF used at a rate determined by this agreement.

DRAFT

Section III – Operations

Salinas Valley Water Project

Through a collaborative effort with Salinas Valley interests the Agency developed the SVWP to address the water resources management issues within the Salinas Valley. The goal of the SVWP is to provide for the long-term management and protection of groundwater resources in the basin by meeting the following objectives: stopping seawater intrusion and providing adequate water supplies and flexibility to meet current and future (year 2030) needs. In addition, the project provides the surface water supply necessary to attain a hydrologically balanced groundwater basin in the Salinas Valley. Future project elements may, however, be necessary to achieve this objective.

In 2002, the Agency Board of Supervisors certified the Final Environmental Impact Report / Environmental Impact Statement (EIR/ EIS) and applied to the U.S. Army Corps of Engineers (Corps) for a permit to construct the SVWP. The SVWP consists of three components:

1. The Nacimiento Dam Spillway Modification.
2. Reoperation of Nacimiento and San Antonio reservoirs.
3. The Salinas River Diversion Facility.

SRDF/Water Conservation Operation

The highest priority of water conservation operations is to maximize the amount of groundwater recharge in the Salinas Valley aquifers through reservoir releases and the operation of the SRDF. This is accomplished by storing winter inflow to Nacimiento and San Antonio reservoirs so that water is available for release during the irrigation season. It is intended that reservoir releases be made in accordance with existing regulations and agreements in a manner that reduces impacts to both fish and recreation, while still meeting the primary goals of groundwater recharge and SRDF operation.

Reservoir Yield

The average annual inflow into Nacimiento Reservoir between water year 1959 and 2015 was approximately 198,000 AF per water year which is approximately three times the average inflow to nearby San Antonio Reservoir⁵. Total Nacimiento Reservoir releases for all purposes between water year 1959 and 2015 averaged approximately 191,000 AF per water year of

⁵ Inflow data for water years 1959 through 2013 developed in 2014 by ECORP Consulting, Inc. and used for computer model simulations for the Interlake Tunnel and San Antonio Spillway Modification Projects. Inflow data for water years 2014 and 2015 was developed by Agency staff using the same method.

which an average of approximately 119,000 AF per water year was released for groundwater recharge and SRDF operations. Reservoir release averages between 1959 and 2015 are influenced by periods of different operational strategies that may not reflect current or future operations.

Reservoir Release Considerations

Salinas River Flow

Releases may be made following the cessation of natural flow or to supplement natural flow for groundwater recharge (conservation releases) or SRDF operations. Impoundment of water at the SRDF can begin as early as April 1st and continue through October 31st. As required by the BO, the Agency will maintain flow to the Salinas River Lagoon when the SRDF is operating or during conservation releases.

As described further on page 21, in dry year-types, the Agency will provide two cfs to the Salinas River Lagoon. For non-dry year-types, and if the combined reservoir storage is 220,000 AF or more, the Agency will provide additional supplemental SRDF bypass flows. If the lagoon is open to the ocean, then the Agency will provide 45 cfs to the lagoon for 10 days or until the lagoon closes to the ocean, whichever occurs first, then 15 cfs to the lagoon through June 30th, then two cfs as long as the SRDF is operating or during conservation releases. If the lagoon is not open to the ocean, then the Agency will provide 15 cfs to the lagoon through June 30th, then two cfs as long as the SRDF is operating or during conservation releases.

Quantity and Flow Rates of Releases

- Releases shall be made for groundwater recharge (conservation releases) or SRDF operations as are needed to maintain minimum BO flow requirements to the Salinas River Lagoon as long as SRDF diversions are occurring or conservation releases are being made to the Salinas River.
- The LLOW of Nacimiento Dam shall be the primary outlet for conservation releases. The LLOW has a maximum capacity of 460 cfs. When the need for releases exceeds the capacity of the LLOW, releases shall be made from the inflatable spillway gates if the reservoir elevation exceeds 787.75 feet or from San Antonio Reservoir.
- The HLOW of Nacimiento Dam does not provide the operational flexibility required to effectively make conservation releases but may be used for flood control releases when the lake elevation exceeds 755 feet. Although it is not preferable, the HLOW may be used to make conservation or required BO releases under some circumstances when reservoir elevation is below 787.75 ft and release needs cannot be met using the LLOW.

- Power generation shall be incidental to the operation of Nacimiento Dam and shall not be used as criteria for flood control or conservation releases scheduling. Power may be generated when releases are made.

Concurrent Releases

- Nacimiento and San Antonio reservoirs will be operated jointly to provide maximum flood control and water conservation benefits.
- Concurrent releases from Nacimiento and San Antonio reservoirs may be necessary for groundwater recharge or to meet operational needs at the SRDF consistent with BO flow requirements at Salinas River Lagoon.
- Annual inflow into Nacimiento Reservoir is approximately three times that of San Antonio Reservoir, on average.
- When practical, the Agency shall attempt to create empty space in the Nacimiento Water Conservation Pool that is three times that of the empty space in the San Antonio Water Conservation Pool at the end of the SRDF/conservation release period. This operational strategy helps to maximize capture of winter flows and reduce flood control releases.

Recreation

- To minimize the impact of reservoir releases on reservoir levels during peak recreational periods the Agency will, to the extent possible, adjust reservoir releases to equalize the rate of decline in elevation between both reservoirs during the Memorial Day, 4th of July, and Labor Day holiday periods.
- At an elevation of 730 feet most of the boat ramps around the reservoir are useable and most private property owners have access to the reservoir. The Agency shall keep this elevation in mind when making up the release schedule and realize that a goal each year is to keep the water surface above 730 feet until after Labor Day.

Bass Spawn

- The bass spawn usually begins in May or early June, and often at somewhat different times in Nacimiento and San Antonio reservoirs. In many years the Agency has been able to shift releases between the two reservoirs to reduce impacts to spawning bass.
- The Agency will make an effort not to exceed a maximum decrease in reservoir elevation of one foot per week for a three week period during bass spawning. A goal of six inches per week or less shall be used when practical. The Agency will coordinate with the California Department of Fish and Wildlife for timing of these efforts.

Salinas River Stream Maintenance Program

- The Salinas River Stream Maintenance Program (SMP) work season occurs from September 1st through November 15th. If reservoir releases are no longer needed to meet SRDF demands or downstream conservation goals during this time, releases may be reduced to assist in maintenance activities. Release changes and rates made for SMP work must be consistent with BO and water rights flow requirements.

Release Schedule

- The Reservoir Release Schedule acts as a guideline for releases made for groundwater recharge (conservation releases) or for SRDF operations.
- Agency staff shall draft a Preliminary Release Schedule each year, generally in the spring, when inflow to Nacimiento Reservoir is nearly complete, and conservation releases will soon begin. Staff will draft a release schedule based on the various factors contained in this Policy and present it to the Reservoir Operations Advisory Committee for review.
- The Reservoir Operations Advisory Committee shall review the Preliminary Release Schedule submitted by staff each year and recommend a Proposed Release Schedule to the Board of Directors for adoption.
- The Board of Directors shall review the Reservoir Release Schedule recommended by the Advisory Committee and consider adoption.
- The Reservoir Operations Advisory Committee shall periodically review the adopted Release Schedule during the season and recommend changes to the Board of Directors as needed.

Release Notification

Releases can affect property owners downstream and around Nacimiento Reservoir. The Agency will provide post-change email notification of release changes to potentially affected parties upon request.

Environmental Compliance Operations

This section includes environmental regulatory requirements currently being imposed by the NMFS and the California Department of Fish and Wildlife (CDFW). These requirements make up the framework within which the Agency operates the reservoirs for all other beneficial uses.

National Marine Fisheries Service Requirements

During the permitting process for the SVWP, the NMFS initiated a formal Section 7 consultation with the Corps on the issuance of a permit for the SVWP. This consultation resulted in the Agency authoring the Flow Prescription in 2005. The Flow Prescription was incorporated into the NMFS BO, issued in 2007, to govern flows and related monitoring activities. On July 30, 2007, an addendum to the 2002 EIR/EIS was adopted by the Agency Board of supervisors reflecting the contents of the Flow Prescription and superseding the flow regimes previously identified in the 2002 EIR/EIS.

The Flow Prescription defines flow requirements and operational targets for managing steelhead trout (*Oncorhynchus mykiss*) in the Salinas River. When specific conditions are met the Agency will operate the reservoirs to enhance upstream or downstream passage conditions for migrating steelhead. The Agency will also maintain prescribed flows for spawning and rearing habitat in the Nacimiento River below Nacimiento Dam.

The following items represent the language incorporated into the BO from the Flow Prescription. Similar language for these items was also incorporated into the addendum of the EIR/ EIS, the U.S. Fish and Wildlife Biological Opinion, and Nacimiento River Water Rights license 7543 and Water Rights permit 21089.

Figure 2 shows the location of facilities and flow data collection points referenced in the BO as well as the place of use for water released from Nacimiento Reservoir (Zone 2C)

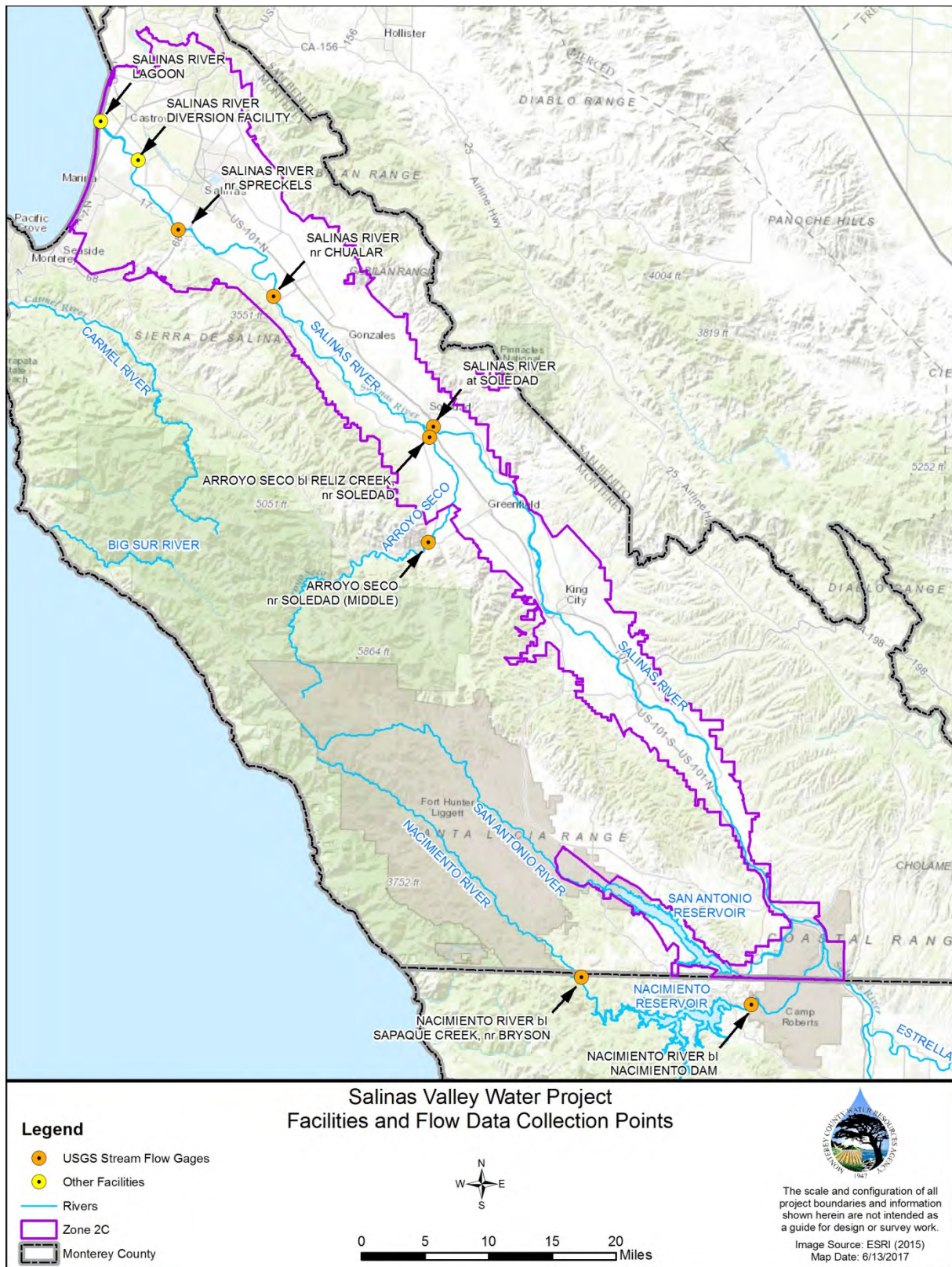


Figure 2. SVWP Facilities and Flow Data Collection Points

Water-Year Type Categorization

For purposes of applying the flow prescriptions in this section, a determination of water-year type (dry, normal, wet) is made based on an indexing of unimpaired annual mean flows at the USGS streamgage on the Arroyo Seco near Soledad (USGS Streamgage 11152000). Annual mean flows are ranked in descending order and the stream flows corresponding to the 25th and 75th percentile are selected as the thresholds for the wet (below the 25th percentile), normal (between the 25th and 75th percentiles), and dry years (above the 75th percentile). Normal year types are subcategorized into wet-normal, normal, and dry-normal categories. Year type determinations will be made on March 15th (preliminary) and April 1st (official) of each year.

Adult steelhead upstream migration

Adult steelhead upstream migration triggers will be in effect from February 1st through March 31st. When flow triggers occur, the Agency intends to facilitate upstream migration of adult steelhead by insuring flows of at least 260 cfs at the Salinas River near Chualar (USGS streamgage 11152300) for five or more consecutive days when the river mouth is open to the ocean. To insure this minimum flow and duration, the Agency will provide reservoir releases when necessary to augment natural flows. These reservoir releases will occur if the following triggers are met:

- combined storage of Nacimiento and San Antonio reservoirs is greater than 220,000 AF,
- 340 cfs or higher flows are present at the Arroyo Seco near the Soledad gage (USGS streamgage 11152000), and
- 173 cfs or higher flows are present at the Arroyo Seco below the Reliz Creek gage (USGS streamgage 11152050).

Figure 3 provides a visual summary of the conditions for the flow prescription as it relates to upstream migration for adult steelhead.

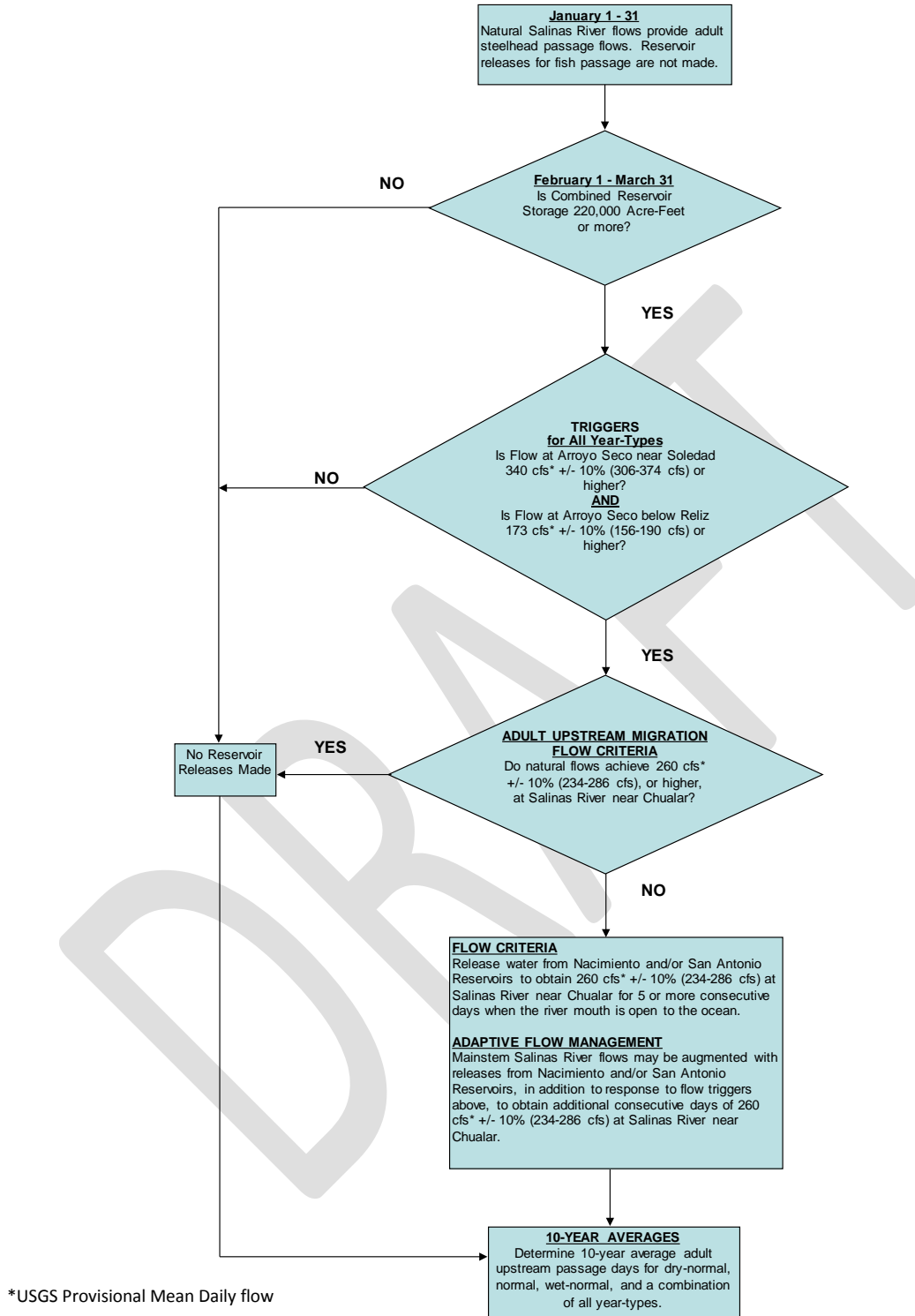


Figure 3. Flow release schedule to enhance upstream migration conditions for adult steelhead.

Downstream migration of Smolting Steelhead (Block Flows)

To facilitate the downstream migration of smolts⁶ and rearing juvenile steelhead in the Salinas River during normal category water years, the Agency will provide, beginning March 15th, reservoir releases (hereafter referred to as “block flows”) when the following flow triggers are met:

- the water year type is dry-normal, normal-normal, or wet-normal,
- combined storage of Nacimiento and San Antonio reservoirs is 150,000 AF or more on March 15th, and
- 125 cfs or higher at the Nacimiento River below Sapaque Creek gage (USGS streamgage 11148900), or 70 cfs at the Arroyo Seco below Reliz Creek gage (USGS streamgage 11152050).

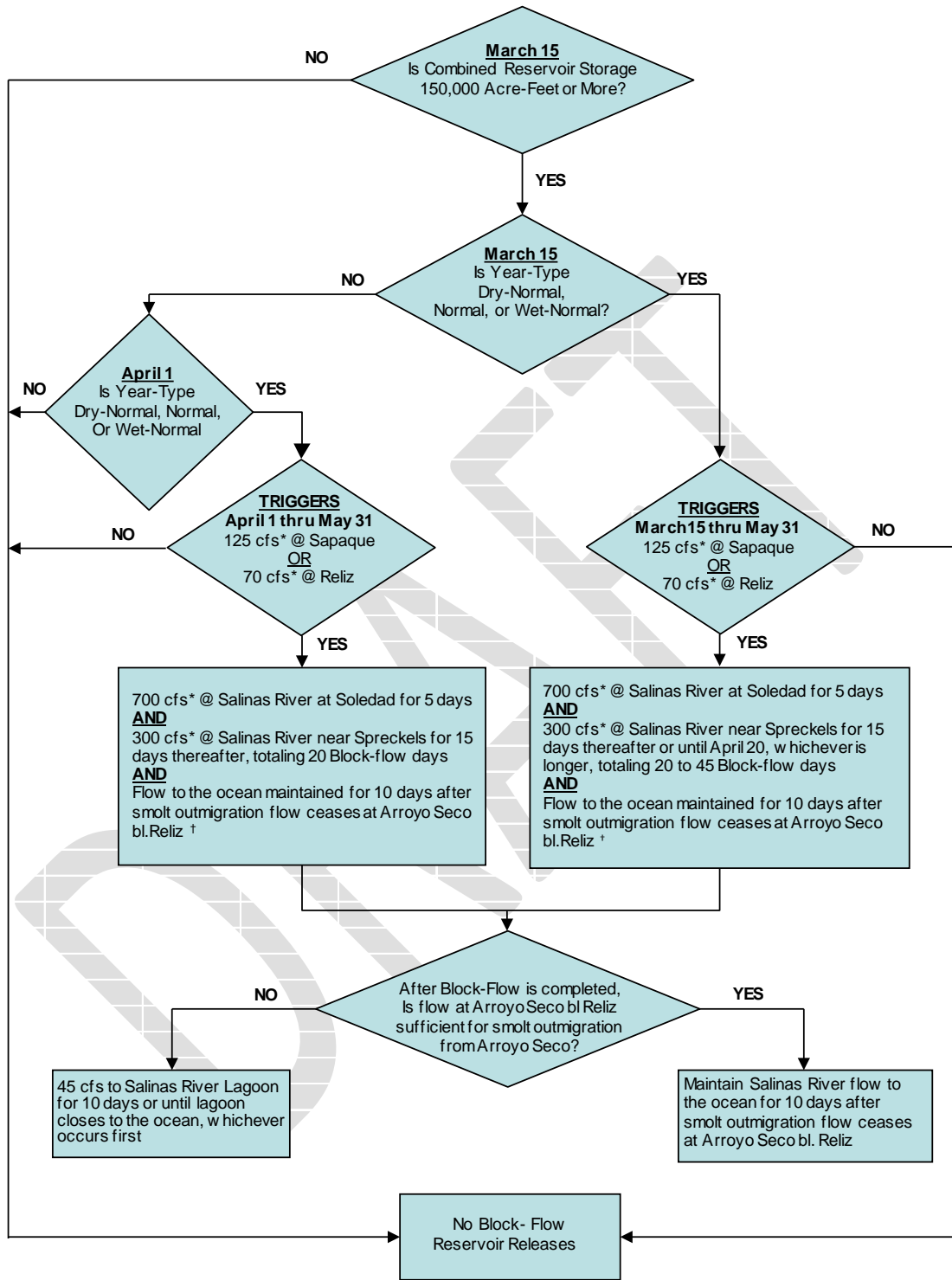
If block flows are triggered between March 15th and March 31st, 700 cfs will be provided at the Salinas River near Soledad (USGS streamgage 11152000) for five days, and then thereafter 300 cfs will be maintained in the Salinas River near Spreckels (USGS streamgage 11152500) until April 20th.

If the block flow triggers occur in April, 700 cfs will be provided at the Salinas River near Soledad for five days, and then thereafter 300 cfs will be provided at Spreckels for an additional 15 days. Thus, the duration of the block flow will range from 20 to 45 days.

After a block flow is completed, if outmigration of steelhead smolts from the Arroyo Seco to the Salinas River could occur (i.e., flow at the USGS streamgage 11152050 near Reliz is greater than 1 cfs), flow to the ocean will be maintained for 10 days after smolt outmigration flow at the Reliz Creek gage drops below 1 cfs. Figure 4 provides a visual summary of the block flow release schedule for smolt outmigration. The same flow prescription for smolt outmigration represented in figure 4 of this document appears with a different visual representation as Figure 1 in the water rights documents for License 7543 and Permit 21089 (Appendix B).

If on March 15th the determination of the water year type category is “wet” or “dry,” no reservoir releases are made to meet block flow criteria and the year type will be re-evaluated on April 1st. If on April 1st the water year type is either “wet” or “dry,” then no reservoir releases to facilitate smolt migration will occur, though smaller releases may occur as described in the next section.

⁶ A young salmon or sea trout about two years old that is at the stage of development when it assumes the silvery color of the adult and is ready to migrate to the sea. "Smolt." Merriam-Webster.com. Merriam-Webster, n.d. Web. 17 Nov. 2016.



*USGS Provisional Mean Daily Flow
 †1 cfs USGS Provisional Mean Daily Flow at Arroyo Seco bl. Reliz stream gage will be used until further study indicates otherwise

Figure 4. Flow release schedule to enhance outmigration conditions for smolts.

Downstream Migration of Juvenile and Post Spawn Adult Steelhead

In some years, block flow releases for smolt migration may not occur because triggers for those releases are not met. However, in those years the Agency will provide reservoir releases and SRDF bypass flows to enhance migration opportunities for juvenile steelhead and post-spawn adult steelhead (kelts). Beginning April 1st, when smolt migration block flows are not triggered, the Agency will provide reservoir releases under the following circumstances.

For dry year-types, the Agency will provide two cfs to the lagoon when the SRDF is operating or during conservation releases, with a wetted streambed channel along the entire reach.

For non-dry year-types, and if the combined reservoir storage is 220,000 AF or more, the Agency will provide additional supplemental SRDF bypass flows. If the lagoon is open to the ocean, then the Agency will provide 45 cfs to the lagoon for 10 days or until the lagoon closes to the ocean, whichever occurs first, then 15 cfs to the lagoon through June 30th, then two cfs as long as the SRDF is operating or during conservation releases. If the lagoon is not open to the ocean, then the Agency will provide 15 cfs to the lagoon through June 30th, then two cfs as long as the SRDF is operating or during conservation releases.

At the end of the irrigation diversion season, the SRDF impoundment will be filled to its storage capacity of approximately 108 AF of water. Once irrigation diversion from the SRDF is completed for the season, water will be allowed to pass from the full SRDF impoundment to the lagoon at a rate of two cfs until the impoundment is effectively emptied. At a two cfs rate of flow from the 108 AF capacity, the impoundment is expected to empty in approximately 27 days. In no case will the SRDF impounded water be stored for more than 29 days. The Agency reserves the right to empty the SRDF impoundment (by increasing flow releases above two cfs) during this 27 day period of two cfs flow to the lagoon after the irrigation season, if necessary, to empty the impoundment in time to perform facility maintenance before river flows prevent such maintenance work.

Figure 5 provides a visual summary of the flow release schedule for juvenile steelhead and kelts. The same flow prescription for downstream migration of juvenile steelhead and kelts represented in figure 5 of this document appears with a different visual representation as Figure 2 in the water rights documents for License 7543 and Permit 21089 (Appendix B).

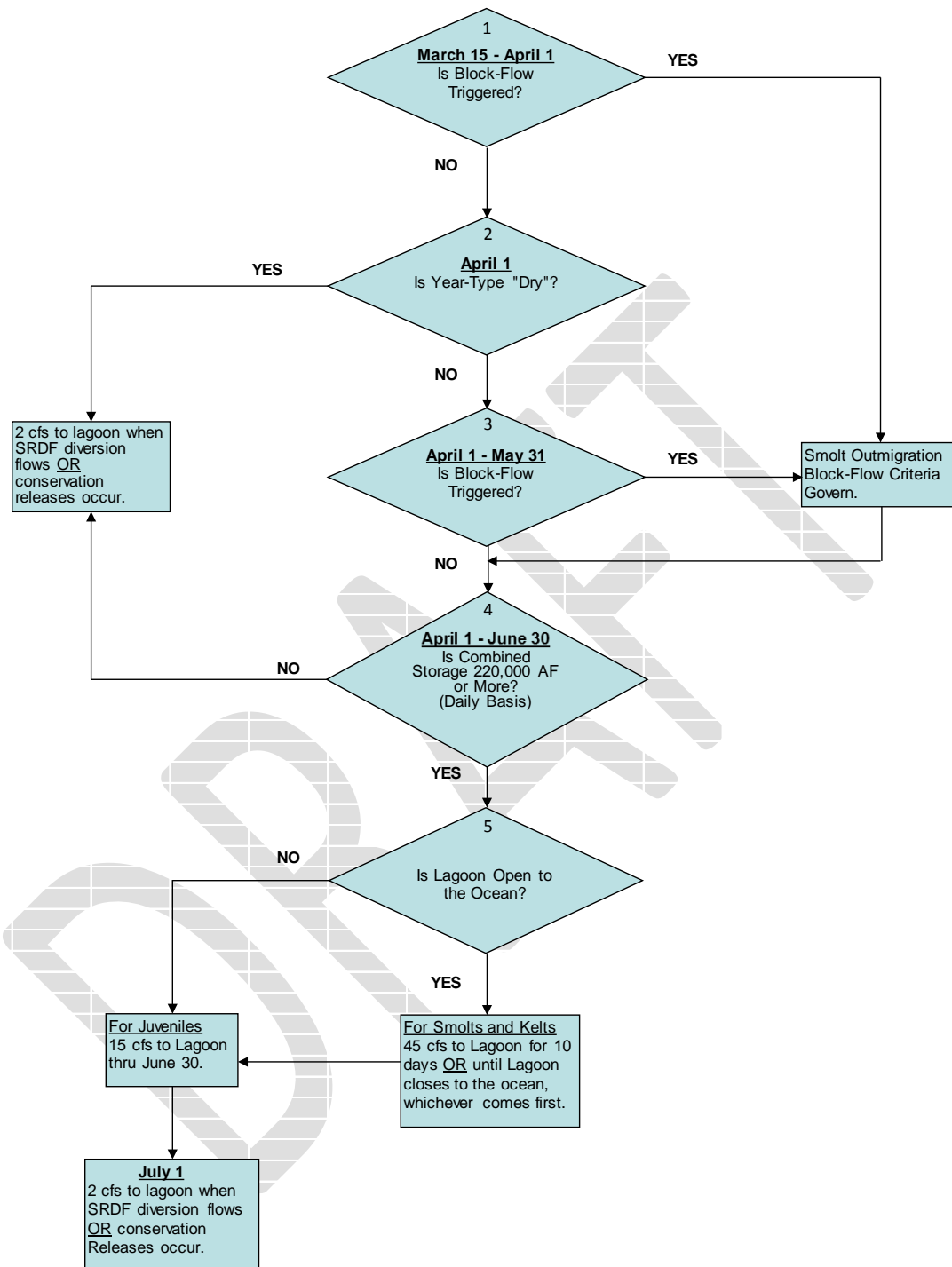


Figure 5. Flow release schedule to enhance downstream migration conditions for juvenile steelhead and kelts.

Spawning and Rearing Habitat in the Nacimiento River

The Agency will provide, through reservoir releases, steelhead spawning and rearing flows for the Nacimiento River below Nacimiento Dam. To provide spawning opportunities, the Agency will augment flow in the Nacimiento River by releasing 60 cfs from Nacimiento Reservoir beginning the eighth day after the first adult steelhead passage day occurs on the Salinas River near Spreckels after January 1st⁷. These flows will be continued through May 31st. Until further studies are conducted to determine adequate rearing flows in the Nacimiento River below the reservoir during summer and fall, the Agency will release a minimum of 60 cfs throughout the year as minimum rearing flow as long as the water surface elevation of Nacimiento Reservoir is above the minimum pool elevation 687.8 feet.

California Department of Fish and Wildlife Requirements

California Department of Fish and Game (currently the California Department of Fish and Wildlife) Code 5937 requires the owner of a dam to allow sufficient water at all times to pass over, through, or around the dam, to keep in good condition any fish that may be planted or exist below the dam.

With the installation of the hydroelectric plant at Nacimiento Dam the Agency entered into an agreement with the California Department of Fish and Game. Per the November 13, 1985 agreement (Appendix E) and in compliance with Section 5937 of the State Fish and Game Code, the Agency shall maintain a minimum discharge of 25 cfs from Nacimiento Reservoir at all times except under drought or emergency conditions as described in the agreement.

The 1985 Fish and Game agreement remains valid but the BO flow requirement of 60 cfs for spawning and rearing habitat on the Nacimiento River supersedes the 25 cfs discharge requirement.

Figure 6 shows the periods with Nacimiento Reservoir BO compliance operation requirements to provide opportunities for fish migration and for spawning and rearing habitat.

⁷ The first day of passage is the beginning date of the first period with five consecutive days with flows of 260 cfs or higher at the Salinas River near Chualar. The first potential spawning day in the Nacimiento River is assumed to be eight days after the first passage day.

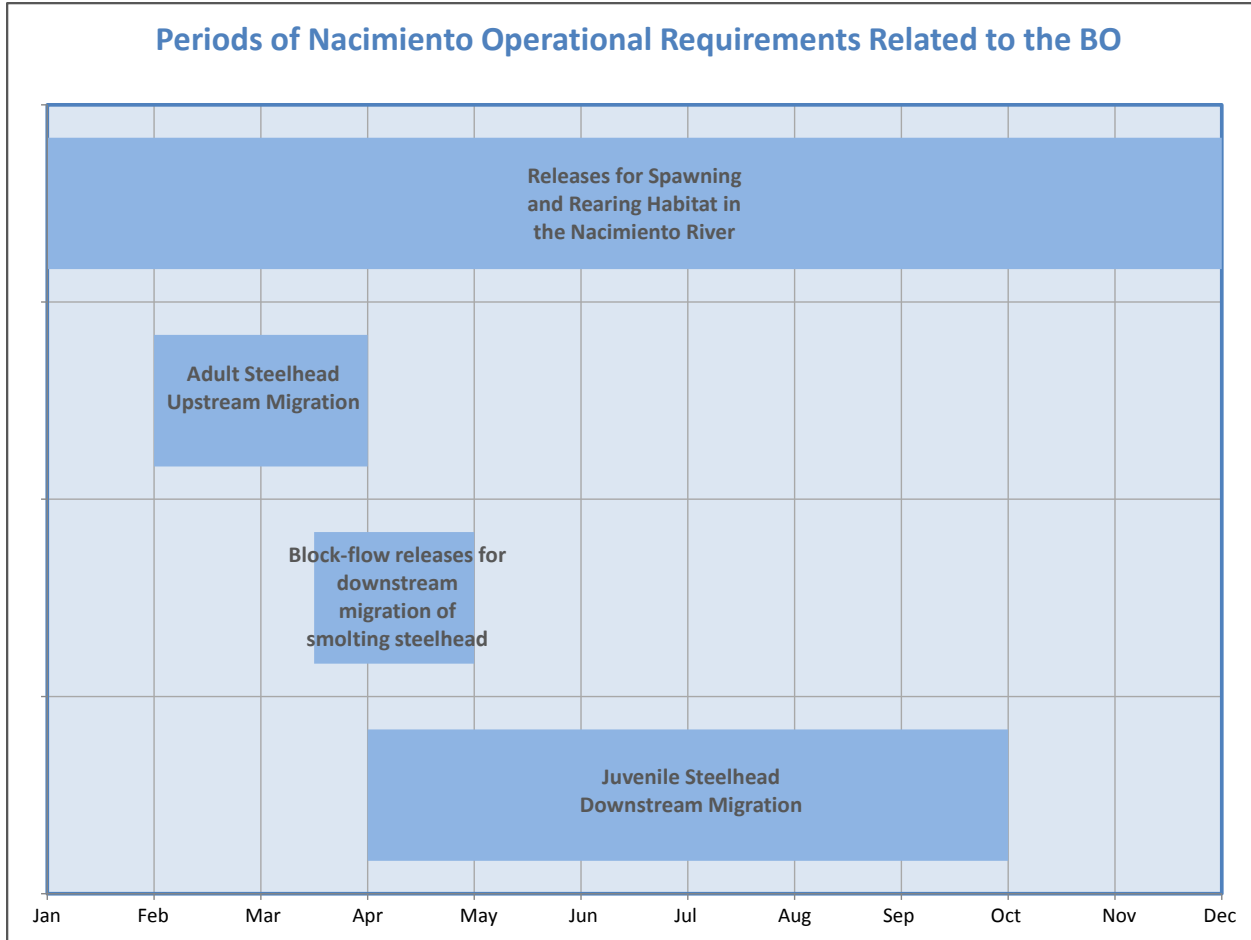


Figure 6. Periods of the Year with Reservoir Operation Environmental Compliance Requirements.

Flood Control Operation

During the winter, when heavy rains can cause flooding in the Salinas Valley, the Nacimiento Dam provides flood protection by regulating the Nacimiento River, the largest tributary of the Salinas River in terms of average annual flow.

In 2009, as a component of the Salinas Valley Water Project, the Nacimiento Dam Spillway was modified to address safety issues associated with the flood flows that must be conveyed through the reservoir and the spillway. The spillway modification included the lowering of the existing concrete spillway crest to accommodate an inflatable spillway gate system as well as improvements to the spillway chute walls to accommodate the higher spillway discharge made possible by the inflatable gates. The spillway modification allows the Agency to store water up to an elevation of 800 feet, which is the top of the raised inflatable spillway gates and the same elevation as the previous concrete spillway crest. Without this modification, the Agency would

have had to provide additional flood storage equal to 17 feet of elevation by lowering the reservoir level as of January 1 every year to 765 feet.

The two main agencies with regulatory authority over the Nacimiento Dam are the California Department of Water Resources, Division of Safety of Dams (DSOD) and the Federal Energy Regulatory Commission (FERC).

Nacimiento Dam is under the jurisdiction of the DSOD. Besides inspecting the Dam on a regular basis, they are responsible for issuing a Certificate of Approval showing the conditions under which the Agency can operate Nacimiento Dam (Appendix F). On December 29, 2009, the DSOD issued a Certificate of Approval to the Agency for the impoundment of water up to an elevation of 800 feet NGVD29, the top of the inflated spillway gate system. If the reservoir reaches an elevation of 801 feet, an operator shall be dispatched to the dam to ensure the gates are fully lowered.

As a result of the installation and operation of the hydroelectric power generation facility in 1987, Nacimiento Dam is under the jurisdiction of the FERC. To meet FERC requirements the Agency has adopted an Emergency Action Plan (EAP) for Nacimiento Dam. The EAP contains a High Flow Operations Plan (Appendix G) to ensure the dam is operated safely during flood events and that the appropriate agencies are notified of expected flood control releases.

The flood rule curve adopted by the Agency in 1985 was superseded by the December 29, 2009, DSOD Certificate of Approval allowing the impoundment of water up to an elevation of 800 feet year round. The Agency shall identify a self-imposed range of operating elevations within the flood pool that will provide adequate reservoir storage space during the winter for the Agency to respond to forecasted storm events. The elevations will be developed with a goal of reducing the likelihood of flood control releases greater than 4,000 cfs while maintaining a reservoir elevation of no greater than 800 feet. Reservoir releases greater than 4,000 cfs have the potential to damage the river intake of the Heritage Ranch Community Services District as well as bridges and infrastructure in Camp Roberts.

During some severe, or unusual, flood events, situations may arise where the Agency must choose between: (1) making releases from the Dam that may result in property damage because such releases add to the flood flow of the Salinas River, and (2) holding the releases and potentially endangering the Dam, or risking a greater release, with even greater potential for property damage in the near future.

During such situations, the safety of the Dam shall be the primary consideration. Next in importance is the reduction of property damage from flooding. The actions that are likely to result in the least overall property damage shall be chosen by the Agency. The Agency will consult the High Flow Operations Plan (Appendix G) in addition to other available information, such as weather forecasts, streamflow forecasts, streamgage data, and Automated Local Evaluation in Real Time (ALERT) Flood Warning System data, to develop the best course of action. Weather forecasts from the National Weather Service (NWS) and streamflow forecasts

from the California Nevada River Forecast Center (CNRFC) will be used to help forecast reservoir inflow and river conditions. The Agency shall consider forecasted reservoir inflow and peak river flows when planning flood control releases in order to minimize downstream damage and maximize reservoir storage. The Agency will use USGS streamflow gages and ALERT Flood Warning System data to assist in the timing of flood control releases and track releases and streamflow peaks through the Salinas River system.

Recreation Management Plan

Nacimiento Reservoir is a major recreation attraction. Many businesses depend upon visitors and property owners who use the reservoir for boating, fishing, swimming, and scenic viewing. Keeping in mind the priorities of flood protection, groundwater recharge, water supply, fish migration, and fish habitat requirements, the Agency will operate the Dam in such a manner as to enhance the recreation benefits of the reservoir to the extent possible, as described in the Recreation and Bass Spawn sections on page 13.

Drought Contingency Plan

A Drought Contingency Plan describing reservoir operations will be incorporated into this document after such a plan is developed in collaboration with NMFS, other regulatory agencies, and stakeholders, reviewed by the Reservoir Operations Advisory Committee, and adopted by the Agency Board of Directors.

Section IV – Safety and Maintenance

Emergency Preparedness

The Agency has prepared an EAP for Nacimiento Dam in accordance with FERC guidelines. The purpose of the EAP is to safeguard lives and reduce damage at Nacimiento Dam and Reservoir, and along the Nacimiento and the Salinas Rivers in the unlikely event of a failure of the Nacimiento Dam. The EAP is to be used during major flooding events along the Nacimiento and Salinas Rivers as a guide for emergency personnel in determining maximum flood water elevations, and for notifying emergency personnel during any significant flood event or potential emergency situation regarding Nacimiento Dam.

Dam Safety

Jurisdictions, Hazard, Critical Infrastructure

The Agency owns and operates the dam and its supporting facilities (including, but not limited to, valves, controls, roads, bridge, residence, out-buildings, etc.) and is responsible for their safe operation and maintenance.

Jurisdiction over matters of dam safety is held by the State of California through the DSOD as specified in California Code of Regulations Title 23, Division 2 and California Water Code, Division 3. DSOD issues a Certificate of Approval describing conditions under which an owner can operate a dam under their jurisdiction. As described in the Flood Control Operation section of this Policy, the DSOD issued a Certificate of Approval to the Agency on December 29, 2009 (Appendix F) for the impoundment of water up to an elevation of 800 feet (NGVD29), the top of the inflated spillway gates. If the reservoir reaches elevation 801 feet, an operator shall be dispatched to the dam to ensure the spillway gates are fully lowered.

Upon completion of the Nacimiento Hydroelectric Project in 1987, supplied by Nacimiento Dam/Reservoir, the Federal Energy Regulatory Commission (FERC) retains Federal jurisdiction for dam safety matters and implements its responsibilities through the Code of Federal Regulations, Title 18, Part 12 (18CFR Part 12).

Nacimiento Dam is considered a “High Hazard” dam by DSOD and FERC due to the potential for downstream loss of life and property damage in the event of a catastrophic dam failure.

Nacimiento Dam and its appurtenant facilities are classified “critical infrastructure” under Homeland Security Presidential Directive 7, and as further defined in FERC Order No. 630,

issued February 21, 2003. Consequently, the Agency does not provide information regarding the dam or its appurtenant facilities that may create a security risk.

Inspections

The following inspections are performed for Nacimiento Dam:

The Dam is observed daily by the Agency Reservoir Operator and Maintenance staff. Additional inspections are performed periodically by Agency Maintenance and Engineering staff. Post-earthquake inspections are performed by Agency maintenance staff after earthquakes of magnitude 3.5 or larger within 35 miles, and by Agency maintenance and engineering staff after earthquakes of magnitude 5.0 or larger within 50 miles. Agency staff also performs at least two annual inspections of all facilities along with inspectors from other agencies, as described below. An annual settlement and shift survey is performed to assure that no unusual movement of the embankment occurs. Valves, gates and emergency equipment (e.g., generators and connections) are regularly exercised.

DSOD personnel and FERC personnel each inspect the dam annually. Per FERC requirement, every five years the Agency hires a qualified engineering consultant to provide an independent safety inspection, to update the dam potential failure mode analysis, and provide a comprehensive report to the Agency and to FERC. The report is performed according to Title 18 of the Code of Federal Regulations Part 12D (18CFR12D) guidelines.

Monitoring and Reporting

An Owners Dam Safety Program (ODSP) for Nacimiento Dam was adopted by the Agency Board of Directors in April 2012. The ODSP, a FERC required program, is intended to ensure that Agency personnel and consultants understand and maintain awareness of the need to comply with dam safety measures and requirements to help safeguard lives and reduce damage downstream of and at Nacimiento Dam. The ODSP for Nacimiento Dam includes: Designation of responsibilities for dam safety, dam safety training of appropriate personnel, communications and reporting procedures, record keeping retention, succession planning, and assessments and audits of the Dam Safety Program.

The Agency maintains a Dam Safety Surveillance and Monitoring Plan (DSSMP), a FERC required document, which provides details on how performance of the dam structure is monitored and evaluated. The DSSMP may be revised when significant investigations or instrumentation modifications occur.

A Dam Safety Surveillance and Monitoring Report (DSSMR), a FERC required document, is prepared annually and submitted to FERC and DSOD for review. The DSSMR includes review of instrumentation and monitoring data, inspection information, and other relevant data,

collected and evaluated in accordance with the DSSMP, to determine if any potential failure modes are developing and to provide information to remediate such an occurrence if found.

Operation

The Dam shall be operated with safety as the primary consideration. During flood events, the Dam will be operated as described in the Flood Control Operation section of this Policy.

Maintenance

The Agency maintains a multi-year maintenance plan for the dam and its supporting facilities. The plan is updated annually (or more frequently as needed) and is used for the planning and budgeting of inspection, monitoring and reporting, maintenance, repair and improvement work at the dam and its supporting facilities.

Maintenance and repair of the Dam and supporting facilities are required. The Agency will reduce or stop flows through the LLOW and/or HLOW if the Agency determines such is necessary to ensure the safety of personnel performing the maintenance or repair work. The Agency will endeavor to schedule reduction or cessation of flows to minimize impacts to State or Federal Endangered Species Act species in Nacimiento River below the dam. The Agency will document the occurrence and duration of any flow reduction or cessation for such maintenance or repair purposes.

If debris within the lake or on the water surface threatens the safe operation of the dam, its spillway or outlet facilities, the Agency will take action to remove or retain such debris. The Agency maintains two floating debris booms in an effort to prevent excessive debris from collecting on the dam, spillway or outlet areas. One boom is located across the reservoir upstream of the dam, and one boom is located across the spillway inlet channel. The Agency is under no regulatory obligation to remove debris that washes into the general reservoir during flood events.

In the event it becomes necessary to perform non-emergency maintenance, repair, or construction work at the Dam or its supporting facilities that require lowering the reservoir to elevations below those described in other sections of this policy, to the extent possible, such work shall be scheduled to occur during a period when the reservoir level would have reached the necessary lower elevation based on criteria listed in other sections of this policy.

In the event of an emergency where a hazardous situation threatens the structural integrity of the dam, rapid drawdown of the reservoir may be undertaken by the Agency to reduce hydraulic forces acting on the dam. Drawdown for such purpose may also be directed by DSOD or FERC. Such reservoir drawdown may be accomplished through the spillway gates, HLOW and LLOW.

Section V – Reporting

Annual Reports

Agency staff will produce a written annual summary that includes reservoir conditions for a particular Water Year as well as expenditures on a Fiscal Year basis. Contents of the annual summary report shall include: reservoir inflow, flood control releases, conservation and SRDF Operation releases, Nacimiento Water Project diversions, hydropower production, reservoir levels, storage, rainfall and evaporation data, and a cumulative yearly summary.

The annual summary will be presented to the Reservoir Operations Advisory Committee by July 1st of the following water year.

DRAFT

References

ECORP Consulting, Inc., Interlake Tunnel and San Antonio Enlargement Project Simulation Modeling Technical Memorandum, November 12, 2014.

EDAW, Inc., Final Environmental Impact Report/Environmental Impact Statement for the Salinas Valley Water Project Volumes I and II, 2002

EDAW, Inc., Salinas Valley Water Project Draft Environmental Impact Report/Environmental Impact Statement, 2001

ENTRIX, Salinas Valley Water Project EIR Addendum, 2007.

GEI Consultants, Inc., Supplemental PMF Hydrology Report for Nacimiento Reservoir FERC Projects 6378-CA, October 2003.

Monterey County Water Resources Agency, Salinas Valley Water Project Flow Prescription for Steelhead Trout in the Salinas River, October 11, 2005.

Nacitone Watersheds Steering Committee and Central Coast Salmon Enhancement, Inc., San Antonio and Nacimiento Rivers Watershed Management Plan, October 2008.

National Marine Fisheries Service, Biological Opinion of the Salinas Valley Water Project, June 21, 2007.


U. S. Fish and Wildlife Service, Biological Opinion on Issuance of Department of the Army Permits to the Monterey County Water Resources Agency for Construction of a Surface Water Diversion Structure in the Salinas River, Near the City of Salinas (Corps File Number 24976s) and for Breaching of the Salinas River Lagoon (Corps File Number 16798S) in Monterey County, California (1-8-06-F-54), July 24, 2007.

Appendix A. Hollenbeck Consulting Technical Memorandum
Regarding Recommended Maximum Velocity in
Low Level Outlet at Nacimiento Dam

Project: Interlake Tunnel Project
 Subject: Nacimiento Low Level Outlet Maximum Velocity Evaluation

Project No: 2014-003
 Date: 14 SEP 2016

TO: Chris Moss, P.E., Senior Water Resources Engineer
 Monterey County Water Resources Agency

FROM: John R. Hollenbeck, P.E. 

SUBJECT: Recommended Maximum Velocity in Low Level Outlet at Nacimiento Dam

Background

The Monterey County Water Resources Agency (MCWRA) owns and operates Nacimiento Dam located in San Luis Obispo County, California. The dam, built circa 1957, has a 54-inch inside diameter steel conduit to serve as the dam’s low level outlet. The conduit is encased in structural concrete, and has an internal cement mortar lining (CML) specified to be ½-inch thick; therefore, the finished inside diameter of the low level outlet is 53-inches. The construction specifications indicate that the CML shall be field-applied machine troweled lining meeting the AWWA C205-41¹ standard specifications titled “Cement-Mortar Protective Coating for Steel Water Pipe of Sizes 30 Inches and Over”.

The conduit conveys water from the reservoir to hydraulic facilities at the toe of the dam. The hydraulic facilities include: a two-unit powerhouse for regulating releases through hydroelectric generating turbines, and a six-valve energy dissipating structure used at times that the hydroelectric unit is offline. The powerhouse, designed by R.W. Beck and Associates, was installed circa 1987, whereas the six-valve energy dissipating structure is original with the dam’s construction, circa 1957. The operations and maintenance manual for the hydroelectric plant [Ref 1] suggests that the maximum velocity in the low level outlet shall be less than 30 feet per second (fps) when the hydroelectric plant is operating. The low level outlet rating curve is presented on the Bechtel Drawing 61-A-200, and is reproduced herein as **Table 1**. The corresponding velocity for each of these rating points is also presented.

TABLE 1. Low Level Outlet Rating, Nacimiento Dam

Low Level Outlet Rating (cfs)	Nacimiento Reservoir Elevation (ft-NGVD29)	Velocity (fps)
0	670	0.0
240	677	15.7
305	680	19.9
350	683	22.8
380	692	24.8
425	710	27.7
470	730	30.7
540	770	35.2
585	800	38.2

Purpose

MCWRA requests Hollenbeck Consulting (HC) to research the maximum velocity through CML steel conduits, and present a recommended acceptable maximum velocity for the Nacimiento Low Level Outlet based on this research.

Research on Maximum Velocity in Cement-mortar Lined Steel Conduits.

Literature research from the HC technical library was performed to gain an understanding of the recommended maximum velocity for CML steel conduits. HC also contacted a few experts in the area of steel conveyances. **Table 2** presents a summary of these results.

¹ Note that in 1951, AWWA removed the field-applied specifications for CML and created a new specification, AWWA C602, Cement-mortar Lining of Water Pipelines In-Place, 4-inches and Larger.

TABLE 2. Recommendations on Maximum Velocity in Cement-mortar Lined Steel Conduits

Cited Reference	Recommended Maximum Velocity (quoted where appropriate)
Nacimiento Hydroelectric Project Operation and Maintenance Manual, R. W. Beck and Associates, August 1987.	“To prevent accelerated deterioration of the lining, velocities are kept below 30 fps during power operation ...”
AWWA C205-00, Cement-mortar Protective Lining and Coating for Steel Water Pipe 4-inches and Larger (shop applied)	“Flow Velocity. Cement-mortar linings perform best when flow velocities are in normal ranges. When the flow velocity exceeds approximately 20 ft/s, special studies may be required to determine the suitability of this type of lining material.”
Chapter 5 – Steady Flow in Closed Conduits, Civil Engineering Guidelines for Planning and Designing Hydroelectric Developments, ASCE/EPRI, 1989.	“Design velocities are usually in the range of 10 to 20 ft/s, with most below 15 ft/s, when based on the cost of construction versus the value of the energy lost due to friction.” [note: this was within a section discussing concrete-lined power conduits, and did not specifically mention cement-mortar lined conduits]
Mr. Henry Bardakjian, Ameron International (retired), task group member on AWWA Manual M11, Fourth Edition (Steel Pipe – A Guide for Design and Installation), and Chairman for AWWA C205-00, Cement-mortar Protective Lining and Coating for Steel Water Pipe 4-inches and Larger (shop applied), just to mention a few.	“In plant piping sometimes velocities up to 30 fps have been used. For higher velocities, you have to watch for cavitation even for bare steel.” ²
Mr. Dick Stutsman, Pacific Gas and Electric Company (retired), Chairman of ASCE Manuals and Reports on Engineering Practice No. 79 – Steel Penstocks, 1993.	“... the maximum velocity for that project should be in the 20 fps range.”
Water Pipe Design Manual, Northwest Pipe Company	“Cement-mortar linings perform best when flow velocity is 20 feet per second or less.”
Section 10 – Corrosion Prevention and Control, ASCE Manuals and Reports on Engineering Practice No. 79 – Steel Penstocks, Richard D. Stutsman, Chairman, 1993.	“...that water velocities do not exceed 20 feet per second.”
Section 10 – Corrosion Prevention and Control, ASCE Manuals and Reports on Engineering Practice No. 79 – Steel Penstocks, John H. Bambei, Chairman, 2011 (DRAFT).	High Water Velocities: “... on flatter profiles, cement-mortar lining may be applicable provided that the velocity does not exceed 20 feet per second and there are not large volumes of transported sands and gravels.”

Several other technical documents by AWWA, Corps of Engineers, United States Bureau of Reclamations, to name a few, were also consulted, but the search of the document did not locate reference to maximum design velocity.

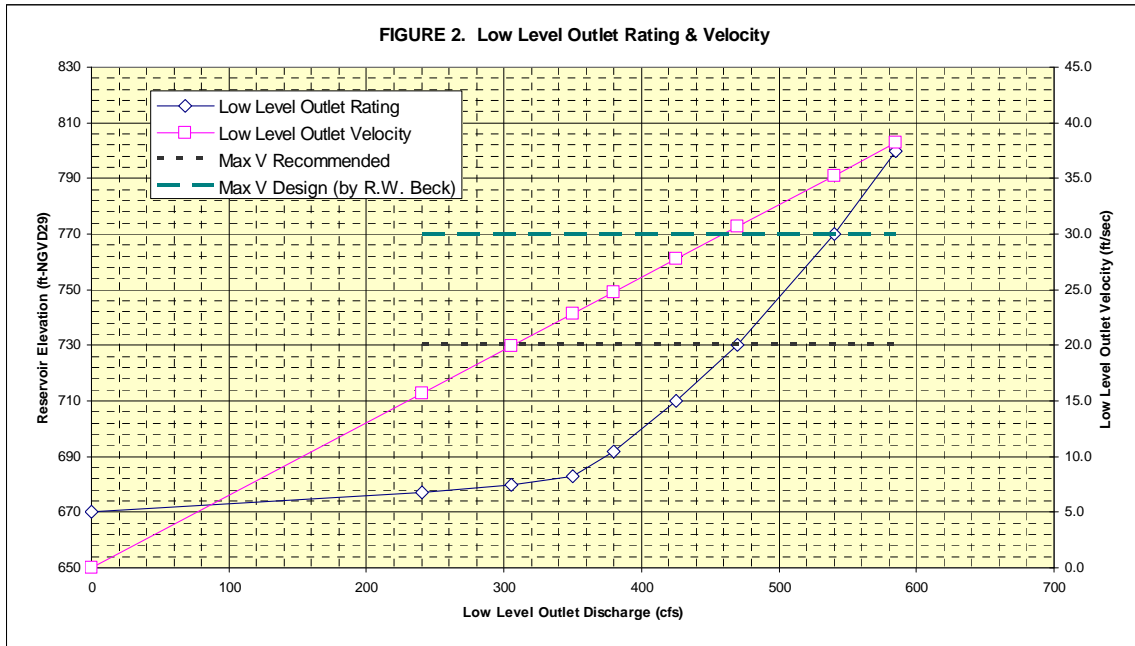
Conclusion and Recommendation

The author of this technical memorandum began work on this assignment with a presumption that the maximum velocity should be in the order of 20 fps based on past work experiences. The literature research, for the most part, confirms that 20 fps is the standard for the industry. The actual operation of the low level outlet at the dam suggests that the CML conduit has routinely experienced velocities in excess of 20 fps. **Figure 1** presents the rating of the low level outlet and the flow velocity within the outlet at these

² Mr. Bardakjian’s personal e-mail communication to the author suggests that plant piping some times has velocities up to 30 fps. He was asked what he meant by “plant piping” but did not provide a response.

rating points. Superimposed on this graphic are the 20 fps threshold that is recommended within the cited literature and the 30 fps threshold cited in the hydroelectric power plant’s operations and maintenance manual. It is common for variations in maximum-reported values for design parameters, so the 20- to 30-fps range does appear to be the upper limits for this low level conduit. MCWRA has nearly 60 years’ experiences of this conduit in operation at times where the velocity exceeds 20 fps with no reported damage to the CML. Since most research literature suggests 20 fps as a maximum, in particular the AWWA C205-00 specification³, it would suggest that the velocity of the low level outlet should be limited to a maximum of 20 fps.

Based on the longevity of conduit performance with no reported issues, a maximum velocity of no more than 30 fps appears acceptable; however, based on accepted engineering references, it is recommended that MCWRA consider limiting the low level outlet conduit velocity to a maximum of 20 fps if such operations meet conservation release goals.



References

1. Section II – Project Description, Nacimiento Hydroelectric Project Operation and Maintenance Manual, R. W. Beck and Associates, August 1987.

³ AWWA C205-00 is for shop-applied linings. The AWWA C602-00 standard for field-applied linings was reviewed and determined that it does not contain a maximum velocity recommendation.

Appendix B. Agency Water Rights Documents

- a. License 7543
- b. Permit 21089
- c. Permit 19940

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

DIVISION OF WATER RIGHTS

ORDER WR 2008-0037-DWR

In the Matter of License 7543 (Application 16124), License 12624 (Application 16761),
and Permit 21089 (Application 30532)

Monterey County Water Resources Agency

**ORDER APPROVING CHANGE IN PLACE OF USE,
ADDING POINT OF REDIVERSION AND
ISSUING AMENDED LICENSES AND PERMIT**

SOURCES: Nacimiento River and San Antonio River tributary to Salinas River

COUNTIES: Monterey and San Luis Obispo

WHEREAS:

1. The State Resources Control Board (State Water Board) Division of Water Rights (Division) issued License 7543 to the Monterey County Water Resources Agency (MCWRA) on November 4, 1965, pursuant to permitted Application 16124; issued License 12624 to MCWRA on December 2, 1965 (amended April 22, 1990), pursuant to permitted Application 16761; and issued Permit 21089 to MCWRA on March 23, 2001, pursuant to Application 30532.
2. Division records of ownership for all three water rights show the current owner as Monterey County Water Resources Agency.
3. An Environmental Impact Report /Environmental Impact Statement (EIR/EIS) was prepared in order to evaluate potential impacts from MCWRA's Salinas Valley Water Project (SVWP). In June 2003, the MCWRA Board of Supervisors certified the Final EIR/EIS (State Clearinghouse No. 2000034007) (FEIR).
4. On November 8, 2004, MCWRA filed a petition to change the place of use and add a point of rediversion under Licenses 7543 and 12624 and Permit 21089. The petitions were publicly noticed on December 17, 2004. The petitioner sought to change the place of use under the licenses and permit to include 421,435 acres comprising MCWRA Zone 2-C (an assessment zone) as shown on a map dated October 28, 2004.
5. On January 14, 2005, the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) filed a protest against the change petitions, arguing that the Salinas Valley Water Project posed a potentially adverse impact to steelhead. The protest was accepted by the Division on February 4, 2005.
6. The location of the point of rediversion was amended by approximately 200 feet in a separate petition, submitted October 23, 2007. The Division determined that a public notice was not required for this petition under title 23 Cal. Code Regs § 795.

7. On June 20, 2007, NMFS issued its final biological opinion for the SVWP.
8. MCWRA prepared an Addendum to the FEIR for the SVWP. The purpose of the Addendum was to analyze the environmental impacts associated with the changes in the SVWP that have occurred since the certification of the FEIR, including changes contemplated in the biological opinion.
9. On August 29, 2008, NMFS withdrew its protest based on inclusion of the biological opinion's flow prescriptions in the amended licenses and permit.
10. The State Water Board has determined the amended licenses and permit do not constitute an initiation of a new right and do not injure prior rights or the public trust resources of the State.

THEREFORE, IT IS ORDERED:

1. The attached Amended License 7543 is issued, superseding former License 7543 issued on September 5, 1967. The priority of Amended License 7543 is November 4, 1954.
2. The attached Amended License 12624 is issued, superseding former Amended License 12624 issued on April 26, 1990. The priority of Amended License 12624 is December 2, 1955.
3. The attached Amended Permit 21089 is issued, superseding former Permit 21089 issued on March 23, 2001. The priority of Amended Permit 21089 is April 23, 1996.
4. The State Water Board has determined that the subject licenses and permit shall be amended to include the following specific changes:
 - (a) Change the place of use to include 421,435 acres comprising MCWRA Zone 2C (an assessment zone) as shown on map dated August 14, 2008.
 - (b) Add a point of rediversion to be located as follows:
By California Coordinate System of 1983, Zone 4, North 2,152,792 feet and East 5,755,485 feet being within SW ¼ of SE ¼ of Section 16, T14S, R2E, MDB&M.
 - (c) Add terms to incorporate the flow prescriptions included in the June 20, 2007 NMFS biological opinion.
5. The State Water Board standard license terms pertaining to continuing authority, water quality objectives, protection of endangered species, and the need for State Department of Fish and Game stream alteration agreement shall be updated or added to the subject amended water rights.
6. Prior to initial operation of the Salinas River Diversion Facility (SRDF) at the point of rediversion, the permittee/licensee shall submit a Compliance Plan for approval by the Chief of the Division of Water Rights that will demonstrate compliance with the flow prescriptions specified in the attached amended permit and licenses. The Compliance Plan shall include the following:
 - (a) A description of the physical facilities (i.e., outlet pipes, siphons, pipelines, bypass ditches, splitter boxes, etc.) that have been constructed or will be constructed at the project site and will be used to bypass or release flow to comply with the flow prescriptions.

- (b) A description of the gages and monitoring devices that have been installed or will be installed to measure streamflow and/or reservoir storage capacity.
- (c) A time schedule for the installation of these facilities, if not already installed.
- (d) A description of the frequency of data collection and the methods for recording flows and storage levels.
- (e) An operation and maintenance plan that will be used to maintain all owned facilities in good condition and monitor the condition of facilities owned by other parties.

The permittee/licensee shall be responsible for all costs associated with developing the Compliance Plan, and installing and maintaining all flow bypass and monitoring facilities described in the Compliance Plan.

The monitoring data shall be maintained by the permittee/licensee for ten years from the date of collection and made available to the Chief of the Division of Water Rights, upon request. Any non-compliance with the terms of the permit or licenses shall be reported by the permittee/licensee promptly to the Chief of the Division of Water Rights.

Operation of the SRDF prior to approval of the Compliance Plan and the installation of facilities specified in the Compliance Plan is not authorized.

7. Prior to initial operation of the SRDF, permittee/licensee shall (1) install any devices necessary to measure or calculate the quantities of water placed into underground storage, and (2) install devices to measure, or provide documentation of the method to be used to determine, the quantity of water recovered from underground storage and placed to beneficial use. All devices and the method of determining the quantity of water recovered from underground storage shall be approved by the Chief of the Division of Water Rights prior to initial operation of the SRDF. All devices shall be properly maintained.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY JAMES W. KASSEL for

Victoria A. Whitney, Chief
Division of Water Rights

Dated: September 5, 2008

Attachments: Amended License 7543
Amended License 12624
Amended Permit 21089



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

DIVISION OF WATER RIGHTS

Amended License for Diversion and Use of Water

APPLICATION 16124
Page 1 of 9

PERMIT 10137

LICENSE 7543

THIS IS TO CERTIFY, That

Monterey County Water Resources Agency
P.O. Box 930
Salinas, CA 93902

has the right to the use of the waters of **Nacimiento River** in **San Luis Obispo County**
tributary to **Salinas River**

for the purpose of **Municipal, Domestic, Industrial, Irrigation, and Recreational uses.**

Amended License 7543 supersedes the license originally issued on **November 4, 1965**, which was perfected in accordance with the laws of California, the Regulations of the State Water Resources Control Board (State Water Board), or its predecessor, and the terms of **Permit 10137**. The priority of this right dates from **November 4, 1954**. Proof of maximum beneficial use of water under this license was made as of **August 6, 1964**.

The amount of water to which this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated purposes and shall not exceed **three hundred fifty thousand (350,000) acre-feet per annum to be collected from October 1 of each year to July 1 of the succeeding year. The maximum withdrawal in any one year shall not exceed 180,000 acre-feet.**

The capacity of the reservoir covered under this license and license issued pursuant to Permit 21089 (Application 30532) shall not exceed 377,900 acre-feet.

This license does not authorize collection of water to storage outside the specified season to offset evaporation and seepage losses or for any other purpose.

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

Nacimiento Dam - By California Coordinate System of 1983, Zone 5, North 2,475,554 feet and East 5,705,620 feet, being within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 15, T25S, R10E, MDB&M.

THE POINT OF REDIVERSION OF SUCH WATER IS LOCATED:

Salinas River Diversion Facility (SRDF) - By California Coordinate System of 1983, Zone 4, North 2,152,792 feet and East 5,755,485 feet, being within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 16, T14S R2E, MDB&M.

A DESCRIPTION OF THE LANDS OR THE PLACE WHERE SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

Municipal, Domestic, Industrial, and Irrigation uses within: (1) 200,000 acres net within a gross area of 240,000 acres in Monterey County; (2) 500 acres of irrigated agriculture and 7,000 acres of urban and suburban lands within the San Luis Obispo County Flood Control and Water Conservation District as shown on map dated June 8, 1967; and (3) 421,425 acres comprising Monterey County Water Resources Agency (MCWRA) Zone 2C as shown on map dated August 14, 2008, all filed with the State Water Board. Recreational use at Nacimiento Reservoir within San Luis Obispo County, also shown on a map dated August 14, 2008, filed with the State Water Board.

This license shall not be construed as conferring upon the licensee the right of access to the point of diversion.

(0000022)

If it is determined after license issuance that the conditions of the project are not correctly represented by the map(s) prepared for this license, the licensee shall, at his expense, have the subject map(s) updated or replaced with equivalent as-built map(s). The revision(s) or new map(s) shall be prepared by a civil engineer or land surveyor registered or licensed in the State of California and shall meet the requirements prescribed in section 715 and sections 717 through 723 of the California Code of Regulations, Title 23. The revision(s) or map(s) shall be furnished upon request of the Chief of the Division of Water Rights.

(0000030)

Licensee shall maintain such records of stream flow, well levels and groundwater storage as are required by the State Water Board so as to determine the amount stored underground and extracted thereafter, and such records shall be submitted to the State Water Board on request. Submissions may be made to the Board electronically.

Licensee shall maintain devices, satisfactory to the Chief of the Division of Water Rights, to measure the quantities of water placed in underground storage, and water subsequently recovered for beneficial use.

(0080117)

This license is subject to the agreement dated October 19, 1959, between San Luis Obispo County Flood Control and Water Conservation District and MCWRA (formerly known as Monterey County Flood Control and Water Conservation District)

FLOW PRESCRIPTIONS FOR HABITAT MAINTENANCE

Criteria for Determining Water-Year Type

For purposes of applying the flow prescriptions, water year types are defined based on indexing the record of unimpaired mean annual flows at the United States Geological Survey (USGS) streamflow gage No. 11152000 (Arroyo Seco near Soledad). The mean annual flows were ranked in descending order to obtain exceedance probability based on percentile. The percentiles (or exceedance probability) for each year type are described below:

<u>Water-year type</u>	<u>Percentile range (exceedance probability)</u>
Wet	0% to and including 25%
Wet-Normal	over 25% to and including 41.7%
Normal-Normal	over 41.7% to and including 58.3%
Dry-Normal	over 58.3% to and including 75%
Dry	over 75% to and including 100%

The initial values for determining water year types are listed below. These values may be updated in accordance with the percentile ranges (exceedance probability) listed above to incorporate the most recent data. At least the most recent 100 years of data must be included in the calculation. Mean daily flows (MDF) shall be used to calculate the mean annual flow of the water year starting October 1 of each year and ending September 30 of the succeeding year. If the licensee intends to use updated flow rates, the new rates must be declared in writing to the State Water Board by January 1 of the first year they will be utilized. Any revised flow rates shall remain in effect until updated with more recent data.

<u>Water-year type</u>	<u>Mean Daily Flow Rate at USGS Gage 11152000 (Arroyo Seco near Soledad) on March 15 or April 1</u>
Wet	250 cubic feet per second (cfs) or higher
Wet-Normal	152 cfs or higher but less than 250 cfs
Normal-Normal	104 cfs or higher but less than 152 cfs
Dry-Normal	66 cfs or higher but less than 104 cfs
Dry	less than 66 cfs

(0140400)

Flow Prescription for Adult Steelhead Upstream Migration

From February 1 to and including March 31, during all year types, and when the criteria below is met, licensee shall maintain an MDF of 260 cfs at USGS gage No. 11152300 (Salinas River near Chualar) using reservoir releases when necessary to augment natural flow. This requirement is triggered when all four of the criteria below are met simultaneously.

Trigger Criteria for Adult Steelhead Upstream Migration Flow

1. Combined storage of Nacimiento and San Antonio Reservoirs is greater than 220,000 acre-feet.
2. An MDF at USGS gage No. 11152000 (Arroyo Seco near Soledad) greater than or equal to 340 cfs.
3. An MDF at USGS gage No. 11152050 (Arroyo Seco below Reliz Creek) greater than or equal to 173 cfs.
4. Hydraulic continuity in the Salinas River exists to the Pacific Ocean.

During wet or dry years, and once all the criteria are met, the 260 cfs MDF requirement remains effective through March 31 unless condition 4 above ceases to exist.

For any of the three normal year types, from January 1 to and including March 31, the 260 cfs MDF requirement must be maintained such that on a 10-year average the number of upstream passage days (days with at least 260 cfs MDF at USGS gage No. 11152300 (Salinas River near Chualar)) listed below will be achieved within a 10% variance. For example, the average number of passage days for all of the dry-normal years within a 10-year period must be at least 14 (16 days average minus variance of 2). At least 5 consecutive days with flow of at least 260 cfs MDF must occur for a flow period to credit towards the total for each year. The year type for the purpose of determining the number of passage days must be determined on March 15 or April 1 using the Criteria for Determining Water Year Type listed above.

<u>Water-year type</u>	<u>Upstream Fish Passage Days from January 1 to March 31</u>
Wet-Normal	Average 73 days with variance of 7 days.
Normal-Normal	Average 47 days with variance of 5 days.
Dry-Normal	Average 16 days with variance of 2 days.

(0140400)

Flow Prescription for Downstream Migration of Smolting Steelhead

The licensee shall provide a single block-flow release (as described in Block-Flow Release Criteria below) from Nacimiento Reservoir and San Antonio Reservoir (under License 12624 [Application 16761]) to facilitate downstream migration of steelhead in the Salinas River in accordance with the event triggers described in the flow chart in Figure 1.

Block-Flow Release Criteria

A block-flow release consists of the natural flow in the Salinas River augmented by releases from Nacimiento and San Antonio dams to achieve the specified MDF for the specific number of consecutive days directed below.

Days 1 through 5: Maintain an MDF of at least 700 cfs at USGS gage No. 11151700 (Salinas River at Soledad).

Day 6 and beyond: Maintain an MDF of at least 300 cfs at USGS gage No. 11152500 (Salinas River at Spreckels).

The number of days the block-flow release must be maintained at the MDF of 300 cfs beyond Day 6 is determined by when Day 1 occurs. If Day 1 occurs between March 15 and April 1, then block flow must continue to April 20. If Day 1 occurs between April 2 and May 31, then block flow must continue for 15 more days (Day 6 through Day 20).

Starting after completion of the block-flow release, if the MDF at USGS gage No. 11152050 (Arroyo Seco below Reliz Creek) is greater than 1 cfs, maintain Salinas River surface flow to the ocean through 10 days after flow at USGS gage No. 11152050 initially drops below an MDF of 1 cfs.

(0140400)

Flow Prescription for Downstream Migration of Juvenile and Post Spawn Adult Steelhead

To protect fishery during periods when block-flow releases have not yet been initiated, follow the flow prescription described in the flow chart in Figure 2. From March 15 through May 31 continue to monitor for the initiation of block-flow. If the conditions to initiate block-flow occur, suspend the process in Figure 2 and follow the process in Figure 1.

(0140400)

Flow Prescription for Spawning and Rearing Habitat in the Nacimiento River

Licensee shall augment flow in the Nacimiento River by releasing 60 cfs MDF from Nacimiento Reservoir beginning the 8th day after the first adult steelhead passage day occurs on the Salinas River after January 1 of each year. The first passage day is the first day in a period of 5 consecutive days with an MDF of 260 cfs or higher at the USGS gage No. 11152300 (Salinas River near Chualar). The release of 60 cfs MDF will continue at least through May 31. After May 31, licensee will continue to release 60 cfs MDF the remainder of the calendar year as long as the water surface elevation of Nacimiento Reservoir is above 687.8 feet mean sea level.

(0140400)

Flow Prescription at the End of the Irrigation Season

Prior to lowering of the SRDF, the SRDF impoundment will be filled to its storage capacity and water will be allowed to pass from the impoundment to the lagoon at a rate of 2 cfs MDF (measured at the SRDF) until the impoundment is emptied. The rate may be increased if necessary to empty the impoundment in time to perform facility maintenance before river flows prevent maintenance work.

(0140400)

General Requirements for Flow Prescriptions

The above mentioned flow criteria are dependent on real time flow measurements from USGS stream gages subject to intermittent telemetry interruptions. To ensure compliance during such interruptions the licensee will use its ALERT system data supplemented with field observations by its own staff and/or USGS field personnel as required.

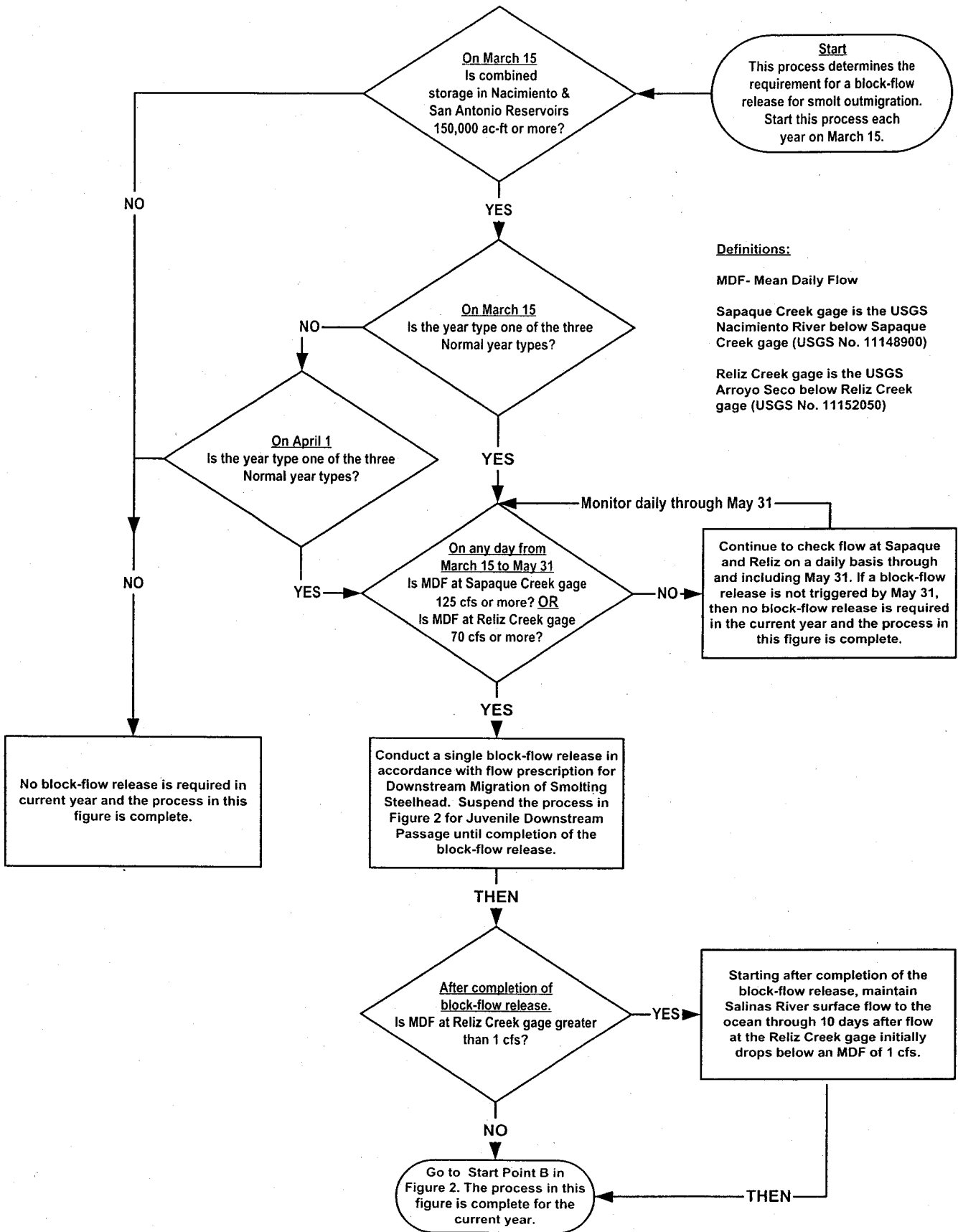


Figure 1 – Criteria to trigger block-flow release for downstream migration of smolting steelhead.

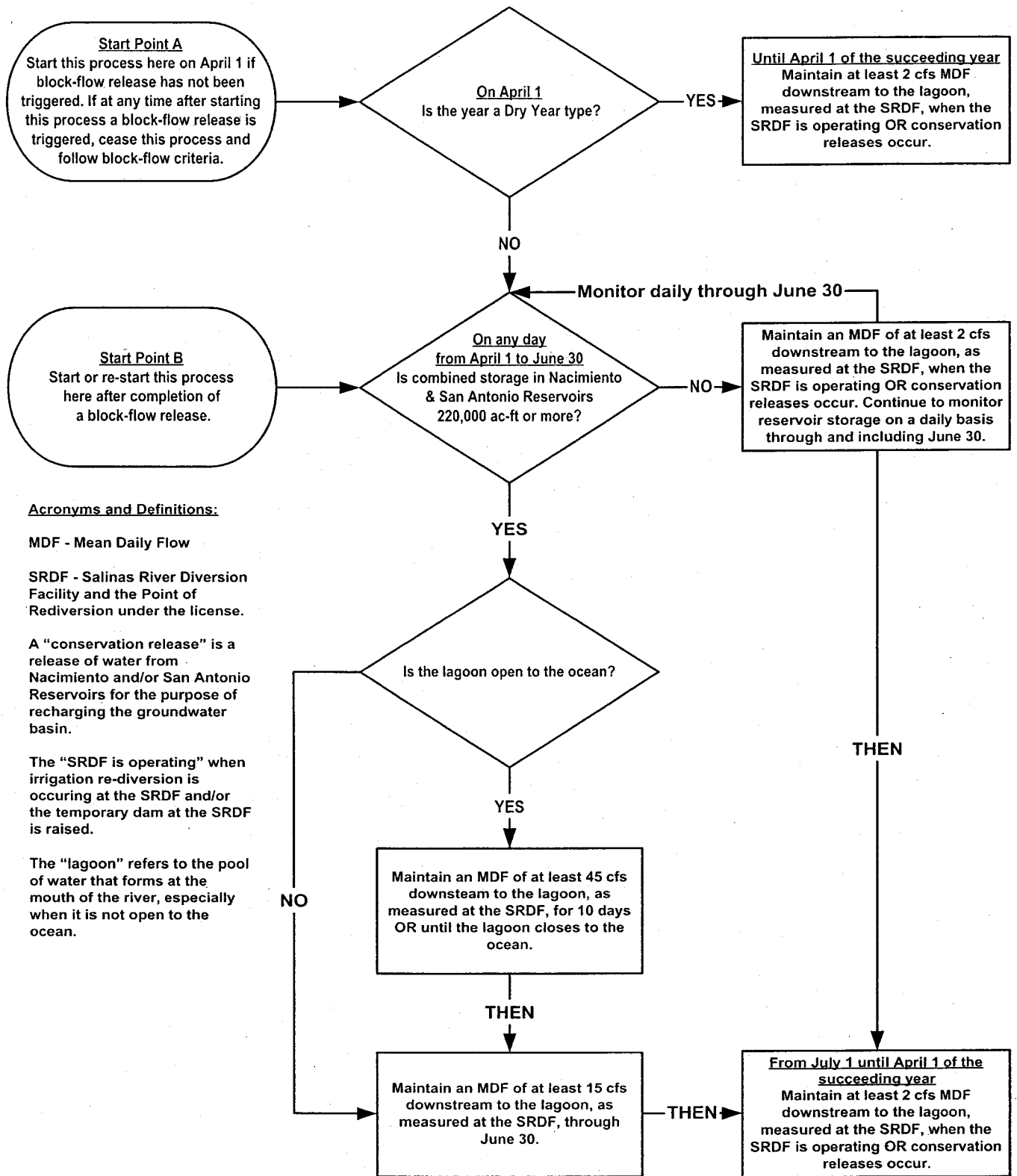


Figure 2 – Flow prescription to enhance downstream migration for juvenile steelhead when block-flow release has not been triggered.

In the event that any gage is no longer available for streamflow measurements, the licensee (or successors-in-interest) is responsible for installing and maintaining an equivalent gage, satisfactory to the Chief of the Division of Water Rights, as near as practicable to the present location of the current USGS gages. In the absence of such equivalent gages, all diversions must cease. These requirements shall remain in force as long as water is being diverted by the licensee (or successors-in-interest) under this license.

(0000204)

MCWRA shall consult with the Department of Fish and Game and National Marine Fisheries Service to develop a plan to monitor bass spawning at Nacimiento and San Antonio Reservoirs. The plan shall include measures regarding bass habitat management, as well as rate and duration of water releases from the reservoirs. MCWRA shall post annually, on its website, the monitoring plan, as well as an evaluation of the plan's effectiveness by the Department of Fish and Game. This information shall remain posted for at least five years.

(0140500)

MCWRA shall develop a riparian restoration plan for construction impacts at the SRDF site and submit for review and approval to California Department of Fish and Game and United States Fish and Wildlife Service. No restoration work shall commence until approvals are obtained and copies submitted to the Chief of the Division of Water Rights.

(0140500)

Nothing in this license shall be construed as authorizing any diversions contrary to the provisions of the following biological opinions, either as written as of the date of this license or as they may be amended:
1) United States Fish and Wildlife Service, July 24, 2007, Biological Opinion on Issuance of Department of the Army Permits to the Monterey County Water Resource Agency for Construction of a Surface Water Diversion Structure in the Salinas River, Near the City of Salinas (Corps File Number 24976S) and for Breaching of the Salinas River Lagoon (Corps File Number 16798S) in Monterey County, California (1-8-06-F-54); and 2) National Marine Fisheries Service, June 20, 2007, Biological Opinion.

(0140500)

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

Reports shall be filed promptly by the licensee on the appropriate forms which will be provided for the purpose from time to time by the State Water Board.

Licensee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by the State Water Board, reasonable access to project works to determine compliance with the terms of this license.

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

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

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

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

This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

If construction or rehabilitation work is required for the diversion works covered by this license within the bed, channel, or bank of the affected water body, the licensee shall enter into a streambed or lake alteration agreement with the State Department of Fish and Game. Licensee shall submit a copy of the agreement, or waiver thereof, to the Division of Water Rights prior to commencement of work. Compliance with the terms and conditions of the agreement is the responsibility of the licensee.

This license is granted and the licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the State Water Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article (of the Water Code) and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefore shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

STATE WATER RESOURCES CONTROL BOARD

for James W. Kassel
Victoria A. Whitney, Chief
Division of Water Rights

Dated: SEP 05 2008

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

DIVISION OF WATER RIGHTS

ORDER WR 2008-0037-DWR

In the Matter of License 7543 (Application 16124), License 12624 (Application 16761),
and Permit 21089 (Application 30532)

Monterey County Water Resources Agency

**ORDER APPROVING CHANGE IN PLACE OF USE,
ADDING POINT OF REDIVERSION AND
ISSUING AMENDED LICENSES AND PERMIT**

SOURCES: Nacimiento River and San Antonio River tributary to Salinas River

COUNTIES: Monterey and San Luis Obispo

WHEREAS:

1. The State Resources Control Board (State Water Board) Division of Water Rights (Division) issued License 7543 to the Monterey County Water Resources Agency (MCWRA) on November 4, 1965, pursuant to permitted Application 16124; issued License 12624 to MCWRA on December 2, 1965 (amended April 22, 1990), pursuant to permitted Application 16761; and issued Permit 21089 to MCWRA on March 23, 2001, pursuant to Application 30532.
2. Division records of ownership for all three water rights show the current owner as Monterey County Water Resources Agency.
3. An Environmental Impact Report /Environmental Impact Statement (EIR/EIS) was prepared in order to evaluate potential impacts from MCWRA's Salinas Valley Water Project (SVWP). In June 2003, the MCWRA Board of Supervisors certified the Final EIR/EIS (State Clearinghouse No. 2000034007) (FEIR).
4. On November 8, 2004, MCWRA filed a petition to change the place of use and add a point of rediversion under Licenses 7543 and 12624 and Permit 21089. The petitions were publicly noticed on December 17, 2004. The petitioner sought to change the place of use under the licenses and permit to include 421,435 acres comprising MCWRA Zone 2-C (an assessment zone) as shown on a map dated October 28, 2004.
5. On January 14, 2005, the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) filed a protest against the change petitions, arguing that the Salinas Valley Water Project posed a potentially adverse impact to steelhead. The protest was accepted by the Division on February 4, 2005.
6. The location of the point of rediversion was amended by approximately 200 feet in a separate petition, submitted October 23, 2007. The Division determined that a public notice was not required for this petition under title 23 Cal. Code Regs § 795.

7. On June 20, 2007, NMFS issued its final biological opinion for the SVWP.
8. MCWRA prepared an Addendum to the FEIR for the SVWP. The purpose of the Addendum was to analyze the environmental impacts associated with the changes in the SVWP that have occurred since the certification of the FEIR, including changes contemplated in the biological opinion.
9. On August 29, 2008, NMFS withdrew its protest based on inclusion of the biological opinion's flow prescriptions in the amended licenses and permit.
10. The State Water Board has determined the amended licenses and permit do not constitute an initiation of a new right and do not injure prior rights or the public trust resources of the State.

THEREFORE, IT IS ORDERED:

1. The attached Amended License 7543 is issued, superseding former License 7543 issued on September 5, 1967. The priority of Amended License 7543 is November 4, 1954.
2. The attached Amended License 12624 is issued, superseding former Amended License 12624 issued on April 26, 1990. The priority of Amended License 12624 is December 2, 1955.
3. The attached Amended Permit 21089 is issued, superseding former Permit 21089 issued on March 23, 2001. The priority of Amended Permit 21089 is April 23, 1996.
4. The State Water Board has determined that the subject licenses and permit shall be amended to include the following specific changes:
 - (a) Change the place of use to include 421,435 acres comprising MCWRA Zone 2C (an assessment zone) as shown on map dated August 14, 2008.
 - (b) Add a point of rediversion to be located as follows:
By California Coordinate System of 1983, Zone 4, North 2,152,792 feet and East 5,755,485 feet being within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 16, T14S, R2E, MDB&M.
 - (c) Add terms to incorporate the flow prescriptions included in the June 20, 2007 NMFS biological opinion.
5. The State Water Board standard license terms pertaining to continuing authority, water quality objectives, protection of endangered species, and the need for State Department of Fish and Game stream alteration agreement shall be updated or added to the subject amended water rights.
6. Prior to initial operation of the Salinas River Diversion Facility (SRDF) at the point of rediversion, the permittee/licensee shall submit a Compliance Plan for approval by the Chief of the Division of Water Rights that will demonstrate compliance with the flow prescriptions specified in the attached amended permit and licenses. The Compliance Plan shall include the following:
 - (a) A description of the physical facilities (i.e., outlet pipes, siphons, pipelines, bypass ditches, splitter boxes, etc.) that have been constructed or will be constructed at the project site and will be used to bypass or release flow to comply with the flow prescriptions.

- (b) A description of the gages and monitoring devices that have been installed or will be installed to measure streamflow and/or reservoir storage capacity.
- (c) A time schedule for the installation of these facilities, if not already installed.
- (d) A description of the frequency of data collection and the methods for recording flows and storage levels.
- (e) An operation and maintenance plan that will be used to maintain all owned facilities in good condition and monitor the condition of facilities owned by other parties.

The permittee/licensee shall be responsible for all costs associated with developing the Compliance Plan, and installing and maintaining all flow bypass and monitoring facilities described in the Compliance Plan.

The monitoring data shall be maintained by the permittee/licensee for ten years from the date of collection and made available to the Chief of the Division of Water Rights, upon request. Any non-compliance with the terms of the permit or licenses shall be reported by the permittee/licensee promptly to the Chief of the Division of Water Rights.

Operation of the SRDF prior to approval of the Compliance Plan and the installation of facilities specified in the Compliance Plan is not authorized.

7. Prior to initial operation of the SRDF, permittee/licensee shall (1) install any devices necessary to measure or calculate the quantities of water placed into underground storage, and (2) install devices to measure, or provide documentation of the method to be used to determine, the quantity of water recovered from underground storage and placed to beneficial use. All devices and the method of determining the quantity of water recovered from underground storage shall be approved by the Chief of the Division of Water Rights prior to initial operation of the SRDF. All devices shall be properly maintained.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY JAMES W. KASSEL for

Victoria A. Whitney, Chief
Division of Water Rights

Dated: September 5, 2008

Attachments: Amended License 7543
Amended License 12624
Amended Permit 21089

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

AMENDED PERMIT 21089

Application 30532 of

Monterey County Water Resources Agency
 P.O. Box 960
 Salinas, CA 93902

filed on **April 23, 1996**, has been approved by the State Water Resources Control Board (State Water Board or Board) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source:

Nacimiento River

Tributary to:

Salinas River thence
Pacific Ocean

within the County of **San Luis Obispo**.

2. Location of point of diversion (1) Nacimiento Dam and point of re-diversion (2) Salinas River Diversion Facility

By California Coordinate System NAD 83	40-acre subdivision of public land survey or projection thereof	Section (Projected)	Township	Range	Base and Meridian
(1) North 2,475,554 feet and East 5,705,620 feet (Zone 5)	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	15	25S	10E	MD
(2) North 2,152,792 feet and East 5,755,485 feet (Zone 4)	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	16	14S	2E	MD

3. Purpose of use	4. Place of use	Section (Projected)	Township	Range	Base and Meridian	Acres
Municipal, Domestic, Industrial, Irrigation, and Recreational	Within boundaries of Monterey County Water Resources Agency (MCWRA) Zone 2* and Zone 2C**					
Municipal, Domestic, Industrial, Irrigation, and Recreational	7,500 acres within San Luis Obispo County Flood Control and Water Conservation District***					

- * MCWRA Zone 2 comprises 200,000 acres net within a gross area of approximately 240,000 acres, excluding all lands annexed to Zone 2 after November 4, 1965, as shown on a map dated June 13, 1997.
- ** MCWRA Zone 2C comprises approximately 421,435 acres as shown on a map dated August 14, 2008.
- *** The places of use within San Luis Obispo County Flood Control and Water Conservation District consist of a net area of 500 acres of irrigated agriculture and a net area of 7,000 acres of urban and suburban lands within a gross area of 1,040,590 acres as shown on a map dated June 8, 1967.

5. The water appropriated shall be limited to the quantity that can be beneficially used and shall not exceed 27,900 acre-feet per annum to be collected from October 1 of each year to July 1 of the succeeding year. (000005C)
6. The total quantity of water collected to storage under this permit and License 7543 (Application 16124) shall not exceed 377,900 acre-feet per annum. (000005L)
7. The capacity of the reservoir covered under this permit (Application 30532) shall not exceed 377,900 acre-feet (af). (000005N)
8. This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)
9. Complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2021. (000009)
10. The amount authorized for appropriation may be reduced in the license if investigation warrants. (000006)
11. Permittee shall consult with the Division of Water Rights and develop and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the State Water Board for approval within one year from the date of this permit or such further time as, for good cause shown, may be allowed by the Board. A progress report on the development of a water

conservation program may be required by the Board at any time within this period. All cost-effective measures identified in the water conservation program shall be implemented in accordance with the schedule for implementation found therein.

(0000029B)

12. If it is determined after permit issuance that the as-built conditions of the project are not correctly represented by the map(s) prepared to accompany the application, Permittee shall, at its expense, have the subject map(s) updated or replaced with equivalent as-built maps(s). Said revision(s) or new map(s) shall be prepared by a civil engineer or land surveyor registered or licensed in the State of California and shall meet the requirements prescribed in section 715 and section 717 through 723 of the California Code of Regulations, Title 23. Said revision(s) or map(s) shall be furnished upon request of the Chief, Division of Water Rights.

(0000030)

13. Permittee shall install devices, satisfactory to the State Water Resources Control Board, which are capable of measuring the flows required by the conditions of this permit. Said measuring devices shall be properly maintained.

(0060062BP)

SPECIAL TERMS

FLOW PRESCRIPTIONS FOR HABITAT MAINTENANCE

Criteria for Determining Water-Year Type

For purposes of applying the flow prescriptions, water-year types are defined based on indexing the record of unimpaired mean annual flows at the United States Geological Survey (USGS) streamflow gage No. 11152000 (Arroyo Seco near Soledad). The mean annual flows were ranked in descending order to obtain exceedance probability based on percentile. The percentiles (or exceedance probability) for each year type are described below:

<u>Water-year type</u>	<u>Percentile range (exceedance probability)</u>
Wet	0% to and including 25%
Wet-Normal	over 25% to and including 41.7%
Normal-Normal	over 41.7% to and including 58.3%
Dry-Normal	over 58.3% to and including 75%
Dry	over 75% to and including 100%

The initial values for determining water-year types are listed below. These values may be updated in accordance with the percentile ranges (exceedance probability) listed above to incorporate the most recent data. At least the most recent 100 years of data must be included in the calculation. Mean daily flows shall be used to calculate the mean annual flow of the water-year starting October 1 of each year and ending September 30 of the succeeding year. If Permittee intends to use updated flow rates, the new rates must be declared in writing to the State Water Board by January 1 of the first year they will be utilized. Any revised flow rates shall remain in effect until updated with more recent data.

<u>Water-year type</u>	<u>Mean Daily Flow Rate at USGS Gage 11152000 (Arroyo Seco near Soledad) on March 15 or April 1</u>
Wet	250 cubic feet per second (cfs) or higher
Wet-Normal	152 cfs or higher but less than 250 cfs
Normal-Normal	104 cfs or higher but less than 152 cfs
Dry-Normal	66 cfs or higher but less than 104 cfs
Dry	less than 66 cfs

(0140400)

Flow Prescription for Adult Steelhead Upstream Migration

From February 1 to and including March 31, during all water-year types, and when the criteria below are met, Permittee shall maintain a mean daily flow (MDF) of 260 cfs at USGS gage No. 11152300 (Salinas River near Chualar), using reservoir releases when necessary to augment natural flow. This requirement is triggered when all four of the criteria below are met simultaneously.

Trigger Criteria for Adult Steelhead Upstream Migration Flow

1. Combined storage of Nacimiento and San Antonio Reservoirs is greater than 220,000 af.
2. An MDF at USGS gage No. 11152000 (Arroyo Seco near Soledad) greater than or equal to 340 cfs.
3. An MDF at USGS gage No. 11152050 (Arroyo Seco below Reliz Creek) greater than or equal to 173 cfs.
4. Hydraulic continuity in the Salinas River exists to the Pacific Ocean.

During wet or dry water-years, and once all the criteria are met, the 260 cfs MDF requirement remains effective through March 31 unless condition 4 above ceases to exist.

For any of the three normal water-year types, from January 1 to and including March 31, the 260 cfs MDF requirement must be maintained such that on a 10-year average the number of upstream passage days (days with at least 260 cfs MDF at USGS gage No. 11152300 (Salinas River near Chualar)) listed below will be achieved within a 10% variance. For example, the average number of passage days for all of the dry-normal water-years within a 10-year period must be at least 14 (16 days average minus variance of 2). At least 5 consecutive days with flow of at least 260 cfs MDF must occur for a flow period to credit towards the total for each water-year. The water-year type for the purpose of determining the number of passage days must be determined on March 15 or April 1 using the Criteria for Determining Water-Year Type listed above.

Water-year type

Wet-Normal
Normal-Normal
Dry-Normal

Upstream Fish Passage Days from January 1 to March 31

Average 73 days with variance of 7 days.
Average 47 days with variance of 5 days.
Average 16 days with variance of 2 days.

(0140400)

Flow Prescription for Downstream Migration of Smolting Steelhead

Permittee shall provide a single block-flow release (as described in Block-Flow Release Criteria below) from Nacimiento Reservoir and San Antonio Reservoir (under License 12624) to facilitate downstream migration of steelhead in the Salinas River in accordance with the event triggers described in the flow chart in Figure 1 below.

Block-Flow Release Criteria

A block-flow release consists of the natural flow in the Salinas River augmented by releases from Nacimiento and San Antonio Dams to achieve the specified MDF for the specific number of consecutive days directed below.

Days 1 through 5: Maintain an MDF of at least 700 cfs at USGS gage No. 11151700 (Salinas River at Soledad).

Day 6 and beyond: Maintain an MDF of at least 300 cfs at USGS gage No. 11152500 (Salinas River at Spreckels).

The number of days the block-flow release must be maintained at the MDF of 300 cfs beyond Day 6 is determined by when Day 1 occurs. If Day 1 occurs between March 15 and April 1, then block-flow release must continue to April 20. If Day 1 occurs between April 2 and May 31, then block-flow release must continue for 15 more days (Day 6 through Day 20).

Starting after completion of the block-flow release, if the MDF at USGS gage No. 11152050 (Arroyo Seco below Reliz Creek) is greater than 1 cfs, maintain Salinas River surface flow to the ocean through 10 days after flow at USGS gage No. 11152050 (Arroyo Seco below Reliz Creek) initially drops below an MDF of 1 cfs.

(0140400)

Flow Prescription for Downstream Migration of Juvenile and Post Spawn Adult Steelhead

To protect fishery resources when block-flow releases have not yet been initiated, follow the flow prescription described in the flow chart in Figure 2 below. From March 15 through May 31, continue to monitor for the initiation of block-flow release. If the conditions to initiate block-flow release occur, suspend the process in Figure 2 and follow the process in Figure 1.

(0140400)

Flow Prescription for Spawning and Rearing Habitat in the Nacimiento River

Permittee shall augment flow in the Nacimiento River by releasing 60 cfs MDF from Nacimiento Reservoir beginning the 8th day after the first adult steelhead passage day occurs on the Salinas River after January 1 of each water-year. The first passage day is the first day in a period of 5 consecutive days with mean daily flow of 260 cfs or higher at USGS gage No. 11152300 (Salinas River near Chualar). The release of 60 cfs MDF will continue at least through May 31. After May 31, Permittee will continue to release 60 cfs MDF for the remainder of the calendar year as long as the water surface elevation of Nacimiento Reservoir is above 687.8 feet mean sea level.

(0140400)

Flow Prescription at the End of the Irrigation Season

Prior to lowering of the Salinas River Diversion Facility (SRDF), the SRDF impoundment will be filled to its storage capacity, and water will be allowed to pass from the impoundment to the lagoon at a rate of 2 cfs (mean daily flow measured at the SRDF) until the impoundment is emptied. The rate may be increased if necessary to empty the impoundment in time to perform facility maintenance before river flows prevent maintenance work.

(0140400)

//
//
//
//
//
//
//
//
//
//
//
//
//
//
//
//

Figure 1 – Criteria to trigger block-flow release for downstream migration of smolting steelhead.

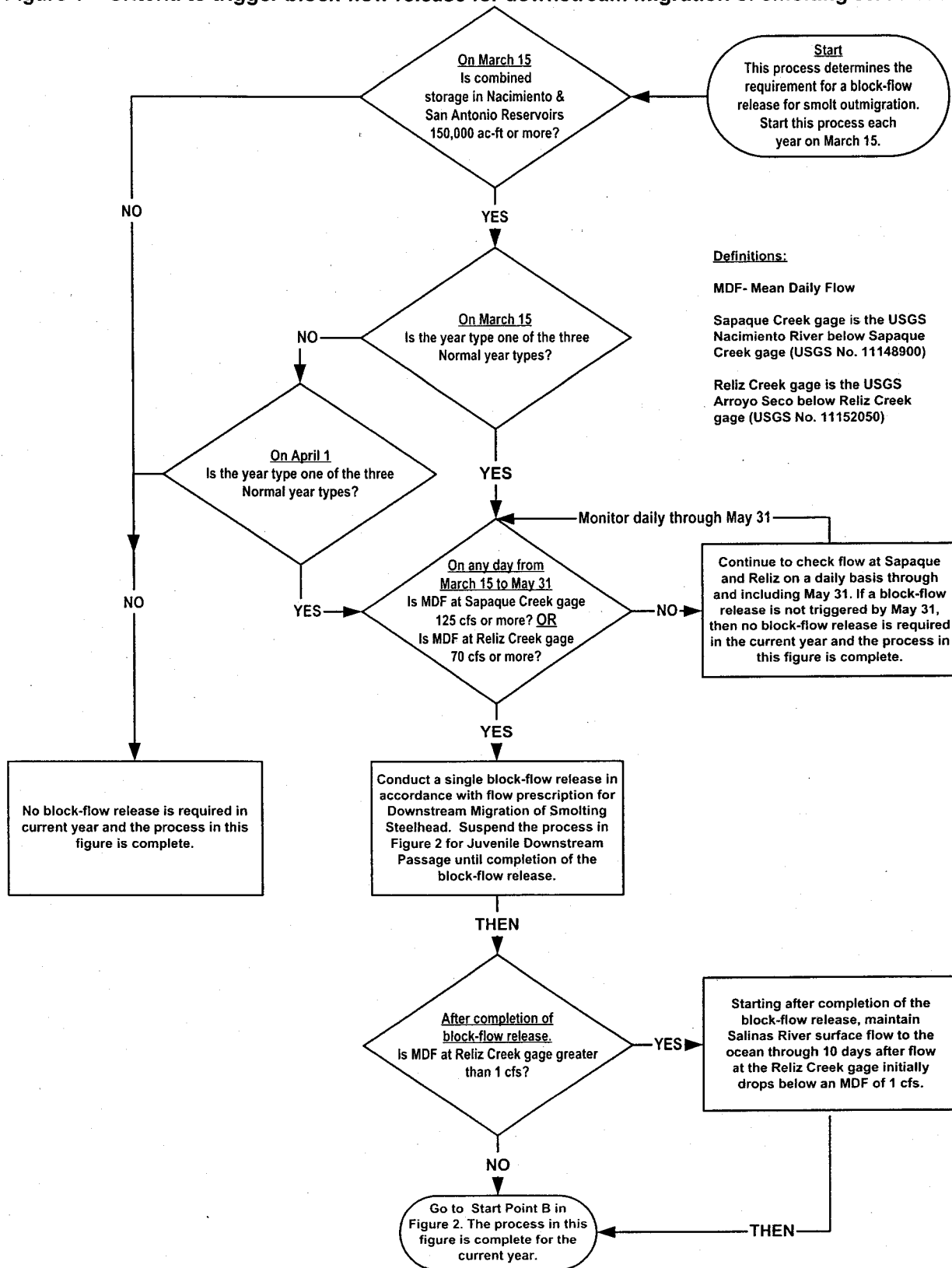
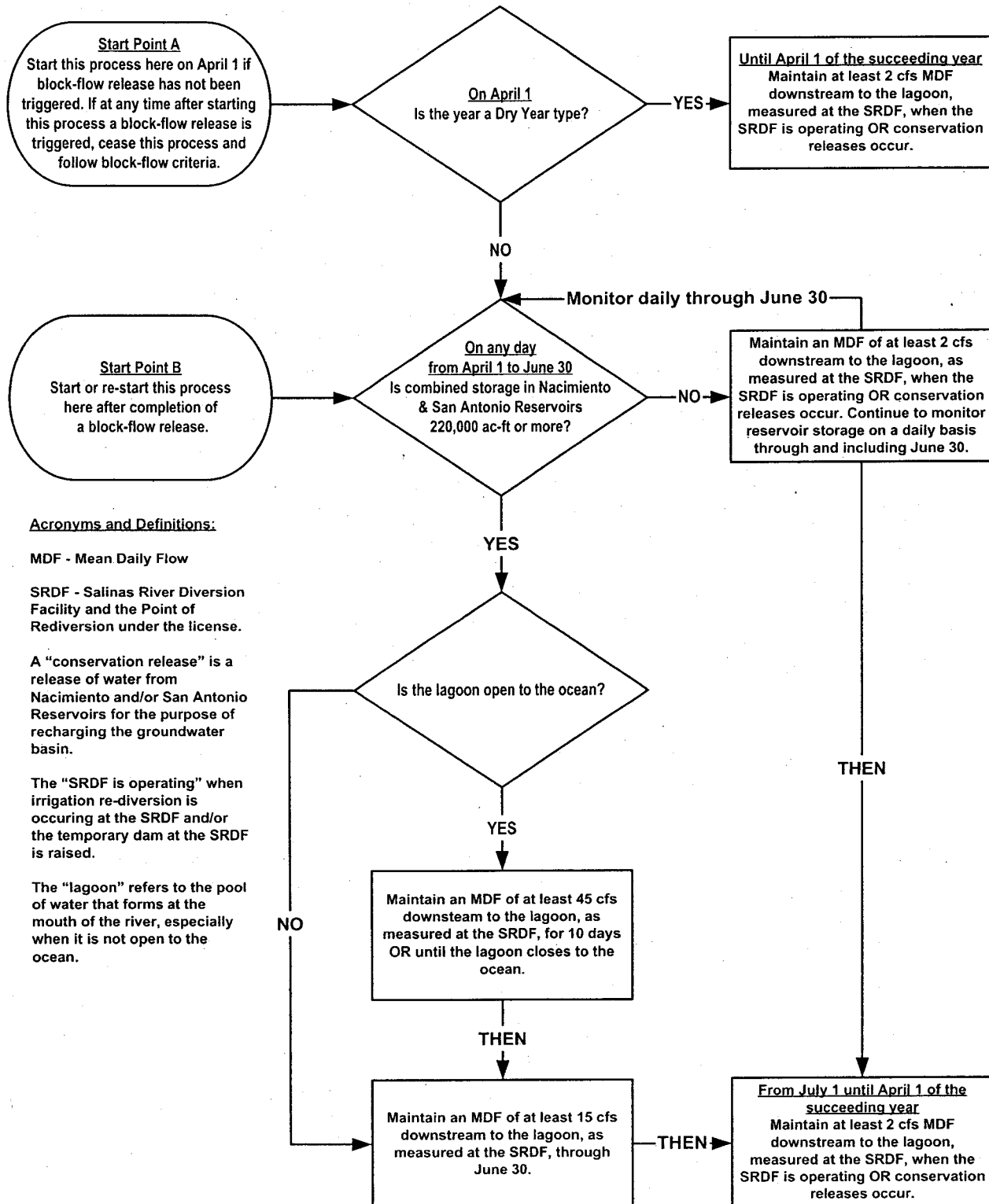


Figure 2 – Flow prescription to enhance downstream migration for juvenile steelhead when block-flow release has not been triggered.



General Requirements for Flow Prescriptions

The above mentioned flow criteria are dependent on real-time flow measurements from USGS stream gages subject to intermittent telemetry interruptions. To ensure compliance during such interruptions Permittee will use its ALERT system data supplemented with field observations by its own staff and/or USGS field personnel as required.

(0140400)

In the event that any gage is no longer available for streamflow measurements, Permittee (or successors-in-interest) is responsible for installing and maintaining an equivalent gage, satisfactory to the Chief, Division of Water Rights, as near as practicable to the present location of the current USGS gage. In the absence of such equivalent gage, all diversions must cease. These requirements shall remain in force as long as water is being diverted by Permittee (or successors-in-interest) under this permit.

(0000204)

MCWRA shall consult with the Department of Fish and Game and National Marine Fisheries Service to develop a plan to monitor bass spawning at Nacimiento and San Antonio Reservoirs. The plan shall include measures regarding bass habitat management, as well as rate and duration of water releases from the reservoirs. MCWRA shall post annually on its website the monitoring plan, as well as an evaluation of the plan's effectiveness by the Department of Fish and Game. This information shall remain posted for at least five years.

(0140500)

MCWRA shall develop a riparian restoration plan for construction impacts at the SRDF site and submit for review and approval to California Department of Fish and Game and United States Fish and Wildlife Service. No restoration work shall commence until approvals are obtained and copies submitted to the Chief, Division of Water Rights.

(0140500)

Nothing in this permit shall be construed as authorizing any diversions contrary to the provisions of the following biological opinions, either as written as of the date of this permit or as they may be amended:

- 1) *Biological Opinion on Issuance of Department of the Army Permits to the Monterey County Water Resource Agency for Construction of a Surface Water Diversion Structure in the Salinas River, Near the City of Salinas (Corps File Number 24976S) and for Breaching of the Salinas River Lagoon (Corps File Number 16798S) in Monterey County, California.* United States Fish and Wildlife Service, July 24, 2007 (1-8-06-F-54).
- 2) *Biological Opinion.* National Marine Fisheries Service, June 20, 2007.

(0140500)

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

A. The amount authorized for appropriation may be reduced in the license if investigation warrants.

(0000006)

B. Progress reports shall be submitted promptly by Permittee when requested by the State Water Board until a license is issued.

(0000010)

- C. Permittee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by said State Water Board, reasonable access to project works to determine compliance with the terms of this permit.

(0000011)

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

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

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

(0000012)

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

(0000013)

- F. This permit does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050-2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531-1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

- G. Permittee shall maintain records of the amount of water diverted and used to enable State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605.

(0000015)

- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and the permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is not necessary for this permitted project, the permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game.

(0000063)

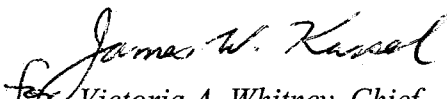
This permit is issued, and Permittee takes it, subject to the following provisions of the Water Code:

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

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

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

STATE WATER RESOURCES CONTROL BOARD


Victoria A. Whitney, Chief
Division of Water Rights

Dated:

SEP 05 2008

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21089

Application 30532 of **Monterey County Water Resources Agency**
P.O. Box 960
Salinas, CA 93902

filed on **April 23, 1996**, has been approved by the State Water Resources Control Board (SWRCB)
 SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source Nacimientto River	Tributary to Salinas River thence
	Pacific Ocean

within the County of **San Luis Obispo**

2. Location of point of diversion

By California Coordinate System in Zone: 5	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
North 834,000 feet and East 1,444,260 feet	SE ¼ of NW ¼	15	25S	10E	MD

3. Purpose of use	4. Place of use	Section (Projected)	Township	Range	Base and Meridian	Acres
Domestic, Industrial, Municipal, Irrigation, and Recreational	Within Boundaries of Monterey County Water Resources Agency, Zone 2*					
Domestic, Industrial, Municipal, Irrigation, and Recreational	7,500 Acres within San Luis Obispo County Flood Control and Water Conservation District**					

* Consisting of 200,000 acres net within a gross area of approximately 240,000 acres comprising Zone 2 of MCWRA, excluding all lands annexed to Zone 2 after November 4, 1965. Zone 2 is shown on a map dated June 13, 1997 on file with the SWRCB.

** The places of use for San Luis Obispo County Flood Control and Water Conservation District consist of a net area of 500 acres of irrigated agriculture and a net area of 7,000 acres of urban and suburban lands within a gross area of 1,040,590 acres shown on a map dated June 8, 1967 on file with the SWRCB.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 27,900 acre-feet per annum to be collected from October 1 of each year to July 1 of the succeeding year.

(000005C)

6. The total quantity of water collected to storage under this permit and License 7543 (Application 16124) shall not exceed 377,900 acre-feet per annum

(000005L)

7. The capacity of the reservoir covered under this permit (Application 30532) shall not exceed 377,900 acre-feet.

(000005N)

8. This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)

9. Complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2021. (000009)

10. The amount authorized for appropriation may be reduced in the license if investigation warrants. (000006)

11. Permittee shall consult with the Division of Water Rights and develop and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the State Water Resources Control Board for approval within one year from the date of this permit or such further time as, for good cause shown, may be allowed by the Board. A progress report on the development of a water conservation program may be required by the Board at any time within this period.

All cost-effective measures identified in the water conservation program shall be implemented in accordance with the schedule for implementation found therein. (000029B)

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

A. Permittee shall maintain records of the amount of water diverted and used to enable SWRCB to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605. (000015)

B. Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued. (000010)

C. Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit. (000011)

D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the

continuing authority of SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

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

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

(0000012)

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

(0000013)

F. This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

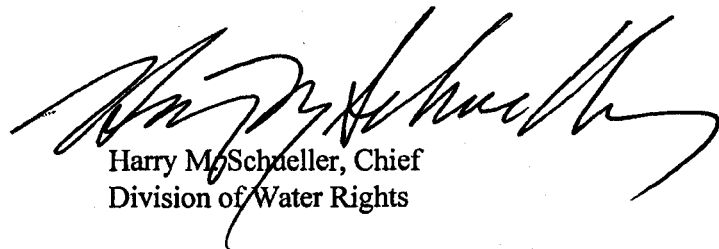
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

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

Dated: March 23, 2001

STATE WATER RESOURCES CONTROL BOARD



Harry M. Schueller, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 26901 PERMIT 19940 LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE

WHEREAS:

1. Permit 19904 was issued to Monterey County Flood Control and Water Conservation District on December 31, 1986 pursuant to Application 26901.
2. A petition for an extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board (Board).
3. The permittee has proceeded with diligence and good cause has been shown for said extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

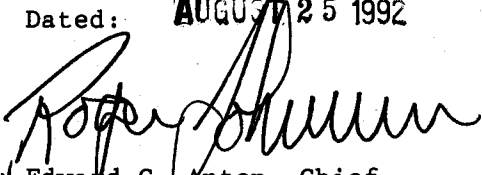
1. Condition 9 of the permit be amended to read:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 31, 2002

(0000009)

Dated: ~~AUGUST~~ 25 1992


Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 19940

Application 26901 of Monterey County Flood Control and Water Conservation District
P. O. Box 930, Salinas, California 93902 1/18/94 Name Change Per# 19940
Monterey County Water Resources Agency

filed on July 1, 1981, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source: Nacimiento River Tributary to: Salinas River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridan
<u>Nacimiento Dam</u> <u>South 44°18' East, 2,290 feet</u> <u>from NW corner of Section 15</u>	<u>NE 1/4 of NW 1/4</u>	<u>15</u>	<u>25S</u>	<u>10E</u>	<u>MD</u>

County of San Luis Obispo

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridan	Acres
<u>Power</u>	<u>Powerplant below dam</u> <u>NE 1/4 of NW 1/4</u>	<u>15</u>	<u>25S</u>	<u>10E</u>	<u>MD</u>	

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

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 500 cubic feet per second by direct diversion to be diverted from January 1 to December 31 of each year. (0000005)
6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)
8. Construction work shall be completed by December 1, 1990. (0000008)
9. Complete application of the water to the authorized use shall be made by December 1, 1991. (0000009)
10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)
11. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
12. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

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

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

14. Water diverted under this permit is for nonconsumptive use and is to be released to Nacimiento River within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 15, T25S, R10E, MDB&M. (0000111)

15. No water shall be used under this permit until all necessary federal, state and local approvals have been obtained, including compliance with any applicable Federal Energy Regulatory Commission requirements. (000J001)

16. Permittee shall comply with the following provisions which are derived from the agreement between permittee and the California Department of Fish and Game executed on November 13, 1985 and filed with the State Water Resources Control Board.

(1) Permittee shall not obstruct the Department of Fish and Game in any effort it undertakes to monitor the effects of minimum flows on aquatic life in the Nacimiento River or to increase the aquatic life in the river.

(2) Permittee shall maintain at all times during operation of the hydroelectric facilities a minimum dissolved oxygen level of 5 parts per million in the Nacimiento River, measured at a point 500 meters downstream from the powerhouse. Permittee shall perform necessary construction, satisfactory to the Department of Fish and Game, within one year to bring the dissolved oxygen to the required level if found to be deficient when the power plant becomes operational.

Inclusion in this permit of certain provisions of the referenced agreement shall not be construed as disapproval of other provisions of the agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this permit. (0000024)

17. Diversion under this permit is incidental to the quantity of water being released from Nacimiento Reservoir for other purposes. Operations under this permit shall not change the flow regime in the Nacimiento River. (000H002)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

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

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

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

Dated: DECEMBER 31 1986

STATE WATER RESOURCES CONTROL BOARD

Lloyd Johnson
ATTACHMENT, Division of Water Rights

Appendix C. San Luis Obispo County Agreements

AMENDMENT TO NACIMIENTO WATER AGREEMENT BETWEEN SAN LUIS OBISPO
COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT AND THE
MONTEREY COUNTY WATER RESOURCES AGENCY

This Amendment is made this 10th day of April, 2007, between SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT (hereinafter called "San Luis Obispo District"), a political subdivision of the State of California, and MONTEREY COUNTY WATER RESOURCES AGENCY (hereinafter called "Monterey Agency"), a political subdivision of the State of California.

WITNESSETH

WHEREAS, the San Luis Obispo District and the Monterey County Flood Control and Water Conservation District ("Monterey District") entered into that certain "Agreement" dated October 19, 1959, regarding, inter alia, the use of the Nacimiento Dam and Reservoir (hereinafter, the "1959 Agreement"); and

WHEREAS, the 1959 Agreement was supplemented and/or amended by subsequent documents dated November 30, 1959, October 2, 1967, April 13, 1970, October 17, 1977, and October 18, 1988 (hereinafter, the 1959 Agreement and the aforementioned subsequent documents shall collectively be referred to as the "Nacimiento Water Agreement"); and

WHEREAS, Monterey Agency warrants and represents that, pursuant to the enactment of the Monterey County Water Resources Agency Act (1990 Stats. c. 1159) and other applicable law, the Monterey County Water Resources Agency ("Monterey Agency") became the successor-in-interest to the Monterey District, and said Monterey Agency assumed all of the Monterey

District's rights and duties under the Nacimiento Water Agreement (including any and all supplements and amendments thereto); and

WHEREAS, for ease of reference, the words "Monterey Agency" shall connote "Monterey Agency, as the successor-in-interest to the Monterey District" and the Monterey Agency will be referred to as the original contracting party under the Nacimiento Water Agreement, and all subsequent supplements or amendments thereto; and

WHEREAS, under the terms of the Nacimiento Water Agreement, the San Luis Obispo District is entitled to receive 17,500 acre-feet of water annually from the Nacimiento Reservoir (hereinafter, the "SLO Water Entitlement"); and

WHEREAS, the Nacimiento Water Agreement provides for the right and entitlement of the San Luis Obispo District to the benefits of the hydraulic head available in the Nacimiento Reservoir (hereinafter, the "Hydraulic Head Rights"); and

WHEREAS, the Nacimiento Water Agreement originally provided in 1959 that the water furnished by the Monterey Agency to the San Luis Obispo District shall be furnished at the discharge end of the low level outlet works of the Nacimiento Dam; and

WHEREAS, on October 18, 1988, the parties entered into an "Agreement Assuring and Preserving the Rights of the San Luis Obispo County Flood Control and Conservation District Following Construction by the Monterey County Flood Control and Water Conservation District of a Hydroelectric Generating Plant (hereinafter the "1988 Agreement") regarding the Monterey Agency's construction of a hydroelectric generating plant at the low level outlet works of Nacimiento Dam; and

WHEREAS, the Monterey Agency acknowledged in said 1988 Agreement that certain rights and entitlements of the San Luis Obispo District under the Nacimiento Water Agreement

would be encroached upon by the construction, operation and maintenance of said hydroelectric power plant, and that said construction, operation and maintenance will have the effect of reducing the hydraulic head available at the point of water delivery to San Luis Obispo District as compared to the prior-to-construction condition; and

WHEREAS, because this Amendment authorizes the San Luis Obispo District to receive delivery of its water entitlement through a new intake facility located away from the low level outlet, the potential need for using the existing low level outlet as a primary hydraulic structure necessary for delivering SLO Water Entitlement is significantly reduced, and San Luis Obispo District agrees to amend the 1988 Agreement to provide relief to Monterey Agency's responsibilities for delivering the Hydraulic Head Rights, while continuing to provide San Luis Obispo District all rights and entitlement of the Nacimiento Water Agreement, and San Luis Obispo District furthermore agrees that if San Luis Obispo District in the future does need to connect a pipeline to the low level outlet that the connection will be done in a manner that the Monterey Agency's hydroelectric facility could continue to operate with no adverse affect with the exception of the nominal decrease in net head available to the hydroelectric equipment resulting from the increased flow of delivering SLO Water Entitlement simultaneously through the low level outlet; and

WHEREAS, the parties agree that it is in the best interest of the maintenance and operation of the Nacimiento Dam and Reservoir to provide the San Luis Obispo District an additional delivery point of the SLO Water Entitlement pursuant to the terms of this Amendment; and

WHEREAS, the California Department of Health Services mandates as a public health protection measure that a lake intake for potential domestic water supply must have a recreational

barrier with by a minimum barrier distance of 500 feet that separates recreational activities which entails bodily contact with lake waters by persons or animals; and

WHEREAS, Monterey Agency has a floating log boom spanning between anchor points on both the South (right) and North (left) shores of the reservoir which presently serve as a recreational barrier and security barrier for the Nacimiento Dam, spillway, and existing low level outlet, and both Monterey Agency and San Luis Obispo District agree to have the boom anchor points relocated to provide more barrier distance between the main lake body and the existing dam and the new intake facility associated with the San Luis Obispo District's Nacimiento Water Project (as described in the Nacimiento Water Project Environmental Impact Report SCH# 2001061022 certified January 2004); and

WHEREAS, the Monterey Agency and the San Luis Obispo District acknowledge benefits conveyed through prudent operation of the Nacimiento Reservoir in the Nacimiento Watershed; and

WHEREAS, Monterey Agency and San Luis Obispo District have significant reliance on the water resources provided by Nacimiento Reservoir and it is prudent that the Monterey Agency and the San Luis Obispo District work cooperatively towards preserving the water supply and flood protection benefits afforded both our communities.

NOW, THEREFORE, it mutually agreed by and between the parties as follows:

1. Recitals. All of the recitals set forth above are true and correct, and incorporated herein by reference.
2. New Delivery Point of Water. In consideration for the San Luis Obispo District's agreement to use the low level outlet works of the Nacimiento Dam as a secondary delivery point of water (as further described below), the Monterey Agency consents to the construction by the

San Luis Obispo District of a new outlet works at a location that does not interfere with the operation or maintenance nor jeopardize the structural integrity of the Nacimiento Dam, spillway, existing outlet works, inlet structures, or any other facilities required in the maintenance and operation of Nacimiento Dam and Reservoir (hereinafter, collectively the “Nacimiento Dam Facilities”). The Monterey Agency further agrees that the new outlet works location described in the attached Exhibit A, which is incorporated herein by reference, shall be available to the San Luis Obispo District as a delivery point for the SLO Water Entitlement. In consideration of Monterey Agency agreeing to allow San Luis Obispo to construct the new outlet works for the Nacimiento Water Project, San Luis Obispo District agrees to amend the 1988 Agreement to provide relief from the requirements for the Hydraulic Head Rights at the low level outlet as described in Article 3 of this amendment.

3. 1988 Agreement. The 1988 Agreement is hereby amended as follows:
 - a. Articles 3 through 9 of the 1988 Agreement shall be deleted, and replaced with the following new Article 3:
 - b. New Article 3. San Luis Obispo District retains the rights to connect a pipeline to the low level outlet at a location between the hydroelectric turbines and the face of the dam. Monterey Agency and San Luis Obispo District both acknowledge that this connection is hydraulically compatible so long as the discharge and available net head for hydroelectric generation is sufficient for Monterey Agency’s hydroelectric plant to operate simultaneously with San Luis Obispo District withdrawal of water from the low level outlet. The parties acknowledge that such hydraulically compatible connection will have no adverse affect to the Monterey Agency’s hydroelectric turbines with the exception of the nominal decrease in net head available to the hydroelectric equipment resulting

from the increased flow of delivering SLO Water Entitlement simultaneously through the low level outlet.

c. Articles 10 through 17 shall be renumbered to Articles 4 through 11.

d. Article 4 (formerly Article 10) shall be modified as follows:

The words “San Luis Obispo County Services Area No. 19” shall be replaced with “Heritage Ranch Community Services District (formerly the San Luis Obispo County Service Area No. 19)”

4. Location of New Outlet Works. The location of the new outlet works is set forth in the attached Exhibit A. San Luis Obispo District agrees and represents that the location and installation of the new outlet works will not interfere with nor degrade or hamper the maintenance and operation or jeopardize the structural integrity or functionality of the Nacimiento Dam Facilities. The San Luis Obispo District reserves the right to change the location of the new outlet works to another location (i.e., the revised new outlet works location) that does not interfere with the maintenance and operation or jeopardize the structural integrity or functionality of the Nacimiento Dam Facilities. In such event, the San Luis Obispo District will request the written approval of the Monterey Agency of the revised new outlet works location, and the Monterey Agency agrees that such written approval shall be not unreasonably withheld.

5. Log Boom. The existing log boom owned and operated by Monterey Agency will be replaced with a new log boom placed at a new location. San Luis Obispo District will design and construct the new log boom as part of the Nacimiento Water Project Intake construction to serve the needs of protecting facilities owned by both Monterey Agency and San Luis Obispo District. San Luis Obispo District will coordinate the design with Monterey Agency. The cost of both the design and construction and any associated other costs will be shared equally by both

San Luis Obispo District and Monterey Agency. Monterey Agency will own, operate, and maintain the new log boom once it is installed. The location of the new log boom will be done in an economical manner to satisfy the California Department of Health Services requirements and in an economical manner to minimize the impact on recreation and to the amount of lake surface area captured between the new log boom and the Nacimiento Dam Facilities.

6. Costs Associated with New Outlet Works. All costs associated with the design, location or relocation, construction, maintenance and operation of the new outlet works shall be borne by the San Luis Obispo District; provided, however, that all water delivered through the new outlet works shall be measured by equipment jointly installed and operated and maintained by both parties, the expense of which shall be borne equally by both parties. San Luis Obispo District will own, operate, and maintain the water delivery measurement equipment on behalf of both parties, and will invoice Monterey Agency for their half of the costs.

7. Low Level Outlet Works as Secondary Delivery Point. The San Luis Obispo District agrees that the new outlet works shall be its primary delivery point of water for the Nacimiento Water Project. The San Luis Obispo District retains its right to use the low level outlet works of the Nacimiento Dam as the delivery point of a portion of the SLO Water Entitlement being delivered into the Nacimiento River for use by down-river parties, both current and future, who withdraw said portion of the SLO Water Entitlement directly from the Nacimiento River. The San Luis Obispo District also reserves the right to use the low level outlet works of the Nacimiento Dam as a secondary point of water delivery for the Nacimiento Water Project in the event that the San Luis Obispo District's Board of Supervisors, through a public hearing and deliberations, determines that there is a compelling need for utilization of the low level outlet works. San Luis Obispo District will provide written notification to Monterey

Agency no less than 60 calendar days in advance of such a hearing. San Luis Obispo District furthermore agrees that if San Luis Obispo District in the future does need to connect to the low level outlet that the connection will be done in a manner that the Monterey Agency's hydroelectric facility could continue to operate with no adverse affect with the exception of the nominal decrease in net head available to the hydroelectric equipment resulting from the increased flow of delivering SLO Water Entitlement simultaneously through the low level outlet.

8. Coordination with California Department of Water Resources, Division of Safety of Dams (DSOD), and the Federal Energy Regulatory Commission (FERC). San Luis Obispo District has informed the DSOD and FERC of the location, design and construction of its new outlet works and pipeline. Both DSOD and FERC have sent letters to the Monterey Agency and the San Luis Obispo District indicating that the particular agency does not have jurisdictional interest in the location, design and construction of the new outlet works and pipeline. The San Luis Obispo District will provide whatever further coordination with DSOD and FERC regarding its new outlet works and pipeline that may be necessary, and Monterey Agency will cooperate and support all efforts undertaken by the San Luis Obispo District pursuant to this paragraph.

9. Optimal Use of Nacimiento Dam Reservoir. The parties agree that this Amendment is consistent with the optimal use, maintenance and operation of the Nacimiento Dam and Reservoir. One of the prime purposes of the Nacimiento Dam and Reservoir is water conservation, and this Amendment is consistent with this purpose by allowing the San Luis Obispo District to receive the SLO Water Entitlement in a more efficient and optimal manner. The construction of the new outlet works by the San Luis Obispo District is deemed necessary and desirable by the parties in order to best fulfill this purpose.

10. Indemnification.

a. The San Luis Obispo District shall indemnify, defend, and hold harmless Monterey County (“County”) and the Monterey Agency, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including but not limited to damages to property and injuries to or death of persons, court costs, and reasonable attorneys’ fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, service, materials, or supplies in connection with the performance of or arising out of San Luis Obispo District’s activities described in this Amendment, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the San Luis Obispo District’s performance or described activities of this Amendment, unless such claims, liabilities, or losses arise out of the negligence or willful misconduct of the County or Monterey Agency. “Performance” and “Activities” includes San Luis Obispo District’s action or inaction and the action or inaction of its officers, employees, agents, contractors and subcontractors. This agreement to indemnify, defend, and hold harmless extends to and covers claims, cross-claims, and/or counter-claims that may be made by any of the indemnified parties against other indemnified parties arising out of San Luis Obispo District’s activities described in this Amendment.

b. The Monterey County Water Resources Agency (“Monterey Agency”) shall indemnify, defend, and hold harmless San Luis Obispo County and San Luis Obispo District, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including but not limited to damages to property and injuries to or death of persons, court costs, and reasonable attorneys’ fees) occurring or

resulting to any and all persons, firms or corporations furnishing or supplying work, service, materials, or supplies in connection with the performance of or arising out of the Monterey Agency's activities described in this Amendment, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the Monterey Agency's performance or described activities of this Amendment, unless such claims, liabilities, or losses arise out of the negligence or willful misconduct of the San Luis Obispo County or the San Luis Obispo District. "Performance" and "Activities" includes Monterey Agency's action or inaction and the action or inaction of its officers, employees, agents, contractors and subcontractors. This agreement to indemnify, defend, and hold harmless extends to and covers claims, cross-claims, and/or counter-claims that may be made by any of the indemnified parties against other indemnified parties arising out of Monterey Agency's activities described in this Amendment.

11. Lakeside Use Coordination.

a. On a one-time basis, the San Luis Obispo District will coordinate with San Luis Obispo County Public Health Department, Division of Environmental Health (herein "SLO Environmental Health") to develop a list of the number of water well permits issued within a one-mile boundary of Lake Nacimiento's normal high water elevation. San Luis Obispo District will coordinate with San Luis Obispo County Planning Department (herein "SLO Planning Department") to compare the water well permit list with building permits issued.

b. San Luis Obispo District will meet with SLO Planning Department to review these results and to confirm the protocol with SLO Planning Department to route

all prospective building permits to San Luis Obispo County Department of Public Works (herein "SLO Public Works", which serves as the staff for the San Luis Obispo District). This ongoing coordination with SLO Planning Department and SLO Public Works is the protocol utilized to update the reports that San Luis Obispo District annually prepares and submits to Monterey Agency.

c. Any violation that either San Luis Obispo District observes, or more likely Monterey Agency observes and reports to San Luis Obispo District, will be forwarded to SLO Planning for ordinance enforcement as appropriate. San Luis Obispo District will also submit notice of potential violations to SLO Environmental Health as appropriate.

12. Annual Reporting. The San Luis Obispo District will submit an annual letter report to Monterey Agency identifying the volumetric water released and/or used from the SLO Water Entitlement for the previous Water Year. The annual letter report will be submitted by July 1. The annual letter report will be prepared utilizing the following procedures:

a. The annual letter report will include the Assessor Parcel Numbers for those parcels around Lake Nacimiento that have an individual agreement for water usage and that have been officially allotted a water contract for SLO Water Entitlement around Lake Nacimiento. San Luis Obispo District will also provide in the annual letter report the volumetric flow measured at the equipment installed for the new outlet works. Monterey Agency will provide to San Luis Obispo District a yearly letter report showing the amount of water measured at the low level outlet that has been released in accordance with the Schedule and Order for Water Releases provided by San Luis Obispo District to Monterey Agency.

b. If the San Luis Obispo District annual letter report concludes that the volume of water set aside for use around Lake Nacimiento is greater than 1,750 acre-feet per year then San Luis Obispo District will recommend to the Board of Supervisors of the San Luis Obispo County Flood Control and Water Conservation District that the additional water volume be supplied from other sources so that the total amount of annual water extracted for the water set aside for use around Lake Nacimiento and the amount of water extracted from Lake Nacimiento by the Nacimiento Water Project does not exceed the "SLO Water Entitlement".

c. If Monterey Agency takes legal action against a property owner for a violation of Monterey Agency's water rights, then San Luis Obispo District will cooperate by providing any supporting documentation available and by being available to provide testimony in such action.

13. Notices. Any notices concerning the Nacimiento Water Agreement, or this Amendment, shall be in writing, addressed as set forth below, and delivered by either certified mail with return receipt requested, personal service with a signed receipt of delivery, or overnight delivery with receipt verification:

To: San Luis Obispo District
c/o Director of Public Works
County of San Luis Obispo
County Government Center, Room 207
San Luis Obispo, CA 93408

To: Monterey Agency
c/o General Manager
Monterey County Water Resources Agency
893 Blanco Circle
Salinas, CA 93902

The above addresses and/or addressees for notices may be changed by giving notice of such

change in accordance with this paragraph.

14. Miscellaneous. This Agreement may be modified only by written amendment signed by both parties hereto. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the respective parties. All provisions of this Agreement shall inure to the benefit of and be binding on the parties and their assigns and successors in interest.

In witness whereof, the parties have executed this agreement the day and year final above written.

By: 
CHAIRMAN, BOARD OF SUPERVISORS
SAN LUIS OBISPO COUNTY FLOOD
CONTROL AND WATER CONSERVATION
DISTRICT

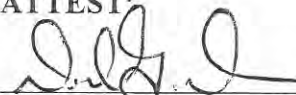
Date: APR 03 2007

By: Dave Potter
CHAIRMAN, BOARD OF SUPERVISORS
MONTEREY COUNTY WATER
RESOURCES AGENCY

Date: 4-10-07

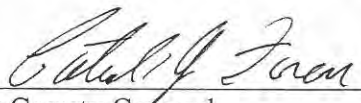
ATTEST:
JULIE L. RODEWALD
County Clerk and Ex-Officio Clerk of the
Board of Supervisors, San Luis Obispo County
Flood Control and Water Conservation District,
State of California

By: 
Deputy Clerk
Date: APR 03 2007

ATTEST:

County Clerk and Ex-Officio Clerk of the
Board of Supervisors, Monterey County Water
Resources Agency,
State of California

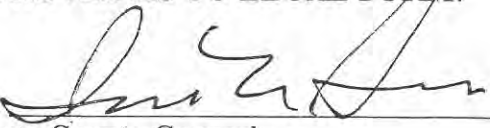
Date: Apr 10 2007

APPROVED AS TO LEGAL FORM:

By: 
Deputy County Counsel

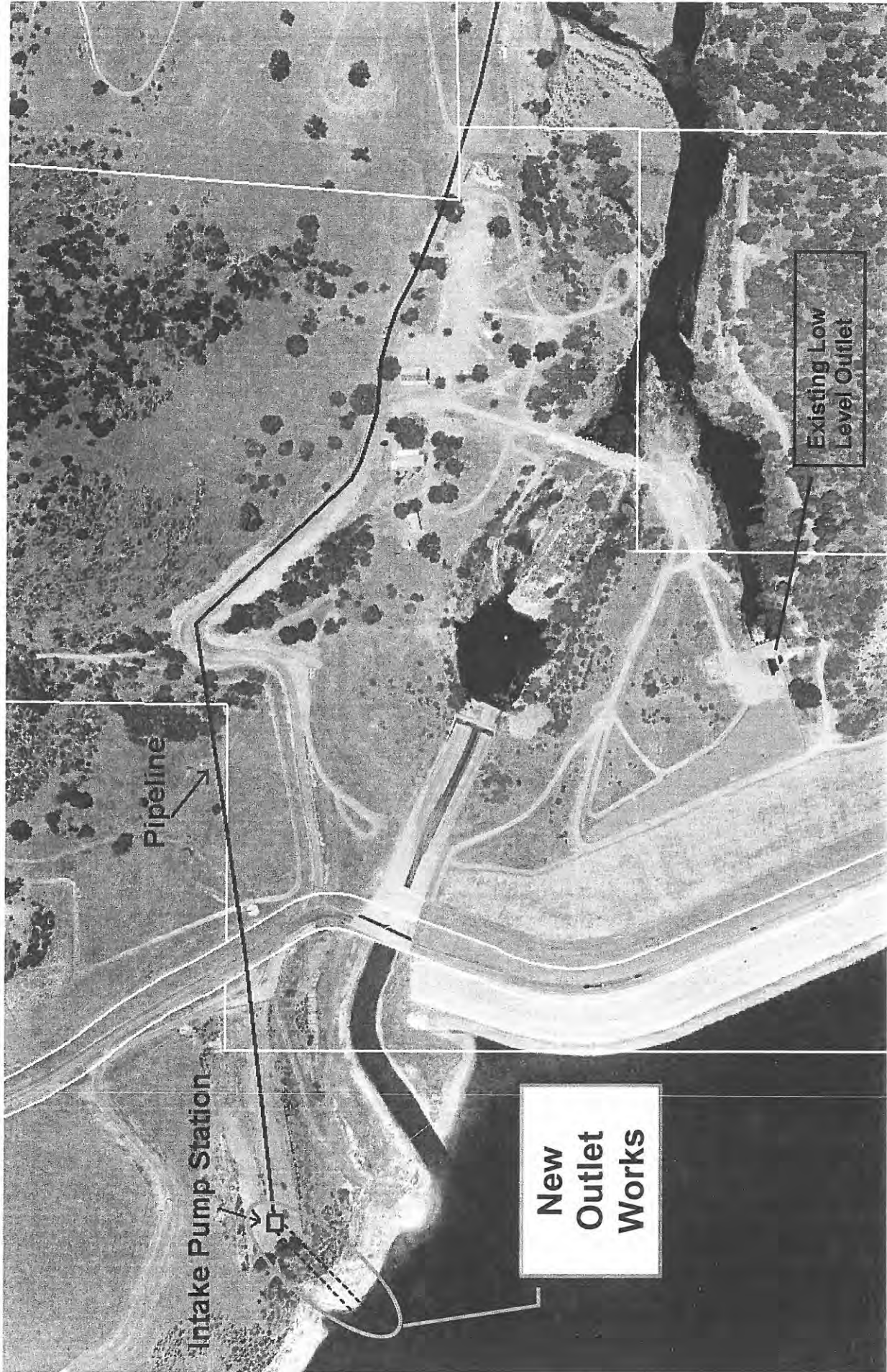
Date: 3/21/07

APPROVED AS TO LEGAL FORM:

By: 
Deputy County Counsel

Date: 4/09/07

EXHIBIT A TO 2007 AMENDMENT TO NACIMIENTO WATER AGREEMENT



ATTACHMENT 5

02 MAR 07

Note: Drawing not to scale. Location of facilities are approximate. Exhibit for general description of features only.

2007-134

WHEN FULLY PREPARED
FILE WITH CLERK
COUNTY CLERK
SAN LUIS OBISPO

BEFORE THE BOARD OF SUPERVISORS

of the

**SAN LUIS OBISPO COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT**

Tues day April 3, 20 07

PRESENT: Supervisors Harry L. Ovitt, Bruce S. Gibson, K.H. 'Katcho' Achadjian,
James R. Patterson and Chairperson Jerry Lenthall
ABSENT: None

RESOLUTION NO. 2007-134

**RESOLUTION APPROVING AMENDMENT TO NACIMIENTO
WATER AGREEMENT BETWEEN SAN LUIS OBISPO COUNTY
FLOOD CONTROL AND WATER CONSERVATION DISTRICT
AND THE MONTEREY COUNTY WATER RESOURCES AGENCY**

The following Resolution is now offered and read:

WHEREAS, the San Luis Obispo County Flood Control and Water Conservation District (San Luis Obispo District) and the Monterey County Water Resources Agency (Monterey Agency) have previously entered into an agreement regarding the San Antonio Dam and Reservoir and the Nacimiento Dam and Reservoir dated October 19, 1959, and supplemented and/or amended by subsequent documents dated November 30, 1959, October 2, 1967, April 13, 1970, October 17, 1977, and October 18, 1988 (hereafter, the "Nacimiento Water Agreement"); and

WHEREAS, under the terms of said Nacimiento Water Agreement, San Luis Obispo District is entitled to receive 17,500 acre-feet of water annually from the Nacimiento Reservoir (referred herein as the "SLO Water Entitlement"); and

WHEREAS, said Nacimiento Water Agreement provides the delivery point of the SLO Water Entitlement to San Luis Obispo District at the discharge end of the low level outlet works of the Nacimiento Dam and provides for the benefit of the hydraulic head available in the Nacimiento Reservoir; and

WHEREAS, by agreement dated October 18, 1988 (hereafter, the "1988 Agreement"), San Luis Obispo District agreed to let Monterey Agency construct a hydroelectric plant at the end of the low level outlet works in exchange for financial obligations by Monterey Agency to restore the hydraulic head to San Luis Obispo District if and when San Luis Obispo District builds the infrastructure necessary to take delivery of water from the low level outlet works; and

WHEREAS, the Board certified the Environmental Impact Report ("EIR") for the Nacimiento Water Project ("Project") on January 6, 2004, and directed staff to proceed forward with the design and construction of the Project; and

B-11
6

WHEREAS, said EIR references a new delivery point of water to take delivery of the SLO Water Entitlement from a new outlet works facility at a location along the north shore of the reservoir; and

WHEREAS, the District needs a new delivery point of water to take delivery of the SLO Water Entitlement from a new facility designed and constructed as part of the Project at a location along the north shore of the reservoir while continuing to have the rights of connecting to the existing low level outlet works; and

WHEREAS, pursuant to the terms of the proposed "Amendment to Nacimiento Water Agreement Between San Luis Obispo County Flood Control and Water Conservation District and the Monterey County Water Resources Agency" ("2007 Amendment"), Monterey Agency consents to a new outlet works as the new point of delivery for the SLO Water Entitlement and the continued right of possible connection to the existing low level outlet works at a point upstream of the Monterey Agency hydroelectric plant and in a manner that is hydraulically compatible with the hydroelectric equipment; and

WHEREAS, pursuant to the terms of the proposed 2007 Amendment, San Luis Obispo District agrees to modify the 1988 Agreement to eliminate Monterey Agency's financial obligations for hydraulic head restoration if San Luis Obispo District ever connects to the low level outlet works in consideration for Monterey Agency's consent of San Luis Obispo District to construct and operate a new delivery point of water.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the San Luis Obispo County Flood Control and Water Conservation District, State of California, as follows:

1. The San Luis Obispo County Flood Control and Water Conservation District hereby approves amendment titled "Amendment to Nacimiento Water Agreement Between San Luis Obispo County Flood Control and Water Conservation District and the Monterey County Water Resources Agency", which amendment provides that San Luis Obispo District be allowed to construct and operate a new outlet works as a new point of water delivery for the SLO Water Entitlement, and the Chair of the Board of Supervisors is hereby directed to execute said amendment on behalf of the San Luis Obispo County Flood Control and Water Conservation District.
2. The Director of Public Works will forward both copies of the executed amendment to Monterey Agency for their Board of Supervisors' signature, whence they will return one fully executed copy back to the Director of Public Works who will then forward to the Clerk of the Board for recordation.

B-11
7

Upon motion of Supervisor Ovitt, seconded by Supervisor Gibson, and on the following roll call vote, to wit:

AYES: Supervisors Ovitt, Gibson, Achadjian, Patterson, Chairperson Lenthall

NOES: None

ABSENT: None

ABSTAINING: None

the foregoing Resolution is hereby adopted.

JERRY LENTHALL

Chairperson of the Board of Supervisors

ATTEST:

JULIE L. RODEWALD

Clerk of the Board of Supervisors

By: VICKI M. SHELBY Deputy Clerk

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

By: *James Lindholm, Jr.*
Deputy County Counsel

Dated: 3/20/07

L:\MANAGMNT\APR07\BOS\MCWRA Amendment rsl.doc,jh.taw

STATE OF CALIFORNIA,
County of San Luis Obispo, } ss.

I, JULIE L. RODEWALD, County Clerk and ex-officio Clerk of the Board of Supervisors of the San Luis Obispo County Flood Control and Water Conservation District, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this 5th day of April, 20 07.

(SEAL)

JULIE L. RODEWALD
County Clerk and Ex-Officio Clerk of the Board of Supervisors

By: *Vicki Shelby*
Deputy Clerk.

ATTACHMENT 5 *B-18*

Nacimiento Water Project

Historic Agreements Between Monterey and San Luis Obispo

Between 1959 and 1988, the Monterey County Water Resources Agency (Monterey) has entered into 5 agreements with the San Luis Obispo County Flood Control and Water Conservation District (San Luis Obispo) related to the Nacimiento and San Antonio Dam.

Document 1 was executed on October 1, 1959 and was a result of the desire of the Monterey to build San Antonio Dam. Through this agreement,

- (1) both San Luis Obispo and the Monterey shared in the construction of the San Antonio Dam,
- (2) it was agreed that Monterey would supply San Luis Obispo with 17,500 acre-feet of water each year,
- (3) it was agreed that the water would be provided at the discharge end of the low level outlet works of Nacimiento Dam,
- (4) it was agreed that San Luis Obispo would pay for the water,
- (5) it was agreed that San Luis Obispo would construct at its own cost the facilities to divert the water from the discharge end of the low level outlet works,
- (6) it was agreed that diversion rate would be no greater than the present capacity of the low level outlet works, it was agreed that Monterey would maintain a minimum storage pool above the present low level outlet works of 12,000 acre-feet on September 30 of each year,
- (7) it was agreed that Monterey disclaims any representation relative to the quality of the water furnished.

Document 2 was executed on November 30, 1959 and clarified the payment schedule for both counties and that construction rate payments shall be made by San Luis Obispo for forty years and no longer.

Document 3 was executed on October 2, 1967 and clarified the meaning of the some of the terms in the construction rate payment section of the October 19, 1959 agreement.

Document 4 was executed on October 17, 1977. Through this agreement Monterey was allowed to build a manhole to allow for the inspection of the Nacimiento Dam low level outlet works on the downstream side of the three 42-inch Butterfly valves.

Document 5 was executed on October 18, 1988 to assure and preserve the rights of San Luis Obispo and Monterey following the construction of the hydroelectric generating plant at the low level outlet works of Nacimiento Dam. Through this agreement,

- (1) it was recognized that the hydroelectric generating plant would interfered with the right of San Luis Obispo to divert its entitlement from the discharge end of the low level outlet works and could reduce the benefits available to San Luis Obispo from the hydraulic head available in the reservoir,
- (2) it was agreed that Monterey will pay for any and all costs that may be incurred to provide facilities that will enable San Luis Obispo to receive its entitlement to 17,000 acre-feet of water at the hydraulic head that would have been available prior to the construction of the hydroelectric power plant,
- (3) it was agreed that such costs shall include all expenditures to study, design, construct, maintain, operate and other costs incurred to overcome negative effects, as agreed upon by San Luis Obispo and Monterey, of said construction, existence, operation and/or maintenance of Monterey' hydroelectric plant.
- (4) it was agreed that any negative effects would be determined and decided through a study conducted by an independent civil engineer,
- (5) it was agreed how the independent engineer would be selected and that the independent engineer would work under contract with Monterey to conduct the study resulting in a report identifying any and all such negative effects and presenting suggestions for several alternative solution and/or corrective measures,
- (6) it was agreed that a committee would review and determine the best of the suggested alternative solutions,
- (7) if any negative effects were determined and decided, the best solution would be constructed under contract with Monterey.

AGREEMENT

AGREEMENT ASSURING AND PRESERVING THE RIGHTS OF THE
SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION
DISTRICT FOLLOWING CONSTRUCTION BY
THE MONTEREY COUNTY FLOOD CONTROL AND WATER CONSERVATION
DISTRICT OF A HYDROELECTRIC GENERATING PLANT

This agreement is made and entered into this 18th day of October, 1988, by and between the San Luis Obispo County Flood Control and Water Conservation District (San Luis Obispo District), a political subdivision of the State of California, created by and existing under and by virtue of Chapter 1294 of the 1945 Statutes of California as amended, and the Monterey County Flood Control and Water Conservation District (Monterey District), a political subdivision of the State of California created and existing under and by virtue of Chapter 699 of the 1947 Statutes of California, as amended.

W I T N E S S E T H :

WHEREAS, San Luis Obispo District and Monterey District have previously entered into an agreement to share in the costs of and benefits from the San Antonio Dam and Reservoir and the use of the Nacimiento Dam and Reservoir, dated October 19, 1959, and supplemented and/or amended by subsequent documents dated November 30, 1959, October 2, 1967 and October 17, 1977; and

WHEREAS, under the terms of said agreement, San Luis Obispo District is entitled to receive 17,500 acre-feet of water annually from the Nacimiento Reservoir; and

WHEREAS, said agreement provides the delivery point of said water to San Luis Obispo District as the discharge end of the low level outlet works of the Nacimiento Dam; and

WHEREAS, said agreement provides for the right and entitlement of San Luis Obispo District to the benefits of the hydraulic head available in the reservoir; and

WHEREAS, Monterey District has constructed a hydroelectric generating plant at said low level outlet works of Nacimiento Dam, and desires to amend said agreement to reflect such construction and the use of said hydroelectric head for the production of electricity; and

WHEREAS, it is the desire of both parties hereto that this or any other use by Monterey District shall not derogate San Luis Obispo District's said rights and entitlements, as provided in and by said agreement, in any manner or to any extent whatsoever; and

WHEREAS, said hydroelectric generating plant could interfere with the right of San Luis Obispo District to divert its entitlement from the discharge end of said low level outlet works, and with other rights, and would reduce the benefits available to San Luis Obispo District from said hydraulic head; and

WHEREAS, San Luis Obispo District may in the future desire to utilize its rights and entitlements under said agreement dated October 19, 1959, including those rights and entitlements in and to said hydraulic head, for the same or any other purposes.

NOW, THEREFORE, it is mutually agreed by and between the parties as follows:

1. San Luis Obispo District consents to the construction by Monterey District of a hydroelectric plant; provided, however, that such consent shall not be construed as a relinquishment by San Luis Obispo District of any of those rights and entitlements granted to San Luis Obispo District by said agreement dated October 19, 1959, as originally executed and as since supplemented and/or amended including the benefits of the hydraulic head in the reservoir.
2. Monterey District acknowledges that said rights and entitlements of San Luis Obispo District will be encroached upon by the construction, operation and maintenance of said hydroelectric power plant and said construction, operation and maintenance will have the effect of reducing the hydraulic head available at the point of water delivery to San Luis Obispo District as compared to the prior-to-construction condition.
3. In consideration of the foregoing consent of San Luis Obispo District to the construction, operation and maintenance of the hydroelectric power plant by Monterey District, Monterey District agrees that whenever, and at such times, as San Luis Obispo District undertakes to divert water or use its rights and/or entitlements to take water from the low level outlet works of the Nacimiento Reservoir, and/or to use its rights and/or entitlements in and to said hydraulic head, Monterey District will pay any and all costs that may be incurred to provide facilities that will enable San Luis Obispo District to receive its entitlement to 17,500 acre-feet of water at the hydraulic head that would have been available prior to construction of the hydroelectric power plant. Such costs shall include all expenditures to study, design, construct, maintain, operate and other costs incurred to overcome the negative effects, as agreed upon by San Luis Obispo District and Monterey District, of said construction, existence, operation and/or maintenance of Monterey District's hydroelectric plant.
4. Any such negative effects shall be determined and decided through a study conducted by an independent civil engineer registered in the State of California and engaged by Monterey District for this purpose. Said study will result in a report identifying any and all such negative effects and presenting suggestions for several alternative solutions and/or corrective measures. A committee composed of the engineer who conducted the study and the County Engineer of San Luis Obispo County and the General Manager of the Monterey District, or his designated alternative, shall **ATTACHMENT 3** and determine the best of the

suggested alternative solutions. In the event that the Committee cannot unanimously agree upon the best of the suggested alternative solutions, then the engineer who conducted the study shall choose one of the suggested alternative solutions as the "best" alternative solution and that choice shall be final and binding upon San Luis Obispo District and Monterey District and its provisions shall be implemented by said districts as is hereinafter provided.

5. The engineer to conduct said study shall be selected, from those submitting proposals to do said study, by a selection committee composed of the County Engineer of San Luis Obispo County, the General Manager of Monterey District and a neutral, third member agreed upon by said County Engineer and General Manager. Should said County Engineer and General Manager be unable to agree on the third Committee member, then said third Committee member shall be selected by lot from a group of two persons, one each of whom is nominated by said County Engineer and said General Manager, provided that said nominees shall not be officers, directors, employees or agents of either of the affected Districts or Counties, nor under any obligation to either District or County by contract or otherwise. A request for proposals for said study shall be prepared and copies sent by the Monterey District General Manager to a minimum of four and a maximum of ten prospective consulting engineers selected in equal numbers from lists prepared by said County Engineer and District General Manager.
6. If said "best" alternative solution does not require additional design work beyond study, then the engineer who conducted said study shall be engaged to prepare any necessary bid documents and to oversee any construction required to incorporated said "best" alternative solution.
7. If said "best" alternative solution does require design work beyond the study, and if said County Engineer and District General Manager concur, then the engineer who conducted said study shall be engaged by Monterey District to proceed with said design and preparation of the necessary bid documents for the scheduled project, and to oversee the construction thereof.
8. If said "best" alternative solution does require design work beyond the study, and if said County Engineer and District General Manager do not concur, then a Request for Proposal shall be prepared and distributed by the Monterey District General Manager and an engineer will be selected for said design work and construction engineering in the same manner as provided for engaging a consultant for the study in paragraph number 5, above. The selected engineer will then be engaged for said work by Monterey District.
9. Construction of said "best" alternative shall be by contract let by Monterey District pursuant to the usual and normal construction contract policies and procedures of Monterey District.

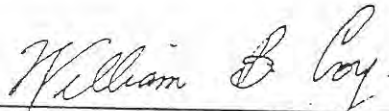
10. Notwithstanding any other provision of this agreement, Monterey District shall maintain at all times during the operation and maintenance of said hydroelectric generating plant, the actual variable pressure or head (or by artificial means, the equivalent variable pressure or head) to which San Luis Obispo District is entitled, at the point of diversion of San Luis Obispo District's entitlement under said October 19, 1959, agreement; specifically, service to the San Luis Obispo County Service Area No. 19 well field downstream from Nacimiento Dam shall not be interrupted during the operation/or maintenance of the hydroelectric plant.
 11. This agreement shall be valid upon execution and shall remain in effect for as long as any part of said hydroelectric plant remains, whether or not in operation, or for so long as any result of the construction, existence and/or operation of said hydroelectric plant, or any replacement or modification thereof, causes or may cause derogation of any of the rights or entitlements of San Luis Obispo District under said agreement of October 19, 1959.
 12. This agreement may be recorded by either party thereto.
 13. Notices concerning this agreement, or any part of any function or act thereunder, shall be in writing and may be personally served, or mailed certified, return receipt requested, to the parties as follows:
 - TO: San Luis Obispo District:
c/o County Engineer
County Government Center, Room 207
San Luis Obispo, CA 93408
 - TO: Monterey District:
c/o General Manager
Monterey County Flood Control and
Water Conservation District
P. O. Box 930
Salinas, CA 93902
- The above addresses and/or addressees for notices may be changed by giving notice of such change in accordance with this paragraph.
14. This agreement may be modified only by written amendment signed by both parties hereto.
 15. This agreement shall be deemed to have been entered into in, the State of California, and all questions concerning the validity, interpretation, or performance of any of its terms or provisions, or of any rights or obligations ~~of~~ the parties hereto shall be governed by and resolved in accordance with the laws of the State of California.

16. This agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the respective parties. All provisions of this agreement shall inure to the benefit of and be binding on the parties and their assigns and successors in interest.
17. This agreement has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this agreement within meaning of Civil Code, Section 1654.

In witness whereof, the parties have executed this agreement the day and year ~~final~~ above written.
first



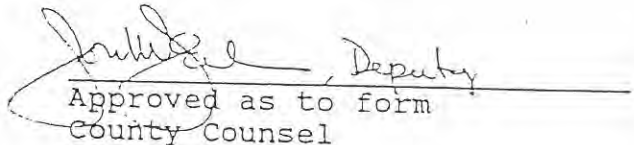
CHAIRMAN, BOARD OF SUPERVISORS
MONTEREY COUNTY FLOOD CONTROL
& WATER CONSERVATION DISTRICT



CHAIRMAN, BOARD OF SUPERVISORS
SAN LUIS OBISPO COUNTY



Approved as to form
County Counsel



Approved as to form
County Counsel

WFH/tc/lc

W14:agreemnt.slo

AMENDMENT NO. 1 TO AGREEMENT
OF OCTOBER 19, 1959

THIS AGREEMENT, made this 17 day of October, 1977, between SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT (hereinafter called "San Luis Obispo District"), a political subdivision of the State of California, created and existing under and by virtue of Chapter 1294 of the 1945 Statutes of California, as amended, and MONTEREY COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT (hereinafter called "Monterey District"), a political subdivision of the State of California, created by and existing under and by virtue of Chapter 699 of the 1947 Statutes of California, as amended.

W I T N E S S E T H:

WHEREAS, San Luis Obispo District and Monterey District on the 19th day of October, 1959, entered into an agreement concerning the Nacimiento Water Supply Project, and

WHEREAS, it is the desire of Monterey District to inspect and maintain from time to time the lower level outlet works at Nacimiento Dam, and

WHEREAS, such inspection and maintenance can most readily be accomplished if the reservoir is dewatered, and

WHEREAS, if the reservoir is dewatered to accommodate such inspection and maintenance, it is possible that such would result in valuable water being wasted, and

WHEREAS, it would benefit both Monterey District and San Luis Obispo District if facilities could be installed to accommodate the inspection and maintenance such that the conditions of the Agreement of the 19th of October, 1959 may be met. Without dewatering of the reservoir, the inspection and maintenance may not be readily carried out without considerable cost.

NOW, THEREFORE, San Luis Obispo District and Monterey District in consideration of the hereinsetforth mutual covenants, conditions, promises and agreements, hereby mutually covenant and agree as follows:

That the Agreement dated October 19, 1959 by and between San Luis Obispo District and Monterey District be and hereby is amended by adding to Subsection (j) of Section 11 thereof, the following:

- " (1) Monterey District agrees that if it can lower the reservoir this year (1977) to a level of 11,700 acre-feet in order to inspect and maintain the lower level outlet works that it will, while the reservoir is down this year, build a manhole to an elevation permitting inspection and maintenance of the lower level outlet works from the downstream side of the three 42-inch Butterfly valves while such valves are in a closed position so that in the future such can be done without dewatering the reservoir contrary to said Subsection (j) of Section 11 of said Agreement.
- (2) Monterey District further agrees that it will, within the limitations imposed by law (Senate Bill 90 and Amendments thereto) accrue funds over the next five years which will be adequate for constructing a bulk head and attendant facilities which can be placed over the intake for one of the 42-inch Butterfly valves so that such Butterfly valve may be inspected in the "dry" and removed

for maintenance if necessary. Further, such bulk head shall be designed and constructed so that it can be installed over the intake of any one of the three Butterfly valves as may prove necessary. In this regard, it shall be understood that the bulk head and the intake facilities to accommodate the bulk head shall be fabricated as soon as money is available (even before five years if such is possible) so that installation can then take place at the next opportune time. The next opportune time shall be deemed as occurring when the reservoir can again be dewatered without wasting water or being unacceptable to San Luis Obispo District.

- (3) San Luis Obispo District agrees that it will concur in the release of Nacimiento water to accommodate the work mentioned above."

IN WITNESS WHEREOF, the parties hereto have with due authority executed this Amendment on the date first shown above given in duplicate.

SAN LUIS OBISPO COUNTY FLOOD CONTR
AND WATER CONSERVATION DISTRICT
PARTY OF THE FIRST PART

By: Harvest P. Hankins
Chairman of the Board of
Supervisors

ATTEST:
Nisbet W. Wallam
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGAL EFFECT:
JAMES B. LINDHOLM, JR.
County Counsel

By: S. Hubbard
Deputy County Counsel

MONTEREY COUNTY FLOOD CONTROL AND
WATER CONSERVATION DISTRICT
PARTY OF THE SECOND PART

By: Richard Jones
Chairman of the Board of
Supervisors

ATTEST:

ERNEST A. MAGGINI,
Clerk of the Board of Supervisors
By: A. Lubnowell, Deputy
APPROVED AS TO FORM AND LEGAL EFFECT:
WILLIAM H. STOFFERS
County Counsel

By: W. H. Stoffers
Deputy County Counsel

M/ds

AMENDMENT TO AGREEMENT BETWEEN SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT AND MONTEREY COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

THIS AMENDMENT, made this 13 day of April, 1970, between SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, hereinafter called SAN LUIS OBISPO DISTRICT, and MONTEREY COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, hereinafter called MONTEREY DISTRICT, witnesseth:

WHEREAS, SAN LUIS OBISPO DISTRICT and MONTEREY DISTRICT have heretofore made and entered into an agreement dated October 19, 1959, providing, among other things, that MONTEREY DISTRICT shall furnish water to SAN LUIS OBISPO DISTRICT at the low level outlet works of Nacimiento Dam; and,

WHEREAS, SAN LUIS OBISPO DISTRICT now contemplates a need to take all or a portion of its annual allotment of Nacimiento water, other than from said low level outlet works; and,

WHEREAS, it is in the public interest of both Districts that the water be taken in the least costly and most convenient manner; and,

WHEREAS, both Districts now desire to amend said October 19, 1959 agreement to permit water to be taken by SAN LUIS OBISPO DISTRICT at other locations and by other means, upon specific written consent of MONTEREY DISTRICT.

NOW, THEREFORE, in consideration of the covenants contained herein it is hereby agreed between SAN LUIS OBISPO DISTRICT and MONTEREY DISTRICT that Part 8 of said October 19, 1959 agreement is hereby amended to read as follows:

8. MEASUREMENT AND DELIVERY POINT OF WATER. Water furnished by Monterey District to San Luis Obispo District shall be furnished at the discharge end of the low level outlet works of the Nacimiento Dam; and shall be measured at such delivery point; all such water will be measured by equipment jointly installed and operated and maintained by both of said districts, the expense of which shall be borne by said districts equally; and the accuracy of such measurements may be investigated by either district from time to time and any errors appearing therein shall be adjusted; and San Luis Obispo District shall not take water at any other location or by any other method without the prior written consent and approval of Monterey District.

All other terms, provisions and conditions of said agreement, except as expressly modified by this amendment, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have with due authority executed this amendment on the date first above given.

ATTEST:

Ruth Harabara
Clerk of the Board of Supervisors

SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

by *Thomas W. ...*
Chairman of the Board of Supervisors

APPROVED AS TO FORM:

Robert J. ...
Deputy District Attorney

ATTEST:

ESSET S. ROSENBERG
By: Sheila H. ... Deputy
Clerk of the Board of Supervisors

MONTEREY COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

by *[Signature]*
Chairman of the Board of Supervisors

APPROVED AS TO FORM:

D. H. Stofkus
County Counsel

BEFORE THE BOARD OF SUPERVISORS

of the

SAN LUIS OBISPO COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

Mon day October 9, 19 67

PRESENT: Supervisors M. Roland Gates, Elston L. Kidwell, Fred C. Kimball,
Hans Hellmann, and Chairman Lyle F. Carpenter

ABSENT: None

Resolution No. 67-497

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF LETTER AGREEMENT BETWEEN SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT AND MONTEREY COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

The following resolution is now offered and read:

WHEREAS, the San Luis Obispo County Flood Control and Water Conservation District and the Monterey County Flood Control and Water Conservation District have heretofore made and entered into agreements dated October 19, 1959, and November 30, 1959, providing for the construction of San Antonio Dam by the Monterey District, the furnishing of water to the San Luis Obispo District by the Monterey District, and the payment of funds by the San Luis Obispo District to the Monterey District, among other things, as in said agreements provided and subject to the terms, provisions and conditions thereof; and,

WHEREAS, Part 9 of said October 19, 1959, agreement contemplated the payment of funds to the Monterey District by the San Luis Obispo District for water delivered or contracted for pursuant to said agreement at a two-part rate per acre-foot to be computed in accordance with formulae set forth; and,

WHEREAS, construction of San Antonio Dam and Reservoir is now nearing completion and cost and interest data required to implement said formulae will be shortly available thereby permitting the rendering of accurate billings to the San Luis Obispo District in accordance with Parts 9 and 10 of said October 19, 1959, agreement; and,

WHEREAS, the staffs of the aforesaid Districts have reached preliminary accord on the meaning and intent of the 1959 agreements as applied to capital and operating costs; and,

WHEREAS, this Board of Supervisors believes that said Letter Agreement is in accordance with the meaning and intent of said 1959 agreements.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the San Luis Obispo County Flood Control and Water Conservation District, State of California, as follows:

1. The attached Letter Agreement is hereby approved.
2. The Chairman of the Board of Supervisors is hereby authorized and directed to execute said Letter Agreement on behalf of said District.

On motion of Supervisor Heilmann, seconded by Supervisor Kidwell, and on the following roll call vote, to-wit:

AYES: Supervisors Heilmann, Kidwell, Gates, Kimball, Chairman Carpenter

NOES: None

ABSENT: None

the foregoing resolution is hereby adopted.

/s/ Lyle F. Carpenter
Chairman of the Board of Supervisors

ATTEST:

/s/ Ruth Warnken
Clerk of the Board of Supervisors

SLO CO FC & WCD
M
STATE OF CALIFORNIA, }
County of San Luis Obispo, } ss.

I, RUTH WARNKEN, County Clerk and ex-officio Clerk of the Board of Supervisors of the San Luis Obispo County Flood Control and Water Conservation District, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this 17th day of October, 1967.

RUTH WARNKEN
County Clerk and Ex-Officio Clerk of the Board of Supervisors
BY [Signature]
Deputy Clerk.

[SEAL]

ATTACHMENT 6

ROBERT H. BORN
County Hydraulic Engineer
Ex-officio Chief Engineer

SAN LUIS OBISPO COUNTY
FLOOD CONTROL AND WATER CONSERVATION DISTRICT

COURTHOUSE ANNEX
SAN LUIS OBISPO, CALIFORNIA 93401

October 2, 1967



The Honorable Board of Supervisors
Monterey County Flood Control and
Water Conservation District
Courthouse
Salinas, California 93903

Gentlemen:

According to the terms of our October 19, 1959, and November 30, 1959, agreements with your District, we are scheduled to make our first payment to you this year for the use of water from Nacimiento Reservoir based on San Antonio Project costs.

With the assistance of our auditors, Arthur Young and Company, we have examined the costs incurred by your District for the San Antonio Project. As a result of discussions with Mr. Loran Bunte, Jr. and Mr. William H. Stoffers, we have reached preliminary accord on the meaning and intent of the 1959 agreements as applied to capital and operating costs and wish now to submit this proposal to your Honorable Board for its concurrence.

Because some of the details of the San Antonio Project and its financing program had not yet been formulated in 1959, it is desirable that we agree on certain items to be included in the rate formulae under Section 9 of the October 19, 1959, agreement.

We propose that the term " S_c " shall be agreed to be 288,000 acre-feet, representing the total constructed storage capacity of 350,000 acre-feet (S_t) less the sum of the flood control reservation (50,000 acre-feet) and the stipulated silt reservation (12,000 acre-feet).

The term " C_t " should include all bond sale costs, including the costs of conduct of election and bond counsel fees, and should also include credit for miscellaneous revenues applicable to construction. The term " C " should not include reimbursements from the County of Monterey, including federal grants, for road construction relocation betterment purposes.

The amount included within the term " C_t " shall not be reduced by any grants or reimbursements received by the Monterey District under

The Honorable Board of Supervisors
Monterey County Flood Control and
Water Conservation District

- 2 -

October 2, 1967

the provisions of the Davis-Grunsky Act.. The term "C_t" shall however exclude the specific costs of construction of on-shore recreational facilities, including water supply and sanitation facilities serving the recreational area and specific costs of land acquisition required for recreational purposes.

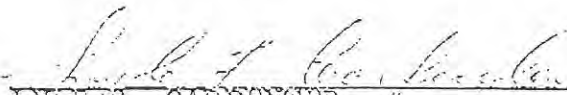
Finally, the term "C_t" should exclude the residual value of equipment not retained for project operation and maintenance purposes.

We propose that the term "I" should also include all interest payments made to bond holders over the life of the bonds less all interest earned on invested bond funds, except that said term should not include prorata interest payments made to bond holders for the portion of the bond sale not used for purposes included within the term "C_t". Accordingly, the term "I" should not be reduced by the prorata interest earned by said unused bond funds or Davis-Grunsky grant funds while on deposit.

We wish to express our appreciation for the excellent co-operation extended to us by your District representatives and are most appreciative of the excellent quality of your District accounting records.

If your Honorable Board concurs with the understanding reached with your District representatives as expressed herein, your concurrence will be evidenced by execution in the space provided below.

Very sincerely,



LYLE F. CARPENTER
Chairman of the Board of Supervisors

LFC/mb

ACCEPTED:

Monterey County Flood Control and
Water Conservation District

By 

Chairman of the Board of Supervisors

A G R E E M E N T

THIS AGREEMENT, made this 30th day of November, 1959, between SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT (hereinafter called "San Luis Obispo District"), a political subdivision of the State of California created by and existing under and by virtue of Chapter 1294 of the 1945 Statutes of California, as amended, and MONTEREY COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT (hereinafter called "Monterey District"), a political subdivision of the State of California created by and existing under and by virtue of Chapter 699 of the 1945 Statutes of California, as amended, witnesseth:

WHEREAS, San Luis Obispo District and Monterey District have heretofore made and entered into an agreement dated the 19th day of October, 1959, contemplating, among other things, the construction of San Antonio Dam and Reservoir and the furnishing of water to San Luis Obispo District by Monterey District as in said agreement provided and subject to the terms, provisions and conditions thereof; and,

WHEREAS, throughout the negotiations had by and between said San Luis Obispo District and said Monterey District it was intended, stated, understood and agreed, as repeatedly stated by the representatives of said two districts, both during their meetings with staff members of the State Water Rights Board and during the course of the discussions and negotiations of the representatives of said two districts, that each district was to pay its allocated share or portion of the cost of construction of San Antonio Dam, said construction cost to consist of both principal and interest on bonds sold to provide the funds with which to construct said San Antonio Dam, said San Luis Obispo District's share or portion of said construction costs to be paid by way of San Luis Obispo District's payment for water as formulated and set forth in subdivision (1) of paragraph (c) of Part 9 of said agreement, and that upon the completion of payment by San Luis Obispo District of its share of said costs of construction of said San Antonio Dam, said San Luis Obispo District would not be required to make any further payment for or on account of costs of construction of said San Antonio Dam; and,

WHEREAS, Part 9, entitled "Rate of and Payment for Delivery" of said agreement contemplated the payment of the monies to be paid as specified in subdivision (1) of paragraph (c) of the aforementioned Part 9 of said agreement for a term of 40 years and no longer, it being the intent that payments to be made under the so-called construction rate by San Luis Obispo should be paid for a term of 40 years as therein specified and no longer in contrast thereto the payments to be made by San Luis Obispo District by way of maintenance and operation being payable each year so long as San Luis Obispo District receives water from Monterey District as by said agreement provided and contemplated; and,

WHEREAS, although the aforementioned intent is implicit in said agreement, and especially and particularly under the provisions for the payments under the construction rate figured as in said agreement set forth on the basis of a 40-year term and no longer; but, WHEREAS, it is realized that at the expiration of the aforementioned 40-year term all of the representatives

of said San Luis Obispo District and said Monterey District and the present members of the State Water Rights Board and its present staff who participated in the negotiations for and in the formulating and execution of the aforementioned agreement will in all likelihood no longer be alive or available; and

WHEREAS, it is desirable that the intent to limit said construction payments for a term of 40 years should be expressly stated so that there will be no possibility of any contention at any time being made to the contrary in the future.

NOW, THEREFORE, it is hereby agreed that said subdivision (1) of paragraph (c) of the aforementioned Part 9 of said agreement shall be conclusively deemed to contain at the close thereof the following provision, to wit:

San Luis Obispo District shall not in any event be required or liable for any payment by way of construction rate for any water received by it under this agreement after the expiration of the aforementioned 40-year term, at the close of which time San Luis Obispo will have paid such share of the costs of construction San Antonio Dam as is allotted or allocable to San Luis Obispo District under this agreement as in the aforementioned Part 9 specified and stated; and, San Luis Obispo and Monterey District hereby so agree that said construction rate payments shall be payable for said 40-year term and no longer.

IN WITNESS WHEREOF, the parties hereto have with due authority executed the agreement on the date first above given, in duplicate.

SAN LUIS OBISPO COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

By /s/ M. ROLAND GATES
Chairman of the Board of Supervisors

ATTEST:

/s/ A. E. MALLAGH
Clerk of said Board

Approved as to form and legality:

/s/ PAUL W. DAVIS
District Attorney

ATTEST:

MONTEREY COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

By /s/ CHESTER DEEVER
Chairman of the Board of Supervisors

EMMET G. MC MENAMIN
Clerk of said Board

Approved as to form and legality:

/s/ WILLIAM H. STOFFERS
County Counsel

ATTACHMENT 5

A G R E E M E N T

THIS AGREEMENT, made this 17th day of October, 1959, between SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT (hereinafter called "San Luis Obispo District"), a political subdivision of the State of California created by and existing under and by virtue of Chapter 1294 of the 1945 Statutes of California, as amended, and MONTEREY COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT (hereinafter called "Monterey District"), a political subdivision of the State of California created by and existing under and by virtue of Chapter 699 of the 1947 Statutes of California, as amended, witnesseth:

1. EXPLANATORY RECITALS - This contract is made in consideration of the following facts:

(a) The lands and inhabitants within said districts and each of them are in need of additional water for municipal, domestic, and industrial uses; and investigations of the present water supply indicate that irrigated and irrigable lands within the boundaries of the said districts are at present in need of additional water for irrigation, and certain areas require a new or supplemental supply of water for municipal and miscellaneous purposes for present and future needs, and that ground water supplies are depleted and in need of replenishment, and that a supplemental water supply to meet these present and potential needs can be made available by and through the construction and use of the San Antonio Dam and Reservoir and use of Nacimiento Dam and Reservoir as hereinafter set forth; and

(b) San Luis Obispo District has heretofore filed with the State Water Rights Board of the State of California two applications bearing numbers 16778 and 16779 for permission to

appropriate water from the San Antonio River and from the Nacimiento River impounded by the Nacimiento Dam and Reservoir; and Monterey District has heretofore filed with the said State Water Rights Board application bearing No. 16761 for permission to appropriate water from said San Antonio River; and Monterey District holds permit No. 10137 to impound and appropriate waters of and from Nacimiento River by Nacimiento Dam and Reservoir; and the City of El Paso de Robles has heretofore filed with said State Water Rights Board applications bearing Nos. 17123 and 17962 for permission to appropriate water from Paso Robles Creek in San Luis Obispo County; and,

(c) San Luis Obispo District has heretofore opposed the said application of Monterey District, and Monterey District has heretofore opposed the said applications of San Luis Obispo District and the applications aforementioned of the City of El Paso de Robles; and

(d) Said Districts now wish to settle their differences and also to provide for their present and anticipated water requirements by means of the hereinafter described San Antonio Dam and Reservoir and the use of Nacimiento Dam and Reservoir as hereinafter set forth, and the use of Paso Robles Creek Dam and Reservoir, all as hereinafter stated; and

(e) Monterey District is now using water from the Nacimiento Reservoir under its permit No. 10137, aforementioned, but San Luis Obispo District is not at present receiving water from said Reservoir; and

(f) Investigations of the stream flow in the San Antonio River and its tributaries and of the present and future require-

ments for beneficial uses of the waters thereof indicate that with the construction of the proposed San Antonio Dam and Reservoir with a water storage capacity both substantial and commensurate with the potentialities of the stream and site as contemplated by Monterey District's application No. 16761, a new supplemental water supply will be available which will substantially augment Monterey District's present water supply and will in turn enable Monterey District to spare and supply San Luis Obispo District from Monterey District's presently existent Nacimiento Dam and Reservoir with not less than 17,500 acre feet of water each year, or such lesser amount each year as San Luis Obispo District may specify as hereinafter set forth in the water delivery and payment schedule; and, such sharing of said water supply as hereinafter set forth would obviate San Luis Obispo District's objections to Monterey District's application No. 16761 and would result in San Luis Obispo District's withdrawal of its said objections and its further withdrawal of its applications Nos. 16778 and 16779 and would obviate and result in Monterey District's withdrawal of its objections to applications Nos. 17123 and 17962 of the City of El Paso de Robles; and

(g) Accordingly, the public interests of all concerned and of both Monterey District and San Luis Obispo District will be best served by the settlement of said district's respective rights and claims under pending application No. 16761 of Monterey District and applications Nos. 16778 and 16779 of San Luis Obispo District and by the provisions hereinafter set forth with respect to applications Nos. 17123 and 17962 of the City of El Paso de Robles, all as hereinafter set forth; and,

(h) Accordingly, San Antonio Dam should and can be built

with substantial water storage capacity, as aforementioned, which will provide Monterey District with a supplemental supply as aforesaid and will, further, as hereinafter specified, provide both districts with new, additional supplementary water, 17,500 acre feet per year as hereinafter specified from Nacimiento Reservoir to San Luis Obispo District, subject to and under the terms and conditions hereinafter set forth in favor of Monterey District and San Luis Obispo District, respectively; and

(i) It is to the interest of both Monterey District and San Luis Obispo District that a permit to appropriate water of the San Antonio River be issued by the State Water Rights Board pursuant to application No. 16761 consistent with the terms, conditions and provisions hereinafter set forth; and

(j) Monterey District and San Luis Obispo District desire that this agreement be entered into so that, without further protracted proceedings before the State Water Rights Board and possible court proceedings, the development and beneficial use of said water resources may proceed promptly and that the terms, provisions and conditions of this Agreement, to the extent that the same may be within the jurisdiction of said State Water Rights Board, shall be made and be a part of any permit issued pursuant to any of the aforementioned applications of Monterey District or San Luis Obispo District;

(k) San Luis Obispo District and Monterey District wish to contract for the construction and maintenance of the San Antonio Dam and Reservoir and the furnishing to San Luis Obispo District of water from Nacimiento Reservoir, as hereinafter set forth;

NOW, THEREFORE, in consideration of the premises and the mutually dependent covenants herein contained, it is hereby agreed as follows:

2. DEFINITIONS. When used herein, unless otherwise distinctly expressed or manifestly incompatible with the intent hereof, the term:

- (a) "State Water Rights Board" shall mean the State Water Rights Board of the State of California;
- (b) "The San Antonio Dam and Reservoir" shall mean that certain dam and reservoir described in the aforementioned application No. 16761 of Monterey District now on file with the State Water Rights Board, as said Dam and Reservoir shall be constructed pursuant to Permit issued under application No. 16761.
- (c) "Water Year" shall mean the twelve month period from and including October 1 of each year to and including September 30 next following.

3. TERM OF CONTRACT. This contract shall become effective upon its execution and will remain in effect at all times thereafter.

4. DISPOSITION OF PENDING APPLICATIONS. Existing applications and permits shall be treated as follows:

(a) The application of Monterey District No. 16761 now pending with the State Water Rights Board shall be approved forthwith, and San Luis Obispo District shall withdraw its objection to the issuance of a permit pursuant to said application; and the terms, provisions and conditions of said permit and license issued pursuant thereto shall be consistent with the terms, provisions and conditions of this agreement, and so that San Luis Obispo District shall have its right to obtain water as by this contract provided;

(b) San Luis Obispo District will cease forthwith to prosecute and will withdraw its said applications Nos. 16778 and

and 16779; provided, that the resulting permit and license shall approve of and include the basic terms, provisions and conditions of this contract;

(c) The applications of the City of El Paso de Robles bearing Nos. 17123 and 17962 on file with the State Water Rights Board, amended as hereinbelow stated, may be approved forthwith without hearing, and Monterey District shall withdraw its objection thereto; it is also understood and agreed that said applications Nos. 17123 and 17962 may be amended and that the resulting permit and license may show and allow the appropriation of water sought thereunder for all purposes and uses, if agreeable to San Luis Obispo District and the City of El Paso de Robles, throughout Zone 2 hereinafter mentioned, and need not be limited to municipal purposes as in the present form of said applications Nos. 17123 and 17962; and, Monterey District will in no way oppose or hinder and will do all it properly may do to morally assist and support the City of El Paso de Robles to obtain the permits to be issued under said applications Nos. 17123 and 17962 and to encourage all protestants against said applications Nos. 17123 and 17962, including those residing or owning land in Monterey County, to withdraw their protests and opposition to said applications Nos. 17123 and 17962 as now on file and as amended as above contemplated.

(d) The existing permit of Monterey District to appropriate water at Nacimiento Reservoir will be modified to include the lands of San Luis Obispo District, known as Zone 2, as shown upon the attached map, as a place of use;

5. CONSTRUCTION OF SAN ANTONIO DAM AND RESERVOIR. Monterey District hereby undertakes to construct the San Antonio Dam and Reservoir,

and to construct the same in such a manner as to provide substantial water storage capacity, as aforementioned; Monterey District will commence construction of said dam on or before July 1, 1964, or such other date as the permit may specify, and will complete construction on or before July 1, 1967, or such other date as the permit may specify; and time is of the essence with respect to these and all other provisions of this contract;

6. SUPPORT OF MONTEREY DISTRICT. San Luis Obispo District will lend moral support to Monterey District by whatever measures are reasonable and appropriate, to the end that Monterey District may obtain adequate financing for the construction of the San Antonio Dam and Reservoir, may effect the necessary bond issues in connection therewith and may obtain from the Federal Government title to whatever lands, easements or rights of way are necessary for said dam and reservoir; and, Monterey District will lend moral support to San Luis Obispo District by whatever measures are reasonable and appropriate, to the end that San Luis Obispo District may obtain adequate financing for the construction of such facilities as may be required to enable San Luis Obispo District to accept delivery of the water to be received by San Luis Obispo District hereunder, and to distribute the same, may effect the necessary bond issues in connection therewith and may obtain from the Federal Government whatever lands, easements or rights of way may be necessary for the pipelines and incidental facilities of San Luis Obispo District over, under and across Federal Government lands.

7. EFFECT ON DEFAULT IN COMPLETING DAM AND RESERVOIR. If Monterey District fails to commence construction of San Antonio Dam and Reservoir on or before July 1, 1964, or such other date as the

permit may specify, or fails to complete such construction on or before July 1, 1967, or such other date as the permit may specify, then upon either of such failures, San Luis Obispo District may, by written notice to Monterey District delivered within sixty (60) days after such default, have Monterey District assign to San Luis Obispo District any and all permits then issued or pending in the name of Monterey District for the construction of San Antonio Dam and Reservoir and for the appropriation of water from the San Antonio River, and Monterey District shall make such assignments within ten days of receiving such notice of election; and, regardless of the execution of said assignment by Monterey District, such assignment shall ipso facto occur and result if such notice be so served, if not so made as hereinbefore provided; and, in the event any such assignment occurs, then the place of use of water under said permit shall ipso facto be changed to embrace Zone 2 of San Luis Obispo District; provided, however, that if Monterey District has been unable, after Monterey District's best efforts, made in full good faith and with all diligence and dispatch, to acquire from the United States Government and/or the United States Army title to the land necessary for said dam and reservoir within two years from the issuance of a permit on application No. 16761, any time elapsing after said two year period to the time when Monterey District acquires said title to said federally owned land shall be added on to the aforesaid commencement and completion dates, and provided further, that the State Water Rights Board shall have the power, after hearing, to extend the aforesaid commencement and completion dates upon good cause shown therefor; and, provided further, that if an assignment of such permit or permits by Monterey District to San Luis Obispo District shall be made pursuant

to this paragraph, then all further obligations and duties created by or arising from this contract shall terminate immediately after such assignment, other than the obligation of San Luis Obispo District to pay for water, if any, already delivered to it as hereinafter provided;

8. MEASUREMENT AND DELIVERY POINT OF WATER. Water furnished by Monterey District to San Luis Obispo District shall be furnished at the discharge end of the low level outlet works of the Nacimiento Dam; and shall be measured at such delivery point; all such water will be measured by equipment jointly installed and operated and maintained by both of said districts, the expense of which shall be borne by said districts equally; and the accuracy of such measurements may be investigated by either district from time to time and any errors appearing therein shall be adjusted;

9. RATE OF AND PAYMENT FOR DELIVERY. Monterey District shall deliver water to San Luis Obispo District from the Nacimiento Reservoir and San Luis Obispo District shall pay Monterey District for such water, in the following amounts:

(a) During the first nine (9) years following the completion of San Antonio Dam:

Not less than 2,000 acre-feet of water, or more if ordered by San Luis Obispo District, but not exceeding 17,500 acre-feet of water, during the first year;

Not less than 4,000 acre-feet of water, or more if ordered by San Luis Obispo District but not exceeding 17,500 acre-feet of water, during the second year;

Not less than 6,000 acre-feet of water, or more if ordered by San Luis Obispo District but not exceeding 17,500 acre-

feet of water, during the third year;

Not less than 8,000 acre-feet of water, or more if ordered by San Luis Obispo District but not exceeding 17,500 acre-feet of water, during the fourth year;

Not less than 10,000 acre-feet of water, or more if ordered by San Luis Obispo District but not exceeding 17,500 acre-feet of water, during the fifth year;

Not less than 12,000 acre-feet of water, or more if ordered by San Luis Obispo District but not exceeding 17,500 acre-feet of water, during the sixth year;

Not less than 14,000 acre-feet of water, or more if ordered by San Luis Obispo District but not exceeding 17,500 acre-feet of water, during the seventh year;

Not less than 16,000 acre-feet of water, or more if ordered by San Luis Obispo District but not exceeding 17,500 acre-feet of water, during the eighth year;

Not less than 17,500 acre-feet of water, or more if mutually agreeable to San Luis Obispo District and Monterey District, during the ninth year.

(b) During each succeeding year throughout the term of this contract, 17,500 acre-feet of water, or more if mutually agreeable to San Luis Obispo District and Monterey District;

(c) San Luis Obispo District shall pay the Monterey District for water delivered or contracted for pursuant to this agreement at a two-part rate per acre-foot, computed on the following basis:

(1) Construction Rate. Construction costs, including an allowance for both principal and interest on bonds sold, shall

be computed by use of a formula with symbols having the following meanings:

- R_c = Unit construction rate, in dollars per acre-foot.
- S_c = Portion of total storage capacity of San Antonio Reservoir allocated to conservation purposes, in acre-feet.
- S_t = Total constructed storage capacity of San Antonio Reservoir, in acre-feet.
- S_s = Silt reservation, agreed for the purposes of this agreement to be 12,000 acre-feet.
- C_t = Total Capital cost of San Antonio Dam and Reservoir, based on cost data available at time of final audit.
- I = Total interest charge over 40-year life of bonds at effective interest rate.
- Y = Safe seasonal yield of San Antonio Reservoir as determined directly, or by interpolation, from the following table:

Conservation Storage Capacity, S_c , in acre-feet	Safe Seasonal Yield, Y , in acre-feet
400,000	58,700
300,000	49,800
200,000	40,300
150,000	34,300
100,000	28,000

Using the foregoing symbols, the formula used to compute the construction rate per acre-foot, to be paid by the San Luis Obispo District, shall be as follows:

$$R_c = \frac{S_c}{S_t - S_s} \frac{(C_t + I)}{40 Y}$$

For example, assuming that the conservation storage capacity, S_c , is 300,000 acre-feet; that the total storage capacity, S_t , is 400,000 acre-feet; that the total capital cost is

\$7 million; that the total interest payment over projected life of the bonds is \$6-1/2 million; the construction rate, R_c , would be computed as follows:

$$R_c = \frac{\frac{300,000}{400,000 - 12,000} (\$7,000,000 + \$6,500,000)}{40 \times 49,800} = \$5.23$$

(2) Maintenance and Operation Rate. The prorata share of maintenance and operation costs of San Antonio Dam and Reservoir to be borne by the San Luis Obispo District shall be related to the total annual maintenance and operation costs of said dam and reservoir in the same proportion as the conservation storage capacity bears to the total storage capacity, excluding the silt reservation, and shall be computed by use of a formula with symbols having the following meanings:

- R_m = Unit maintenance and operation rate in dollars per acre-foot.
- S_c = Portion of total storage capacity of San Antonio Reservoir allocated to conservation purposes, in acre-feet.
- S_t = Total storage capacity of San Antonio Reservoir, in acre-feet.
- S_s = Silt reservation, agreed for the purposes of this agreement to be 12,000 acre-feet.
- C_m = Actual maintenance and operation cost in any given year.
- Y = Safe seasonal yield of San Antonio Reservoir as determined directly or by interpolation from the table presented under subparagraph (1) above.

Using the foregoing symbols, the formula used to compute the maintenance and operation rate per acre-foot, to be paid by the San Luis Obispo District, shall be as follows:

$$R_m = \frac{S_c \cdot C_m}{(S_t - S_s) \cdot Y}$$

For example, assuming that the conservation storage capacity of San Antonio Reservoir, S_c , is 300,000 acre-feet; that the total storage capacity, S_t , is 400,000 acre-feet; and that the total maintenance and operation costs for the previous year were \$15,000; the maintenance and operation rate, R_m , would be computed as follows:

$$R_m = \frac{300,000 \times \$15,000}{(400,000 - 12,000) \cdot 49,800} = \$0.23$$

10. TIME OF BILLING. Monterey District will bill San Luis Obispo District at intervals of not less than six months, on dates to be selected by Monterey District with a view to the convenient determination of elements affecting the cost of water under the provisions of this contract; all billings shall be made for water previously delivered, and not for future deliveries; and if any payment be not made within sixty (60) days after billing, it shall draw interest at the rate of five per cent per annum from the date of said billing. All billings shall be made in two parts, as provided for under paragraph No. 9, headed "RATE OF AND PAYMENT FOR DELIVERY", and the portion of the billings for maintenance and operation costs shall be fully documented and shall be based on actual costs incurred in the operation and maintenance of San Antonio Dam and Reservoir for only flood control and water conservation purposes and shall not include any cost items relating to recreational activities conducted in connection therewith.

11. MISCELLANEOUS PROVISIONS:

(a) That the operation of the San Antonio Dam and Reservoir shall be under the direct supervision and control of Monterey

District.

(b) That San Luis Obispo District shall construct at its own cost and expense all works necessary to divert the water furnished it by Monterey District from the Nacimiento Reservoir including any modification necessary to the existing works.

(c) Initial Delivery Date -- The obligation of Monterey District to furnish water hereunder and the obligation of San Luis Obispo District to pay for water hereunder shall commence on October 1 of the calendar year following the calendar year in which the San Antonio Dam is completed.

(d) Monterey District shall not be liable for any damage caused by the water furnished hereunder after it leaves the delivery point and San Luis Obispo District agrees to hold Monterey District harmless from any such liability. San Luis Obispo District shall not be liable for any damage caused by Monterey District's impounding water by Nacimiento Dam, nor for escape of water therefrom, nor for any water thereof or therefrom except such water as is delivered to San Luis Obispo District by Monterey District as herein provided, and Monterey District agrees to hold San Luis Obispo District harmless from such liability.

(e) Monterey District disclaims any representation relative to the quality of the water furnished hereunder.

(f) Monterey District shall have the right to temporarily close down the outlet works for repair or for other unavoidable reasons beyond the control of Monterey District, and Monterey District shall be relieved of its responsibility to deliver water during said period. Should San Luis Obispo District be unable to accept the water ordered for reasons beyond the control of San Luis Obispo District, it shall be relieved of its obligation to pay for said

water during said period.

(g) Monterey District will furnish to San Luis Obispo District each water year following the initial delivery date the amount of water called for in a schedule and order submitted by San Luis Obispo District to Monterey District in writing on or before November 1st of the preceding water year.

(h) Said schedule and order shall show the total amount of water in acre-feet to be required for the next ensuing water year, and the approximate amount of water to be required for each month thereof.

(i) Prior to the time for delivery of water to San Luis Obispo District under this contract, and at all times thereafter during the term of this contract, Monterey District will, to the extent required by public health or other law, terminate, abolish, regulate or restrict recreational activities in, around or upon the waters of Nacimiento Reservoir which entail bodily contact with said waters by persons or animals in order to enable San Luis Obispo District to make use of said water as San Luis Obispo District sees fit.

(j) In no event shall Monterey District be required to furnish water at a rate in excess of the capacity of the present low level outlet works at the Nacimiento Dam. In order to assure San Luis Obispo District of its rights and entitlements to water under the provisions of this agreement, Monterey District shall maintain a minimum storage pool above the present low level outlet works at Nacimiento Dam of (12,000 acre-feet in extent on September 30th of each year; and that in no event shall Monterey District make downstream releases from Nacimiento Reservoir at any time the total quantity of water in storage above the elevation of the present

low level outlet works is equal to, or less than, 12,000 acre-feet; provided that, in those years in which the deliveries of water to San Luis Obispo District are less than 17,500 acre-feet, Monterey District shall not be required to maintain a minimum pool above the elevation of the present low level outlet works in excess of 50% of the projected seasonal demand for water by San Luis Obispo District.

(k) San Luis Obispo District may, with the concurrence of Monterey District, submit a revised schedule for the delivery of water in any water year.

(l) In no event shall Monterey District be required under this contract to furnish to San Luis Obispo District in excess of 17,500 acre-feet of water in any one water year, unless otherwise mutually agreed.

(m) That should the permit issued to Monterey District be assigned to San Luis Obispo District pursuant to provisions hereof, San Luis Obispo District shall construct a dam and reservoir on said San Antonio River within seven years after said assignment, and if San Luis Obispo District does not so construct said dam and reservoir within said period, said permit shall then be disposed of in such manner as the State Water Rights Board may order.

X (n) That this agreement shall be conditioned and become operative upon the following having been completed:

(1) The issuance of a permit by the State Water Rights Board under application 16761, which permit shall be consistent with the terms, provisions and conditions of this agreement.

(2) The withdrawal by San Luis Obispo District of applications Nos. 16778 and 16779, said withdrawal to become effec-

tive upon the issuance of said permit to Monterey District under application 16761, consistent with the terms, provisions and conditions of this agreement.

(3) The withdrawal by San Luis Obispo District of protest to application 16761, said withdrawal to become effective upon the issuance of said permit to Monterey District under application 16761, consistent with the terms, provisions and conditions of this agreement.

(4) The withdrawal by Monterey District of protest to the applications Nos. 17123 and 17962 of the City of El Paso de Robles to appropriate water of Paso Robles Creek, said withdrawal to become effective upon the issuance of said permit to Monterey District under application 16761, consistent with the terms, provisions and conditions of this agreement.

12. DEFAULT BY SAN LUIS OBISPO DISTRICT IN PAYING FOR WATER.

If San Luis Obispo District shall fail to pay Monterey District for water delivered pursuant to this contract within nine (9) months of billing therefor, then all further obligations and duties created by or arising from this contract, excepting the obligation by San Luis Obispo District to pay for water received prior to the end of said nine-month period, shall terminate upon the election of Monterey District to terminate the same as evidenced by written notice of such election delivered to San Luis Obispo District within sixty (60) days following the elapse of said nine-month period of default.

13. NOTICES. Any notice to be given pursuant to the provisions of this contract shall be deemed to have been duly delivered and given twenty-four (24) hours after such notice is deposited in any

United States post office in the State of California in a postage prepaid registered envelope addressed to the "San Luis Obispo County Flood Control and Water Conservation District", San Luis Obispo, California, if San Luis Obispo District is being given notice, and to "Monterey County Flood Control and Water Conservation District", Salinas, California, if Monterey District is being given notice, or such other addresses as either party may designate from time to time by written notice to the other; provided, that this paragraph shall not invalidate the service of such notice in the manner prescribed by State law for the service of summons in California.

14. RETENTION OF JURISDICTION. The State Water Rights Board shall retain jurisdiction with respect to the permit issued under application 16761, as now on file and as the same may be amended, during the life of this contract; and, notwithstanding anything in this contract or the permit or license issued under or pursuant to application No. 16761, aforementioned, the State Water Rights Board shall retain and have and may exercise in regard thereto its powers granted or allowed it by law.

IN WITNESS WHEREOF, the parties hereto have with due authority executed the agreement on the date first above given, in duplicate.

PAGE 18
PAGE 19

ATTEST:

[Signature]
Clerk of said Board

Approved as to form and legality:

[Signature]
District Attorney

SAN LUIS OBISPO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, Party of the First Part

By [Signature]
Chairman of the Board of Supervisors

ATTEST:

[Signature]
Clerk of said Board

Approved as to form and legality:

[Signature]
County Counsel

MONTEREY COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, Party of the Second Part

By [Signature]
Chairman of the Board of Supervisors

Appendix D. Nacimiento Water Company Agreement

(2-119-47)

11/10/84
copy to minutes
book
p. 52/53

Before the Board of Supervisors in and for the
County of Monterey, State of California

Agreement #A-3911 ---)
Between Monterey County Flood)
Control and Water Conservation)
District and Nacimiento Water)
Company Re: Ownership of Water)
Being Pumped from Certain Wells)
Located at the Bottom of Lake)
Nacimiento, Approved; Chairman)
Authorized to Sign)

DEC 31 1984

Upon motion of Supervisor Del Piero, seconded by Supervisor Shipnuck, and unanimously carried, the Board hereby approves and authorizes the Chairman to sign Agreement #A-3911 between Monterey County Flood Control and Water Conservation District and Nacimiento Water Company regarding ownership of water being pumped from certain wells located at the bottom of Lake Nacimiento.

PASSED AND ADOPTED this 22nd day of May, 1984, by the following vote, to-wit:

- AYES: Supervisors Del Piero, Shipnuck, Petrovic, Moore and Peters.
- NOES: None.
- ABSENT: None.

I, ERNEST A. MAGGINI, County Clerk and ex-officio Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof at page -- of Minute Book 52 on May 22, 1984 .
dated: May 22, 1984

ERNEST A. MAGGINI, County Clerk and ex-officio Clerk of the Board of Supervisors, County of Monterey, State of California.
By Ernest A. Maggini Deputy.

AGREEMENT

This Agreement made and entered into this 22nd day of May, 1984, by and between Monterey County Flood Control and Water Conservation District and Nacimiento Water Company;

WITNESSETH:

WHEREAS, Nacimiento Water Company, hereinafter "Water Company," is the owner of three wells located at the bottom of Lake Nacimiento, more particularly decribed as within the north-west quarter and southwest quarter of the northwest quarter of Section 22, Township 25 South, Range 9 East, Mount Diablo Base Meridian.

WHEREAS, the area where the wells are located in Lake Nacimiento is subject to a floodage easement which is owned and maintained by the Monterey County Flood Control and Water Conservation District, hereinafter "District"; and

WHEREAS, a controversy exists between Water Company and District relating to the rights and liabilities of the parties one to the other, concerning the ownership of water being pumped (taken) from said wells; and

WHEREAS, each party claims ownership of said water; and

WHEREAS, it is the desire of both Water Company and the District to bring this matter to a conclusion and to avoid the incurring of costs and expenses incident to litigation.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, the parties have agreed, and do agree as follows:

A. Water Company hereby waives any claim of right or title to water being taken from said wells.

B. Water Company will receive from the District a water allocation of 600 acre feet (600 A.F.) per year.

C. In the event that any other water company or supplier of water should drill wells in the bottom of Lake Nacimiento and then supply water from such wells to customers of Water Company or Water Company within the below-defined service area, then the 600 A.F. allocation, at the option of the District, may be ratably reduced; however, in no event may the allocation be reduced to less than 450 acre feet per year.

D. Water Company shall pay District for water from the allocation on the basis of acre feet used at the rate of \$55.00 per acre foot per year. Payment shall be made quarterly on the first day of each and every third month during the term of this Agreement, which term commences June 1, 1984, and shall be paid to the District at its address of Post Office Box 930, Salinas, California 93902, or wherever in the future the District may designate.

1. The base price per acre foot shall be subject to adjustment on the fifth anniversary of the commencement of this Agreement, and on every fifth anniversary thereafter (which anniversaries are referred to herein as "the adjustment date"), in

accordance with the formula set forth below. In applying the formula, the following definitions shall prevail:

a. "Bureau" means the United States Department of Labor, Bureau of Labor Statistics or any successor agency that shall publish the indices or data referred to in subparagraph b.

b. "Price Index" means the Consumer Price Index San Francisco-Oakland, California, All Urban Consumers ("CPI-U"), All Items (1967=100), issued from time to time by the Bureau or any other measure hereafter employed by the Bureau in lieu of such price index that measures the cost of living for all urban consumers in the San Francisco-Oakland, California greater bay area.

c. "Base Index" is the price index for the month nearest to the commencement date.

d. "Adjustment Index" is the price index for the month nearest to the adjustment date.

e. The term "five-year period" means each sixty-month period of the term following the adjustment date.

2. If the Price Index for the month nearest to the adjustment date has increased or decreased over the Base Index, then the base price per acre foot, commencing with the first day of such five-year period, shall be increased or decreased in the same proportion that the increase or decrease in the adjustment index bears to the base index, such increase or decrease to be effective only to the extent that it exceeds a similar increase or decrease then effective, established in any prior five-year period. However, in no event will the base price per acre foot be reduced to less than \$55.00 per acre foot per year.

3. Any quarterly payment for sale of water not paid within fifteen (15) days of its due date shall be subject to a

late charge equal to five percent (5%) of the amount of delinquency, plus interest at the rate of fifteen percent (15%) per annum on the unpaid balance.

4. Water Company agrees that each and every one of its wells shall have District-approved meters installed. Each meter shall accurately meter all water pumped from the wells. Water Company has a duty to maintain said meters in good working condition at all times. Water Company further agrees that District shall have the right to inspect Water Company's books, meters and records at any reasonable time.

E. Water Company agrees that the use of any water purchased from District is to be used solely for domestic and municipal purposes, that is, such water shall not be supplied to customers for agricultural or other income-producing purposes. Water Company has an affirmative duty to monitor and enforce the provisions of this section.

F. Water Company and District agree that Water Company will provide water for domestic and municipal purposes only within the service area described as follows:

1. All of Sections 2, 3, 9, 10, 11, 14, 15, 16, 20 and 21 of Township 25 South, Range 9 East, M.D.M.;

2. The South half of Section 17 (same township and range as above); and

3. The North Half of Sections 22 and 23 (same township and range as above).

Water Company further agrees that it shall not provide water to be used outside this designated service area from said existing wells or any other wells drilled or acquired in the future in the area described above.

G. Water Company agrees that neither it nor its successors shall drill or acquire new wells within the boundaries of Lake Nacimiento which are outside that area on the bottom of Lake Nacimiento where Water Company presently has an interest. Water Company and District further agree that should any other wells be drilled or acquired by Water Company which are outside the boundaries, as defined by the high water mark of Lake Nacimiento, then the following provisions shall apply:

1. Any well drilled or acquired by Water Company within 0.75 miles inland of the high water mark of Lake Nacimiento, as measured on a horizontal plane, shall be deemed to produce water from the subject 600 A.F. allocation provided by District herein;

2. Any well drilled or acquired by Water Company within 0.75 to 1.0 miles inland of the high water mark of Lake Nacimiento, as measured on a horizontal plane, shall not be deemed to produce water from the subject 600 A.F. allocation provided by District herein, unless, however, the bottom hole elevation of such well is equal to or lower than the level of Lake Nacimiento at the high water mark, in which event such well shall be deemed to produce water from the subject 600 A.F. allocation.

3. Any well drilled or acquired by Water Company over 1.0 miles inland of the high water mark of Lake Nacimiento, as measured on a horizontal plane, shall not be deemed to produce water from the subject 600 A.F. allocation provided by District herein, regardless of the bottom hole elevation of the well.

4. Regardless of its proximity to Lake Nacimiento, any water obtained by Water Company from a natural artesian spring which flows to the surface above the level of Lake Nacimiento from the high water mark shall not be deemed water which

is derived from the subject 600 A.F. allocation provided by District herein.

H. Water Company shall not provide water to unsewered properties unless those properties meet the State of California's minimum requirements for nitrate and other chemical loading and Monterey County's septic tank installation regulations.

I. District agrees that if the Arroyo Seco Dam or any equivalent dam is constructed in the same geographical area of South Monterey County, District and Water Company may, at a time mutually agreed upon, review Water Company's 600 acre foot allocation defined in paragraph B of this Agreement. District and Water Company further agree that any such review would contemplate District and Water Company agreeing to modify paragraph B of this Agreement to increase Water Company's allocation above 600 acre feet per year.

J. Subject to paragraph C of this Agreement, Water Company shall have the right to purchase additional water from any third party, including but not limited to the San Luis Obispo County Flood Control and Water Conservation District. If any such purchase of additional water is made by Water Company, such purchase shall not affect in any fashion Water Company's continued right to the 600 A.F. allocation from District as set forth in this Agreement except for the provisions of paragraph C.

K. All parties hereto understand and expressly agree that this settlement agreement shall bind and benefit the heirs, successors and assigns of each of the parties and each of them.

L. In the event any portion of this Agreement is found to be unconstitutional or unenforceable by a court of competent jurisdiction, it shall not affect the remaining portions of this Agreement.

M. Notices to the parties in connection with the provisions of this Agreement shall be given by regular mail addressed as follows:

MONTEREY COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

Director, Monterey County Flood Control and Water Conservation District
Post Office Box 930
Salinas, California 93902

NACIMIENTO WATER COMPANY


Nacimiento Water Company
Post Office Box 24756
Los Angeles, California 90024

N. In the event of any litigation which arises from or relates to this agreement, the prevailing party in such action shall be entitled to recover reasonable attorneys' fees and costs of suit.

IN WITNESS WHEREOF the parties hereto have caused their duly authorized representatives to execute this Agreement the day and year first above written.

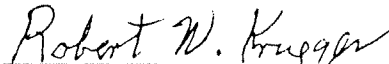
Dated: May 22, 1984

MONTEREY COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

BY 


Dated: May 15, 1984

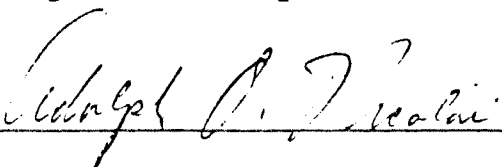
NACIMIENTO WATER COMPANY

BY 
Robert W. Krueger, President

APPROVED AS TO FORM:
Office of the County Counsel
County of Monterey

FISCAL PROVISIONS APPROVED AS TO FORM ONLY:
Office of the Auditor-Controller
County of Monterey

BY 
Ralph R. Kuchler
County Counsel

BY 

Appendix E. Fish & Game November 13, 1985
Memorandum of Agreement

DEPARTMENT OF FISH AND GAME

POST OFFICE BOX 47
YOUNTVILLE, CALIFORNIA 94599
(707) 944-2011



November 15, 1985

Mohammed A. Zaman
Monterey County
Flood Control and Water Conservation
District
855 E. Laurel Drive, Bldg. G
Salinas, CA 93905

NOV 19 1985

Dear Mr. Zaman:

Enclosed is one signed original copy of the Memorandum of Agreement between our Department and your District.

One original of this agreement has been sent to our Monterey office.

Sincerely,

Kenneth Aasen
Fisheries Management Supervisor
Region 3

KA/DCF

Enclosure

MEMORANDUM OF AGREEMENT

BY AND BETWEEN

CALIFORNIA DEPARTMENT OF FISH AND GAME
AND
MONTEREY COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

This Memorandum of Agreement is made and entered into this 13th day of November, 1985 by and between California Department of Fish and Game, hereinafter called Department, and the Monterey County Flood Control and Water Conservation District, hereinafter called District.

MINIMUM FLOW RELEASES FROM NACIMIENTO RESERVOIR
AND WATER QUALITY STANDARDS

W I T N E S S E T H

WHEREAS, the District controls water releases from Nacimiento Reservoir, and

WHEREAS, there is no existing agreement, contract, or other commitment to maintain specified minimum water releases or minimum dissolved oxygen content levels from Nacimiento Reservoir, and

WHEREAS, the District entered into an agreement with San Luis Obispo County Flood Control & Water Conservation District that restricts the District's ability to control releases from Nacimiento Reservoir when the water level of the reservoir is at or below elevation 689 feet (22,000 acre-feet storage), and

WHEREAS, the District intends to add hydroelectric power generation facilities at Nacimiento Dam, and

WHEREAS, the Federal Energy Regulatory Commission (FERC) has issued to the District an Order Granting Exemption from Licensing the hydroelectric project, and

WHEREAS, Article 2 of the Order Granting Exemption from

Licensing stipulates the District is required to comply with terms and conditions of the Department as delineated in the Department's letter dated July 19, 1984 to the District or as agreed to by both parties, and

WHEREAS, Section 5937 of the State Fish and Game Code requires that a minimum flow be maintained through a dam to keep in good condition any fish that may be planted or exist below the dam, and

WHEREAS, there are fish and wildlife resources belonging to the people of the State of California that are associated with and rely on continuous flow in the Nacimiento River below Nacimiento Dam.

NOW, THEREFORE, BE IT RESOLVED the District and the Department agree to the following:

1. This agreement shall become effective immediately upon commercial operation of hydroelectric facilities at Nacimiento Dam. The terms of this agreement shall supersede the terms and conditions set by the Department in its letter dated July 19, 1984, to FERC and to the District.
2. This agreement shall be binding on both parties for the period of useful life of the hydroelectric facilities, or until it is mutually agreed to terminate this agreement.
3. A minimum discharge (not minimum average) of 25 c.f.s. will be maintained from Nacimiento Reservoir at all times except under drought or emergency conditions as described in this agreement, such flow shall be measured within 1,000 meters downstream of the powerhouse, using generally accepted streamflow measuring techniques.
4. The District will not obstruct the Department in any

effort it undertakes to monitor the effects of the minimum flows on aquatic life in the Nacimiento River or to increase the aquatic life in the river.

5. The District will maintain at all times during operation of the hydroelectric facilities a minimum dissolved oxygen level of 5 PPM in the Nacimiento River, measured at a point 500 meters downstream of the powerhouse. The District will perform necessary construction within a year to bring the dissolved oxygen to the required level if found to be deficient when the power plant becomes operational.

6. A minimum discharge of 10 c.f.s. will be allowed upon declaration of drought conditions by the District. Such declaration may be made by the District only when the water surface elevation of Nacimiento Reservoir is at or below 748 feet (132,900 acre-feet storage). This provision, minimum discharge of 10 c.f.s., will remain in effect until the water level rises above elevation 748 feet. At no time will flows be reduced below 10 c.f.s. when the reservoir is at or above elevation 689 feet except:

- a) When the District declares that an emergency condition exists affecting safety of the dam or any of its appurtenances.
- b) For scheduled repair, maintenance, inspection, reconstruction, and/or construction of any new appurtenances to the dam when such flows would unreasonably interfere with the above said work. If such scheduled repair, maintenance, inspection, reconstruction, and/or new construction would require reduction or cessation of releases from the reservoir

for a period greater than 4 hours within a five day period, then the District will notify and consult with the Department at least one week in advance of such work and the District shall demonstrate that the cessation of flows is practically and financially desirable to the prosecution of the work.


7. When the water surface elevation of the reservoir is at or below elevation 689 feet and jurisdiction for the water changes from the District to the San Luis Obispo County Flood Control and Water Conservation District, the District will not be required to maintain a discharge below Nacimiento Dam.

8. Any amendments to this agreement may be made only upon mutual consent of both parties.

CALIFORNIA DEPARTMENT
OF FISH AND GAME

MONTEREY COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

By: 

By: 
Chairman of the
Board of Supervisors

Date: 11-13-85

Date: October 29, 1985

Appendix F. Certificate of Approval for the Operation of
Nacimiento Dam from the California
Department of Water Resources Division of
Safety of Dams

DEPARTMENT OF WATER RESOURCES

1416 NINTH STREET, P.O. BOX 942836
SACRAMENTO, CA 94236-0001
(916) 653-5791



DEC 29 2009

Mr. Curtis Weeks, General Manager
Monterey County Water Resources Agency
Post Office Box 930
Salinas, California 93902

Attention: Mr. Brent Buche
Chief Engineer

Nacimiento Dam, No. 1008
San Luis Obispo County

Dear Mr. Weeks:

This is in reply to Mr. Vinod Badani's letters of June 24 and November 16, 2009, submitting a new "Gate Operational Procedure" and requesting an amended Certificate of Approval to eliminate the existing operational rule curve at Nacimiento Dam.

We have reviewed the submittals, and considering the recently completed spillway modifications, find them acceptable with respect to the safety of the dam. The enclosed amended Certificate of Approval, issued in accordance with the provisions of Section 6357.1, Division 3, of the California Water Code, contains the following terms and conditions:

1. Water may be impounded to Elevation 800, National Geodetic Vertical Datum of 1929, the top of the Obermeyer Gates.
2. If the reservoir level reaches Elevation 801, an operator shall be dispatched to the dam to ensure the gates are fully lowered.


Please return the superseded Certificate of Approval dated January 18, 1994, signed by Vernon Persson.

Mr. Curtis Weeks, General Manager
DEC 29 2009

Page 2

If you have any questions or need additional information, you may contact Area Engineer Aspet Ordoubigian at (916) 227-4625 or Regional Engineer Andrew Mangney at (916) 227-4631.

Sincerely,



David A. Gutierrez, Chief
Division of Safety of Dams

Enclosure
Certified Mail

cc: Acting Regional Engineer
Federal Energy Regulatory Commission
901 Market Street, Suite 350
San Francisco, California 94103-1778

Mr. Mark Bassett
Cal EMA Southern Region
4671 Liberty Avenue, Building 283
Los Angeles, California 94612

Mr. Ron Alsop, Emergency Services Manager
San Luis Obispo County
Office of Emergency Services
1055 Monterey Street, Room D430
San Luis Obispo, California 93408

Certificate of Approval

This is to certify that pursuant to Part 1 of Division 3 of the California Water Code, the Department of Water Resources of the

State of California has found the Nacimiento Dam and Reservoir, State Application Number 1008 located

in Sec. 15, Tp. 25 S., R. 10 E., M.D. B. & M., San Luis Obispo County, State of California, are safe to impound

water, and, the use of said dam and reservoir to impound water in accordance with and subject to the following terms and

conditions is hereby authorized: 1. Water may be impounded to Elevation 800.00, National Geodetic Vertical Datum of 1929, the top of the Obermeyer Gates.

2. If the reservoir level reaches Elevation 801.00, an operator shall be dispatched to the dam to ensure the gates are fully lowered.



This certificate of approval supersedes every previous certificate of approval or written consent for use issued by the State of California relative to said dam and reservoir.

Witness my hand and the Seal of the Department of Water Resources of the State of California this 29 day of December, 20.09...

Michael Waggam For D. Gutfenberg 50536
Division Engineer, Reg. C. E. No.

Appendix G. High Flow Operations Plan for Nacimiento Reservoir

High Flow Operation/Notification Table for Nacimiento Reservoir

10/24/2014

Reference No.	Release Flow ¹ (cfs)	Reservoir Elevation (ft -msl)	Operation Procedures	Expected Impacts	Organizations to be Notified
1	up to +/- 600	670 - 755	Releases through all six low level valves. Operator visually checks at least daily.	None	Notify agencies ² via email when release flows change.
2	+/- 600 - 1,086	755 - 763	High level gates and all six low level valves open. Operator visually checks at least daily.	None	Notify agencies ² via email when release flows change.
3	1,086 - 4,030	763 - 787.75	High level gates and all six low level valves open. Operator will visually check valves and gates at least once every 12 hours.	Possible damage Heritage Ranch water system river intake	Call Heritage Ranch
4	4,030 - 6,000	787.75 - 800	Total releases might be from a combination of releases from the low level valves, the high level gates, and the spillway inflatable gates. Reservoir elevations and release rates will be monitored remotely 24/7 ³ and operator will physically monitor valves and gates at least every 8 hours.	Damage likely to Heritage Ranch water system river intake. Damage to Camp Roberts bridges can be expected.	Call Camp Roberts
5	6,000 - 22,199	Up to 800	Total releases might be from a combination of releases from the low level valves, the high level gates, and the spillway inflatable gates. Reservoir elevations and release rates will be monitored remotely 24/7 ³ and operator will physically monitor valve and gate operation 24/7.	No known additional impacts beyond the above.	None
6	22,200	Up to 800	Total releases might be from a combination of releases from the low level valves, the high level gates, and the spillway inflatable gates. Reservoir elevations and release rates will be monitored remotely 24/7 ³ and operator will physically monitor valve and gate operation 24/7.	Minor lowland flooding can be expected. The San Ardo oil fields will be in danger of flooding. This is in addition to all impacts described above.	<ul style="list-style-type: none"> ● Call San Ardo Oil Fields: Chevron Oil, AERA Energy, OXY California Heavy Oil. ● Evaluate for Condition C Activation
7	22,201 - 24,500	800 - 800.99	Operate spillway inflatable gates to maintain reservoir water surface elevation below elevation 801 ft. Reservoir elevations and release rates will be monitored remotely 24/7 ³ and operator will physically monitor valve and gate operations on-site 24/7.	Minor flooding of agricultural land can be expected. Lower portions of the San Ardo oil fields is forecast to become inundated.	Evaluate for Condition C Activation
8	24,500 - 100,000	801 - 823	Spillway inflatable gates are down. Reservoir elevations and release rates will be monitored remotely 24/7 ³ and operator will physically monitor valve and gate operations on-site 24/7.	Uncontrolled releases. Major flooding can be expected along lower portions of Bradley, San Ardo, San Lucas, King City, Greenfield, and Soledad. Most primary and secondary roads will flood making travel in the Salinas Valley very difficult. The San Ardo oil fields will be flooded. Water/Sewage treatment plants along the upper Salinas River will be in danger of being inundated.	Evaluate for Condition C Activation
9	101,167 (Probable Maximum Flood Peak Outflow, GEI 2004)	823.5	Spillway inflatable gates are down. High level gates and low level valves are closed (assumed inoperable per PMF Report by GEI, October 2003). If reservoir elevation approaches elevation 823 ft and is continuing to rise, operators will go to high ground and the Potential Failure condition (Condition B) of the EAP will be initiated. If reservoir elevation approaches elevation 825 ft (crest of embankment), the Imminent Failure Condition (Condition A) of the EAP will be initiated.	Disastrous flooding can be expected to wide expanses of agricultural land in the Salinas Valley. At least 90,000 acres of farm land will be in danger of becoming inundated. Travel in the Salinas Valley will be impossible. Some residences along the lower portions of Bradley, San Ardo, San Lucas, King City, Greenfield, and Soledad will be flooded.	EAP Notification Flowchart

Notes:

¹ Total releases to be monitored at the USGS Nacimiento River below Nacimiento Dam near Bradley stream gage (11149400)

² Entities notified by email outside of the MCWRA when release changes are made include: Camp Roberts, Heritage Ranch, USGS, Monterey Co. Parks, California Department of Fish and Wildlife, and California Nevada River Forecast Center (NOAA).

³ If remote monitoring system becomes unavailable, physical monitoring will be implemented.

Appendix H. Definitions

DRAFT

Definitions

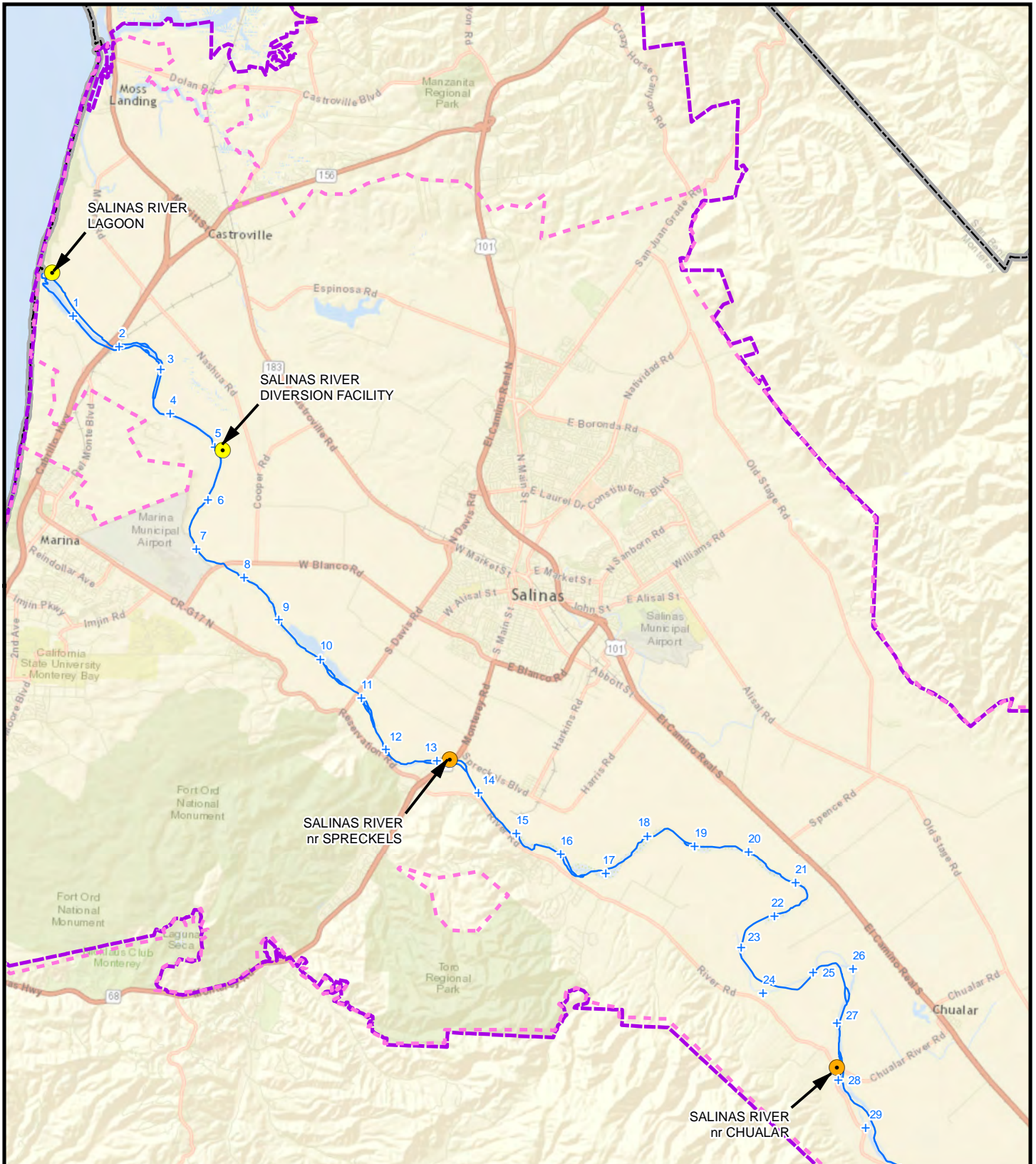
Conservation Pool	Volume of 289,013 acre-feet between 687.8 feet and 787.75 used for ground water recharge, operation of the Salinas River Diversion Facility, water supply, fish migration, and fish habitat requirements.
Conservation Releases	Water discharged for the purpose of recharging the groundwater basin.
Dead Pool	The storage between the bottom of the reservoir and elevation 670 feet, the invert of the Intake Structure of the low level outlet works. The volume of the Dead Pool is 10,300 acre-feet (AF) but water cannot flow by gravity out of the reservoir below elevation 670 feet.
DSOD	California Department of Water Resources, Division of Safety of Dams.
Environmental Compliance	Conforming to any environmental regulatory requirements currently imposed or those that become imposed in the future.
FERC	Federal Energy Regulatory Commission
Flood Pool	Volume of 66,587 acre-feet between 787.75 feet and 800.0 feet used to temporarily store flood water during the winter.
Maximum Reservoir Elevation	Maximum reservoir elevation that can be sustained, and is the level at which the reservoir is considered full. Elevation of 800 feet.
Minimum Pool	The storage above the Dead Pool, elevation 670 feet, and below the Conservation Pool, elevation 687.8 feet, is the Minimum Pool. The volume of this pool is 12,000 AF which is reserved for use by the County of San Luis Obispo per the 1959 San Luis Obispo County Agreement (Appendix C).
Minimum Recreation Elevation	Lowest Nacimiento Reservoir elevation at which most of the boat ramps around the reservoir are useable and most private property owners have access to the reservoir.
Natural Flow	Water that would exist in a stream at a given point in time in the absence of human activity. (Source: http://www.swrcb.ca.gov/waterrights/board_info/faqs.shtml)

Definitions







NWP Intake Elevation	Lowest Nacimiento Reservoir elevation at which San Luis Obispo County can take water through the Nacimiento Water Project. Elevation of 670 feet.
Operations Ratio	The ratio of empty space in the conservation pools of San Antonio and Nacimiento reservoirs, with Nacimiento as the numerator. Historically, this ratio was defined as 3 to 1, and reservoir releases were made in such a manner that the ratio was reached prior to halting releases at the onset of the rainy season.
Salinas River Diversion Facility	A component of the Salinas Valley Water Project that consists of an inflatable Obermeyer dam and a river intake structure to provide treated river water to growers within the Castroville Seawater Intrusion Project service area. This facility is located approximately 5 river miles upstream of the mouth of the Salinas River.
Salinas Valley Water Project	A project developed by the Agency and Salinas Valley interests that consists of the modification of the spillway at Nacimiento dam and the construction of the Salinas River Diversion Facility near the city of Marina. The goals of the project are to help stop seawater intrusion, improve flood control, recharge Salinas Valley groundwater, and improve conditions for steelhead trout.
Top of Dam	The dam crest, elevation 825 feet at Nacimient Dam.
Water Year	The 12-month period from October 1 through September 30. The water year is designated by the calendar year in which it ends and which includes 9 of the 12 months. Thus, the year ended September 30, 1959, is called the "1959 water year."

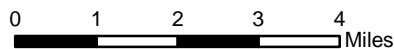
Appendix I. River Mile Maps

DRAFT



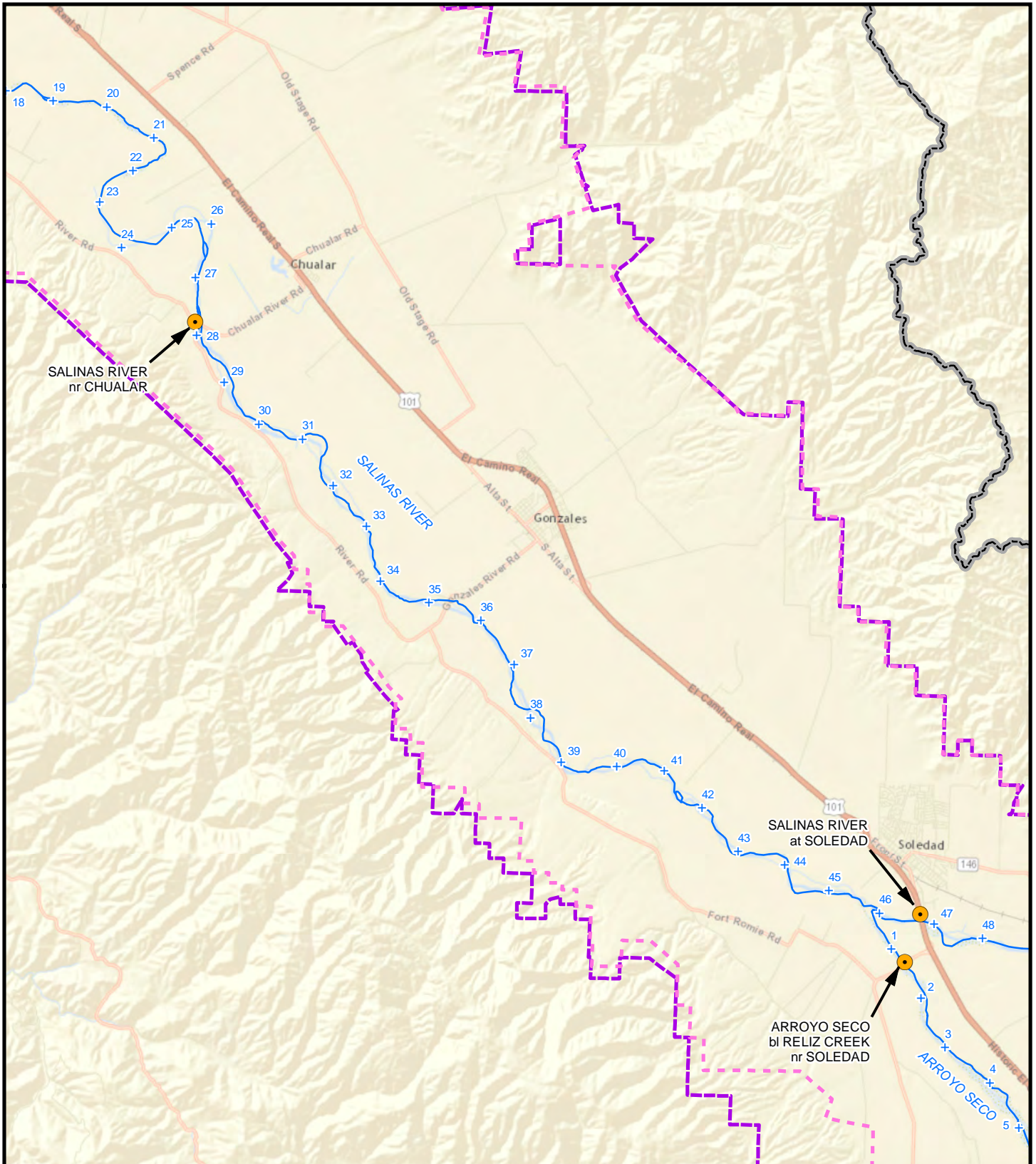
River Mile Map

-  USGS Stream Flow Gages
-  Points Of Interest
-  Rivers
-  Zone 2A
-  Zone 2C
-  Monterey County



The scale and configuration of all project boundaries and information shown herein are not intended as a guide for design or survey work.

Image Source: ESRI (2016)
Map Date: 6/1/2016









SALINAS RIVER
nr CHUALAR

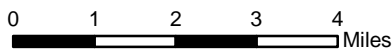
SALINAS RIVER
at SOLEDAD

ARROYO SECO
bl RELIZ CREEK
nr SOLEDAD

River Mile Map

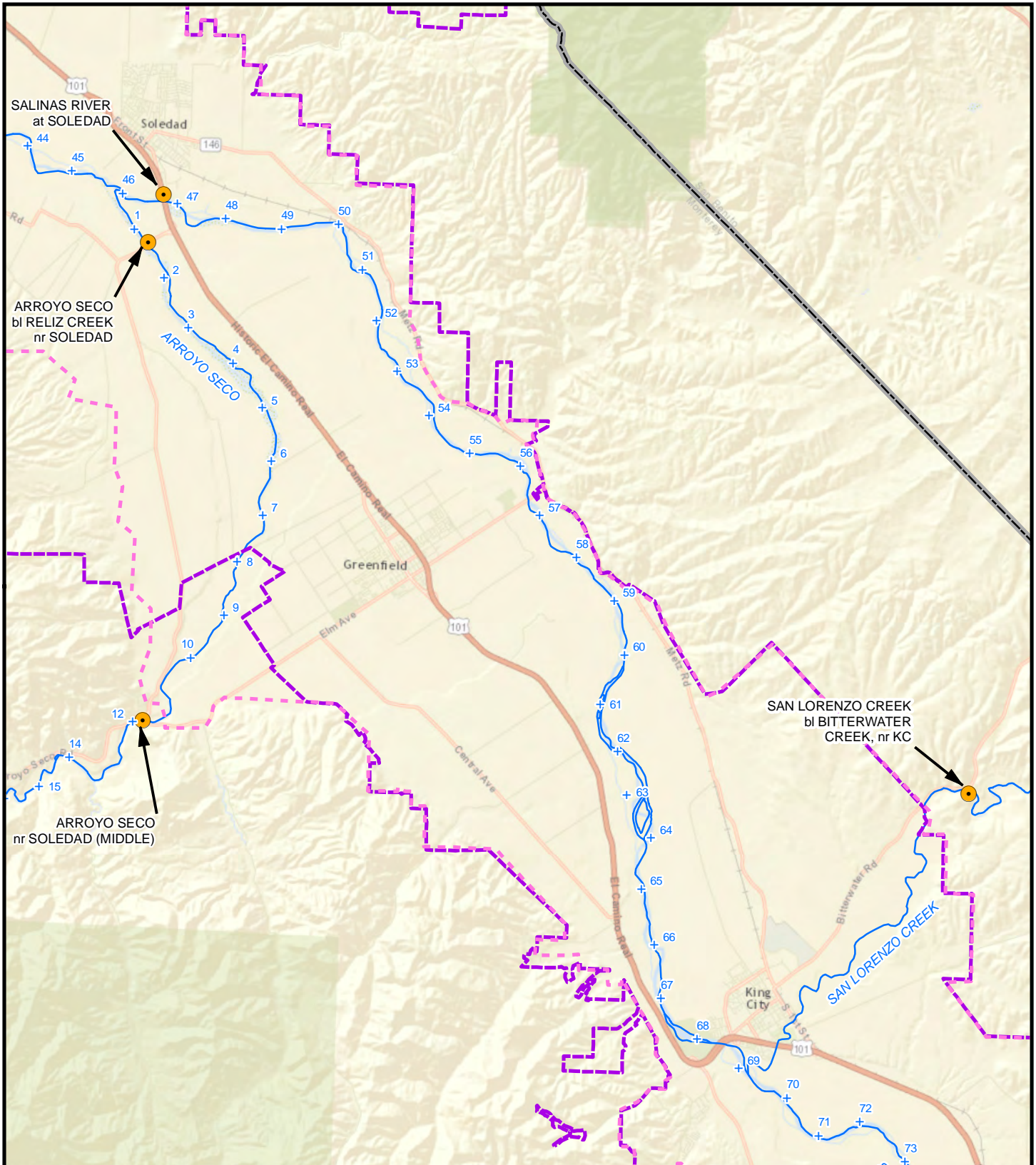
Map 2

-  USGS Stream Flow Gages
-  Points Of Interest
-  Rivers
-  Zone 2A
-  Zone 2C
-  Monterey County









The scale and configuration of all project boundaries and information shown herein are not intended as a guide for design or survey work.

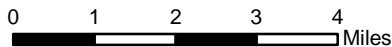
Image Source: ESRI (2016)
Map Date: 6/1/2016



Map 3

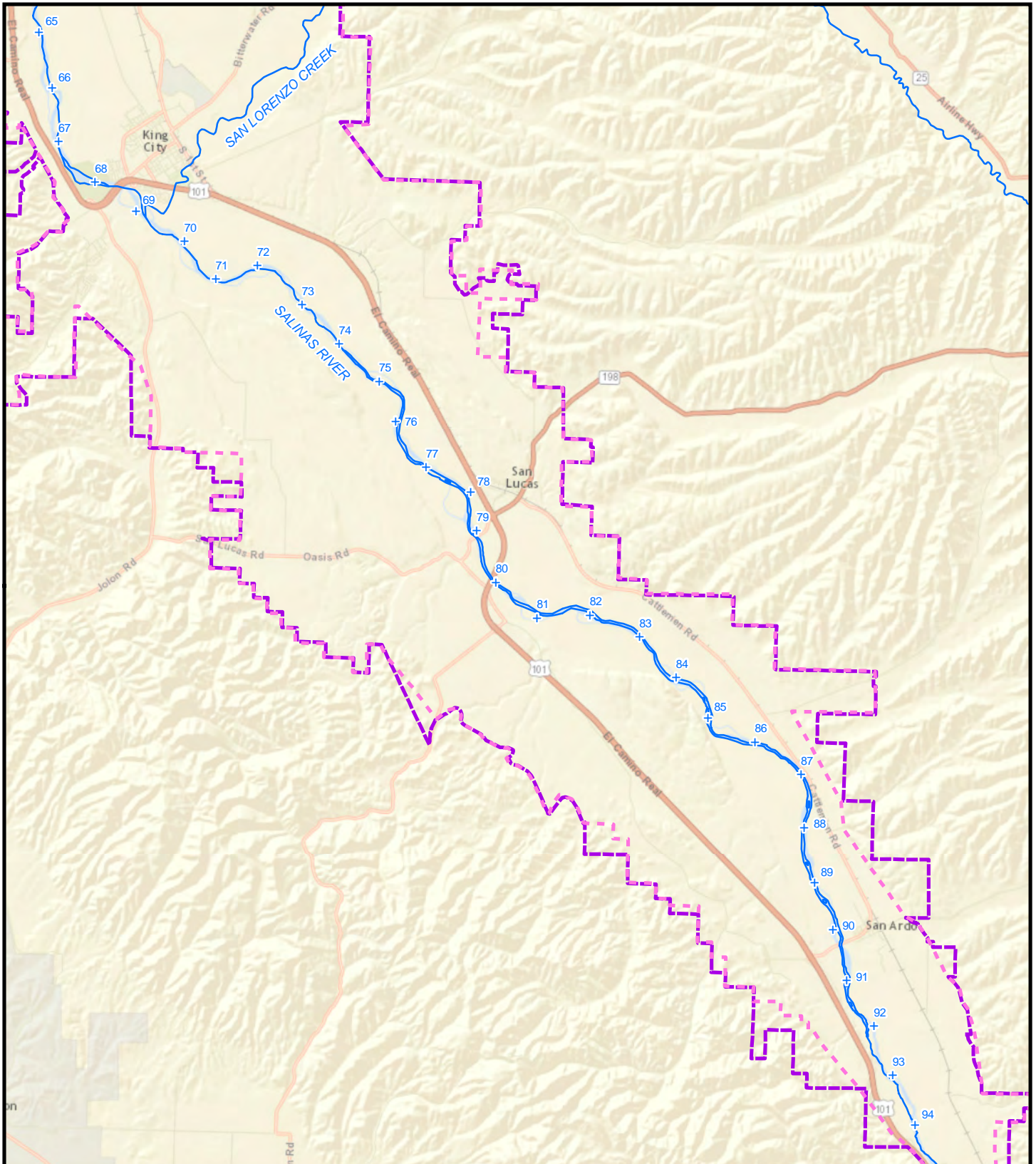
-  USGS Stream Flow Gages
-  Points Of Interest
-  Rivers
-  Zone 2A
-  Zone 2C
-  Monterey County

River Mile Map









The scale and configuration of all project boundaries and information shown herein are not intended as a guide for design or survey work.

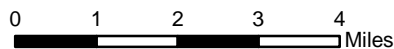
Image Source: ESRI (2016)
Map Date: 6/1/2016



River Mile Map

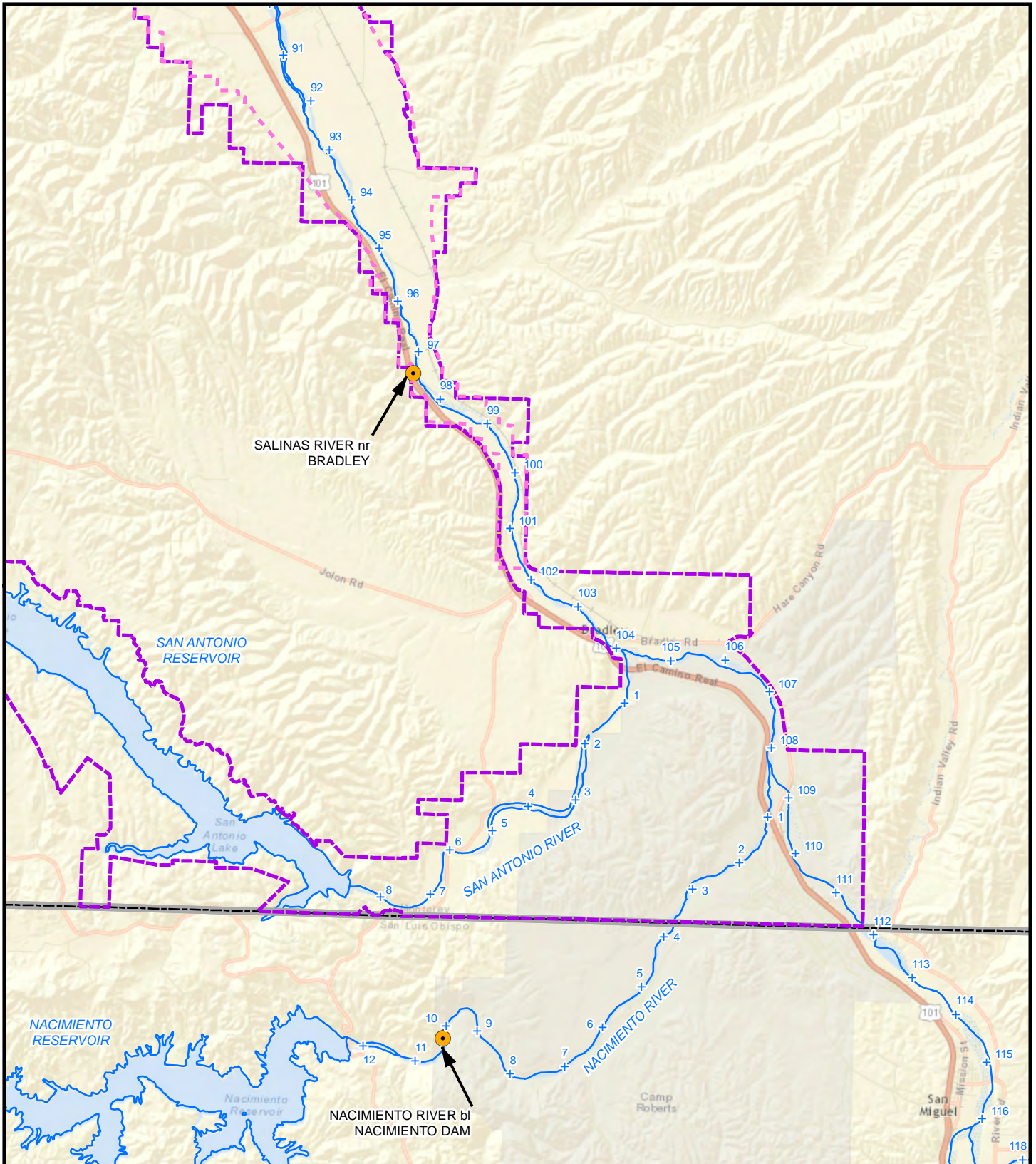
Map 4

-  USGS Stream Flow Gages
-  Points Of Interest
-  Rivers
-  Zone 2A
-  Zone 2C
-  Monterey County









The scale and configuration of all project boundaries and information shown herein are not intended as a guide for design or survey work.

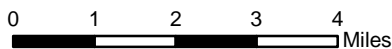
Image Source: ESRI (2016)
Map Date: 6/1/2016



Map 5

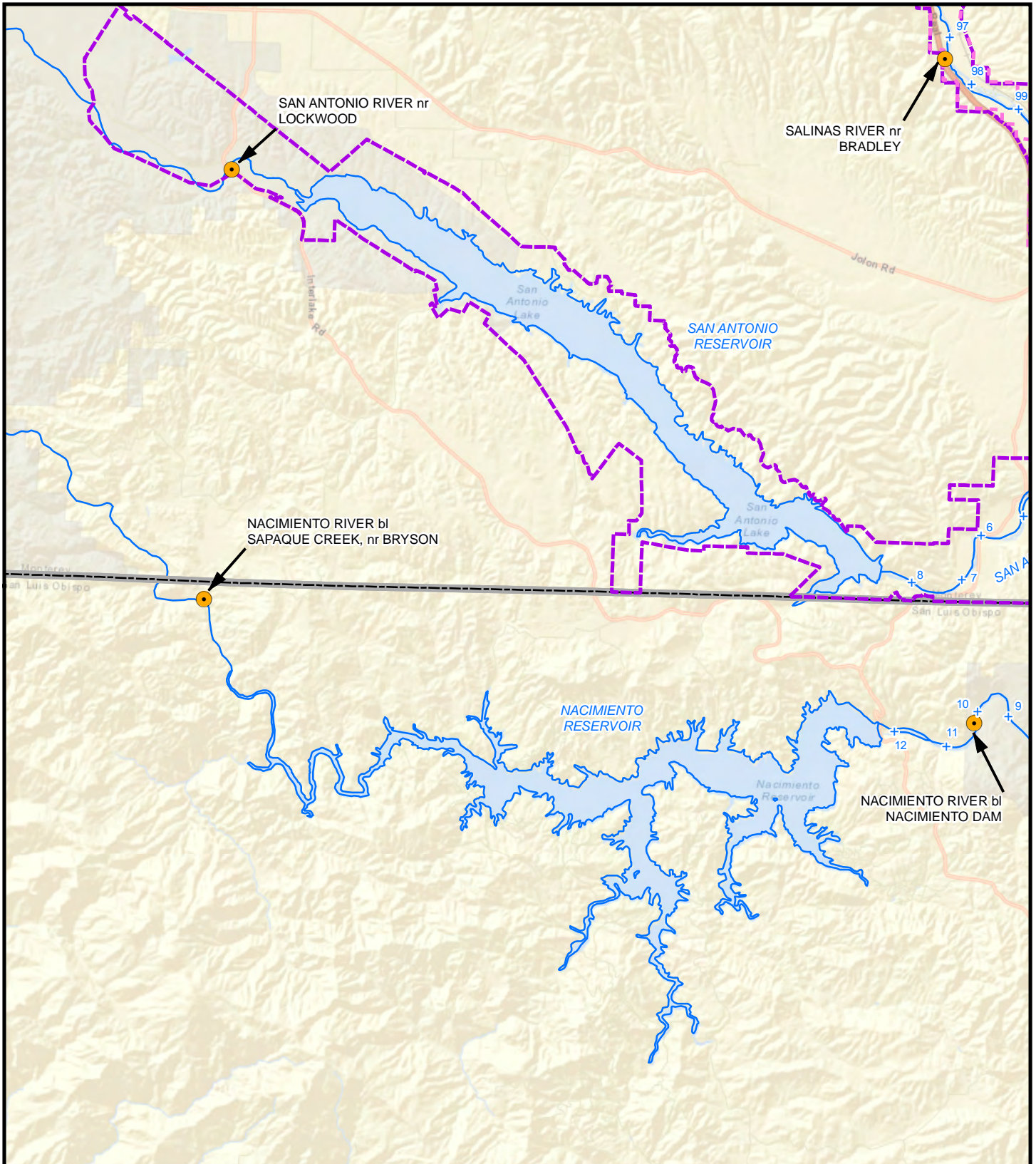
River Mile Map







-  USGS Stream Flow Gages
-  Points Of Interest
-  Rivers
-  Zone 2A
-  Zone 2C
-  Monterey County



The scale and configuration of all project boundaries and information shown herein are not intended as a guide for design or survey work.

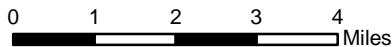
Image Source: ESRI (2016)
Map Date: 6/1/2016



-  USGS Stream Flow Gages
-  Points Of Interest
-  Rivers
-  Zone 2A
-  Zone 2C
-  Monterey County

River Mile Map

Map 6



The scale and configuration of all project boundaries and information shown herein are not intended as a guide for design or survey work.

Image Source: ESRI (2016)
Map Date: 6/1/2016