

**MONTEREY COUNTY WATER RESOURCES AGENCY
BOARD OF DIRECTORS
PERSONNEL AND ADMINISTRATION COMMITTEE**

COMMITTEE MEMBERS

Mark Gonzalez, Chair
Mike LeBarre

Richard Ortiz
Glen Dupree

TIME: **8:30 a.m.**
DATE: **Friday, September 7, 2018**
PLACE: **County Government Center
1441 Schilling Place
Saffron Room, 1st Floor
Salinas, CA 93901
(831) 755-4860**

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. Consider approving the Minutes of the Personnel and Administration Committee meeting held on August 10, 2018**
The Committee will consider approval of the Minutes of the above-mentioned meeting.
- 4. Receive an update on Personnel activities.**
David Chardavoyne, General Manager, will provide an update on personnel activities.
- 5. Support approval of the Jeff Carlton request for an easement to his property at Nacimiento Reservoir.**
Brent Buche, Deputy General Manager, will present this item.
- 6. Support approval of a lease reduction for San Antonio Lease 1 and 2 leased by Joe Botts**
Brent Buche, Deputy General Manager, will present this item.
- 7. Support recommending that the Monterey County Water Resources Agency Board of Supervisors approve the Policy Relating to the Reconstruction of Structures Damaged by the 2016 Chimney Fire (“Reconstruction Policy”), which will grant permission to allow reconstruction in the Agency’s Floodage Easement at Nacimiento Reservoir and authorize the General Manager to execute the required agreements.**
Brent Buche, Deputy General Manager, will present this item.

8. **Receive an update on activities at the Reservoirs.**
Brent Buche, Deputy General Manager, will provide a verbal report on Lakes issues.
9. **Receive an update on Real Property issues and Agency Land Appraisals.**
Brent Buche, Deputy General Manager, will provide a verbal report on real property issues.
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
PERSONNEL AND ADMINISTRATION COMMITTEE**

COMMITTEE MEMBERS

**Mark Gonzalez, Chair
Mike LeBarre**

**Richard Ortiz
Glen Dupree**

**TIME: 8:30 a.m.
DATE: Friday, August 10, 2018
PLACE: Monterey County Government Center
1441 Schilling Place. Saffron Room
Salinas, CA 93901
(831) 755-4860**

MINUTES

- 1. Meeting Called to Order: 8:39 a.m. by Director Ortiz
Members Present: Directors Ortiz and Dupree
Members Absent: Directors Gonzalez and LeBarre**

A quorum was established.

- 2. Public Comment: Ray Francioni and John Baillie**
- 3. Consider approving the Minutes of the Personnel and Administration Committee meeting held on June 1, 2018**

Committee Action: On Motion and Second by Directors Dupree and Ortiz respectively, the Committee approved the Minutes of the Planning Committee meeting held on June 1, 2018.

- 4. Receive an update on Personnel activities.
Brent Buche, Deputy General Manager, provided a verbal update on personnel activities.**
- 5. Receive an update on activities at the reservoirs.
Brent Buche, provided a verbal report on Reservoir issues.**

Public Comment: Ray Francioni and John Baillie

- 6. Receive an update on grazing lease conditions at San Antonio due to reservoir releases.**

Brent Buche, provided the update on grazing lease conditions at San Antonio due to reservoir releases.

Public Comment: Ray Franscioni, Joe Botts, Kim Botts and John Baillie

7. Receive an update on real property issues and agency land appraisals.

Brent Buche, provided a verbal report on real property issues.

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

The next meeting date is scheduled for September 7, 2018 at 8:30 a.m. Agenda items will include written proposals from Ray Franscioni and Joseph Botts regarding fencing for grazing leases; Also, to recommend additional time during closed session meeting at the 8/20/2018 Board of Director, meeting to discuss NRMAC lawsuit and Salinas Valley Water Coalition lawsuit.

9. The meeting adjourned at 9:30 a.m.

Submitted by: Rebecca De La Rosa

Support approval of the Jeff Carlton request for an easement to his property at Nacimiento Reservoir.

RECOMMENDATION:

It is recommended that the Monterey County Water Resources Agency Personnel and Administration Committee:

Support approval of the Jeff Carlton request for an easement to his property at Nacimiento Reservoir.

SUMMARY/DISCUSSION:

Jeff Carlton owns property at Nacimiento Reservoir that is landlocked by Agency property. Mr. Carlton has reported to the P&A Committee that he has attempted to sell this property but fell through during escrow because of no documented easement. The P&A Committee directed staff to work with Mr. Carlton to review Agency files for further documentation. Upon completion of that document search, staff and County Counsel were in agreement that indeed, the Carlton property should have been granted an easement at an earlier date but was not.

Therefore, this action will provide Mr. Carlton with the legal documentation he requested.

OTHER AGENCY INVOLVEMENT:

None

FINANCING:

There is no financial impact.

Prepared by: Brent Buche, Deputy General Manager, (831) 755-4860

Attachments: 1. Draft Easement

RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:

SPACE ABOVE THIS LINE FOR RECORDER'S USE

EASEMENT AGREEMENT

The undersigned grantors declare:
THERE IS NO DOCUMENTARY TRANSFER TAX DUE
No consideration for this agreement and the value of the non-exclusive
easement is less than One Hundred Dollars (\$100) and is exempt,
R&T 11911.

APN: 080-111-002
080-121-016
080-121-029
080-121-015

THIS EASEMENT AGREEMENT ("**Agreement**") is made this ___ day of May 2018, by and between ANGUS RANCH, LLC, a California limited liability company ("**Angus Ranch**"), MONTEREY COUNTY WATER RESOURCES AGENCY ("**Agency**") and JEFFREY ALAN CARLTON ("**Grantee**"). Angus Ranch and Agency are collectively referred to herein as the "**Grantors**."

RECITALS

A. Grantee owns certain real property ("**Grantee's Property**") located in the County of Santa San Luis Obispo, State of California, which is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference.

B. Angus Ranch owns that certain real property ("**Angus Ranch Property**") located in the County of Santa San Luis Obispo, State of California, which is more particularly described in Exhibit "B" attached hereto and incorporated herein by reference.

C. Agency owns that certain real property ("**Agency Property**") located in the County of Santa San Luis Obispo, State of California, which is more particularly described in Exhibit "C" attached hereto and incorporated herein by reference. The Angus Ranch Property and the Agency Property are sometimes referred to herein as the "**Grantors' Properties**."

D. Grantee currently possesses an easement, 60 feet in width, over Grantors' Properties as set forth in that certain deed dated August 12, 1969, and recorded in the Official Records of San Luis Obispo County on March 2, 1970 as Document No. 4739 (the "**Easement**"). The Easement is a floating easement across Grantors' Property and its exact location is not specified in the deed or other recorded document.

E. For their mutual benefit, Grantors and Grantee now desire to eliminate any uncertainty regarding the location of the Easement and specify its exact location, on the terms and conditions set forth herein.

NOW, THEREFORE, the Grantors and Grantee mutually agree as follows:

1. **Location of Easement.** The location of the Easement shall be fixed on those portions of Grantors' Properties as specifically described and depicted on Exhibit "D" attached hereto and incorporated herein by reference.

2. **Scope of Easement.** The Easement shall be nonexclusive and shall be for the purposes of ingress, egress, roadway use and the installation, use, maintenance, repair, replacement and operation of utilities (public or private), including water, gas, electricity, cable, television, telephone, sewer and the like.

3. **Dominant and Servient Tenements.** The Easement is for the benefit of Grantee's Property and shall be appurtenant to Grantee's Property. Grantee's Property is the dominant tenement and Grantors' Properties are the servient tenements.

4. **Covenants Running With Land.** Each and all of the covenants, restrictions, conditions and provisions contained in this Agreement, whether affirmative or negative in nature, are made for the direct, mutual and reciprocal benefit of each parcel of land described herein and will constitute covenants running with the land.

5. **Successors.** This Agreement shall inure to the benefit of and be binding on the parties hereto and their respective successors and assigns.

6. **Attorney Fees.** In the event of any controversy, claim, or dispute relating to this instrument or the breach thereof, the prevailing party shall be entitled to recover from the other party reasonable expenses, attorney fees and costs.

7. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF this Agreement is executed by the parties on the dates set forth below.

GRANTORS:

Dated: May ____, 2018

Monterey County Water Resources Agency

By: _____

[Signatures continue on following page]

Dated: May ___, 2018

Angus Ranch LLC,
a California limited liability company

By: _____

GRANTEE:

Dated: May ___, 2018

Jeffrey Alan Carlton

Exhibit "A"

Legal Description – Grantee's Property

PARCEL 1:

The southwest quarter of the southwest quarter of the southwest quarter of Section 30, also known as the southwest quarter of Lot 4 of Section 30, Township 25 South, Range 10 East, Mount Diablo Meridian, in the County of San Luis Obispo, State of California, according to the official plat thereof.

PARCEL 2:

The southeast quarter of the southeast quarter of the southeast quarter of Section 25, Township 25 South, Range 9 East, Mount Diablo Meridian, in the County of San Luis Obispo, State of California, according to the official plat thereof.

Together with a non-exclusive right to access to the water surface of Nacimiento Lake in Districts (Monterey County Flood Control and Water Conservation District) property within the south half of the southwest quarter of the southeast quarter of the southeast quarter of Section 25 and the north half of the northwest quarter of the northeast quarter of the northeast quarter of Section 36, Township 25 South, Range 9 East, Mount Diablo Meridian.

Also together with an easement 60 feet wide for roadway purposes to provide ingress and egress and for public utilities commencing at the South Boundary of Section 30, Township 25 South, Range 10 East, Mount Diablo Meridian, and thence in a general northwesterly direction to the above described property.

APNs: 080-111-002; 080-121-016

Exhibit "B"

Legal Description – Angus Ranch Property

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Government Lots 1 and 2 and the Northeast quarter of the Northwest quarter of Section 31, Township 25 South, Range 10 East, Mount Diablo Base and Meridian, in the County of San Luis Obispo, State of California, according to the Official Plat thereof.

APN: 080-121-029

Exhibit "C"

Legal Description – Agency Property

The following described real property in the County of San Luis Obispo, State of California:

BEGINNING at a point 1,424 feet more or less South of the Northeast corner of Section 1, T. 25 S., R. 10 E., M.D.B. & M. and thence along the following courses and distances:

- 1) S. 68° 07' 43" W., 226.05 feet; thence
- 2) S. 82° 48' 43" W., 119.32 feet; thence
- 3) S. 36° 23' 35" W., 65.94 feet; thence
- 4) S. 70° 33' 02" W., 355.07 feet; thence
- 5) N. 68° 36' 51" W., 168.65 feet; thence
- 6) N. 69° 54' 51" W., 228.53 feet; thence
- 7) N. 68° 15' 41" W., 171.47 feet; thence
- 8) N. 77° 18' 26" W., 84.25 feet; thence
- 9) S. 78° 59' 10.55" W., 422.99 feet; thence
- 10) N. 86° 18' 47" W., 242.12 feet; thence
- 11) N. 59° 52' 59" W., 801.27 feet to a point on the North-South centerline of Section 1, T. 25 S., R. 10 E., M.D.B. & M.; thence along said North-South centerline
- 12) N. 0° 04' 40" W., 70.19 feet; thence leaving said North-South centerline
- 13) S. 60° 50' 25" E., 816.51 feet; thence
- 14) N. 86° 54' 06" E., 222.57 feet; thence
- 15) N. 83° 33' 12" E., 519.87 feet; thence
- 16) S. 61° 45' 09" E., 560.34 feet; thence
- 17) N. 74° 20' 50" E., 218.86 feet; thence
- 18) N. 49° 42' 13" E., 126.59 feet; thence
- 19) N. 74° 24' 48" E., 404.55 feet; thence
- 20) S. 65.00 feet to the point of beginning.

CONTAINING 5.10 acres, more or less.
APN: 080-021-015

Exhibit "D"

Description and Depiction of Easement

Being a strip of land located in Section 30 and 31, Township 25 South, Range 10 East, Mount Diablo Meridian, in the County of San Luis Obispo, California; said strip being 40 feet in width, the centerline being more particularly described as follows:

Beginning at a point in the north line of the southwest one-quarter of Government Lot 4 in said Section 30, said Point of Beginning being distant North 31° 49' 57" East 766.83 feet from the southwest corner of said Section 30; thence along the following courses:

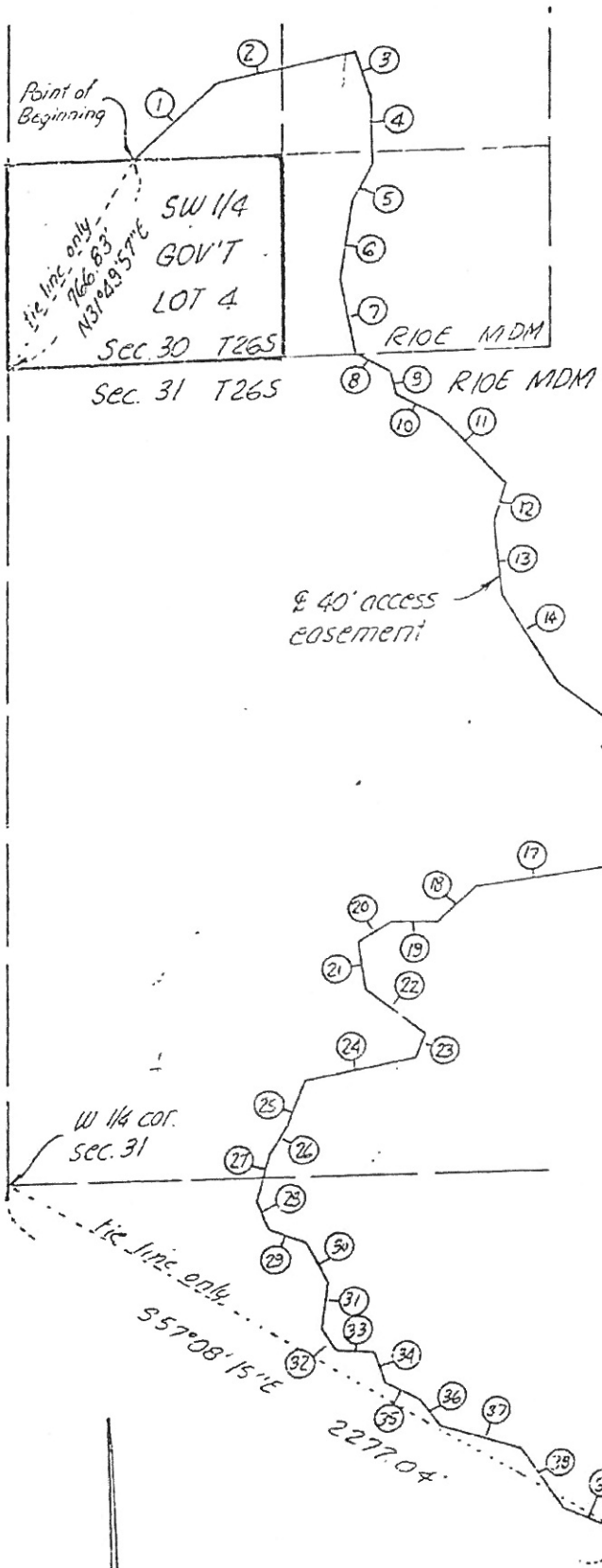
- 1st: North 50° 41' 23" East 375.64 feet; thence
- 2nd: North 80° 29' 00" East 434.69 feet; thence
- 3rd: South 19° 18' 12" East 130.49 feet; thence
- 4th: South 0° 03' 33" West 228.69 feet; thence
- 5th: South 29° 33' 59" West 137.46 feet; thence
- 6th: South 12° 04' 23" West 253.48 feet; thence
- 7th: South 10° 09' 28" East 242.96 feet; thence
- 8th: South 55° 37' 25" East 133.36 feet; thence
- 9th: South 14° 49' 01" East 87.03 feet; thence
- 10th: South 61° 46' 08" East 142.87 feet; thence
- 11th: South 43° 43' 20" East 316.78 feet; thence
- 12th: South 17° 39' 19" West 149.18 feet; thence
- 13th: South 7° 00' 06" East 244.91 feet; thence
- 14th: South 30° 23' 20" East 324.12 feet; thence
- 15th: South 51° 13' 11" East 378.11 feet; thence
- 16th: South 20° 47' 54" West 389.40 feet; thence
- 17th: South 84° 15' 54" West 452.32 feet; thence
- 18th: South 46° 01' 51" West 165.79 feet; thence
- 19th: North 86° 42' 32" West 156.61 feet; thence
- 20th: South 62° 03' 17" West 119.48 feet; thence
- 21st: South 6° 48' 26" East 155.27 feet; thence

[legal description continued on following page]

[continuation of legal description]

- 22nd: South 50° 14' 50" East 237.68 feet; thence
- 23rd: South 26° 42' 17" West 85.73 feet; thence
- 24th: South 80° 44' 58" West 357.40 feet; thence
- 25th: South 21° 27' 53" West 151.39 feet; thence
- 26th: South 31° 16' 01" West 113.12 feet; thence
- 27th: South 14° 41' 53" West 164.13 feet; thence
- 28th: South 24° 24' 53" East 81.87 feet; thence
- 29th: South 65° 34' 00" East 131.75 feet; thence
- 30th: South 23° 31' 15" East 137.26 feet; thence
- 31st: South 12° 21' 41" West 138.39 feet; thence
- 32nd: South 30° 19' 08" East 90.86 feet; thence
- 33rd: South 79° 42' 07" East 126.93 feet; thence
- 34th: South 17° 28' 07" East 103.51 feet; thence
- 35th: South 61° 15' 19" East 129.64 feet; thence
- 36th: South 35° 24' 44" East 108.14 feet; thence
- 37th: South 70° 22' 44" East 271.11 feet; thence
- 38th: South 34° 29' 56" East 242.39 feet; thence
- 39th: South 62° 43' 44" East 198.45 feet to the Point of Termination at a locked steel gate in the centerline of County Road Number 20, San Luis Obispo County; said Point of Termination being distant South 57° 08' 15" East 2277.04 feet from the West one-quarter corner of said Section 31.

Excepting therefrom any portion lying within County Road Number 20 (also known as Angus Ranch Road), San Luis Obispo County, California.



N50°41'23"E	375.64'	1
N80°29'00"E	434.69'	2
S19°18'12"E	130.49'	3
S0°03'33"W	228.69'	4
S29°33'59"W	137.46'	5
S12°04'23"W	253.48'	6
S10°09'28"E	242.96'	7
S55°37'25"E	133.36'	8
S14°49'01"E	87.03'	9
S61°46'08"E	142.87'	10
S43°43'20"E	316.78'	11
S17°39'19"W	149.18'	12
S7°00'06"E	244.91'	13
S30°23'20"E	324.12'	14
S51°13'11"E	378.11'	15
S20°47'54"W	389.40'	16
S84°15'54"W	452.32'	17
S46°01'51"W	165.79'	18
N86°42'32"W	156.61'	19
S62°03'17"W	119.48'	20
S6°48'26"E	155.27'	21
S50°14'50"E	237.68'	22
S26°42'17"W	85.73'	23
S80°44'58"W	357.40'	24
S21°27'53"W	151.39'	25
S31°16'01"W	113.12'	26
S14°41'53"W	164.13'	27
S24°24'53"E	81.87'	28
S65°34'00"E	131.75'	29
S23°31'15"E	137.26'	30
S12°21'41"W	138.39'	31
S30°19'08"E	90.86'	32
S79°42'07"E	126.93'	33
S17°28'07"E	103.51'	34
S61°15'19"E	129.64'	35
S35°24'44"E	108.14'	36
S70°22'44"E	271.11'	37
S34°29'56"E	242.39'	38
S62°43'44"E	198.45'	39



Support approval of a lease reduction for San Antonio Lease 1 and 2 by Lessee Joseph Botts, Jr.

RECOMMENDATION:

It is recommended that the Monterey County Water Resources Agency Personnel and Administration Committee:

Support approval of a lease reduction for San Antonio Lease 1 and 2 by Lessee Joseph Botts, Jr.

SUMMARY/DISCUSSION:

Joseph Botts, Jr. is the Lessee of San Antonio Lease 1 and 2, for grazing purposes. Mr. Botts held both of these leases in the previous lease period. He is aware of the provisions of the current lease and the differences of the new lease with the previous lease. Mainly, the fact that lessees were given reduced lease fees for performing approved work on the lease.

Mr. Botts has submitted the attached written proposal requesting a reimbursement for costs of constructing fencing in the lake bottom that were above and beyond normal operating conditions. Mr. Botts has met with Agency staff to discuss his request and why he believes this is a special circumstance.

OTHER AGENCY INVOLVEMENT:

None

FINANCING:

San Antonio Leases funds are with Fund 116 Administration. If a reimbursement was approved, it would be made from this fund.

Prepared by: Brent Buche, Deputy General Manager, (831) 755-4860

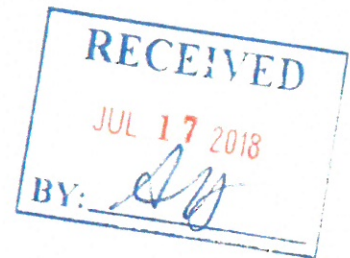
Attachments:

1. Written request
2. Costs breakdown
3. Map

Date: July 17, 2018

To: David Chardavoyne

RE: Fencing Credit Request



Per our contracts past and present we are to build fence as lake levels fluctuate. On the last year of our previous contract we received no credit for pulling out approx 3 miles of required fencing that was built over a three year period as the drought and MCWR severe releases took place due to the repairs to the Nacimiento Dam.

Beginning October 24, 2018 we once again are building the fence on both leases San Antonio Parcel1 & 2. It has been at a slow pace up until this month. In two days we have build an additional 1905 Ft which is over a quarter mile (1320ft). To date this year we have build a total 3,553 ft. This will not stop. Now that the level has been decreasing at a rapid rate we still have another quarter mile just to catch up. By the time we get that done it will need to be rebuilt every two to three days. We are reusing all the previous T Posts from the last fence removal on both parcels at no purchase cost to county. On the south shore lease we can also reuse the old wire. On the north shore lease we are using new wire which we are purchasing on an as needed basis. It would not be feasible to use the old wire on the north shore park boundary side.

According to our 30 year history if lake continues to be brought down to minimum pool the footage will be approx. 21,000 ft of fencing. This is beyond normal lake fluctuation levels.

We have no problem building fence to keep cattle out of park but we are requesting we receive more than the 10% credit off our payments. Depending on the rain we receive the lake levels will change and fencing will need to be removed.

Once again Water Resources on July 16 is releasing large amounts of water due to repairs once again to the Nacimiento dam.

We would like to discuss this in either a phone conversation or we can come to the office or present it to the board.

Please let us know.

A handwritten signature in black ink, appearing to read "Joe Botts", with a long horizontal flourish extending to the right.

Joe Botts

Leaseholder

San Antonio Parcel 1 and 2

In February 2017 we had to remove all the temporary fencing for a total of 14,250 ft that was built to keep cattle out of the park and separated from parcel 3. There was never any credit given due to it was the last year of our lease and it was unknown if we would be the highest bidder to retain. This fencing was built over a 4 year period due to drought, continued normal releases and repairs on the Nacimiento Dam.

The rain this season filled up the lake enough that there was no need to rebuild the fence. In May we did start to build small sections on both sides of the lake due to normal releases, evaporation, higher than prior year releases to meet your obligations with DFW. Then in July the water was released at a high rate once again to make repairs to the Nacimiento Dam.

During the high volume release we have had to build 7074 ft of fencing a majority of that done in less than three weeks. The temperatures were in 90/104. This is half of the normal 14,250 ft that was built in the prior 4 year time span. Also we are not charging this time for the fence work repairs due to trespassers that tore down fences and entered through the parks on ATV's, hunters from area 29 or the 60 head of elk that run throughout the leases.

We are requesting that we be given a credit for the fence work and it be divided between the two parcel payments and over the 10% since the parcels are normally divided by water which is now nonexistent. This has been approved for several years since these parcels are unique compared to other parcels on the two lakes.

If approved our payment would be as follows:

Parcel 1 \$24,805

Parcel 2 \$34,129

2018

MONTEREY COUNTY WATER RESOURCES

LAKE SAN ANTONIO

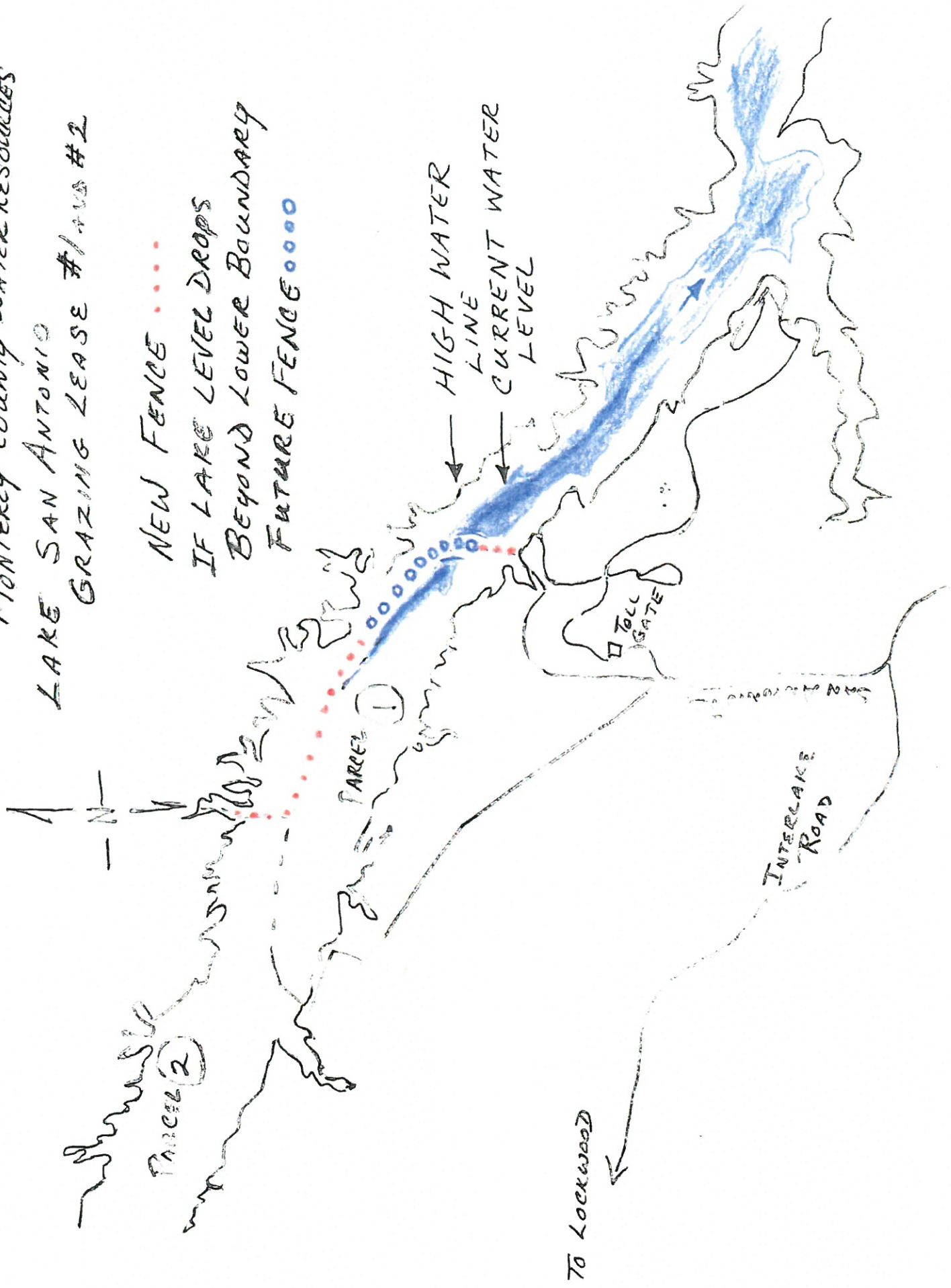
GRAZING LEASE #1 + #2

NEW FENCE

IF LAKE LEVEL DROPS

BEYOND LOWER BOUNDARY

FUTURE FENCE



Support recommending that the Monterey County Water Resources Agency Board of Supervisors approve the Policy Relating to the Reconstruction of Structures Damaged by the 2016 Chimney Fire (“Reconstruction Policy”), which will grant permission to allow reconstruction in the Agency’s Floodage Easement at Nacimiento Reservoir and authorize the General Manager to execute the required agreements.

RECOMMENDATION:

It is recommended that the Monterey County Water Resources Agency Personnel and Administration Committee support recommending that the Monterey County Water Resources Agency Board of Supervisors:

- a. Approve the Policy Relating to the Reconstruction of Structures Damaged by the 2016 Chimney Fire, which will grant permission to allow reconstruction in the Agency’s Floodage Easement at Nacimiento Reservoir; and
- b. Authorize the General Manager to execute the required agreements.

SUMMARY/DISCUSSION:

The Monterey County Water Resources Agency (“MCWRA”) has received requests to grant permission to allow the continued and previously unauthorized use of the Floodage Easement (“Easement”) that surrounds Nacimiento Reservoir at the Cal Shasta Club. San Luis Obispo County officials have requested that MCWRA allow existing structures previously located in the Easement to be rebuilt due to recent fire damages. The structures that were destroyed in the Chimney Fire were originally built without the permission of the MCWRA Board of Supervisors.

In August 2016, 28 privately owned structures were destroyed at the Cal-Shasta Club as a result of the Chimney Fire. Eight of these structures were located within the Easement at or below 825 (NGVD29). Owners of these structures have requested that MCWRA grant permission to replace these eight fire-damaged structures. MCWRA staff made an initial conclusion that the reconstruction of these structures would represent an encroachment into the Easement area. However, MCWRA and Monterey County Counsel have been working with Cal Shasta Club representatives and their attorney, and San Luis Obispo County Counsel to prepare the Reconstruction Policy to allow for the reconstruction of these eight homes.

In March 2017, MCWRA staff presented a draft of the Reconstruction Policy to the Board of Directors, as the eight homeowners were essentially seeking disaster relief which would allow in this one instance the ability of the structures within the Easement area to be reconstructed. The Board of Directors did not approve the Policy, and rather directed staff to continue working on issues raised by the Directors and the Owners.

OTHER AGENCY INVOLVEMENT:

Monterey County Counsel and San Luis Obispo County Counsel.

FINANCING:

None

Prepared by: Brent Buche, Deputy General Manager, (831) 755-4860

Attachment:

- 1. Reconstruction Policy

MONTEREY COUNTY WATER RESOURCES AGENCY

Policy Relating to the Reconstruction of Structures Damaged by the 2016 Chimney Fires

1. As a result of the Chimney Fires of 2016, certain structures located on real property owned by Cal Shasta Club, Inc. (“Cal Shasta”) in and around the Nacimiento Reservoir were damaged or destroyed (“Impacted Structures”). The Impacted Structures were constructed within the Monterey County Water Resources Agency’s (“MCWRA”) floodage easement recorded on August 6, 1957, as Instrument No. 12326 of Official Records of San Luis Obispo County, at or below elevation 825 (NGVD 29) (“Floodage Easement”), and are subject to said Floodage Easement. The owners of the Impacted Structures (each an “Owner” and collectively, the “Owners”) and officials of San Luis Obispo County (“SLO County”) have requested the cooperation of the MCWRA in processing requests for the reconstruction or replacement of the Impacted Structures. MCWRA is willing to cooperate with the Owners and SLO County in processing requests for reconstruction or replacement of the Impacted Structures on the terms and conditions set forth in this Policy.
2. The MCWRA Board of Supervisors gives the General Manager of MCWRA authority to enter into encroachment agreements (“Agreement”) with Cal Shasta, as record owner of the land subject to the Floodage Easement, and Owners, as owners of the Impacted Structures which were constructed on the land subject to the Floodage Easement, for the reconstruction or replacement of Impacted Structures (“New Structures”).
3. Any Agreement entered into pursuant to this Policy shall include and be subject to all of the following conditions:
 - 3.1 Cal Shasta and Owner must acknowledge MCWRA’s Floodage Easement.
 - 3.2 Owners acknowledge that the California Department of Water Resources Division of Safety of Dams (“DSOD”) and the Federal Energy Regulatory Commission (“FERC”) regulate MCWRA’s operation of the Lake Nacimiento Dam and Reservoir.
 - 3.3 The New Structure shall be used solely for single family residential or vacation purposes, and for ancillary structures that are associated with and appurtenant to single family residential or vacation usage, all subject to Paragraph 3.3 herein. Commercial, industrial, recreational and other non-residential structures and their appurtenant structures not used for or ancillary to residential structures are not eligible for an Agreement under this Policy.
 - 3.4 The New Structure shall be constructed no lower than the elevation where the Impacted Structure was constructed. There shall be no intensification of pre-existing use, and the New Structure can be no greater in its footprint or square footage than the Impacted Structure.
 - 3.5 All persons with any interest in or right to occupy the New Structure will discontinue use of the New Structure upon the Owner’s receipt of written notice from MCWRA that the New Structure substantially interferes with MCWRA’s rights under the Floodage

Easement. Cal Shasta and Owner reserve the right to contest MCWRA's conclusion that a New Structure "substantially interferes" with MCWRA's rights under the Floodage Easement.

3.6 The New Structure shall be maintained and kept in good repair. No New Structure shall be subsequently rebuilt or replaced again (i.e., fire, flood, etc.) without the express and written permission of the MCWRA.

3.7 Each Agreement shall include a covenant running with the land that Cal Shasta and Owner agree to waive and release MCWRA and the County of Monterey for all activities consistent with the Floodage Easement. Cal Shasta and Owner must agree that MCWRA's employees, officers, agents, or assigns, and the County of Monterey's employees, officers, agents, or assigns (collectively "Released Parties") will not be held liable or responsible in any way for any injury, death, or other damages to Cal Shasta or Owner, or Owner's family, heirs, or assigns that may occur as a result of MCWRA's reasonable exercise of any of its rights under the Floodage Easement. Cal Shasta and Owner must expressly and unconditionally assume all risks and dangers known or unknown, foreseen or unforeseen, and relating to or incidental to constructing the New Structure within the Floodage Easement and any activity associated therewith.

3.8 Each Agreement shall include a covenant running with the land that Cal Shasta and Owner agree to hold harmless, defend and indemnify MCWRA, the County of Monterey, and SLO County from any and all claims arising out of MCWRA's adoption and implementation of this Policy, and/or SLO County's issuance of any permit pursuant to this Policy to allow construction of the New Structure, which hold harmless and indemnification shall include property damage and personal injury resulting from, arising out of, and relating to inundation or MCWRA's operation or maintenance activities within the Floodage Easement, excepting property damage and personal injury or death resulting from operation of vehicles and equipment within the Floodage Easement. Also, neither Cal Shasta nor Owner shall be liable or otherwise indemnify for the negligent acts of MCWRA or the County of Monterey, or the agents, officers or employees of MCWRA or the County of Monterey.

4. Cal Shasta or the Owner will be responsible for recording the Agreement once it is fully executed with the San Luis Obispo Clerk-Recorder's Office, and returning a copy of the file stamped recorded Agreement to MCWRA with ten (10) business days of the Agreement's recording.

5. Cal Shasta shall amend its Basic Supplementary Operational Rules and Regulations to include the terms and conditions of this Policy, assuring that its current members, future members, and members' successors have notice of and understand that they are required to abide by the conditions imposed by this Policy.

6. Each Agreement shall constitute a lien on the Cal Shasta property for the faithful satisfaction of all the terms and conditions of this Policy.

7. This Policy will be effective upon adoption by the MCWRA Board of Supervisors.

PASSED AND ADOPTED on this ____ day of September 2018, by the following vote:

AYES:
NOES:
ABSENT:

I, Valerie Ralph, 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 of Minute Book ___ for the meeting on _____.

Dated:

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
Deputy