



# Supplement to 1/25/17 MPWMD Board Packet

Attached are copies of letters received between November 22, 2016 and January 10, 2017. These letters are listed in the January 25, 2017 Board packet under Letters Received.

Author	Addressee	Date	Topic
Clementine Bonner Klein	MPWMD	1/10/17	MPWMD Appointments 2017 – City of Monterey Representatives
Hal Furman	David Stoldt	12/19/16	Thank you letter
David L. Hobbs	Anthony Cerasuolo/cc David Stoldt	12/9/16	Potable Water Wheeling Agreement, dated April 8, 2009
Barry A. Thom	Douglas E. Eberhardt/cc David Stoldt	12/5/16	Endangered Species Act Section 7(a)(2) Concurrence Letter and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the Pure Water Monterey Groundwater Replenishment Project
Michael McCarthy	David Stoldt	11/18/16	Compensation Agreement – Transfer of Former City of Monterey Redevelopment Agency Property at 300 Pacific Street, Monterey, California to the City of Monterey

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JAN 10 2017

MPWMD



January 10, 2017

Arlene Tavani  
Monterey Peninsula Water Management District  
5 Harris Ct.  
Monterey, CA 93940  
Via Email: [arlene@mpwmd.net](mailto:arlene@mpwmd.net)

**Re: MPWMD Appointments 2017 – City of Monterey Representatives**

Dear Arlene:

At their regular meeting on December 20, 2016, the Monterey City Council approved outside appointments for the Council members and staff for 2017, including the following appointments to the Monterey Peninsula Water Management District:

**Mayor Clyde Roberson – Representative**

[roberson@monterey.org](mailto:roberson@monterey.org)  
831-375-0293  
290 Via Gayuba  
Monterey, CA 93940

**Councilmember Dan Albert – Alternate**

[albert@monterey.org](mailto:albert@monterey.org)  
831-242-0504  
299 Via Paraiso  
Monterey, CA 93940

These appointments will be reflected in the official Council minutes upon their approval by Council.  
Sincerely,

A handwritten signature in dark ink, appearing to read "C Bonner Klein".

Clementine Bonner Klein  
Senior Assistant City Clerk

## THE FURMAN GROUP

December 19, 2016

RE

DEC 27 2016

NP/MD

Dear Dave,

I want to thank you for giving our firm the opportunity to apply to serve as the District's representative in Washington, DC. I know you have selected another firm but I am grateful for your consideration.

Please know our team is standing by to assist in the future should you wish. Happy Holidays to you and your family.

Sincerely,

  
Hal Furman

Mr. David J. Stoldt  
General Manager  
Monterey Peninsula Water Management District  
5 Harris Court - Building G  
Monterey, CA 93940

DEC 13 2016

**GRIFFITH & MASUDA**

A PROFESSIONAL LAW CORPORATION

W. Coburn Cook, 1892-1953  
Lin H. Griffith, 1923-2014

David L. Hobbs  
dhobbs@calwaterlaw.com

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Turlock, California 95380

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Founded 1920

**MPWMD**

*Celebrating Our  
96th Anniversary*

December 9, 2016

VIA CERTIFIED MAIL & EMAIL

Mr. Anthony J. Cerasuolo, Vice-President, Legal  
California-American Water Company  
655 W. Broadway, Ste. 1410  
San Diego, CA 92101  
[ACerasuolo@amwater.com](mailto:ACerasuolo@amwater.com)

**Re: Potable Water Wheeling Agreement, dated April 8, 2009**

Dear Mr. Cerasuolo:

As I understand the points in your letter dated December 1, 2016, it is your assertion that CAW may use the Subject Facility to transfer water, irrespective of the source. Aside from the fact this contention is contradicted by the express terms of the Wheeling Agreement, it is also belied by the fact that the CEQA reviews relied upon for the project were limited to the ASR Project and that the ASR Project's use of the pipeline is limited by the permits issued by the State Water Resources Control Board.

One of the items MCWD wished to resolve was the use of the Subject Facility for purposes of transporting GWR Project-sourced water, e.g., whether this was permissible under the Wheeling Agreement and whether additional compensation would be required by this additional use.

Further, with respect to your assertion that the Wheeling Agreement provides its own definition of "Subject Capacity," you miss the point that there are quantifiable numbers as to the unused capacity of the Subject Facility. In the recent meetings between staffs, it was determined that the Subject Capacity for which CAW has a first right was the 6000 gps referenced in my last letter.

It is my understanding that even if MCWD had no present need to use the Joint Facility, there is not enough capacity to concurrently handle ASR Project water (both in and out), GWR Project water, and CAW desalinated water.

MCWD does concur with CAW that, independent of the Wheeling Agreement, Water Code §§1810-1814 may be applicable, provided the requisite findings and fair compensation due thereunder are satisfactorily resolved.

December 9, 2016

Since we have not been able to resolve this dispute, the next dispute resolution step under the Wheeling Agreement is to refer the matter to senior management. I note there is a fifteen-day timeframe. Given that we will soon be in the middle of the holiday season, I would ask that we waive the timeframe requirement as we did at the initial stage such that we can continue to work through these issues.

If you would like to propose some available dates to meet I will coordinate with MCWD senior management.

Thank you for your attention to this matter. Should you have any question or concerns please do not hesitate to contact me.

Regards,

GRIFFITH & MASUDA

A handwritten signature in black ink, appearing to be 'D. Hobbs', with a stylized flourish at the end.

David L. Hobbs

cc: Marina Coast Water District

Western States Divisional General Counsel

David Stoldt, Monterey Peninsula Water Management District

Paul Sciuto, Monterey Regional Water Pollution Control Agency

Jim Cullem, Monterey Peninsula Regional Water Authority



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
West Coast Region  
777 Sonoma Avenue, Room 325  
Santa Rosa, California 95404-4731

December 5, 2016

Refer to NMFS No: WCR-2016-5540

Douglas E. Eberhardt  
Manager, Infrastructure Section  
United States Environmental Protection Agency  
Region IX  
75 Hawthorne Street  
San Francisco, California 94105-3901

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DEC 12 2016

MPWMD

Re: Endangered Species Act Section 7(a)(2) Concurrence Letter and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the Pure Water Monterey Groundwater Replenishment Project

Dear Mr. Eberhardt:

On November 18, 2016, NOAA's National Marine Fisheries Service (NMFS) received your request for a written concurrence with the determination made by the United States Environmental Protection Agency (U.S. EPA) that Pure Water Monterey Groundwater Replenishment Project (GWR Project) is not likely to adversely affect (NLAA) species listed as threatened or endangered or critical habitats designated under the Endangered Species Act (ESA). The GWR Project is being funded by way of the Clean Water State Revolving Fund (CWSRF), a federal-state shared fund as prescribed in 33 U.S.C. Section 1381-1386. This response to your request was prepared by NMFS pursuant to section 7(a)(2) of the ESA, implementing regulations at 50 CFR 402, and agency guidance for preparation of letters of concurrence.

NMFS also reviewed the proposed action for potential effects on essential fish habitat (EFH) designated under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), including conservation measures and any determination you made regarding the potential effects of the action. This review was pursuant to section 305(b) of the MSA, implementing regulations at 50 CFR 600.920, and agency guidance for use of the ESA consultation process to complete EFH consultation. In this case, NMFS concluded the action would not adversely affect EFH and instead would result in reduced discharge of pollutants to EFH. Thus, consultation under the MSA is not required for this action.

This letter underwent pre-dissemination review using standards for utility, integrity, and objectivity in compliance with applicable guidelines issued under the Data Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001, Public Law 106-554). The concurrence letter will be available through NMFS' Public Consultation



Tracking System available at: <https://pcts.nmfs.noaa.gov/pcts-web/homepage.pcts>.<sup>1</sup> A complete record of this consultation is on file at NMFS' North-Central Coast Office in Santa Rosa, California.

### **Proposed Action**

The U.S. EPA, through the CWSRF, will fund the modification and construction of existing and new facilities for the GWR Project. The GWR Project is being proposed by the Monterey Regional Water Pollution Control Agency (MRWPCA) in partnership with the Monterey Peninsula Water Management District (MPWMD) (the applicants) to create a new water supply source to offset existing water supply sources in areas of northern Monterey County. The purpose of the GWR Project is to: (1) create 3,500 acre-feet per year (AFY) of purified recycled water for recharge of the Seaside Groundwater Basin, which would provide a replacement water supply for the California American Water Company (Cal-AM) and allow them to reduce diversions of equal amount from the Carmel River Groundwater Basin; and (2) provide additional recycled water for agricultural irrigation in the northern Salinas Valley, which could reduce pumping from the Salinas Groundwater Basin.

The GWR Project will include facilities located within unincorporated areas of the northern Salinas Valley as well as the cities of Salinas, Marina, and Seaside. Raw waters will be collected from a variety of sources, including: (1) agricultural wash water from the City of Salinas agricultural wash water system, (2) urban stormwater runoff from the southern part of the City of Salinas, and (3) surface waters from the Reclamation Ditch and Blanco Drain (see Figure 1 and the *Action Area* section for a description of these waterbodies). Collectively, these waters will be combined with the existing raw wastewater inflows to MRWPCA's Regional Wastewater Treatment Plant (RTP). Some of the secondary treated effluent that is not further treated to tertiary levels and delivered to areas for agricultural irrigation will be conveyed to a new Advanced Water Treatment Facility (AWTF). The highly-treated recycled water produced at the AWTF will be used for replenishment of the Seaside Groundwater Basin through the injection of the water into a series of shallow and deep injection wells located in the City of Seaside. Once injected, the purified water is mixed with other groundwater in the basin and would then be available for future extraction by Cal-Am for delivery to its customers.

The modification and construction of existing and new facilities for the GWR Project include a new AWTF at the RTP site, modifications at the existing Salinas Valley Reclamation Plant, construction of a new pipeline, pump station and appurtenant facilities, new wells, and new in-channel diversion facilities. The new in-channel diversion facilities are proposed within the Blanco Drain and the Reclamation Ditch. The Monterey County Water Resources Agency (MCWRA) will be the water rights holder for these two proposed diversions. The new source waters (Reclamation Ditch, Blanco Drain, Salinas Agricultural Wash Water, and Stormwater Runoff), diversion facilities, and operations are described below.

***Reclamation Ditch Diversion Facilities:*** A new diversion structure would be constructed in the Reclamation Ditch at the Davis Road crossing, which is located at river mile (RM) 6.5 in the

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<sup>1</sup> Once on the PCTS homepage, use the following PCTS tracking number within the Quick Search column: WCR-2016-5540.

City of Salinas. The facility would divert flows, when available, into an existing adjacent sanitary sewer gravity main, which conveys wastewater to the MRWPCA Salinas Pump Station.

The diversion facility would consist of a new intake structure that sits in a 12-inch deep depression created within a constructed alcove along the toe of channel's left bank. The intake structure would be fitted with a self-cleaning cone screen to prevent fish and small debris from being entrained into the pump station. The fish screen is designed to meet NMFS criteria (NMFS 2011) for slot size and velocities. In addition, the intake structure will be fitted with a trash rack to prevent debris from damaging or clogging the intake structure. The trash rack will be cleaned weekly, or more frequently as needed, to ensure proper function and to minimize changes in velocities at the intake. The volume of stream bypass flows and diverted waters will be controlled by an adjustable slide weir gate between the cone screen and the pump wet well. When bypass flow criteria are satisfied, diverted waters will be pumped from the wet well by two submersible pumps into two new force mains that are approximately 50 feet long. The force mains will discharge into the existing sanitary sewer gravity main. Two underground vaults would be installed along the force main, one to hold the check and isolation valves, and one for a flow meter.

The channel bed and banks surrounding the diversion facility will be lined with open cell, articulated concrete block mats. The open cells will be filled with angular gravel and interstitial voids are expected to eventually fill with fine depositional sediments. The open cells will also allow vegetation to volitionally re-colonize the area. The purpose of the mats are to ensure the channel bed and banks do not erode and risk damage to the diversion intake facility or change the elevation of the bed which would affect water surface elevation and yield. The channel cross section will be modified in order to angle the channel bottom slightly towards the intake on the left bank.

The 12-inch depression is anticipated to also fill with deposited sediments, which will require maintenance using one of two potential methods. Option 1 is to use a sewer vacuum cleaning truck and suction out the accumulated sediments. Option 2 is to manually shovel out accumulated sediment by sending an operator down the ladder with a shovel and a bucket. Both methods would be implemented primarily during summer at low-flow water conditions, or as needed to ensure sediment accumulation does not inhibit fish passage.

***Reclamation Ditch Diversion Facility Site Construction:*** Construction of the Reclamation Ditch diversion would include minor grading, installation of a wet well/diversion structure, modification of an existing sanitary sewer manhole, and a short pipeline from the existing manhole to the new pump station. This work would disturb approximately 0.15 acres of land, including approximately 0.05 acres of the Reclamation Ditch banks and channel bottom.

Construction will occur from May 1 through October 31, 2017. At this location, streamflow is perennial, so a temporary diversion system will be required. Construction requiring a temporary streamflow diversion system would be limited to July 1 through September 30. Temporary cofferdams would be installed to isolate the work area. These would consist of waterproof tarps or plastic membranes wrapped around gravel fill material, which would be removed when the work is completed. Streamflow will be moved past the work area with a small diversion pump.



Open excavation will be required to install the new intake structure, new wet well, and new pipeline to connect the existing sanitary sewer main. The new pump station will be constructed approximately 60 feet from the receiving sanitary sewer manhole.

**Reclamation Ditch Diversion Facility Operation:** The applicants will abide by the following terms and commitments in regards to the Reclamation Ditch Diversion (NMFS 2016a):

- (a) MCWRA<sup>2</sup> will cause MRWPCA to commit to divert no more than 6 cubic feet per second (cfs) under the Reclamation Ditch diversion water right and those diversions would be subject to the following minimum bypass flows:
  - i. Bypass a minimum of 2.0 cfs, as available, from December 1 through May 31 (in- and out-migration period) except as allowed by item iii, below.
  - ii. Bypass a minimum of 1.0 cfs, as available, from June 1 through June 30 (transitional period).
  - iii. Bypass a minimum of 0.7 cfs, as available, from July 1 through November 30 (non-migration period). Note: This minimum bypass applies through the end of February of the following year, if no storm event has occurred that results in a flow of 30 cfs or more at the San Jon Road USGS stream gage.
- (b) To ensure adequate flows for both adult upstream and smolt/kelt downstream migration in the Reclamation Ditch below Davis Road, the MCWRA will cause MRWPCA to commit to cease diverting when flows measured at San Jon Road gage are above 30 cfs. Diversion may resume when streamflow recedes below 20 cfs at the San Jon Road gage.
- (c) Operational decisions will be based on provisional mean daily and real-time USGS streamflow data (*i.e.*, San Jon Road gage).
- (d) The right holder (MCWRA) shall provide, on a quarterly basis, graphs comparing the daily mean diversion from the Reclamation Ditch and the daily mean flow recorded at the San Jon gage downstream of the diversion.

As a result of these operational and bypass flow requirements, the estimated average-year diversion yield from the Reclamation Ditch would be approximately 1,014 AFY. The proposed diversion facilities would be equipped with supervisory control and data acquisition (SCADA) equipment which allows the diversions to be turned off remotely.

**Blanco Drain Diversion Facilities:** The Blanco Drain is the only raw water source not located near an existing wastewater collection facility that could be used to convey flows to the RTP. Development of this source would require not only a new pump station, but also a two-mile force main, or pipeline, that would cross under the Salinas River. The proposed Blanco Drain Diversion Pump Station (BDDPS) would be located adjacent to an existing seasonal pump station within the Blanco Drain and would include a new intake structure on the channel bottom

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<sup>2</sup> As the water right holder for the proposed Blanco Drain and Reclamation Ditch diversions, MCWRA is responsible for adhering to and tracking the compliance of the terms and operation criteria set forth in the approved water rights.

that would connect to a new wet well on the channel bank via a new gravity pipeline. The new BDDPS would use three submersible pumps to convey the diverted water through a new force main approximately 9,000 feet in length to a connection in an interceptor that connects to the RTP. A 600-foot long segment of the new pipeline crosses beneath the Salinas River. The force main is 16-inch diameter polyvinyl chloride pressure pipe, except for the segment beneath the river, which will consist of an 18-inch diameter high density polyethylene pipe.

Pumped flow will be measured by a magnetic flow meter located at the BDDPS. All three pumps are furnished with variable speed drives in order to maximize and control diversion from the Blanco Drain under conditions of varying flow. Maximum pumping capacity with three pumps operating at full speed is 6 cfs. The facility also includes a flow measurement flume on the discharge from the Blanco Drain, to be continuously monitored and recorded. A principal purpose of this flow measurement flume is to confirm compliance with requirements for downstream bypass (see below).

**Blanco Drain Diversion Facility Site Construction:** Construction of the new diversion facility would include grading and excavation to install the new intake structure, new wet well, and new pipeline. Construction of the force main crossing under the Salinas River would be performed using the horizontal directional drilling method in order to avoid any contact with the riparian habitat area along the river, and to achieve sufficient depth below the riverbed to provide a margin of safety to minimize the risk of frac-out<sup>3</sup>. Temporary receiving pits will be constructed on either side of the river which will be approximately 40 feet by 60 feet in size. The channel banks and invert near the Blanco Drain diversion pump station intake would be lined with concrete to prevent scouring. Construction is anticipated to occur from April 1 through November 30, 2017.

**Blanco Drain Diversion Facility Operation:** Diversions from Blanco Drain would typically occur between April and September (March through September during drought year scenarios). The monthly average diversion rate would range between 0.1 and 6.0 cfs, and annual yield would range from 1,400 to over 2,600 AFY. Flow diverted from the Blanco Drain would not exceed a maximum diversion rate of 6 cfs. The applicants will abide by the following terms and commitments in regards to the Reclamation Ditch Diversion:

- (a) Between April 1 and October 31 of years when MCWRA has not operated the Salinas River Diversion Facility (SRDF) due to dry or drought conditions, and when the Salinas River Lagoon is closed to the ocean, MCWRA shall:
  - i. Monitor and provide the State Water Resources Control Board (SWRCB) Division of Water Rights, CDFW, and NMFS monthly reports on the average daily water levels in the Salinas River Lagoon and the operational characteristics of the slide gate between the lagoon and the Old Salinas River (OSR) channel. Monthly reports shall include the following:
    - Water elevation in the lagoon (daily mean, referenced to NGVD29).
    - Dates of when the slide gate to the OSR was closed versus opened.

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<sup>3</sup> Frac-out is the unintentional return of drilling fluids to the surface or waters during horizontal direction drilling.

- Size of slide opening (inches) and estimated flows released to OSR when flow is required (daily mean, cfs).
- ii. Maintain Salinas River Lagoon water surface elevation and provide flows to the OSR channel by adhering to the following two conditions:
    - a. If the water level in the Salinas Lagoon drops below 3.0 feet NGVD29 (or the then current lagoon water surface elevation management requirement) for seven (7) consecutive days, then cause MRWPCA to limit Blanco Drain diversions to flows above 2.0 cfs (or to provide an alternative source of 2 cfs to the lagoon that does not currently exist, if not prohibited by other regulations) until the lagoon water surface elevation increases to a minimum of 3.2 feet NGVD29 or until October 31 whichever occurs first.
    - b. If the slide gate between the Salinas Lagoon and the OSR channel has been closed for more than seven (7) consecutive days, adjust the slide gate to allow 0.5 to 1.0 cfs of Salinas Lagoon water to flow into the OSR Channel and cause MRWPCA to limit Blanco Drain diversions to flows above 2.0 cfs (or to provide an alternative source of 2.0 cfs that does not currently exist, if not prohibited by other regulations) until the lagoon water surface elevation reaches 3.2 feet NGVD29 or until October 31 whichever occurs first.
  - (b) MCWRA will cause MRWPCA to commit to monitoring water quality of diverted water as required by the SWRCB and Regional Water Quality Control Board for construction activities and during operations.
  - (c) MCWRA will cause MRWPCA to commit to including a flow meter and totalizer (*i.e.*, a flow meter that reports total flows) on the Blanco Drain diversion.

**Salinas Agricultural Wash Water:** The GWR Project proposes to divert and recycle waters used at the City of Salinas industrial wastewater collection and treatment system, which serves approximately 25 agricultural processing and related businesses located east of Sanborn Road and south of U.S. Highway 101. Over 80 percent of the wastewater flows in this system are from fresh vegetable packing facilities. The remaining flows originate from businesses associated with seafood processing, refrigerated warehousing, manufactured ice, preserves (frozen fruits, jams and jellies) and corrugated paper boxes. Wastewater is conveyed in a pipeline that traverses near the Salinas Pump Station to the Salinas Industrial Wastewater Treatment Facility (Salinas Treatment Facility) located adjacent to the Salinas River, downstream of the Davis Road crossing. The Salinas Treatment Facility consists of an influent pump station, an aeration lagoon, percolation ponds, and evaporation/infiltration beds to treat, percolate, and evaporate the industrial wastewater.

The Salinas Treatment Facility operates year-round, with a peak monthly inflow during summer months of approximately 3.5 to 4.0 million gallons per day (mgd), with an annual average of approximately 3 mgd. For the GWR Project, agricultural wash water would only be diverted to the RTP during the peak irrigation demand months (typically April through October). From November through March, agricultural wash waters would continue to be sent to the Salinas Treatment Facility for treatment and stored in the existing percolation and evaporation ponds,

which can hold approximately 1,250 acre-feet. The net yield of the agricultural wash water source for the GWR Project would be approximately 2,710 AFY.

**Stormwater Runoff Diversions:** In addition to the City's agricultural wash waters, the GWR Project would also include diversion and recycling of urban runoff from the southwestern part of the City of Salinas using pipes that cross near the Salinas Pump Station site southeast of the intersection of Blanco and Davis roads. Urban runoff from an area of about 2.5 square miles of the City of Salinas is currently discharged into the Salinas River near Davis Road via a 66-inch, outfall line. Under the GWR Project, this urban runoff would be diverted to the RTP rather than discharged to the Salinas River. This source is estimated to yield an average supply of 225 AFY.

**Minimization Measures:** In addition to the water rights permits, the applicants have proposed several avoidance and minimization measures (*i.e.*, erosion control, seasonal work windows, bypass flows and operating criteria, *etc.*) related to the construction and operation of the GWR Project, which are listed in Table 3-10 in Snider *et al.* (2016).

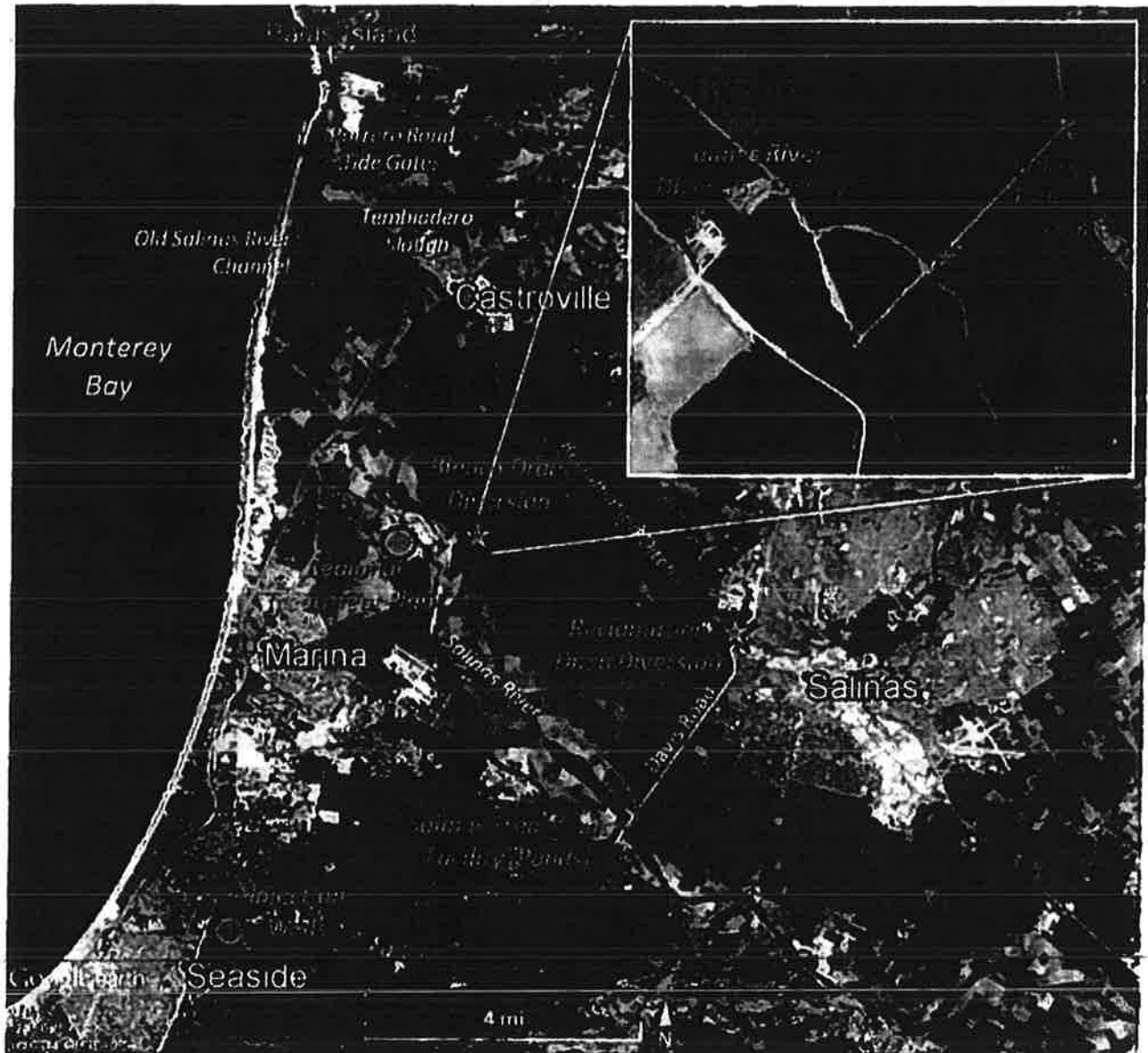
There are no interrelated or interdependent actions associated with the proposed action.

### **Action Area**

The action area for the GWR Project will include portions of various waterbodies, as well as upland areas extending from the City of Salinas south to the cities of Marina and Seaside (Figure 1). Specific segments of waterbodies within the action area include: (1) Salinas River from the Salinas Treatment Facility near Davis Road (RM 11.2) downstream through the Salinas River lagoon, (2) Blanco Drain from the proposed point of diversion to its confluence with the Salinas River (approximately 750 feet of channel), and (3) the Reclamation Ditch from Davis Road (RM 6.5) downstream through Tembladero Slough, and the Old Salinas River channel to the Potrero Road tide gates.

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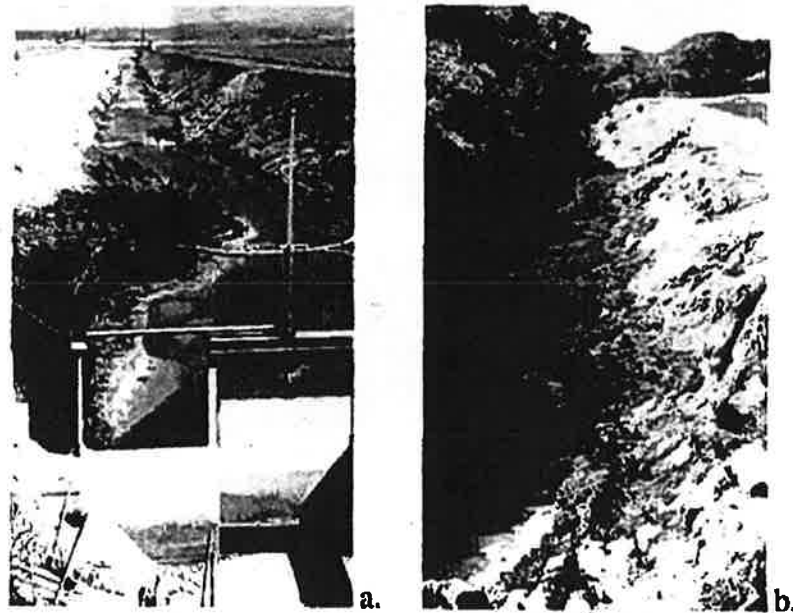
The lower Salinas River channel is a confined and entrenched single-thread channel largely bordered by a mature willow-cottonwood riparian forest. Within the channel, emergent vegetation is present in areas and channel substrate consists of primarily sand and fine sediments. Surface flow in the river is typically present year-round due to the operation of the Salinas Valley Water Project (SVWP) as well as agricultural return flows (including the Blanco Drain), discharge of urban runoff, and seepage from the Salinas Treatment Facility percolation ponds. During periods when the sandbar at the river mouth is closed (which is most of the year and sometimes all year), water surface elevation in the lagoon is managed by a slide gate weir located in the northwest corner of the lagoon that connects to the Old Salinas River channel. The Old Salinas River channel flows north behind the coastal sand dunes where it is joined by Tembladero Slough and then discharges to Moss Landing Harbor and hence Elkhorn Slough.



**Figure 1.** The action area vicinity for the GWR Project including the locations of affected water bodies, existing and proposed infrastructure, and nearby cities. Inset map shows the Blanco Drain diversion facility and its proximity to the Salinas River and the SRDF.

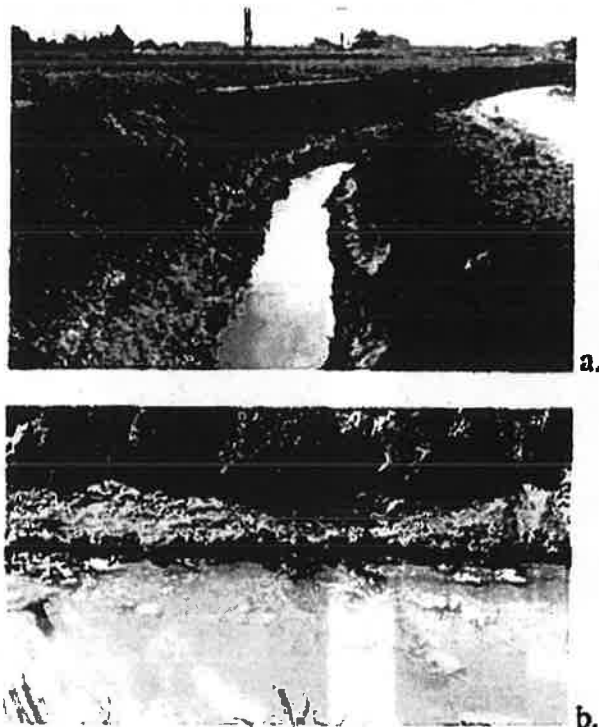
The Blanco Drain receives runoff from approximately 6,400 acres of primarily row crop agricultural lands. The drain enters the Salinas River just upstream of the SRDF, which is located at RM 4.8 near the head of the lagoon. The Blanco Drain is separated from the Salinas River by a flap gate, which prevents Salinas River water from entering the Blanco Drain under high water conditions. The small section of the Blanco Drain affected by the project consists of a highly entrenched and artificial channel with substrate consisting of fine sediments (Figure 2). Streamflow is present throughout the year due to agricultural return flows from tile drains and surface runoff during winter and irrigation events. Average monthly flow rates range from 2.2 to 4.6 cfs, however daily flows rates over 6 cfs have been recorded in recent years. During drought

years, flow from the Blanco Drain is the primary source of freshwater to the lower-most reach of the Salinas River and the lagoon, particularly during summer.



**Figure 2.** The Blanco Drain looking upstream from the proposed diversion site (a) and looking downstream (b) from the same location. September 22, 2016.

The Reclamation Ditch is natural water course that was engineered (straightened and deepened) between 1917 and 1920 to serve as a major drainage canal for expanding agricultural and urban developments (Casagrande and Watson 2006). The ditch now serves as the primary conduit for urban runoff from nearly all of the City of Salinas. The new diversion facility will be constructed within the bed and banks of the Reclamation Ditch at Davis Road (Figure 3). From this location and downstream, the Reclamation Ditch is an entrenched, trapezoidal channel with substrate consisting of fine sediments (clays and silts). Vegetation, particularly native riparian species, is extremely scarce. Streamflow is perennial due to a combination of natural runoff from the upper watershed (intermittent contributions during winter and spring) as well as agricultural return flows, tile drainage, and urban runoff throughout the year. Stream flow volume in the Reclamation Ditch varies from less than 1 cfs to more than 400 cfs, and flow response times are very flashy due to the heavy influence from impervious surfaces.



**Figure 3.** A view of the Reclamation Ditch from approximately the proposed diversion site (a), and a close-up view of typical water quality conditions near the proposed diversion site during the low flow period (b). September 22, 2016.

Downstream of the State Highway 183 crossing, the Reclamation Ditch is joined with the Merritt Lake drainage and becomes Tembladero Slough. The Tembladero Slough channel is lower gradient and more sinuous but is also surrounded by intensive row-crop agriculture. The channel is tidally influenced with perennial streamflow provided by the Reclamation Ditch, surrounding agricultural return flows, and tile drains. Tembladero Slough discharges into the Old Salinas River channel approximately 1.3 miles upstream of the Potrero Road tide gates. The Old Salinas River channel (historic course of the Salinas River) is also a tidally influenced slough that receives flows from the Salinas River lagoon and the Tembladero Slough-Reclamation Ditch drainage, as well as adjacent agricultural return flows. The tidal influence is the result of leakage through the Potrero Road tide gates, which results in both longitudinal and vertical salinity gradients within the Tembladero Slough and the Old Salinas River channel (Casagrande and Watson 2006; Snider *et al.* 2016).

Water quality in each waterbody is highly degraded, with all listed for number of impairments, or pollutants, on the Clean Water Act Section 303d list of water quality limited segments<sup>4</sup>. These impairments include, but are not limited to, nutrients, pesticides, copper, sediment toxicity, turbidity, fecal coliform, *E. coli*, and low dissolved oxygen. Sources contributing to these impairments include, but are not limited to, agriculture, grazing, and runoff from urban and industrial land uses.

<sup>4</sup> [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/2010state\\_ir\\_reports/category5\\_report.shtml](http://www.waterboards.ca.gov/water_issues/programs/tmdl/2010state_ir_reports/category5_report.shtml)

A more thorough description of the action area is provided in the Biological Assessment for the GWR Project (Snider *et al.* 2016).

### **Action Agency's Effects Determination**

The U.S. EPA has determined that the proposed project may affect, but is not likely to adversely affect the South-Central California Coast (S-CCC) steelhead (*Oncorhynchus mykiss*) Distinct Population Segment (DPS), or its designated critical habitat. This determination was based on the species life history, the existing condition of habitats within the action area, the small footprint of the project construction areas, as well as the proposed minimization measures and potential benefits of the project to the Carmel River steelhead population (also within the S-CCC DPS), and a reduction in pollutant loads to receiving water bodies.

Available information indicates the following listed species may be affected by the proposed project:

**South-Central California Coast steelhead DPS**  
Threatened (71 FR 834; January 5, 2006)  
Critical habitat (70 FR 52488; September 2, 2005)

The life history of steelhead is summarized in Shapovalov and Taft (1954) and Busby *et al.* (1996). In streams along the California coast, including the Salinas River and the Reclamation Ditch drainage, adult steelhead typically migrate between December and April (Shapovalov and Taft 1954; Casagrande and Watson 2006; Cuthbert *et al.* 2013a). Steelhead smolts and kelts typically emigrate between February and June, with peak migrations typically occurring March through May (Shapovalov and Taft 1954; Cuthbert *et al.* 2013b).

In the Salinas River watershed, a long history of anthropogenic impacts has resulted in a progressive and substantial decline in steelhead abundance. The population has declined from an estimated 3,600 fish in 1946 (Deitman 1988), to less than 50 individuals by the end of the 20<sup>th</sup> Century (EDAW 2001). Between 2010 and 2014, the highest annual total of adult steelhead detected at MCWRA's video counting station on the lower Salinas River was 43 individuals (63 passage events; 53 upstream and 10 downstream) during the winter of 2012-13 (Cuthbert *et al.* 2013a). In the Reclamation Ditch basin, there has been only one confirmed observation of an adult steelhead, which was found in Gabilan Creek<sup>5</sup> in March 2004 (Casagrande and Watson 2006). Juvenile *O. mykiss* (life history strategy unknown) have been observed on multiple occasions in the upper reaches of Gabilan Creek (Casagrande and Watson 2006; Casagrande 2010). In their current conditions, the Reclamation Ditch, Tembladero Slough, and the Old Salinas River channel are not suitable dry-season rearing habitat for juvenile steelhead.

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<sup>5</sup> Gabilan Creek is considered a primary tributary to the Reclamation Ditch. Historically, the lower half of the Reclamation Ditch, from Carr Lake in the center of Salinas downstream to Tembladero Slough, was considered as part of Gabilan Creek. See Casagrande and Watson (2006) for a more comprehensive description of the Reclamation Ditch watershed, its hydrology, and change in land uses.



Observations of juvenile steelhead in the Salinas River lagoon are very limited. Annually since 2002, the lagoon has been sampled seasonally at multiple sites, which has resulted in a total of four steelhead captured. These included one steelhead during each of three sampling events in 2011 (spring, summer, and fall), and one steelhead captured in the fall of 2013 (Hagar 2014). NMFS is unaware of any comprehensive fisheries assessment conducted in the Old Salinas River channel, and therefore its use by steelhead is currently unknown. However, in addition to functioning as a potential migration corridor, the muted tidal conditions in Old Salinas River channel and Tembladero Slough may function as seasonal, estuarine rearing habitat and as a saltwater acclimation zone for emigrating steelhead smolts in spring and early summer. The Blanco Drain is not accessible to steelhead.

### **Consultation History**

NMFS participated in early coordination and technical assistance with the GWR Project applicants during the development of the Environmental Impact Report (EIR) between April and December 2014. On June 3, 2015, NMFS provided the project applicants comments on the Draft EIR (NMFS 2015) pertaining to the assessment of S-CCC steelhead habitat and anticipated project effects. On August 11, 2015, MCWRA submitted applications for three new water rights for surface water diversions on Blanco Drain (Application 32263A), Reclamation Ditch (Application 32263B), and Tembladero Slough (Application 32263C). The intended uses outlined in the applications were consistent with those of the GWR Project.

On September 25 and September 28, 2015, the applicant provided NMFS with a notice of availability for the Final EIR. Between September 28, 2015 and February 11, 2016, NMFS staff met or conducted conference calls with the applicants and their consultants to discuss project components, minimization measures (*i.e.*, bypass flows), potential species and habitat impacts, and project alternatives.

On February 16, 2016, NMFS filed protests with the SWRCB on the three water rights applications submitted by MCWRA (NMFS 2016b, c, d). Between February 16 and June 20, 2016, staff from NMFS, the applicants, their consultants, as well as the SWRCB and the California Department of Fish and Wildlife (CDFW) held several meetings or conference calls to review and discuss the protests, MCWRA's written response to the protests (MCWRA 2016), and to develop minimization measures (terms) that would result in NMFS dismissing their protests. Final dismissal terms were tentatively agreed upon by the applicants and NMFS on June 20, 2016, and on August 23, 2016, NMFS submitted its final protest dismissal letter for two of the three water rights applications (Blanco Drain and Reclamation Ditch) to the SWRCB (NMFS 2016a). NMFS' protest on the new Tembladero Slough diversion has not been resolved; however MCWRA and the GWR Project applicants agreed not to pursue the diversion as part of the GWR Project.

Between August and September 2016, NMFS participated on multiple conference calls with the applicants, their consultants, and the SWRCB staff regarding the fish screens proposed for the Reclamation Ditch diversion facility. On September 22, 2016, the applicants hosted a meeting and site visit with NMFS and the SWRCB to discuss the project status, anticipated timeline to

complete the necessary consultations and permits, and to visit the proposed diversion sites for the purpose of engineering review.

On October 20, 2016, NMFS received the biological assessment (Snider *et al.* 2016) for the GWR Project from the SWRCB. NMFS submitted its final engineer review comments to the applicants on November 3, 2016. NMFS received an email response from the applicants on November 20, 2016, which included an agreement to incorporate all recommendations by NMFS engineers regarding the maintenance and inspection of the fish screen at the Reclamation Ditch diversion into the compliance plan related to the water right permit #32263B.

NMFS received a letter requesting informal consultation from the U.S. EPA on November 18, 2016, at which time NMFS determined the project's information was complete and initiated consultation.

### **Effects of the Action**

Under the ESA, "effects of the action" means the direct and indirect effects of an action on the listed species or critical habitat, together with the effects of other activities that are interrelated or interdependent with that action (50 CFR 402.02). The applicable standard to find that a proposed action is not likely to adversely affect listed species or critical habitat is that all of the effects of the action are expected to be discountable, insignificant, or completely beneficial. Beneficial effects are contemporaneous positive effects without any adverse effects to the species or critical habitat. Insignificant effects relate to the size of the impact and should never reach the scale where take occurs. Discountable effects are those extremely unlikely to occur.

Portions of the action area, including the Salinas River, its lagoon, Reclamation Ditch, Tembladero Slough, and the Old Salinas River channel have been designated as critical habitat for the S-CCC steelhead DPS (70 FR 52488). The designation of critical habitat for S-CCC steelhead uses the term primary constituent elements (PCEs). The new critical habitat regulations (81 FR 7414) replace this term with physical or biological features (PBFs). This shift in terminology does not change the approach used in conducting our analysis, whether the original designation identified primary constituent elements, physical or biological features, or essential features. In this letter of concurrence, we use the term PBF to mean PCE. PBFs include sites essential to support one or more life stages of the species. These sites in turn contain physical and biological features that are essential to the conservation of the species. The PBFs of designated critical habitat for S-CCC steelhead include freshwater migration corridors free of obstruction and excessive predation, with water quantity and quality conditions and natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, side channels, and undercut banks supporting juvenile and adult mobility and survival.

The proposed action is likely to result in localized impacts to surface flows from the operations of the diversions, water quality from construction of the diversion facilities, as well as permanent impacts to the bed and banks of the Reclamation Ditch, regional groundwater recharge, and water quality improvements within downstream waters.

Snider *et al.* (2016) indicates the diversion of the agricultural wash water would result in the loss of seepage into the Salinas River of between 0 and 3 cfs, with the greater amounts occurring during summer and fall when steelhead are not migrating. Demand for wash waters during winter and spring, when steelhead migration occurs, is much lower and therefore diversion of these source waters would be reduced or non-existent during these periods.

Regarding diversions from the Blanco Drain, per the biological opinion for the SVWP, MCWRA must bypass a minimum of 2 cfs of freshwater to the lagoon (bypass rates vary by season and water year type) when operating the SVWP. Per the water right protest settlement terms for the proposed Blanco Drain diversion (described above), the GWR Project can divert up to 6 cfs from the Blanco Drain during years when the SVWP is operating. During dry years (such as 2014-2016), the Blanco Drain supplies a majority of the freshwater surface flows to the lagoon during the dry season. When the SVWP is not operating and flow in the Salinas River is not connected, the protest settlement terms for this water right require a minimum bypass of 2 cfs from the Blanco Drain into the Salinas River/Lagoon to maintain minimum lagoon elevations (rearing space) and flows to the Old Salinas River channel.

With the incorporation of the bypass flows and operating criteria, the combined diversions of all three proposed source waters in the Salinas River watershed (Salinas stormwater runoff, agricultural wash water, and Blanco Drain) would result in reduced flows in the Salinas River near the Blanco Drain by less than 1 percent of the total flow on an annual average basis. Based on the above, NMFS believes the impact of these diversions on migration windows for steelhead and on the PBFs of critical habitat in the lower river, lagoon, and the Old Salinas River channel would be insignificant.

As with the Blanco Drain and agricultural wash waters, the demand for waters from the Reclamation Ditch will be highest during the peak irrigation season. As described above, summer flows in the Reclamation Ditch are the result of agricultural return flows and tile drainage. Because water quality (*e.g.*, water temperature) is unsuitable for steelhead rearing, steelhead are not expected to be present in the Reclamation Ditch during the peak irrigation season and NMFS expects impacts to the PBFs of critical habitat as a result of diversions during the dry season will be insignificant.

For the winter and spring periods, bypass flows and operating criteria were developed for the Reclamation Ditch diversion to protect steelhead migration opportunities. Based on fish passage analyses, a minimum of 75 cfs is required for adult steelhead to successfully pass upstream through the Reclamation Ditch. Per the operating terms, diversions will cease once flows exceed 30 cfs and would not resume until flows decline to less than 20 cfs. Based on the above, and considering the life history of steelhead, the proposed location for the new diversion, NMFS anticipates the impact of diverting a maximum of 6 cfs from the Reclamation Ditch during winter and spring on steelhead migration success to be insignificant.

By restricting in-channel construction work activities in the Reclamation Ditch to the period between July 1 and September 30, the construction schedule avoids the primary migration periods of adult and juvenile steelhead in the Reclamation Ditch. Temporary de-watering of the Salinas River is not necessary for the construction of the Blanco Drain diversion facility and

related pipelines. Similarly, NMFS expects any minor temporary increases in turbidity resulting from the construction of the diversion facility, the stream flow bypass system, or during periodic sediment removal from the 12-inch depression to settle within a short distance in the slow moving water and not affect the condition of critical habitat in the Reclamation Ditch. As shown in Figure 3, the banks of the Reclamation Ditch lack vegetation, which exposes them to erosion. Any minor and temporary increases in turbidity during the first storm following construction would be similar to ambient conditions during storm events in the Reclamation Ditch (Casagrande and Watson 2006) and would therefore be discountable.

The Reclamation Ditch diversion facility will be equipped with a NMFS-approved, self-cleaning cone screen that is designed to meet NMFS criteria for slot size and velocities for steelhead fry. Steelhead are extremely rare in the Reclamation Ditch (and the Gabilan Creek watershed) and the proposed diversion will be located in an area used only as a migratory corridor for adult and smolt life stages. Also, the modified channel design will increase the depth near the intake and ensure fish have enough depth to swim away from the intake. As a result, NMFS believes direct impacts to migrating steelhead related to impingement or entrainment are discountable. The applicants agreed to allow NMFS engineers to periodically access and inspect the screen to ensure adequate performance. The Blanco Drain diversion facility is not located within anadromous waters, and therefore construction of this new diversion facility would not result in direct impacts to steelhead.

The addition of an open-cell concrete mat surrounding the new diversion within the Reclamation Ditch will result in a small area of channel armoring. However, the use of the open cell design would reduce the roughness of the armoring and will allow fine sediments to settle and fill the interstitial voids between the placed gravel. In turn, this would allow vegetation to recolonize the area. Based on the small area to be affected by the mats, and considering the Reclamation Ditch is used as migratory habitat for steelhead, NMFS believes the impacts to critical habitat PBFs from the addition of the mat would be insignificant.

The GWR Project will likely result in benefits to the S-CCC steelhead DPS, as well as EFH utilized by several Federally managed fisheries (e.g., estuarine habitats in the Salinas River, Old Salinas River channel, Moss Landing Harbor, etc.). As described above, one of the primary objectives of this project is to provide up to 3,500 AFY of recycled water for injection into the Seaside Groundwater Basin, which would allow Cal-AM to reduce its diversions from the Carmel River Groundwater Basin by equal amount (Snider *et al.* 2016). NMFS has identified the Carmel River steelhead population as a Core 1 population for the recovery in its recovery plan for the S-CCC steelhead DPS (NMFS 2013). In the recovery plan, groundwater extraction was identified as a threat to the recovery of the Carmel River population. Furthermore, additional product waters will be delivered to agricultural users in Castroville area for direct irrigation. This will further reduce groundwater pumping in the northern-most reaches of the Salinas Groundwater Basin, which would help reduce the rate of seawater intrusion into the 180- and 400-foot aquifers.

As described above, the primary sources of the raw waters for the GWR Project are agricultural return flows (including tile drainage), urban runoff, and industrial wash waters. These waters have a long history of pollution and are currently discharged into designated critical habitat, the

Elkhorn Slough State Marine Reserve, and the Monterey Bay National Marine Sanctuary. The removal, treatment, and reuse of these waters will substantially reduce pollutant loads to these sensitive habitats that support S-CCC steelhead, several federally managed fisheries, and protected marine mammals.

Construction and operation of the following GWR Project components would not be located adjacent to water bodies and therefore would not affect S-CCC steelhead or their designated critical habitat: the AWTF, product water conveyance pipelines and booster stations, and injection well facilities.

### **Conclusion**


Based on this analysis, NMFS concurs with the U.S. EPA that the proposed action is not likely to adversely affect S-CCC steelhead or its designated critical habitat.

### **Reinitiation of Consultation**

Reinitiation of consultation is required and shall be requested by U.S. EPA or by NMFS, where discretionary Federal involvement or control over the action has been retained or is authorized by law and (1) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (2) the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this concurrence letter; or if (3) a new species is listed or critical habitat designated that may be affected by the identified action (50 CFR 402.16). This concludes the ESA portion of this consultation.

Please direct questions regarding this letter to Joel Casagrande at (707) 575-6016 or by email at joel.casagrande@noaa.gov.

Sincerely,

*for*   
Barry A. Thom  
Regional Administrator

cc: Janelle Leeson, Corps, San Francisco  
Jacob Martin, USFWS, Watsonville  
Ahmad Kashkoli and Susan Stewart, SWRCB, Sacramento  
Julie Vance and Annette Tenneboe, CDFW, Fresno  
Lisa McCann, CCRWQCB, San Luis Obispo  
David Chardavoyne, MCWRA, Salinas  
David Stoldt, MPWMD, Monterey  
Paul Sciuto, Mike McCullough, and Allison Imamura, MRWPCA, Monterey  
Copy to File ARN 151422WCR2016SR00321  
Copy to Chron File

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**RECEIVED**

NOV 22 2016

**MPWMD**

November 18, 2016

Att: David Stoldt, General Manager  
 Monterey Peninsula Water Management District (MPWMD)  
 5 Harris Ct., Bldg G,  
 Monterey, CA 93940

**Subject: Compensation Agreement - Transfer of Former City of Monterey Redevelopment Agency Property at 300 Pacific Street, Monterey, California to the City of Monterey**

Dear Mr. Stoldt,

This letter introduces a request that Monterey Peninsula Water Management District (MPWMD) review and approve a compensation agreement regarding the proposed transfer of property at 300 Pacific Street from the Successor Agency of the City of Monterey Redevelopment Agency (Successor Agency) to the City of Monterey (City). As contemplated in the long range property management plan approved by the Department of Finance the Successor Agency will transfer the property at no cost to the City for future development. The compensation agreement acknowledges the transfer will generate no proceeds and there will be no distribution as property tax to local taxing entities, because all proceeds generated from the property at 300 Pacific Street are restricted for use under contracts and laws that pre-date the dissolution of redevelopment agencies in the State of California, and can only be used by the City for specific purposes and cannot be distributed to other taxing entities.

Restrictions on proceeds generated from the property limit their use to activities that meet one of U.S. Department of Housing and Urban Development (HUD) national objectives, which require not less than 70 percent of the funds to be used for activities that benefit low- and moderate-income persons and are eligible Community Development Block Grant (CDBG) expenditures. Examples of activities that are supported by Hotel Pacific proceeds include: rental assistance to low-income households, development of low-income rental housing, counseling and street outreach to individuals experiencing homelessness, supplemental food assistance programs, legal services for seniors, motel vouchers for emergency shelter, and housing rehabilitation grants and loans to low-income homeowners who would otherwise be unable to maintain their homes in a safe manner.

I am reaching out to all affected taxing entities to introduce the Successor Agency's request for approval of the compensation agreement. This exercise to negotiate and gain Monterey Peninsula Water Management District's (MPWMD) approval of the compensation agreement is being conducted solely to fulfill the requirements of the State of California Department of

Finance (Department of Finance) which conditioned the transfer of 300 Pacific Street upon execution of a compensation agreement between the Successor Agency and all of the affected taxing entities. City staff is ready and willing to meet with appropriate agency staff to answer questions and provide whatever additional details are needed for a full understanding of this property transfer and of the terms of the compensation agreement.

#### Background

The Redevelopment Dissolution Act (AB 1x 26 and AB 1484) and ensuing court actions, eliminated all redevelopment agencies in the state on January 31, 2012 and established procedures for disposing agency assets. Disposition of redevelopment agency real property is one of the requirements. In many cases the Successor Agency is required to distribute resultant proceeds from the disposition of property as property tax to local taxing entities. In cases where the Successor Agency proposes to transfer property to the city that created the redevelopment agency to further redevelopment that is consistent with the city's redevelopment plan the successor agency is required to negotiate and obtain a compensation agreement with all of the affected taxing entities.

The Successor Agency's approved long range property management plan authorizes the transfer of 300 Pacific Street to the City for the purpose of further redevelopment consistent with the City's Custom House Redevelopment Plan. The Department of Finance approved transfer of the property on December 22, 2015 subject to execution of a compensation agreement.

#### Property Summary

The property at 300 Pacific Street was assembled by the City of Monterey Urban Renewal Agency using U.S. Department of Housing and Urban Development (HUD) Urban Renewal Funds and developed pursuant to a ground lease as a hotel. The lease terminates December 31, 2058. The hotel is the Hotel Pacific. It was completed in 1986. In accordance with HUD requirements all current and future proceeds generated from the property shall be treated as Community Development Block Grant (CDBG) program income and solely used to support CDBG eligible activities. Consistent with this requirement all rent revenue earned under the lease is applied to the City's CDBG programs. In Fiscal Year 2015-2016 the Hotel Pacific lease generated over \$300,000 in ground rent.

The December 22, 2015 Department of Finance approval of the Successor Agency's property disposition plan for 300 Pacific Street authorizes assignment of the ground lease and transfer of the property to the City. The disposition plan allows the City to use the funds according to the restrictions and continue to fulfill the contractual obligations of the City's former Redevelopment Agency related to the property. This transfer also conforms to Redevelopment Agency Dissolution Act statutes, ABx1 26 and AB 1484, as a transfer of property to be retained for future development.

Under the approved long range property management plan, the assignment of the ground lease does not require execution of the compensation agreement. The assignment is authorized pursuant to Ground Lease Condition 1.C and it is already in process. Ground Lease Condition 1.C states:

"Succession by City of Monterey. The Agency may assign all right, title and interest in this lease to the City of Monterey. In said event, or in the event the Agency is terminated by Action of law, the City shall automatically succeed to all right, title and obligation under this lease, and this lease shall be deemed amended by substituting the word

"City" wherever the word "Agency" appears."

Transferring the fee title to the property to the City is the final disposition step and one of the last tasks of the Successor Agency.

#### Compensation Agreement

It is the Successor Agency's intent to transfer the fee title to the property to the City to ensure all proceeds from the property continue to be used to fulfill the obligations of the City's former Redevelopment Agency to use the funds consistent with CDBG restrictions. Consequently, any and all revenue generated from lease or proceeds generated through disposition of the property are only to be distributed the City to fund CDBG eligible programs and activities. There is no authority to distribute any proceeds from the transfer of the lease and property to local taxing entities.

The determination that this transfer should take place without compensation is based on the following findings:

1. The property is subject to a Lease and assignment of the Lease to the City is an enforceable obligation. The Lease is dated October 29, 1984, as amended several times, with the last amendment dated January 1, 2004, The Lease terminates December 31, 2058. Paragraph I.C. of the Lease states, "...or in the event the Agency is terminated by action of law, the City shall automatically succeed to all right, title and obligation under the lease...".
2. Pursuant to Lease Paragraph I.C upon termination of the Redevelopment Agency the City shall automatically succeed to all right, title and obligation under the Lease. This transfer is an enforceable obligation specified in the lease.
3. The property was acquired by Urban Renewal Agency through use of Federal HUD loan and grant, (Loan and Grant Contract No. Calif. R-34 for Urban Renewal Project). There is no documentation to suggest that tax increment funding was used to assist in the assembly of the property that has been developed into the Hotel Pacific. Resolution No. 12,858 indicates that prior to completing the Urban Renewal Project "The Council authorizes the use of local fund, including CDBG funds to construct the public improvements required by the Plan which have not commenced at the time of settlement."
4. Property grant deeds are in the name of the to Urban Renewal Agency, not to the City of Monterey Redevelopment Agency.
5. The HUD Agreement states: "The proceeds from the disposition of any property listed above (note Custom House Redevelopment Plan Parcels H-2, H-4 and I-1 are listed) after the financial settlement shall be treated as program income of the City under provisions of 24 CFR 570.206."\* These are CDBG eligible activities and all current rental proceeds earned under the lease are applied to the City of Monterey CDBG programs. Upon completion of the transfer the City of Monterey is required to continue to treat all proceeds generated from the property as CDBG program income as required under the HUD Agreement.
6. Directing continued use of the property as a hotel use and continued use of ground lease rental proceeds as program income is consistent with requirements in the

Redevelopment Plan and HUD Agreement. Transfer to the City of Monterey to retain for these purposes is consistent with HSC Sections 34191.5(c)(2) as property used to fulfill an enforceable obligation and, as required by the DOF under HSC Section 34191.5(c)(2)(A) as property retained for future development.

7. Pursuant to the HUD Agreement proceeds from the disposition of the 300 Pacific Street property must be treated as program income of the City under provisions of 24 CFR 570.206<sup>1</sup>. Program income is required to be used for activities that meet one of the CDBG national objectives, which require not less than 70 percent of the aggregate amount of CDBG funds to be used for activities that benefit low and moderate income persons. HUD has indicated that any sale proceeds generated from the sale of the property must be used in accordance with all CDBG requirements and never loses its CDBG affiliation.
8. The City of Monterey currently administers a robust CDBG program providing services and projects to benefit low and moderate income persons. Because of this existing program the City of Monterey is the appropriate public jurisdiction to receive the property transfer. The City of Monterey is required as the unit of the general local government to use the disposition proceeds in a manner that is compliant with the HUD Agreement. The HUD Agreement and the CDBG regulations prohibit transferring the proceeds generated from the property to the taxing entities for any disbursement provided in the Redevelopment Dissolution Statutes, ABx1 26, as amended by AB 1484.
9. Transfer to the City of Monterey to fulfill an enforceable obligation under the Ground Lease and to retain for future development is consistent with HSC Section 34191.5(c)(2)(A) because the City is also the appropriate public jurisdiction pursuant to the existing lease agreement, HUD Agreement, the Housing Act of 1949, as amended and CDBG regulations.
10. Transfer to the City of Monterey without compensation is warranted because the Lease states, "...or in the event the Agency is terminated by action of law, the City shall automatically succeed to all right, title and obligation under the lease..."; and the HUD Agreement states: "The proceeds from the disposition of any property ...after the financial settlement shall be treated as program income of the City under provisions of 24 CFR 570.206." These agreements, together with the applicable federal statutes and regulations require that all program income be used to fund CDBG eligible programs conforming to 24 CFR 570.504 and supports the Successor Agency's intent to execute compensation agreements with local taxing entities that will expressly: (a) restrict the distribution and use of program income generated under the Lease or from the sale or disposition of the property and any subsequent transfer; and (b) state that such revenues will not be available for distribution to the local taxing entities.
11. The Urban Renewal Program was a federal program authorized by HUD to provide economic development to local government. It was a government program, federal funded with covenants that restricted any future uses contrary to the purpose of the program. The property and Lease for the hotel project serves a national objective of the CDBG program conforming to 24 CFR 570.504 as required by HUD under the Housing Act of 1949, as amended.

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<sup>1</sup> 24 CFR 570.504 is the correct citation

Conclusion

The compensation agreement that is proposed by the Successor Agency constitutes the Successor Agency's good-faith efforts to transfer 300 Pacific Street to the City of Monterey in a manner that complies with the requirements of the Redevelopment Agency Dissolution Act statutes, the Department of Finance and the HUD. I am hopeful your agency will support a recommendation to your Board of Directors to approve the attached compensation agreement as proposed and return an executed copy of the compensation agreement no later than February 29, 2017.

Any questions or request for a meeting to discuss the compensation agreement may be directed to Richard S. Marvin, City of Monterey Housing and Property Manager at (831) 646-3995 or [marvin@monterey.org](mailto:marvin@monterey.org)

Sincerely,



Michael McCarthy  
City Manager

Attachment: Compensation Agreement

c: Mayor and City Council  
Oversight Board Chair and Members  
Successor Agency Long Range Property Management Plan File

## COMPENSATION AGREEMENT (Pacific Hotel)

This Agreement, dated for reference purposes as of \_\_\_\_\_, 20\_\_ is entered into by and among the Monterey Successor Agency (the "Successor Agency"), successor in interest to the dissolved Redevelopment Agency of the City of Monterey (the "Former Agency"), the City of Monterey, the Monterey County, the Monterey County Water Resources Agency (MCWRA Zone 11), the Monterey Peninsula Water District, the Monterey Regional Park District, the Monterey County Office of Education, the Monterey Peninsula Unified School District, and Monterey Peninsula College, on the basis of the following facts, understandings, and intentions of the Parties:

### RECITALS

- A. These Recitals refer to and utilize certain capitalized terms which are defined in Section 1 of this Agreement. The Parties intend to refer to those definitions in connection with the use thereof in this Agreement.
- B. Pursuant to the Redevelopment Dissolution Statutes, the Former Agency was dissolved as of February 1, 2012, and the Successor Agency became responsible for paying the enforceable obligations, disposing of the properties and other assets, and unwinding the affairs of the Former Agency.
- C. Accordingly, ownership of the Former Agency's properties that had been acquired to implement the Redevelopment Plan transferred to the Successor Agency for disposition in accordance with the Redevelopment Dissolution Statutes.
- D. The City of Monterey received an Urban Renewal Grant, from the United States Department of Housing and Urban Development ("HUD"), under Loan and Grant Contract No. Calif. R-34 (LG), which the City used the HUD grant funds to acquire property commonly referred to as the Hotel Pacific Property located at 300 Pacific Street, City of Monterey, County of Monterey, California, as further described in the attached Exhibit A, incorporated herein by this reference (the "Property").
- E. The Property was acquired in the name of the "Urban Renewal Agency of the City of Monterey" which was later renamed "Redevelopment Agency of the City of Monterey." Though title to the Property remained in the name of the Urban Renewal Agency, the Former Agency owned the Property until it was dissolved pursuant to the California Dissolution Statutes.
- F. The Property is subject to a long-term lease which facilitated the construction of a hotel on the Property (the "Lease"), a copy of the Lease is attached hereto as Exhibit B and incorporated herein by this reference.
- G. Paragraph 1.C of the Lease provides, that the Former Agency "may assign all right, title and interest in this lease to the CITY OF MONTEREY. In said event, or in the event the [Former] Agency is terminated by action of law, the City shall automatically succeed to all

right, title and obligation under the lease, and this lease shall be deemed amended by substituting the word "City" wherever the word Agency appears. [emphasis added]"

H. Upon completion of the project, HUD approved that certain project, Urban Renewal Agency-City of Monterey Closeout Agreement (the "Closeout Agreement"), by and between HUD, the Urban Renewal Agency and the City which specifically requires that all lease revenues generated at the Property and all proceeds from the disposition of the Property be used by the City as program income under 24 C.F.R. §570.801, and used solely to further the CDBG national objectives under the provisions of 24 C.F.R. §570.506. The Closeout Agreement is a valid and binding obligation that continues to restrict the use of revenues and property disposition proceeds generated at the Property.

I. The Successor Agency received a "Finding of Completion" from the DOF on September 10, 2013, confirming that the Successor Agency had made specified required payments under the Redevelopment Dissolution Statutes, and entitling the Successor Agency to prepare and submit a Long-Range Property Management Plan (the "LRPMP", as further defined in Section 1) to the Oversight Board and the DOF for approval.

J. The Successor Agency initially prepared and obtained Oversight Board approval of its LRPMP on February 26, 2014, calling for the Former Agency's Property to be transferred by the Successor Agency to the City for governmental use and to fulfill an enforceable obligation. Under the initial LRPMP, the Successor Agency proposed to transfer the Property to the City for public use and to fulfill the terms of the Lease, an enforceable obligation as defined in Health and Safety Code 34171(d). The intent being that the City would continue to own the Property and continue to use the lease revenue to further the national objectives consistent with the CDBG regulations.

K. The DOF directed that, in order to obtain DOF approval, the initial LRPMP needed to be amended to provide for: (1) an assignment of the Former Agency's interest in the Lease to the City; and (2) transfer of the fee title to the Property to the City subject to the preparation and execution of a compensation agreement among the City and the Taxing Entities pursuant to Health and Safety Code Section 34180(f).

L. To comply with this DOF directive, the Successor Agency revised the LRPMP through an amendment approved by the Oversight Board and submitted to the DOF on October 28, 2015. The DOF approved the Revised LRPMP by determination letter issued on December 22, 2015. Under the revised LRPMP, transfer of the Property to the City is intended to allow the City to fulfill the duties and obligations of the Former Agency under the Lease and the Closeout Agreement.

M. In fulfillment of the Paragraph 1.C of the Lease and the LRPMP, the Successor Agency and the City executed that certain Assignment and Assumption of Ground Lease Agreement, dated as of February \_\_, 2016, under which the Successor Agency assigned on behalf of itself and the Former Agency, all of the Former Agency's right, title, and interest in and obligations under the Lease to the City.

N. As designated in the LRPMP, the Successor Agency now desires to transfer the fee interest in the Property to the City for retention by the City for future development for a project in approved redevelopment plan as allowed under Health and Safety Code Section 34191.5(c)(2).

O. The Parties desire to enter into this Agreement to comply with the DOF directives and the terms of the Revised LRPMP. The Parties acknowledge that the restrictions of the Closeout Agreement and the Lease, result in none of the lease revenue funds or the property disposition funds being distributed to any other entity or used for anything other than as program income of the City under the provisions of 24 CFR 570.506.

NOW, THEREFORE, the Parties agree as follows:

Section 1. Definitions. The following definitions shall apply in this Agreement:

- (a) "Agreement" means this Compensation Agreement, as this Agreement may be amended from time to time.
- (b) "Applicable Shares" has the meaning given in Section 6(a).
- (c) "Auditor-Controller" means the Monterey County Auditor-Controller.
- (d) "City" means the City of Monterey, a California charter city.
- (e) "County" means the County of Monterey, a political subdivision of the State of California.
- (f) "Restricted Proceeds" means, with respect to the Property, any and all of the lease and other revenue funds or the property disposition funds generated at the Property, all of which are deemed to be restricted as program income under 24 CFR 570.801 for use by the City to meet the CDBG national objectives under 24 CFR 570.506.
- (g) "DOF" means the California Department of Finance.
- (h) "Effective Date" has the meaning given in Section 2.
- (i) "ERAF" means the Educational Revenue Augmentation Fund maintained by the Auditor-Controller.
- (j) "Former Agency" means the dissolved Redevelopment Agency of the City of Monterey.
- (k) "LRPMP" means the Revised Long-Range Property Management Plan of the Successor Agency as it exists from time to time. As of the date of this Agreement, the LRPMP consists of the revised Long-Range Property Management Plan dated December 7, 2015, as approved by the Oversight Board on December 7, 2015. The DOF approved the LRPMP in the determination letter dated December 22, 2015.



(l) "Oversight Board" means the Successor Agency's oversight board established and acting in accordance with the Redevelopment Dissolution Statutes.

(m) "Parties" means all of the parties to this Agreement as set forth in the opening paragraph of this Agreement. "Party" means one of the Parties individually.

(n) "Property" has the meaning set forth in Recital D.

(o) "Redevelopment Dissolution Statutes" means collectively ABx1 26 enacted in June 2011, AB 1484 enacted in June 2012, and SB 107, enacted September 2015, and any future amendments that may apply.

(p) "Redevelopment Plan" means the Redevelopment Plan for the Custom House Redevelopment Project Area, adopted by Ordinance No. 1255 C.S. on July 5, 1061 and amended by the following ordinances:

Ordinance No. 1449 C.S. on July 6, 1065

Ordinance No. 1571 C.S. on July 5, 1967

Ordinance No. 1737 C.S. on July 7, 1970

Ordinance No. 1867 C.S. on November 21, 1972

(q) "Successor Agency" means the Successor Agency of the dissolved Redevelopment Agency of the City of Monterey.

(r) "Taxing Entities" means, collectively, the following entities that comprise affected taxing entities for purposes of the Redevelopment Dissolution Statutes: the City of Monterey, the Monterey County, the Monterey County Water Resources Agency (MCWRA Zone 11), the Monterey Peninsula Water District, the Monterey Regional Park District, the Monterey County Office of Education, the Monterey Peninsula Unified School District, and Monterey Peninsula College. "Taxing Entities" shall also mean and include ERAF if and to the extent the Auditor-Controller determines that ERAF is entitled to a distribution of compensation pursuant to Section 6 and the provisions of Health and Safety Code Section 34188. Notwithstanding anything to the contrary herein, ERAF is only considered a Taxing Entity for purposes of distributing funds and for no other purpose, and no additional approval or signature will be required on behalf of ERAF.

## Section 2. Effectiveness of Agreement.

(a) This Agreement shall become effective only upon satisfaction of the following conditions:

(1) Approval of this Agreement by the Taxing Entities' governing boards and direction for the Taxing Entities to execute this Agreement; and

(2) Approval of this Agreement by the Successor Agency's governing board and direction for the Successor Agency to execute and implement this Agreement pursuant to Health and Safety Code Section 34180(f)

(b) Promptly following the effectiveness of this Agreement, the City and the Successor Agency shall transmit notice to all the other Parties that the Agreement is effective and specifying the date the Agreement became effective (the "Effective Date").

**Section 3. Signatories With Respect To Certain Funds.**

(a) Flood Control District Funds. The Monterey County Water Resources Agency (the "Water Resource Agency") administers the following special funds, and, in addition to entering into this Agreement for the Water Resource Agency itself, is authorized to, and has entered into and executed this Agreement on behalf of the following:

- (1) Monterey County Water Resource Agency; and
- (2) Monterey County Water Resource Agency Zone 11.

(b) Office of Education Funds. The Monterey County Office of Education (the "County Office of Education") administers funds for the following special funds, and, in addition to entering into this Agreement for the County Office of Education itself, is authorized to, and has entered into this Agreement on behalf of the following:

- (1) County Office of Education Instruction Pupils Fund;
- (2) Juvenile Hall Education Fund;
- (3) Services Fund;
- (4) Capital Fund;
- (5) Development Center Fund; and
- (6) Audio Visual Capacity Fund. [Note: There is a need to confirm separate funds.]

(c) ERAF. ERAF may be entitled to a distribution pursuant to Section 6 of a portion of the Applicable Share. Pursuant to instruction and direction from the DOF and the Auditor-Controller, there is no need for a separate signatory to execute this Agreement on behalf of ERAF because the ultimate beneficiaries of any distribution of Applicable Shares to ERAF are themselves Taxing Entities that are signatories to this Agreement.

**Section 4. Conveyance of Property to City.** Promptly following the execution of this Agreement, the Successor Agency shall convey, and the City shall accept, all of the Former Agency's fee interest in and to the Property. The Successor Agency shall convey the Property by quitclaim deed in form reasonably acceptable to the Successor Agency and the City. In accordance with Health and Safety Code Sections 34179(h)(1)(D) and (E), and Section 34191.5(f), no further approval of the Oversight Board or the DOF will be necessary to effectuate the transfers contemplated herein.

Section 5. Retention of Property by City.

(a) Upon the transfer of the Property to the City, pursuant to Section 4 above, the City shall retain the Property to fulfill the terms of the Lease and the Closeout Agreement.

(b) Notwithstanding anything to the contrary, as designated in the LRPMP, the City shall also retain the Property for future development for a project in approved redevelopment plan as allowed under Health and Safety Code Section 34191.5(c)(2).

Section 6. Compensation To Taxing Entities Related To Property Transfers.

(a) Distribution of Restricted Proceeds. The City shall retain any and all Restricted Proceeds generated by the Property, for use by the City as program income under the provisions of 24 C.F.R. §570.801 to further the CDBG national objectives 24 C.F.R. §570.506. Because all funds generated at the Property are deemed Restricted Proceeds, the City will not be required to distribute any funds to the Auditor-Controller for future distribution among the Taxing Entities in proportion to their shares of the base property tax (the "Applicable Shares"), as determined by the Auditor-Controller pursuant to Health and Safety Code Section 34188. The attached Exhibit B shows the distribution of Restricted Proceeds and Applicable Shares of the Taxing Entities that would have applied to a distribution under this Section 6 had the distribution been made on January 1, 2016, as provided by the Auditor-Controller.

Section 7. Term of Agreement; Early Termination.

(a) Term. The term of this Agreement shall commence on the Effective Date and terminate upon the transfer of the Property to the City pursuant to Section 4, above ("Termination"). Within five (5) business days of transfer of the Property from the Successor Agency to the City, the City shall send a notice of termination of this Agreement to all the Taxing Entities (the "Termination Notice").

(b) Termination. Upon Termination of this Agreement and transmittal of the Termination Notice, no Party shall have any further rights or obligations under this Agreement, and the City may continue to collect and retain the Restricted Proceeds from the Property, including any and all Restricted Proceeds that the City has not yet received as of the effective date of the Termination, the rights of the City to collect any and all Restricted Proceeds shall survive termination of this Agreement.

Section 8. Miscellaneous Provisions.

(a) Notices. All notices, statements, or other communications made pursuant to this Agreement to another Party or Parties shall be in writing, and shall be sufficiently given and served upon the Party if sent by: (1) United States certified mail, return receipt requested, postage prepaid; or (2) nationally recognized overnight courier, with charges prepaid or charged to sender's account, and addressed to the applicable Party in the manner specified in the attached Exhibit A. Any Party may change its address for notice purposes by written notice to the other Parties prepared and delivered in accordance with the provisions of this Section 9(a).

(b) No Third Party Beneficiaries. No person or entity other than the Parties and their permitted successors and assigns, shall have any right of action under this Agreement.

(c) Litigation Regarding Agreement. In the event litigation is initiated attacking the validity of this Agreement, each Party shall in good faith defend and seek to uphold the Agreement; provided, however, that the costs of such litigation shall be borne solely by the City and/or the Successor Agency.

(d) State Law; Venue. This Agreement, and the rights and obligations of the Parties hereto, shall be construed and enforced in accordance with the laws of the State of California. Any action to enforce or interpret this Agreement shall be filed and heard in the Superior Court of Monterey County, California or in the Federal District Court for the Northern District of California.

(e) Attorneys' Fees. In any action which a Party brings to enforce its rights hereunder, the unsuccessful Party or Parties shall pay all costs incurred by the prevailing party, including reasonable attorneys' fees.

(f) Entire Agreement; Amendment. This Agreement constitutes the entire and integrated agreement of the Parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be modified only in writing and only if signed by all of the Parties.

(g) 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 agreement. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon, provided such signature page is attached to any other counterpart identical thereto having additional signature pages executed by the other Parties. Any executed counterpart of this Agreement may be delivered to the other Parties by facsimile and shall be deemed as binding as if an originally signed counterpart was delivered.

(h) Non-Waiver. No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement will be effective unless it is in writing and signed by the waiving Parties.

(i) No Partnership. Nothing contained in this Agreement shall be construed to constitute any Party as a partner, employee, joint venturer, or agent of any other Party.

(j) Ambiguities. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party does not apply in interpreting this Agreement.

(k) Exhibits. The following exhibits are incorporated in this Agreement by reference:

Exhibit A: List of Addresses for Notice Purposes

Exhibit B: Illustrative Distribution of Restricted Proceeds and Applicable Shares

(l) Severability. If any term, provision, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect unless an essential purpose of this Agreement is defeated by such invalidity or unenforceability.

(m) Action or Approval. Whenever action and/or approval by the City is required under this Agreement, the City Manager or the City Manager's designee may act on and/or approve such matter unless specifically provided otherwise, or unless the City Manager determines in the City Manager's discretion that such action or approval requires referral to the City Council for consideration. Whenever action and/or approval by the Successor Agency is required under this Agreement, the Successor Agency Executive Director or the Successor Agency Executive Director's designee may act on and/or approve such matter unless specifically provided otherwise, or unless the Successor Agency Executive Director determines in the Successor Agency Executive Director's discretion that such action or approval requires referral to the Successor Agency Board for consideration.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates set forth in the opening paragraph of this Agreement.

MONTEREY SUCCESSOR AGENCY, a  
separate legal entity pursuant to Health & Safety  
Code §34173

By: \_\_\_\_\_  
Clyde Roberson, Chair

Dated: \_\_\_\_\_

APPROVED AS TO FORM OF LEGALITY:

\_\_\_\_\_  
Dianne J. McLean, Esq.  
Goldfarb & Lipman LLP  
City Special Counsel

ATTEST:

\_\_\_\_\_  
City Clerk

Whereas this Agreement has been entered into by the undersigned as of the date first written above.

CITY OF MONTEREY, a California charter city

By: \_\_\_\_\_  
Clyde Roberson, Mayor

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

ATTEST:

\_\_\_\_\_  
City Clerk

Whereas this Agreement has been entered into by the undersigned as of the date first written above.

COUNTY OF MONTEREY, a political subdivision  
of the State of California

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
County Counsel



Whereas this Agreement has been entered into by the undersigned as of the date first written above.

**MONTEREY PENNINSULA WATER DISTRICT**

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Its:** \_\_\_\_\_

**Dated:** \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_

Whereas this Agreement has been entered into by the undersigned as of the date first written above.

**MONTEREY REGIONAL PARK DISTRICT**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_

The Monterey County Water Resources Agency administers the following authorized special funds, and in addition to executing this Agreement for the Water Resources Agency itself, is authorized to, and has executed this Agreement on behalf of each of the following entities and funds:

Monterey County Water Resources Agency; and  
Monterey County Water Resources Agency Zone 11.

**MONTEREY COUNTY WATER  
RESOURCES AGENCY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_

The Monterey County Office of Education administers the following authorized special funds, and in addition to executing this Agreement for the Office of Education itself, is authorized to, and has entered into and executed this Agreement on behalf of the following entities and funds:

Monterey County office of Education;  
 County Office of Education Instruction Pupils Fund;  
 Juvenile Hall Education Fund;  
 Services Fund;  
 Capital Fund;  
 Development Center Fund; and  
 Audio Visual Capacity Fund. [Note: Confirm fund names]

**MONTEREY COUNTY OFFICE OF  
 EDUCATION**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_

Whereas this Agreement has been entered into by the undersigned as of the date first written above.

**MONTEREY PENNINSULA UNIFIED SCHOOL  
DISTRICT**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_

Whereas this Agreement has been entered into by the undersigned as of the date first written above.

**MONTEREY PENNINSULA COLLEGE**

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Its:** \_\_\_\_\_

**Dated:** \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_

**EXHIBIT A****LIST OF ADDRESSES FOR NOTICE PURPOSES**

<b>Monterey Successor Agency</b> <b>580 Pacific Street</b> <b>Monterey, CA 93940</b> <b>Attn: Executive Director</b>	<b>City of Monterey</b> <b>580 Pacific Street</b> <b>Monterey, CA 93940</b> <b>Attn: City Manager</b>
<b>County of Monterey</b> <b>1221 Oak Street, Suite 555</b> <b>Monterey, CA 94612</b> <b>Attn: _____</b>	<b>Monterey Peninsula Unified School District</b>  <b>Attn: _____</b>
<b>Monterey County Water Resources Agency</b>  <b>Attn: _____</b>	<b>Monterey County Office of Education</b>  <b>Attn: _____</b>
<b>Monterey Peninsula Water District</b>  <b>Attn: _____</b>	<b>Monterey Peninsula College</b>  <b>Attn: _____</b>
<b>Monterey Regional Park District</b>  <b>Attn: _____</b>	

**EXHIBIT B****ILLUSTRATIVE DISTRIBUTION OF RESTRICTED PROCEEDS AND  
APPLICABLE SHARES**

Below is an illustrative distribution of Restricted Proceeds and Applicable Shares of the Taxing Entities that would have applied to a distributions under Section 6 of the Compensation Agreement, had such distribution been made on January 1, 2016. Parties acknowledge that the restrictions of the Closeout Agreement and the Lease, result in none of the lease revenue funds or the property disposition funds being distributed to any other entity or used for anything other than as program income of the City under the provisions of 24 CFR 570.506.

<b><u>Taxing Entity/Fund</u></b>	<b><u>Restricted Funds Share</u></b>	<b><u>Property Tax Share</u></b>
City of Monterey	100%	17.29%
Monterey County	0%	13.81%
Monterey County Water Resources Agency	0%	0.10%
Monterey County Water Resources Agency Zone 11	0%	0.02%
Monterey Regional Park District	0%	1.02%
Monterey County Office of Education	0%	2.79%
Monterey Peninsula Unified School District	0%	45.90%
Monterey Peninsula College	0%	4.96%
ERAF	0%	13.59%
Monterey Peninsula Water District	0%	0.51%
<b>TOTAL</b>	<b>100%</b>	<b>99.99%</b>