

Appendix A

Notice of Preparation (NOP) and NOP Responses



NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE POTENTIAL ACQUISITION OF MONTEREY WATER SUPPLY AND DISTRICT BOUNDARY ADJUSTMENT PROJECT EIR

TO: Public Agencies
Interested Parties

FROM: Monterey Peninsula Water Management District
5 Harris Court, Building G
Monterey, CA 93940
(831) 658-5600

NOTICE IS HEREBY GIVEN that the Monterey Peninsula Water Management District (District) will serve as the Lead Agency, consistent with Sections 15020 and 15021 of the California Environmental Quality Act (CEQA), in preparing an Environmental Impact Report (EIR) for the Potential Acquisition of Monterey Water Supply and District Boundary Adjustment Project (proposed project). The District is seeking input from the general public, public agencies, organizations, and other interested parties regarding their views on the scope and content of the environmental information that should be analyzed in the EIR, including input regarding any topics or specific issues that are germane to a particular agency's statutory responsibilities in connection with the proposed project. A description of the proposed project, as well as the location and probable environmental effects, are discussed below.

Project Title: Potential Acquisition of Monterey Water Supply and District Boundary Adjustment

Project Location: The project area is located within Monterey County and is bordered by California State University Monterey Bay and the former Fort Ord to the north, the Central Satellites and unincorporated Monterey County to the east, Yankee Point and the Santa Lucia Mountains to the south, and the Pacific Ocean to the west (Figure 1). The project area consists of the existing California American Water Company (Cal-Am) Monterey County District (MCD) water system within the District's jurisdiction and may include assets outside the District that serve customers within the District. The existing MCD water system is a stand-alone system that serves an approximately 55 square-mile area that encompasses the majority of the Monterey Peninsula as well as portions of unincorporated Monterey County. The majority of the project area is in District jurisdiction; however, the proposed project would also include connections to adjacent areas outside of the District's current service area. Specifically, these connections include approximately 33 residential connections at Yankee Point, south of the District boundaries; and 10 residential connections in Hidden Hills, east of the District boundaries. Thus, the project area includes the MCD water system, which entails areas within the current District boundaries plus these annexation areas, as shown in Figure 2.

Project Sponsor: Monterey Peninsula Water Management District
5 Harris Court, Building G
Monterey, CA 93940
Attn: David Stoldt, MPWMD General Manager

Project Description:

As instructed by the voters pursuant to Measure J, the District is proposing to acquire the Monterey Water Supply system, referred to as the MCD water system, that serves the Monterey Peninsula and outlying areas within unincorporated Monterey County and within the District's jurisdiction; the acquisition and subsequent operation of this water supply system by the District represents the proposed project. The existing system is currently owned and operated by Cal-Am, a subsidiary of the publicly-traded company, American Water Works Company, Inc. The District's proposed acquisition of the MCD water system would include all associated assets (i.e., real, intangible, and personal property) including, but not limited to:

- Water systems and production wells
- Utility plants
- Water rights
- Water supply contracts
- Records, books, and accounts

The proposed project includes the District's subsequent operation and maintenance of the MCD water system. The District is proposing only to acquire and operate the existing MCD water system, and is not proposing changes or

expansion to the physical MCD water system or to the associated water rights nor is the District proposing any changes to the manner of operation of the MCD water system or the exercise of the associated water rights.

Currently, the primary source of water for the MCD water system is supplied to customers from the Carmel River and the Seaside Groundwater Basin with a majority of supplies from the Carmel River coming from water withdrawn from the Carmel Valley Alluvial Aquifer. Since 2003, Cal-Am has not pumped any of its supply directly from the Carmel River. These supplies are supplemented through withdrawals from the Seaside Groundwater Basin, an adjudicated basin. The District's acquisition of Cal-Am's water rights would entitle the District to the currently established allocations assigned to Cal-Am and would require the District meet the same standards in terms of replenishment if it were to exceed established limits on withdrawals.

In addition to water rights, the MCD water system includes infrastructure that allows for the production, distribution, and delivery of water supplies within its service area. As reported, the MCD water system provides domestic water from its system of extraction wells, which has a total pumping capacity of approximately 29.18 million gallons per day. The MCD water system also includes approximately 614 miles of pipeline and approximately 40,000 customer connections. In addition, the MCD water system includes a Desalination Plant in Sand City, seven water treatment facilities, the Monterey Pipeline and Pump Station, 75 pump stations, 108 water storage facilities with a total combined capacity of 613.9 million gallons, and 3,496 fire hydrants and an estimated 12,000 distribution valves. The proposed project would also include the acquisition of the planned Monterey Peninsula Water Supply Project, including the proposed 6.4 million gallon per day desalination plant. Cal-Am also owns property that generally supports system infrastructure (e.g., wells and water storage tanks) and public utility rights-of-way, including 117 assessor parcels with a total area of approximately 4,753 acres; this infrastructure is also part of the project.

The underlying purpose of the proposed project is for the District to acquire, operate, and maintain the MCD water system. The objectives of the proposed project are to implement the Purpose approved by the electorate in Measure J:

...to ensure the long-term sustainability, adequacy, reliability, cost-effectiveness and quality of water service within the Monterey Peninsula Water Management District area, to lower the cost of service to ratepayers, to promote and practice sustainable water management measures, and to establish public ownership of water system assets by establishing regulations requiring the District to take affirmative action, to the extent financially feasible, to acquire the water system assets owned and operated by the California American Water Company that currently provide water service to the District and its ratepayers.

The purpose of Measure J furthered by this proposed project shall include the following aspects:

- Allow the citizens of the Monterey Peninsula to independently own and operate the water production and distribution system serving customers presently served by the Cal-Am's MCD water system
- Provide greater transparency and accountability to residents and businesses on the Monterey Peninsula regarding potable water supplies, as well as increased customer service and reliability
- Enhance customer service and responsiveness to affected Cal-Am customers
- Provide greater local control over the rate setting process and rate increases
- Provide direct access to locally elected policy makers for water operations
- Allow the District to pursue funding and other financing alternatives available to public agencies for future infrastructure needs, including grants and financing options not available to a California Public Utilities Commission (CPUC) regulated, privately-owned utility
- Ensure better coordination amongst local governmental decisions involving land use, emergency services, policy, the location and need for capital improvements, and overall planning in the water context

Implementation of the proposed project would require the following discretionary approvals:

- Approval by District Board of Directors for acquisition of the existing MCD water system that services the District, and some outlying areas, from Cal-Am or other legal owner
- Reports under Government Code section 65402
- If the MCD water system is acquired through a negotiated purchase, the District will need to obtain approval from the CPUC for transfer of ownership and operation of the MCD water system from Cal-Am to the District

- The Monterey County Local Agency Formation Commission (LAFCO) would also review and/or approve the project insofar as the project involves the District's acquisition and potential operation of extra-jurisdictional water systems

Potential Environmental Effects: The EIR will address the potential physical environmental effects of the proposed project for each of the environmental topics outlined in the CEQA Guidelines, Appendix G. The EIR will also address the cumulative impacts resulting from other past, present and reasonably foreseeable future projects. As of the date of this NOP and based on currently available information, it is anticipated that the proposed project may have potentially significant impacts in connection with: Air Quality, Greenhouse Gas Emissions, Hydrology and Water Quality, Noise, Transportation, and Utilities.

Scoping Meeting: The District, in its role as Lead Agency, will hold a public scoping meeting to provide an opportunity for the public and representatives of public agencies and interested organizations to address the scope of the EIR. Due to the Monterey County Shelter-in-Place Order in response to the COVID-19 outbreak, the Scoping Meeting for the EIR will be held virtually. The meeting will occur on **April 21, 2020 at 5:00 PM**. Please visit <https://www.mpwmd.net/> for the meeting link, which will also be sent to the project mailing list at least 48 hours prior to the meeting. If you want to be added to the mailing list, please contact comments@mpwmd.net.

Thirty-Day Comment Period: This NOP is available for public review and comment pursuant to California Code of Regulations, Title 14, Section 15082(b). The 30-day public comment period, during which time the District will receive comments on the NOP for the Potential Acquisition of Monterey Water Supply and District Boundary Adjustment Project EIR, begins April 6, 2020 and ends on May 6, 2020. Comments should be sent via email to comments@mpwmd.net or to the address provided at the end of this notice.

David Stoldt, General Manager
Monterey Peninsula Water Management District
5 Harris Court, Building G
Monterey, CA 93940
Fax: (831) 658-5651
Email: comments@mpwmd.net



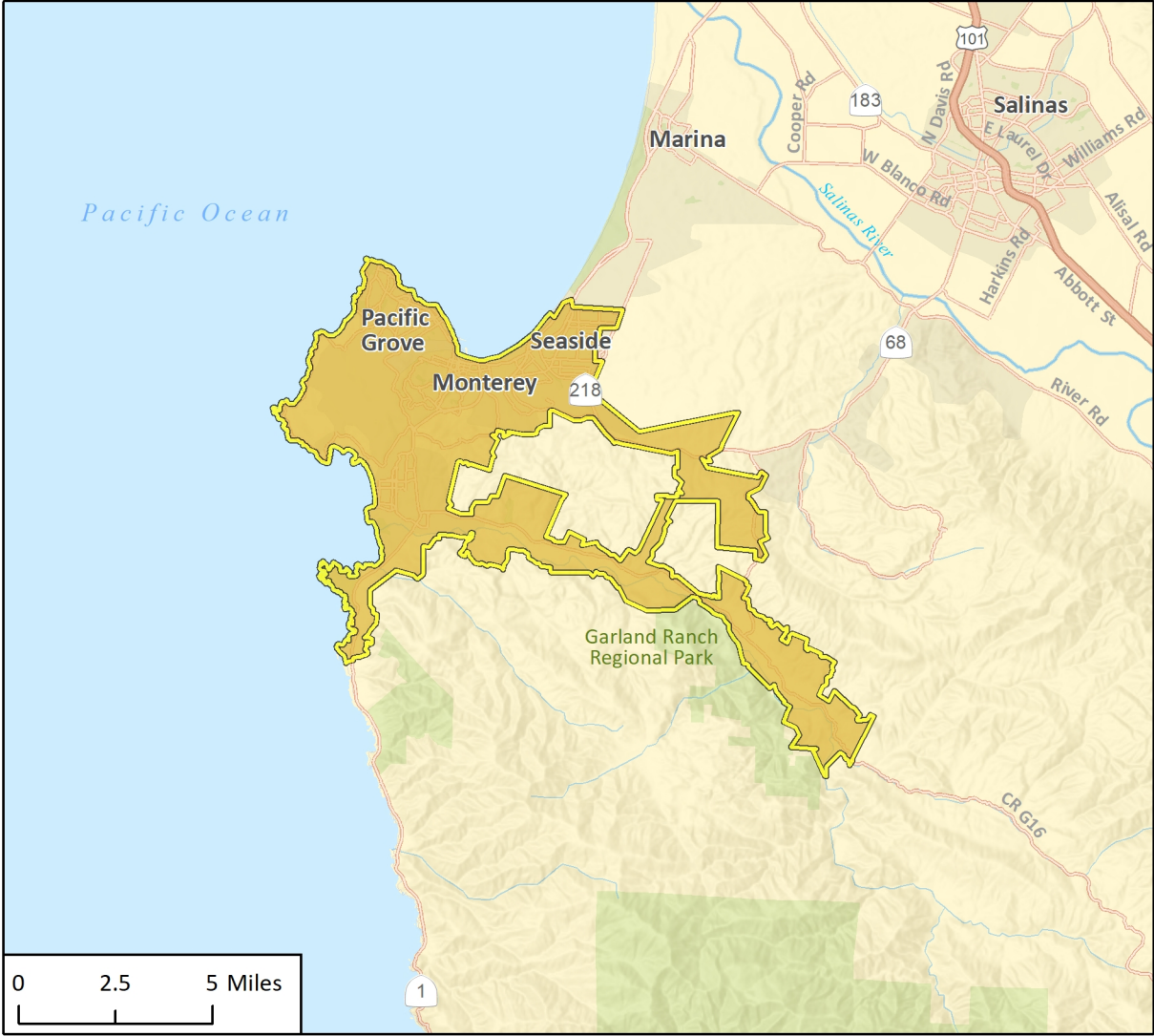
Signature

David Stoldt, MPWMD General Manager


April 6, 2020

Date

Figure 1 Regional Location



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 Project Location

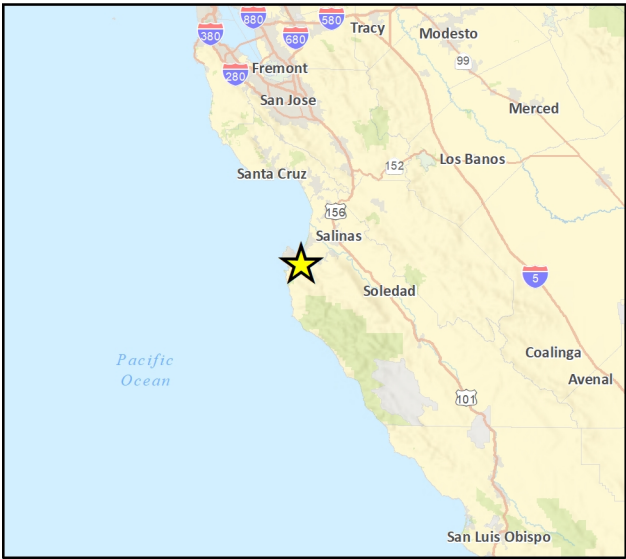
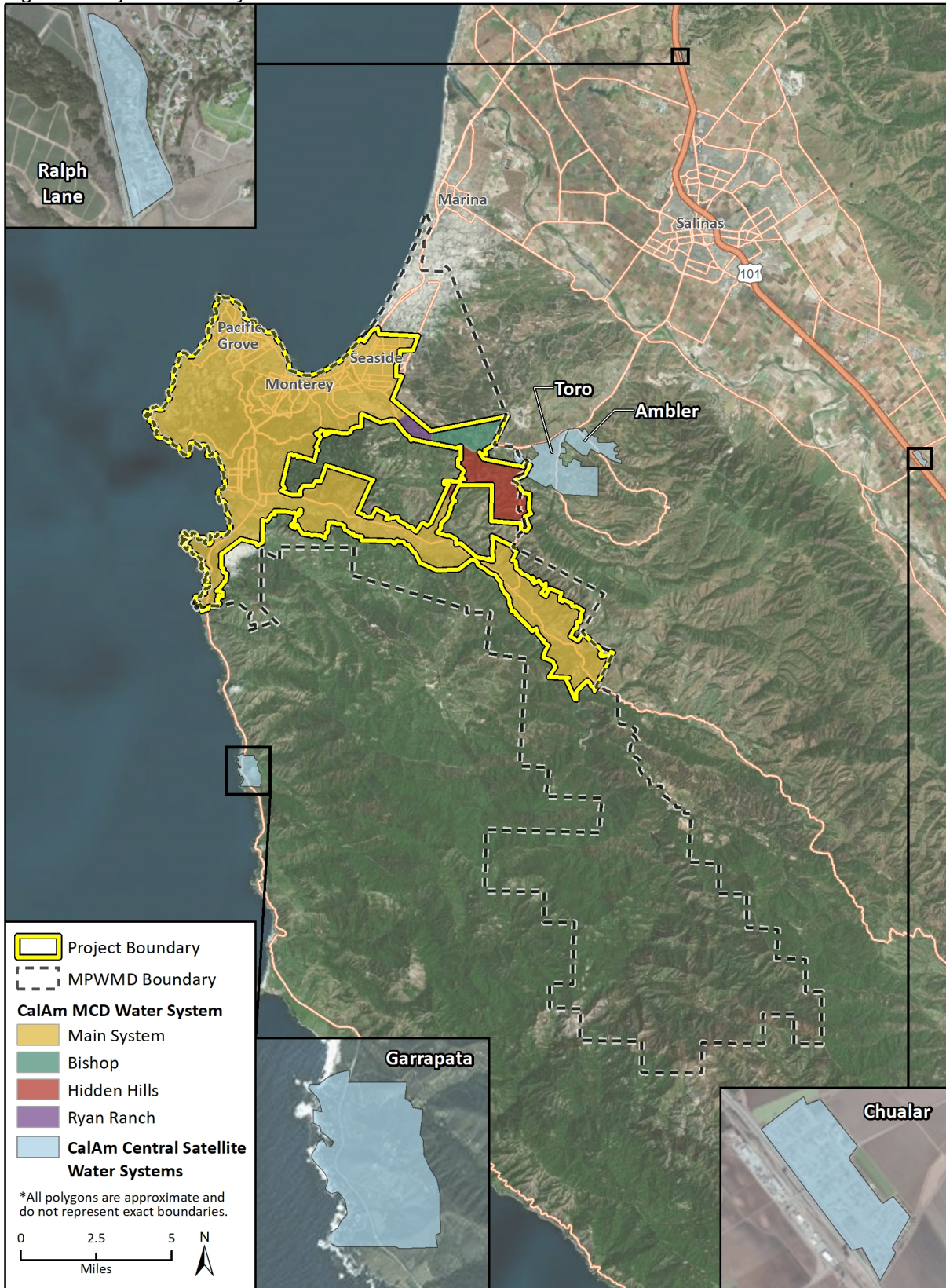


Fig 1 Regional Location

Figure 2 Project Boundary



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Fig 2 Project Location

Subject: Notice of Preparation

From: McBain, Darren J. x5302 <McBainD@monterey.lafco.ca.gov>

Sent: Wednesday, April 8, 2020 10:50 AM

To: comments <comments@mpwmd.net>

Cc: Dave Stoldt <dstoldt@mpwmd.net>

Subject: Notice of Preparation

Good morning Dave, we received your NOP. Thanks for sending.

Here is a suggested sentence for use by your CEQA consultants in the Draft EIR's project description and/or Agency Approvals sections when those sections are developed.

- The Local Agency Formation Commission (LAFCO) of Monterey County, acting as a CEQA responsible agency, is anticipated to use the EIR in considering any proposed sphere of influence amendments, annexations of lands into MPWMD's jurisdictional boundary, activations of latent services or powers pursuant to Government Code section 56000 et seq., or other similar requested LAFCO approvals that effectuation of the project may entail.

This suggested wording isn't intended as a formal comment on the NOP.

If you have any questions or would like to follow up on discussing LAFCO's roles in this project, please let Kate or me know anytime. In the meantime, please do continue to keep us informed.

Thanks- Darren

Darren McBain
Principal Analyst
Local Agency Formation Commission (LAFCO) of Monterey County
McBainD@monterey.lafco.ca.gov
831-754-5838 (office)
132 W. Gabilan St. #102, Salinas CA 93901



NATIVE AMERICAN HERITAGE COMMISSION

RECEIVED

April 7, 2020

APR 16 2020

David Stoldt
Monterey Peninsula Water Management District
5 Harris Court, Building G
Monterey, CA 93940

MPWMD

CHAIRPERSON
Laura Miranda
Luiseño

**Re: 2020040069, Potential Acquisition of Monterey Water Supply and District Boundary
Adjustment Project, Monterey County**

VICE CHAIRPERSON
Reginald Pagaling
Chumash

Dear Mr. Stoldt:

SECRETARY
Merri Lopez-Keifer
Luiseño

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit. 14, § 15064.5 (b) (CEQA Guidelines §15064.5 (b))). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1))). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

PARLIAMENTARIAN
Russell Attebery
Karuk

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

COMMISSIONER
Marshall McKay
Wintun

COMMISSIONER
William Mungary
Paiute/White Mountain
Apache

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

COMMISSIONER
Joseph Myers
Pomo

COMMISSIONER
Julie Tumamait-Stenslie
Chumash

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

COMMISSIONER
[Vacant]

EXECUTIVE SECRETARY
Christina Snider
Pomo

NAHC HEADQUARTERS
1550 Harbor Boulevard
Suite 100
West Sacramento,
California 95691
(916) 373-3710
nahc@nahc.ca.gov
NAHC.ca.gov

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:

Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:

- a. A brief description of the project.
- b. The lead agency contact information.
- c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
- d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).

2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:

A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1 (b)).

- a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).

3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

- a. Alternatives to the project.
- b. Recommended mitigation measures.
- c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).

4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:

- a. Type of environmental review necessary.
- b. Significance of the tribal cultural resources.
- c. Significance of the project's impacts on tribal cultural resources.
- d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).

5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).

6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

- a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
- b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- a.** The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - b.** A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
- 8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
- 9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
- 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
- a.** Avoidance and preservation of the resources in place, including, but not limited to:
 - i.** Planning and construction to avoid the resources and protect the cultural and natural context.
 - ii.** Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - b.** Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource; including, but not limited to, the following:
 - i.** Protecting the cultural character and integrity of the resource.
 - ii.** Protecting the traditional use of the resource.
 - iii.** Protecting the confidentiality of the resource.
 - c.** Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - d.** Protecting the resource. (Pub. Resource Code §21084.3 (b)).
 - e.** Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
 - f.** Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
- 11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- a.** The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
 - b.** The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - c.** The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf.

Some of SB 18's provisions include:

1. **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation.** There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation:** Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey:
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.

- b.** The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.
- 3.** Contact the NAHC for:
- a.** A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b.** A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
- 4.** Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
- a.** Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, § 15064.5(f) (CEQA Guidelines § 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b.** Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c.** Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code § 7050.5, Public Resources Code § 5097.98, and Cal. Code Regs., tit. 14, § 15064.5, subdivisions (d) and (e) (CEQA Guidelines § 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address: Nancy.Gonzalez-Lopez@nahc.ca.gov.

Sincerely,



Nancy Gonzalez-Lopez
Staff Services Analyst

cc: State Clearinghouse

Subject: NOP: Potential Acquisition of Monterey Water Supply and District Boundary Adjustment

From: Bachman, Stephen@Parks <Stephen.Bachman@parks.ca.gov>

Sent: Monday, April 6, 2020 3:08 PM

To: comments <comments@mpwmd.net>

Subject: NOP: Potential Acquisition of Monterey Water Supply and District Boundary Adjustment

Hello,

State Parks would prefer that the project EIR also identify any/all Calam related projects that seek to utilize State Parks lands. WE look forward to review of the DEIR.

State Parks has reviewed the NOP for the Potential Acquisition of Monterey Water Supply and District Boundary Adjustment project. Please remit DEIR notices to the contact below:

Thank you

Stephen Bachman
Senior Park & Recreation Specialist
2211 Garden Road
Monterey, CA 93940
Phone (831) 649-2862
Cell (831) 277-3037



Stephen.bachman@parks.ca.gov

State Parks Mission Statement

The mission of California State Parks is to provide for the health, inspiration, and education of the people of California by helping to preserve the state's extraordinary biological diversity, protecting its most valued natural and cultural resources, and creating opportunities for high-quality outdoor recreation.

This communication (including any attachments) may contain privileged or confidential information intended for a specific individual and purpose, and is protected by law. If you are not the intended recipient, you should delete this communication and/or shred the materials and any attachments and are hereby notified that any disclosure, copying, or distribution of this communication, or the taking of any action based on it, is strictly prohibited.

Subject: comments on the potential acquisition of MWS

From: Kevin Kamnikar <kkamnikar@mcrfd.org>

Sent: Wednesday, April 29, 2020 1:00 PM

To: comments <comments@mpwmd.net>

Subject: comments on the potential acquisition of MWS

Good afternoon,

Monterey County Regional Fire District has a few questions and concerns that we would like to have addressed.

1. Does the Monterey Peninsula Water Management District (MPWMD) conduct hydrant maintenance and if so how often and what is involved.
2. Will MPWMD be conducting annual flow test in accordance with NFPA and ISO?
3. Can fire departments have access to mapping and GIS information?
4. Exemptions and process to utilize assets for fire department training.

Please advise on these questions and any information you can provide will be greatly appreciated.

Kevin Kamnikar,
Division Chief/Fire Marshal
Monterey County Regional Fire

19900 Portola DR, Salinas, CA 93908

PHONE [831-455-1828](tel:831-455-1828)(Office) [831-809-4526](tel:831-809-4526)(Mobile)

FAX [831-455-0646](tel:831-455-0646)

EMAIL kkamnikar@mcrfd.org

Serving the Northern Salinas Valley, Highway 68 Corridor, and the Communities of Chualar, East Garrison, Spreckels, Carmel Valley, Mid Carmel Valley & the Santa Lucia Preserve

CONFIDENTIALITY STATEMENT

This message and any included attachments are from Monterey County Regional Fire District and are intended only for the addressee. The information contained in this message is confidential and may constitute inside or non-public information under international, federal, or state securities laws. Unauthorized forwarding, printing, copying, distribution, or use of such information is strictly prohibited and may be unlawful. If you are not the addressee, please promptly delete this message and notify the sender of the delivery error by e-mail or call Monterey County Regional Fire District in Salinas, California, U.S.A. at [\(+1\) \(831\) 455-1828](tel:+18314551828).



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
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May 6, 2020

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Subject: Potential Acquisition of Monterey Water Supply and District Boundary Adjustment (Project)
NOTICE OF PREPARATION (NOP)
State Clearinghouse No.: 2020040069

Dear Mr. Stoldt:

The California Department of Fish and Wildlife (CDFW) received the NOP of an Environmental Impact Report (EIR) for the Project from the Monterey Peninsula Water Management District for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through exercise of our own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in the trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, eggs and nests include, sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

Water Rights: The use of unallocated stream flows is subject to appropriation and approval by the State Water Resources Control Board (SWRCB) pursuant to Water Code section 1225. CDFW, as Trustee Agency, is consulted by the SWRCB during the water rights process to provide terms and conditions designed to protect fish and wildlife prior to appropriation of the State's water resources. Certain fish and wildlife are reliant upon aquatic ecosystems, which in turn are reliant upon adequate flows of water. CDFW therefore has a material interest in assuring that adequate water flows within streams for the protection, maintenance and proper stewardship of those resources. CDFW provides, as available, biological expertise to review and comment on environmental documents and impacts arising from project activities.

PROJECT DESCRIPTION SUMMARY

Proponent: Monterey County Water Management District (District).

Objective: The proposed Project is for the District to acquire, operate, and maintain the MCD water system. The objectives of the proposed Project are to implement the purpose approved by the local electorate in Measure J:

"...to ensure the long-term sustainability, adequacy, reliability, cost-effectiveness and quality of water service within the Monterey Peninsula Water Management District area,

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to lower the cost of service to ratepayers, to promote and practice sustainable water management measures, and to establish public ownership of water system assets by establishing regulations requiring the District to take affirmative action, to the extent financially feasible, to acquire the water system assets owned and operated by the California American Water Company that currently provide water service to the District and its ratepayers.”

Due to the passage of Measure J (described below), the District proposes to acquire the Monterey Water Supply system, referred to as the Monterey County District (MCD) water system, that serves the Monterey Peninsula and outlying areas within unincorporated Monterey County and within the District’s jurisdiction. The acquisition and subsequent operation of this water supply system by the District represents the proposed project. The existing system is currently owned and operated by California American Water Company (Cal-Am), a subsidiary of the publicly-traded company, American Water Works Company, Inc. The District’s proposed acquisition of the MCD water system would include all associated assets (i.e., real, intangible, and personal property) including, but not limited to water systems and production wells, utility plants, water rights, water supply contracts, and records, books, and accounts.

The proposed Project includes the District’s subsequent operation and maintenance of the MCD water system. The District proposes only to acquire and operate the existing MCD water system, and is not proposing changes or expansion to the physical MCD water system or to the associated water rights, nor is the District proposing any changes to the manner of operation of the MCD water system or the exercise of the associated water rights.

Currently, the primary source of water for the MCD water system is supplied to customers from the Carmel River and the Seaside Groundwater Basin with a majority of supplies from the Carmel River coming from water withdrawn from the Carmel Valley Alluvial Aquifer. These supplies are supplemented through withdrawals from the Seaside Groundwater Basin, an adjudicated basin. The District’s acquisition of Cal-Am’s water rights would entitle the District to the currently established allocations assigned to Cal-Am and would require the District meet the same standards in terms of replenishment if it were to exceed established limits on withdrawals.

In addition to water rights, the MCD water system includes infrastructure that allows for the production, distribution, and delivery of water supplies within its service area. As reported, the MCD water system provides domestic water from its system of extraction wells, which has a total pumping capacity of approximately 29.18 million gallons per day. The MCD water system also includes approximately 614 miles of pipeline and approximately 40,000 customer connections. In addition, the MCD water system includes a Desalination Plant in Sand City, seven water treatment facilities, the Monterey Pipeline and Pump Station, 75 pump stations, 108 water storage facilities with

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a total combined capacity of 613.9 million gallons, and 3,496 fire hydrants and an estimated 12,000 distribution valves. The proposed project would also include the acquisition of the planned Monterey Peninsula Water Supply Project, including the proposed 6.4 million gallon per day desalination plant. Cal-Am also owns property that generally supports system infrastructure (e.g., wells and water storage tanks) and public utility rights-of-way, including 117 assessor parcels with a total area of approximately 4,753 acres; this infrastructure is also part of the Project.

Location: The Project area is located within Monterey County and is bordered by California State University Monterey Bay and the former Fort Ord to the north, the Central Satellites and unincorporated Monterey County to the east, Yankee Point and the Santa Lucia Mountains to the south, and the Pacific Ocean to the west. The Project area consists of the existing Cal-Am MCD water system within the District's jurisdiction and may include assets outside the District that serve customers within the District. The existing MCD water system is a stand-alone system that serves an approximately 55 square-mile area that encompasses the majority of the Monterey Peninsula as well as portions of unincorporated Monterey County. The majority of the Project area is in District jurisdiction; however, the proposed Project would also include connections to adjacent areas outside of the District's current service area. Specifically, these connections include approximately 33 residential connections at Yankee Point, south of the District boundaries; and 10 residential connections in Hidden Hills, east of the District boundaries. Thus, the Project area includes the MCD water system, which entails areas within the current District boundaries plus these annexation areas.

Timeframe: Unspecified.

COMMENTS AND RECOMMENDATIONS

Portions of the Project description, such as MCD boundary acquisition, are not anticipated to physically impact fish and wildlife (biological) resources, while other activities such as operation and maintenance may directly impact biological resources through ground-disturbance and construction. The following CDFW comments and recommendations are intended for Project-related activities that may impact biological resources. These comments are to assist the District in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on biological resources. Editorial comments or other suggestions may also be included to improve the document.

Based on aerial imagery, species occurrence records, and the land cover types that intersect and comprise the project alignment, the Project area is known to and/or has high potential to support numerous special-status species, including CESA-listed species (CDFW 2020, CNPS 2019, UC Davis 2018). Therefore, the Project has the potential to significantly impact these species. Specifically, CDFW is concerned about

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potential of the Project to significantly impact the State and federally threatened California tiger salamander (*Ambystoma californiense*); the federally threatened south-central California coast distinct population segment for steelhead trout (*Oncorhynchus mykiss irideus*); the federally threatened western snowy plover (*Charadrius alexandrinus nivosus*); the federally endangered Smith's blue butterfly (*Euphilotes enoptes smithi*); the State candidate endangered Western bumble bee (*Bombus occidentalis*); the State threatened, federally endangered, and California Rare Plant Ranked (CRPR) 1B.2 Monterey gilia (*Gilia tenuiflora* ssp. *arenaria*); the State endangered and CRPR 1B.1 seaside bird's-beak (*Cordylanthus rigidus* ssp. *littoralis*); the federally threatened and State species of special concern California red-legged frog (*Rana draytonii*); the State species of special concern northern California legless lizard (*Anniella pulchra*), coast horned lizard (*Phrynosoma blainvillii*), western pond turtle (*Emys marmorata*), burrowing owl (*Athene cunicularia*), and American badger (*Taxidea taxus*); and numerous CRPR plant species including but not limited to the federally threatened and CRPR 1B.2 Monterey spineflower (*Chorizanthe pungens* var. *pungens*); the CRPR 1B.1 Eastwood's goldenbush (*Ericameria fasciculata*), Pajaro manzanita (*Arctostaphylos pajroensis*), pink Johnny-nip (*Castilleja ambigua* var. *insalutata*), Kellogg's horkelia (*Horkelia cuneata* var. *sericea*), and Monterey pine (*Pinus radiata*); and the CRPR 1B.2 Hickman's onion (*Allium hickmanii*), Hooker's manzanita (*Arctostaphylos hookeri* ssp. *hookeri*), Jolon clarkia (*Clarkia jolonensis*), northern curly-leaved monardella (*Monardella sinuata* ssp. *nigrescens*), sand-loving wallflower (*Erysimum ammophilum*), sandmat manzanita (*Arctostaphylos pumila*), and Toro manzanita (*Arctostaphylos montereyensis*). Many of these species occur in maritime chaparral, coastal scrub, coastal prairie, and grassland communities which are present within and adjacent to the Project area. In addition, the Carmel River within the Project area is known to support breeding populations of California red-legged frogs and steelhead trout (CDFW 2020). Other natural areas in the vicinity of the Project area where species mentioned above are known or likely to occur include the Carmel Lagoon, Fort Ord Natural Reserve lands managed by the University of California Natural Reserve System, Fort Ord Dunes State Park, Garland Ranch Regional Park, and the Frog Pond Wetland Preserve.

To evaluate impacts of the Project on these species, CDFW recommends that a qualified biologist conduct species-specific focused habitat assessments and, if suitable habitat is present, protocol-level surveys or assumption of presence. CDFW further recommends that the results of these surveys be summarized and used to evaluate Project impacts, impact avoidance and mitigation, and potential permitting needs in the Project's CEQA document. The CEQA document must provide quantifiable and enforceable measures as needed that will reduce impacts to less than significant levels.

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I. Environmental Setting and Related Impact

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or United States Fish and Wildlife Service (USFWS)?

COMMENT 1: California tiger salamander (CTS)

Issue: CTS are known to occur in the Project area and its vicinity (CDFW 2020). Review of aerial imagery indicates the presence of several wetland features in the Project's vicinity that have the potential to support breeding CTS. In addition, the Project area or its immediate surroundings may support small mammal burrows, a requisite upland habitat feature for CTS.

Specific impact: Without appropriate avoidance and minimization measures for CTS, potential significant impacts associated with any construction or ground disturbing activity include burrow collapse; inadvertent entrapment; reduced reproductive success; reduction in health and vigor of eggs, larvae and/or young; and direct mortality of individuals. In addition, depending on the design of any activity, the Project has the potential to result in creation of barriers to dispersal.

Evidence impact would be significant: Up to 75% of historic CTS habitat has been lost to development (Shaffer et al. 2013). Loss, degradation, and fragmentation of habitat are among the primary threats to CTS (CDFW 2015, USFWS 2017a). The Project area is within the range of CTS and is both comprised of and bordered by suitable upland habitat. As a result, there is potential for CTS to occupy or colonize the Project area and for the Project to impact CTS.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact)

To evaluate potential impacts to CTS associated with the Project, CDFW recommends conducting the following evaluation of the Project area and including the following mitigation measures as conditions of Project approval in the Project's CEQA document.

Recommended Mitigation Measure 1: CTS Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment well in advance of Project implementation, to determine if the Project area or its vicinity contains suitable habitat for CTS.

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Recommended Mitigation Measure 2: Focused CTS Surveys

If the Project area does contain suitable habitat for CTS, CDFW recommends that a qualified biologist evaluate potential Project-related impacts to CTS prior to ground-disturbing activities using the USFWS's "Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander" (2003). CDFW advises that the survey include a 100-foot buffer around the Project area in all areas of wetland and upland habitat that could support CTS.

Recommended Mitigation Measure 3: CTS Avoidance

CDFW advises avoidance for CTS include a minimum 50-foot no disturbance buffer delineated around all small mammal burrows and a minimum 250-foot no disturbance buffer around potential breeding pools within and/or adjacent to the Project area. CDFW also recommends avoiding any impacts that could alter the hydrology or result in sedimentation of breeding pools. If avoidance is not feasible, consultation with CDFW is warranted to determine if the Project can avoid take.

Recommended Mitigation Measure 4: CTS Take Authorization

If through surveys it is determined that CTS are occupying the Project area and take cannot be avoided, take authorization may be warranted prior to initiating ground-disturbing activities by securing the acquisition of a state Incidental Take Permit (ITP) pursuant to Fish and Game Code section 2081(b) before Project ground or vegetation disturbing activities occur. Alternatively, in the absence of protocol surveys, the applicant can assume presence of CTS within the Project area and obtain an ITP from CDFW at any time.

COMMENT 2: Monterey gilia, Seaside bird's-beak, and CRPR plant species

Issue: Monterey gilia and the CRPR plant species mentioned above are known to occur on and in the vicinity Project area (USFWS 2008, CDFW 2020). Lands designated for development that were transferred from the Department of the Army's former Fort Ord, as is the case with portions of the Project site, contain high quality habitat for the CESA-listed Monterey gilia (USFWS 2008). In addition, the sandy soils and maritime chaparral vegetation community present within portions of the Project area are suitable to support CESA-listed seaside bird's-beak (CDFW 2020, CNPS 2019, UC Davis 2018). The Project area also supports coastal scrub and coastal prairie communities, which have the potential to support numerous CRPR-species including, but not limited to, Monterey spineflower, Eastwood's goldenbush, Pajaro manzanita, pink Johnny-nip, Kellogg's horkelia, Monterey pine, Hickman's onion, Hooker's manzanita, Jolon clarkia, northern curly-leaved

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monardella, sand-loving wallflower, sandmat manzanita, and Toro manzanita. Therefore, ground-disturbing activities such as grading, and development associated with Project implementation have the potential to impact special-status plant species.

Specific impact: Without appropriate avoidance and minimization measures potential impacts to special-status plant species include inability to reproduce and direct mortality. Unauthorized take of species listed as threatened, endangered, or rare pursuant to CESA or the Native Plant Protection Act is a violation of Fish and Game Code.

Evidence impact would be significant: Monterey gilia, seaside bird's-beak, and many of the CRPR-listed plant species above are narrowly distributed endemic species with specific habitat requirements. These species are threatened with habitat loss and habitat fragmentation resulting from development, vehicle and foot traffic, and non-native plant species (CNPS 2019), all of which may be unintended impacts of the Project. Therefore, impacts of the Project have the potential to significantly impact populations of the species mentioned above.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to special-status plants associated with the Project, CDFW recommends conducting the following evaluation of the Project area and including the following mitigation measures as conditions of Project approval in the Project's CEQA document.

Recommended Mitigation Measure 5: Special-Status Plant Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment well in advance of project implementation, to determine if the Project area or its vicinity contains suitable habitat for special-status plant species.

Recommended Mitigation Measure 6: Focused Surveys

CDFW recommends that the Project area be surveyed for special-status plants by a qualified botanist following the "Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities" (CDFW 2018). This protocol, which is intended to maximize detectability, includes identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. In the absence of protocol-level surveys being performed, additional surveys may be necessary.

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Recommended Mitigation Measure 7: Special-Status Plant Avoidance

CDFW recommends special-status plant species be avoided whenever possible by delineation and observing a no-disturbance buffer of at least 50-feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, then consultation with CDFW is warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species.

Recommended Mitigation Measure 8: Special-Status Plant Take Authorization

If a State-listed plant species is identified during botanical surveys, consultation with CDFW is warranted to determine if the Project can avoid take. However, if take cannot be avoided, take authorization would need to occur through issuance of an ITP by CDFW to the District, pursuant to Fish and Game Code section 2081(b).

COMMENT 3: California Red-Legged Frog (CRLF)

Issue: CRLF have been documented to occur within the Carmel River, which is included in the Project Area (CDFW 2020). CRLF primarily inhabit ponds but can also be found in other waterways including marshes, streams, and lagoons. The species will also breed in ephemeral waters (Thomson et al. 2016). Review of aerial imagery indicates the presence of several ponded wetland features within the vicinity of the Project Area that may be suitable to support CRLF. As a result, the Project has the potential to impact CRLF.

Specific impact: Without appropriate avoidance and minimization measures for CRLF, potentially significant impacts associated with the Project's activities include burrow collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of eggs, larvae and/or young, and direct mortality of individuals.

Evidence impact is potentially significant: CRLF populations throughout the State have experienced ongoing and drastic declines and many have been extirpated (Thomson et al. 2016). Habitat loss from growth of cities and suburbs, invasion of nonnative plants, impoundments, water diversions, stream maintenance for flood control, degraded water quality, and introduced predators, such as bullfrogs are the primary threats to CRLF (Thomson et al. 2016, USFWS 2017b). All of these impacts have the potential to result from the Project. Therefore, Project activities have the potential to significantly impact CRLF.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to CRLF associated with the Project, CDFW recommends conducting the following evaluation of the Project Area and including

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the following mitigation measures as conditions of Project approval in the Project's CEQA document.

Recommended Mitigation Measure 9: CRLF Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation, to determine if the Project Area or its immediate vicinity contain suitable habitat for CRLF.

Recommended Mitigation Measure 10: CRLF Surveys

If suitable habitat is present, CDFW recommends that a qualified wildlife biologist conduct surveys for CRLF within 48 hours prior to commencing work (two night surveys immediately prior to construction or as otherwise required by the USFWS) in accordance with the USFWS "*Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog*" (USFWS 2005) to determine if CRLF are within or adjacent to the Project area.

Recommended Mitigation Measure 11: CRLF Avoidance

If any CRLF are found during preconstruction surveys or at any time during construction, CDFW recommends that construction cease and that CDFW be contacted to discuss a relocation plan for CRLF with relocation conducted by a qualified biologist, holding a Scientific Collecting Permit from CDFW for the species. CDFW recommends that initial ground-disturbing activities be timed to avoid the period when CRLF are most likely to be moving through upland areas (November 1 and March 31). When ground-disturbing activities must take place between November 1 and March 31, CDFW recommends that a qualified biologist monitor construction activity daily for CRLF.

COMMENT 4: Northern California Legless Lizard and Coast Horned Lizard

Issue: Northern California legless lizards and coast horned lizards are known to occur in the vicinity of the Project area (CDFW 2020). Northern California legless lizards are fossorial and inhabit chaparral habitat with sandy or loose loamy soils (Thomson et al. 2016). Coast horned lizards occur in a wide variety of habitat types but require loose, fine soils for burrowing, open areas for thermoregulation, and shrub cover for refugia (Thomson et al. 2016). Review of aerial imagery and soil characteristics indicates that portions of the Project area are comprised of and surrounded by these requisite habitat features (CDFW 2020, UC Davis 2018).

Specific impact: Without appropriate avoidance and minimization measures for Northern California legless lizard and coast horned lizards, potentially significant

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impacts associated with ground disturbance include burrow abandonment, which may result in reduced health or vigor of eggs and/or young, and direct mortality.

Evidence impact is potentially significant: Habitat loss and fragmentation resulting from development is the primary threat to Northern California legless lizard and coast horned lizard (Thomson et al. 2016). The Project area is within the range of Northern California legless lizard and coast horned lizard and portions of it are composed of and bordered by suitable habitat (i.e., chaparral with friable soils). As a result, ground-disturbing activities associated with development of the Project area have the potential to significantly impact local populations of this species.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to Northern California legless lizard associated with the Project, CDFW recommends conducting the following evaluation of the Project area and including the following mitigation measures as conditions of Project approval in the Project's CEQA document.

Recommended Mitigation Measure 12: Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of project implementation, to determine if the Project area or its immediate vicinity contain suitable habitat for Northern California legless lizard.

Recommended Mitigation Measure 13: Focused Surveys

If suitable habitat is present, CDFW recommends that a qualified biologist conduct focused surveys for Northern California legless lizard and their requisite habitat features to evaluate potential impacts resulting from ground- and vegetation-disturbance.

Recommended Mitigation Measure 14: Avoidance

Avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around burrows.

COMMENT 5: Western Pond Turtle (WPT)

Issue: Portions of the Project area lie adjacent to the Carmel River, which may provide suitable aquatic habitat for WPT. Upland areas adjacent to the Carmel River may provide overwintering and nesting habitat for WPT, which are known to overwinter terrestrially, and which require loose soils and/or leaf litter (Thomson et al. 2016). In addition, several occurrence records of WPT are reported within the vicinity of the Project area (CDFW 2020). The presence of these requisite habitat

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features increases the likelihood of WPT occurrence and the potential for the Project to significantly impact the local WPT population.

Specific impact: Without appropriate avoidance and minimization measures for WPT, potential significant impacts associated with development of the Project include nest abandonment, reduced reproductive success, reduced health and vigor of eggs and/or young, and direct mortality.

Evidence impact would be significant: WPT are capable of nesting up to 1,600 feet away from waterbodies. Nesting occurs in spring or early summer and hatching occurs in fall. Hatchlings can remain in the nest throughout the first winter, emerging the following spring. In addition, WPT are slow to reach sexual maturity, which naturally reduces the number of WPT that are recruited into a population each year (Thomson et al. 2016). Threats to WPT include land use changes and habitat fragmentation associated with development, road mortality, as well as a decrease in suitable upland nesting/overwintering habitat (Thomson et al. 2016), all of which are potential impacts of the Project. As a result, Project development has the potential to significantly impact the local population of WPT.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate the potential for the Project to impact WPT, CDFW recommends conducting the following evaluation of the Project area and including the following measures as conditions of approval in the Project's CEQA document.

Recommended Mitigation Measure 15: Preconstruction Surveys

CDFW recommends that a qualified wildlife biologist conduct focused surveys for WPT during the nesting season (March through August). If any nests are discovered, CDFW recommends that they remain undisturbed until the eggs have hatched, and the nestlings are capable of independent survival. In addition, CDFW recommends conducting pre-construction surveys for WPT immediately prior to initiation of construction activities.

Recommended Mitigation Measure 16: Avoidance

WPT detection during surveys warrants consultation with CDFW to discuss how to implement ground-disturbing activities and avoid take. However, CDFW recommends that if any WPT are discovered immediately prior to or during Project activities they be allowed to move out of the area on their own volition. If this is not feasible, CDFW recommends that a qualified biologist who holds a Scientific Collecting Permit from CDFW for the species capture and relocate the turtle(s) out of harm's way to the nearest suitable habitat immediately upstream or downstream from the Project area.

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COMMENT 6: Burrowing Owl (BUOW)

Issue: BUOW have been documented to occur in the vicinity of the Project area (CDFW 2020). Review of aerial imagery reveals that suitable habitat for BUOW is present both within and in the vicinity of the Project area. BUOW inhabit open, treeless areas containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover (Poulin et al. 2011). Habitat both within and bordering portions of the Project area, has the potential to support these habitat features. Therefore, there is potential for BUOW to occupy or colonize the Project area or its vicinity.

Specific impact: Potentially significant direct impacts associated with Project-related construction include burrow collapse, inadvertent entrapment, nest abandonment, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

Evidence impact is potentially significant: BUOW rely on burrow habitat year-round for their survival and reproduction. Habitat loss and degradation are considered the greatest threats to BUOW in California (Gervais et al. 2008). Therefore, ground-disturbing activities associated with the Project have the potential to significantly impact local BUOW populations. In addition, and as described in CDFW's "*Staff Report on Burrowing Owl Mitigation*" (CDFG 2012), excluding and/or evicting BUOW from their burrows is considered a potentially significant impact under CEQA.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact)

To evaluate potential impacts to BUOW associated with the Project, CDFW recommends conducting the following evaluation of the Project area and including the following mitigation measures as conditions of Project approval in the Project's CEQA document.

Recommended Mitigation Measure 17: BUOW Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation, to determine if the Project area or its vicinity contains suitable habitat for BUOW.

Recommended Mitigation Measure 18: BUOW Surveys

If suitable habitat for BUOW is present, CDFW recommends assessing presence/absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium's (CBOC) "*Burrowing Owl Survey*

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Protocol and Mitigation Guidelines" (CBOC 1993) and CDFW's *Staff Report on Burrowing Owl Mitigation*" (CDFG 2012). Specifically, CBOC and CDFW's Staff Report suggest three or more surveillance surveys conducted during daylight with each visit occurring at least three weeks apart during the peak breeding season (i.e., April 15 to July 15), when BUOW are most detectable. In addition, CDFW advises that surveys include a 500-foot no-disturbance buffer around the Project area.

Recommended Mitigation Measure 19: BUOW Avoidance

Should a BUOW be detected, CDFW recommends that no-disturbance buffers, as outlined in the *Staff Report on Burrowing Owl Mitigation*" (CDFG 2012), be implemented prior to and during any ground-disturbing activities. Specifically, CDFW's Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

* meters (m)

Recommended Mitigation Measure 20: BUOW Passive Relocation and Mitigation

If BUOW are found within these recommended buffers and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), exclusion is not a take avoidance, minimization, or mitigation method and is considered a potentially significant impact under CEQA. However, if necessary, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1:1) as mitigation for the potentially significant impact of evicting BUOW. Because BUOW may attempt to colonize or re-colonize an area that will be impacted, CDFW recommends ongoing surveillance, at a rate that is sufficient to detect BUOW if they return.

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COMMENT 7: American Badger

Issue: American badger have been documented to occur in the vicinity of the Project area (CDFW 2020). Badgers occupy sparsely vegetated land cover with dry, friable soils to excavate dens, which they use for cover, and that support fossorial rodent prey populations (i.e., ground squirrels, pocket gophers, etc.) (Zeiner et al. 1990). The Project area may support these requisite habitat features and therefore the Project has the potential to impact American badger.

Specific impact: Without appropriate avoidance and minimization measures for American badger, potentially significant impacts associated with ground disturbance include direct mortality or natal den abandonment, which may result in reduced health or vigor of young.

Evidence impact is potentially significant: Habitat loss is a primary threat to American badger (Gittleman et al. 2001). Ground-disturbing activities that may result in habitat fragmentation have the potential to significantly impact local populations of American badger.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to American badger associated with the Project, CDFW recommends conducting the following evaluation of the Project area and including the following mitigation measures as conditions of Project approval in the Project's CEQA document.

Recommended Mitigation Measure 21: American Badger Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation, to determine if the Project area or its immediate vicinity contain suitable habitat for American badger.

Recommended Mitigation Measure 22: American Badger Surveys

If suitable habitat is present, CDFW recommends that a qualified biologist conduct focused surveys for American badger and their requisite habitat features (dens) to evaluate potential impacts resulting from ground- and vegetation-disturbance.

Recommended Mitigation Measure 23: American Badger Avoidance

Avoidance whenever possible is encouraged via delineation and observation of a 50-foot no-disturbance buffer around dens until it is determined through non-invasive means that individuals occupying the den have dispersed.

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COMMENT 8: Crotch Bumble Bee (CBB)

Issue: On June 28, 2019, the Fish and Game Commission published findings of its decision to advance CBB to candidacy as endangered. Pursuant to Fish and Game Code section 2074.6, CDFW has initiated a status review report to inform the Commission's decision on whether listing of CBB, pursuant to CESA, is warranted. During the candidacy period, consistent with CEQA Guidelines section 15380, the status of the CBB as an endangered candidate species under CESA (Fish & G. Code, § 2050 et seq.) qualifies it as an endangered, rare, or threatened species under CEQA. It is unlawful to import into California, export out of California, or take, possess, purchase, or sell within California, CBB and any part or product thereof, or attempt any of those acts, except as authorized pursuant to CESA. Under Fish and Game Code section 86, take means to hunt, pursue, catch, capture, or kill, or to attempt to hunt pursue, catch, capture, or kill. Consequently, take of CBB during the status review period is prohibited unless authorization pursuant to CESA is obtained.

CBB have been documented to occur within the vicinity of the Project area (CDFW 2020). Suitable CBB habitat includes areas of grasslands and upland scrub that contain requisite habitat elements, such as small mammal burrows. CBB primarily nest in late February through late October underground in abandoned small mammal burrows, but may also nest under perennial bunch grasses or thatched annual grasses, under brush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014, Hatfield et al. 2015). Overwintering sites utilized by CBB mated queens include soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams et al. 2014). Therefore, ground disturbance and vegetation removal associated with Project implementation has the potential to significantly impact local CBB populations.

Specific impact: Without appropriate avoidance and minimization measures for CBB, potentially significant impacts associated with ground- and vegetation-disturbing activities associated with construction of the Project include loss of foraging plants, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, reduced health and vigor of eggs, young and/or queens, in addition to direct mortality in violation of Fish and Game Code.

Evidence impact is potentially significant: CBB was once common throughout most of the central and southern California; however, it now appears to be absent from most of that area, especially in the central portion of its historic range within California's Central Valley (Hatfield et al. 2014). Analyses by the Xerces Society et al. (2018) suggest there have been sharp declines in relative abundance by 98% and persistence by 80% over the last ten years.

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Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to CBB associated with the Project, CDFW recommends incorporating the following mitigation measures into the EIR prepared for this Project and implementing the following mitigation measures as a condition of approval for the Project.

Recommended Mitigation Measure 24: CBB Surveys

CDFW recommends that a qualified biologist conduct focused surveys for CBB and their requisite habitat features to evaluate potential impacts resulting from ground- and vegetation-disturbance associated with Project.

Recommended Mitigation Measure 25: CBB Take Avoidance

If surveys cannot be completed, CDFW recommends that all small mammal burrows and thatched/bunch grasses be avoided by a minimum of 50 feet to avoid take and potentially significant impacts. If ground-disturbing activities will occur during the overwintering period (October through February), consultation with CDFW is warranted to discuss how to implement Project activities and avoid take. Any detection of CBB prior to or during Project implementation warrants consultation with CDFW to discuss how to avoid take.

Recommended Mitigation Measure 26: CBB Take Authorization

If CBB is identified during surveys, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization prior to any ground-disturbing activities may be warranted. Take authorization would occur through issuance of an ITP by CDFW, pursuant to Fish and Game Code section 2081(b).

II. Editorial Comments and/or Suggestions

Project Description: CDFW recommends that the Draft EIR provide a detailed description of all anticipated and reasonably foreseeable ground disturbing activities related to the Project such as operation and maintenance and new construction. Also, Figure 2 of the NOP shows four Cal-Am Central Satellite Water Systems (Garrapata, Toro, Cualar and Ralph Lane) that are not labeled as occurring within the Project boundary. Please provide clarification whether these areas are included with the Project or will remain within the jurisdiction of Cal-Am.

One objective of the proposed Project will be a reduction in water rates. If there is potential for water rate reduction to increase demand for surface water diversion,

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CDFW recommends that the EIR analyze this potential and how it may impact biological resources.

Lake and Streambed Alteration: Project activities have the potential to substantially change the bed, bank, and channel of lakes, streams, and associated wetlands onsite and/or substantially extract or divert the flow of any such feature, such as the Carmel River, that is subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial.

Activities within streams are subject to CDFW's regulatory authority. Construction activities within stream features have the potential to impact downstream waters. Streams function in the collection of water from rainfall, storage of various amounts of water and sediment, discharge of water as runoff and the transport of sediment, and they provide diverse sites and pathways in which chemical reactions take place and provide habitat for fish and wildlife species. Disruption of stream systems such as these can have significant physical, biological, and chemical impacts that can extend into the adjacent uplands adversely affecting not only the fish and wildlife species dependent on the stream itself, but also the flora and fauna dependent on the adjacent upland habitat for feeding, reproduction, and shelter.

Water diversions can impact flow regimes. Prolonged low flows can cause streams to become degraded and cause channels to become disconnected from floodplains (Poff et al. 1997). This process decreases available habitat for aquatic species including fish that utilize floodplains for nursery grounds. Prolonged low flows can also increase mortality for species that rely on specific flow regimes, such as endangered salmonids (Moyle 2002). Amphibians can also be sensitive to decreased flows. Kupferberg et al. (2012) reported that low flows were strongly correlated with early life stage mortality and decreased adult densities of California red-legged frogs, a species of special concern in California, and one with potential to occur in the Project area. In addition, alterations to flows can affect the health of riparian vegetation, reducing habitat quality for fish, wildlife, and plant species.

CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration Agreement (LSAA); therefore, if the CEQA document approved for the Project does not adequately describe the Project and its impacts, a subsequent CEQA analysis may be necessary for LSAA issuance. For additional information on

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notification requirements, please contact CDFW staff in the Central Region Lake and Streambed Alteration Program at (559) 243-4593

Water Rights: The Project proponents anticipate applying for the water rights associated with the proposed acquisition of the Cal-Am MCD water system. CDFW recommends that the EIR address how the Project will affect existing water rights including pre-1914 appropriative rights, riparian rights, prescriptive rights, appropriative rights approved under licenses, violations, and SWRCB Water Right (WR) Orders, including those associated with SWRCB Order WR 2009-0060.

As stated previously, CDFW, as Trustee Agency, is consulted by the SWRCB during the water rights process to provide terms and conditions designed to protect fish and wildlife prior to appropriation of the State's water resources. Given the potential for impacts to sensitive species and their habitats, it is advised that consultation with CDFW occur well in advance of the SWRCB water right application process.

Nesting Birds: CDFW encourages implementation of ground disturbing projects during the bird non-nesting season. However, if ground-disturbing activities must occur during the breeding season (i.e., February through mid-September), the Project's applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

To evaluate project-related impacts on nesting birds, CDFW recommends that a qualified wildlife biologist conduct pre-activity surveys for active nests no more than 10 days prior to the start of ground disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the work site to identify nests and determine their status. A sufficient area means any area potentially affected by the project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends that a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends the work causing that change cease and CDFW consulted for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250-feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the

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birds have fledged and are no longer reliant upon the nest or parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the construction area would be concealed from a nest site by topography. CDFW recommends that a qualified wildlife biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

Federally Listed Species: CDFW recommends consulting with the USFWS on potential impacts to federally listed species including but not limited to, CTS, CRLF, Monterey gilia, and Monterey spineflower. Take under the federal Endangered Species Act (ESA) is more broadly defined than CESA; take under ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Similarly, for potential effects to steelhead trout and its critical habitat, CDFW recommends consultation with the National Marine Fisheries Service (NMFS). Consultation with the USFWS and NMFS in order to comply with FESA is advised well in advance of Project implementation.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database that may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be emailed to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

If it is determined that the Project will impact fish and/or wildlife, an assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).


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CONCLUSION

CDFW appreciates the opportunity to comment on the Project to assist the District in identifying and mitigating the Project's impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Should you have questions regarding this letter or for further coordination please contact Annette Tenneboe, Senior Environmental Scientist Specialist, at the address provided on this letterhead, by telephone at (559) 243-4014 extension 231, or by email at Annette.Tenneboe@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

Attachment

ec: Office of Planning and Research, State Clearinghouse, Sacramento
State.Clearinghouse@opr.ca.gov

California Department of Fish and Wildlife:
Jeff Cann
Annette Tenneboe

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Attachment 1**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)****PROJECT: Potential Acquisition of Monterey Water Supply and
District Boundary Adjustment**

RECOMMENDED MITIGATION MEASURES	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Recommended Mitigation Measure 1: CTS Habitat Assessment	
Recommended Mitigation Measure 2: CTS Surveys	
Recommended Mitigation Measure 4: CTS Take Authorization	
Recommended Mitigation Measure 6: Special-Status Plant Surveys	
Recommended Mitigation Measure 8: Special-Status Plant Take Authorization	
Recommended Mitigation Measure 9: CRLF Habitat Assessment	
Recommended Mitigation Measure 10: CRLF Surveys	
Recommended Mitigation Measure 12: Habitat Assessment for Northern California Legless Lizard and Coast Horned Lizard	
Recommended Mitigation Measure 13: Focused Surveys for Northern California Legless Lizard and Coast Horned Lizard	
Recommended Mitigation Measure 15: WPT Preconstruction Surveys	
Recommended Mitigation Measure 17: BUOW Habitat Assessment	
Recommended Mitigation Measure 18: BUOW Surveys	
Recommended Mitigation Measure 21: American Badger Habitat Assessment	
Recommended Mitigation Measure 22: American Badger Surveys	
Recommended Mitigation Measure 23: American Badger Avoidance	
Recommended Mitigation Measure 24: CBB Surveys	
Recommended Mitigation Measure 26: CBB Take Authorization	
<i>During Construction</i>	
Recommended Mitigation Measure 3: CTS Avoidance	

RECOMMENDED MITIGATION MEASURES	STATUS/DATE/INITIALS
Recommended Mitigation Measure 5: Special-Status Plant Habitat Assessment	
Recommended Mitigation Measure 7: Special-Status Plant Avoidance	
Recommended Mitigation Measure 11: CRLF Avoidance	
Recommended Mitigation Measure 14: Avoidance for Northern California Legless Lizard and Coast Horned Lizard	
Recommended Mitigation Measure 16: WPT Avoidance	
Recommended Mitigation Measure 19: BUOW Avoidance	
Recommended Mitigation Measure 20: BUOW Passive Relocation and Mitigation	
Recommended Mitigation Measure 25: CBB Take Avoidance	

Subject: NOP for MPWMD Acquisition

From: Quenga, Anna V. x5175 <QuengaAV@co.monterey.ca.us>

Sent: Wednesday, May 6, 2020 5:55 PM

To: comments <comments@mpwmd.net>

Subject: NOP for MPWMD Acquisition

Dear Mr. Stoldt,

Thank you for providing the County of Monterey the opportunity to comment on the MPWMD Acquisition NOP. Since the project does not include construction of new, or improvement of existing facilities, our comments will be limited to how the acquisition would have the potential to impact County infrastructure and regulatory responsibilities.

The County suggests the project description clarify if the County owns, operates, or maintains (including old easements or conveyances) any of the existing infrastructure serving the areas to be acquired. Please also discuss any foreseeable County involvement necessary to operate and maintain the satellite water systems that will not be part of the acquisition.

The County also suggests that the EIR analyze project consistency with the 1982 General Plan, 2010 General Plan, applicable area plans and the Local Coastal Program.

Thank you again for the opportunity to comment and we look forward to reviewing the EIR.

Sincerely,

Anna V. Quenga, Senior Planner
Monterey County Resource Management Agency
1441 Schilling Place ~ South Building Second Floor
Salinas, CA 93901
(831) 755-5175 Direct (831) 757-9516 Fax
[//www.co.monterey.ca.us/rma](http://www.co.monterey.ca.us/rma)

Subject:

SCH# 2020040069

From: Mikayla Vaba <mikayla.vaba@opr.ca.gov>

Sent: Thursday, May 7, 2020 3:25 PM

To: comments <comments@mpwmd.net>

Subject: SCH# 2020040069

The State Clearinghouse would like to inform you that our office will be transitioning from providing a hard copy of acknowledging the close of review period on your project to electronic mail system.

Please visit: <https://ceqanet.opr.ca.gov/2020040069/2> for full details about your project and if any state agencies submitted comments by close of review period (note: any state agencies in bold, submitted comments and are available).

This email acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please email the State Clearinghouse at state.clearinghouse@opr.ca.gov if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.



Carmel River Steelhead Association
501 (c)(3) TIN 77-0093979
P.O. Box 1183
Monterey, CA 93942

Monterey Peninsula Water Management District
5 Harris Court Building G
Monterey, CA 93940

Via: email

April 12, 2020

Dear MPWMD,

The Carmel River Steelhead Association (CRSA) has been notified of a meeting to be hosted by MPWMD. The purpose of this meeting is to discuss MPWMD going forward with an EIR to buy California American Water Company. Because of the current shelter in place conditions said meeting cannot be held as a public gathering style of a meeting. MPWMD has decided to hold the meeting as a virtual meeting using a conference call type of communication system.

CRSA believes this meeting should be postponed until a meeting can be held in person, as in a public setting held meeting. This meeting is dealing with a very important issue and should have a public gathering meeting rather than a virtual meeting.

CRSA is taking this position and is informing the MPWMD that CRSA is formally protesting MPWMD'S decision to hold this meeting as a virtual meeting rather than a public in person meeting.

Respectfully submitted,

Steve Park
CRSA President



Carmel River Steelhead Association
501 (c)(3) TIN 77-0093979
P.O. Box 1183
Monterey, CA 93942

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

Re: Scoping comments on Environment Impact Report for the Potential Acquisition of Monterey Water Supply and District Boundary Adjustment Project EIR

May 6, 2020

Dear Mr. Stoldt,

The Carmel River Steelhead Association (CRSA) is concerned about and is therefore asking these questions regarding the EIR for the scoping of the takeover of Cal Am water service:

- 1: How will the Monterey Peninsula Water Management District (MPWMD) protect the steelhead in the Carmel River if there is a drought or a series of droughts in the future?
- 2: How will the MPWMD guarantee the steelhead in the Carmel River will have enough water to inhabit the river?
- 3: How will the MPWMD change the water policies that Cal Am has caused that are negatively effecting the Carmel River?

CRSA needs to understand the position the MPWMD is taking as they move forward on the acquisition of Cal Am and how that position will effect the steelhead populations of the Carmel River.

Sincerely

Steve Park
President of CRSA

RECEIVED

APR 17 2020

MPWMD

Brian LeNeve
P.O. Box 1012
Carmel, CA 93921

Monterey Peninsula Water Management District
5 Harris Court, Building G
Monterey, CA 93940

RE: EIR for purchase of Monterey Water Supply and District Boundary Adjustment Project

April 11, 2020

Gentlemen,

I recently received your notice of intent to have a scoping meeting for the above-mentioned project on April 21, 2020 and have the meeting a virtual meeting.

In the strongest terms possible I must demand that the scoping meeting be postponed until such time that the public can actually attend the meeting.

A virtual meeting is just not a substitute for an actual meeting where the public can interact with the proponents of the EIR. Having a virtual meeting will not give ratepayers an adequate chance to learn about the project and give suggestions.

We are talking about a project that will cost ratepayers millions of dollars and is very contentious on the peninsula. Such an issue requires full disclosure and full participation and neither one is achieved with a virtual meeting.

Sincerely,



Brian LeNeve

Brian LeNeve
P.O. Box 1012
Carmel, CA 93921

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

RE: Scoping comments on Environmental Impact Report for the Potential Acquisition of Monterey Water Supply and District Boundary Adjustment Project EIR

May 5, 2020

Dear Mr. Stoldt:

I have a number of items I think must be analyzed in the upcoming EIR. They are as follows:

- 1: With MPWMD now being the pumper and provider of water to the peninsula, how would the acquisition of Cal Am affect the 1990 Water Allocation Program EIR?
- 2: With MPWMD now being the pumper and provider of water to the peninsula, how would the acquisition of Cal Am affect the 5-year Mitigation Program which has continued to date?
- 3: How would a takeover of Cal Am affect Orders from the State Water Resources Control Board; specifically, but not limited to Water Order 95-10 and the Cease and Desist Order?
- 4: How will the same agency that now will pump the water affect the mitigation done for steelhead This appears to be a huge conflict of interest. An alternate would be to subcontract the mitigation work out to another organization like FishBio.
- 5: How will the takeover affect ASR I and ASR II and how will it affect any further ASR projects?
- 6: How would the takeover affect the transfer of the San Clement Property to BLM?

I appreciate this opportunity to participate in the EIR process.

Sincerely;

Brian LeNeve



Monterey Peninsula Taxpayers Association
PO Box 15 – Monterey – CA - 93942

April 21, 2020

David Stoldt
General Manager
Monterey Peninsula Water Management District

RE: April 21, 2020 – EIR Scoping Session

BY : Email

Dear Mr. Stoldt:

The current tiered water rates were put in place to reduce water consumption on the Monterey Peninsula and are a major factor in the cost of water within the District. Should tiered water rates not be possible under public ownership water usage could greatly increase. Increased water usage may lead to environmental impacts which need to be studied within the EIR for public ownership.

Furthermore, the stated purpose for Measure J was “to lower the cost of service to ratepayers” which if accomplished may lead to increased water usage thus necessitating the study of the environmental impacts of a decrease in the cost of water.

In short the EIR needs to evaluate whether lower water rates would lead to significantly greater water consumption and thereby cause environmental impacts to the river and ground water.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rick Heuer', written over a white background.

Rick Heuer
President

Margaret L. Thum
PO Box 991
Pebble Beach, CA 93953

May 5, 2020

VIA EMAIL (comments@mpwmd.net)

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

Re: SCOPING MEMO FOR ENVIRONMENTAL IMPACT REPORT FOR THE POTENTIAL ACQUISITION OF MONTEREY WATER SUPPLY AND DISTRICT BOUNDARY ADJUSTMENT PROJECT EIR

Dear MPWMD (District),

Following are comments on the proposed EIR referenced above:

- The proposed EIR is premature because the scoping meeting indicated that the EIR would look at alternatives to CalAm's desalination plant. Without knowing what these alternatives are, it is impossible to provide meaningful input on the scope of this proposed EIR.
- The District's boundaries are listed in its enabling law, which is an Act passed by the California Legislature in 1977 (see section 102 of the District's enabling law; [Cal. Water Code Appen. Ch. 118](#)). The enabling law was amended by the Legislature in 1997 to exclude any part of Marina from the District's boundaries (section 103 of the enabling law). Any change to the District's boundaries requires an amendment to its enabling law that is approved by the California Legislature.
- The District's enabling law requires that projects are approved by the local citizens, and the Project, including the boundary adjustment Project, has not been approved by local citizens.
- The EIR should clarify the projects covered by it, e.g., is it for one or multiple Projects, and provide a clear description of the Project(s).
- The EIR should consider the alternative of not pursuing the Project or Projects.
- The EIR should explain why there is a need to adjust the District's boundaries as part of the Project.
- The EIR should consider alternatives to not adjusting the District's boundaries, i.e., if the Project did not include annexation of any areas outside of the District's current boundaries. For purposes of this letter "Boundary Adjustment" refers to the areas and properties, including vacant lands, currently outside of the District's boundaries that the District proposes to include in the District's boundaries as part of the Project, and "Project," includes the Project and Projects referred to in the EIR scoping notice and any and all alternatives to such Project or Projects.

- The EIR should consider zoning impacts, including prezone and general plan uses, in all areas included in the Project, including the areas and properties in the Boundary Adjustment and how the Project(s) would impact or be impacted by zoning requirements or plans. For example and without limitation, the EIR should consider the difference between the current water restrictions currently on the areas and properties in the Boundary Adjustment and the restrictions on those properties if the Projects are implemented, e.g., will the properties in the Boundary Area be subject to the District's rules that currently exist? Will property owners in the Boundary Adjustment be required to pay the District's fees, as the District it has suggested it would require, such as the Ordinance 152 fees that the District has said have been accruing on properties in the Boundary Adjustment since the ordinance was adopted in 2012.
- Separate and apart from the item immediately above, the EIR should consider impacts of the District's water allocation system, rules and regulations on the Project(s). The water allocation system, rules and regulations are those that restrict the number of household bathrooms, water fixtures, rooms, restaurant tables, development of vacant lands, etc., at properties on the Monterey Peninsula, which, over the past approximately 40 years, have severely restricted water usage and development on the Monterey Peninsula. For example, vacant lots on the Monterey Peninsula that do not currently have a water connection can no longer be developed and property owners who do have a water connection on their properties are subject to draconian rules that limit water usage and development, e.g., the District's one bathroom rule, limitation on water fixtures on a property, connection fees that are based on a rate of \$30,502 per acre feet of water (note: this is approximately 20-30 times more than California American Water's (CalAm) cost per acre foot of water). Properties, including undeveloped or vacant lots, in the Boundary Adjustment are not subject to these draconian measures. For example, will the District relax or remove its rules that have restricted development and water use on the Monterey Peninsula? Will areas and properties in the Boundary Adjustment be subject to limits on development and water usage that have applied to the Monterey Peninsula for decades? Will vacant lots in the Boundary Adjustment be prohibited from being developed? What is the environmental impact on increased water usage by areas and properties in the Boundary Adjustment and the District's current boundaries, including if properties in the Boundary Adjustment are not subject to prior District rules?
- The EIR should consider the impact of the Project and any and all alternatives on the environment, including without limitation, the increase in pollution, carbon emissions, greenhouse gases, storage facilities, degradation of aquifers, from operating the Project and alternatives and servicing areas and properties including those currently in the District and in the Boundary Adjustment. For example, will the District consolidate its trips to count water fixtures at properties and make service calls? Or, will it count fixtures in one trip and handle service calls in another trip? What is the impact on pollution, environmental degradation from the ongoing operations of the Projects?
- The EIR should consider if the Project and any and all alternatives will be carbon neutral and if not, the mitigation efforts necessary to be carbon neutral.
- The EIR should consider the impact of the Project and alternatives on groundwater basins within and without the District's boundaries.

- The EIR should consider the impact of the Project and alternatives on the Monterey Bay, e.g., on the sea life and plants in in the Bay. For example, will waters leach into the Bay from aquifers or will contaminated water be disposed directly into the Monterey Bay.
- The EIR should consider the impact of the Project and alternatives on the Seaside Aquifer and the quality of the aquifer and water in it. For example, will water will be taken out of the Seaside Aquifer for properties in the Boundary Adjustment? If so, what conditions and approvals are required to do so, e.g., Seaside Basin Watermaster? Will water be added to the Seaside Aquifer? What will be the quality of that water? What mitigation measures will ensure protection of the quality and sustainability of the aquifer?
- The EIR should consider any necessary equipment and development needed for the Project and maintenance thereof, including the existing age of pipes and conveyances and the timing of replacement and additions, and the burden on the environment, e.g., noise, archaeological impact, soils testing, pollution, soils movement, etc. The EIR should consider if any development for the Project would comply with the District’s current rules or if new rules would need to be implemented.
- The EIR should consider the impact on the environment of increased water usage, including by the properties in the Boundary Adjustment, e.g., how many properties in the District’s current territory and in the areas proposed to be annexed are without water connections, how many connections would be added when the vacant land is fully developed, including on the areas in the proposed Boundary Adjustment, what is the estimated water usage and how does this usage impact the environment?
- The EIR should consider the District’s proposed rate structure and the impact on water usage and the resulting impact on the environment. CalAm’s current water rates are based on a tiered system promoted years ago by the District to restrict water usage. These tiered water rates would be impermissible for the District to charge, unless it could provide a thorough analysis of the cost of water provided to each property. If the District will not be using a tiered rate structure, the EIR should consider the impacts on the environment resulting from more water usage.
- The EIR should consider the impact of the Project and alternatives on health on the harmful chemicals, e.g., PFAS, viruses, pathogens, toxic waters, and propose mitigation measure that ensure health and safety of the local population.
- The EIR should consider the employee and consultant resources, including additional employees and consultant resources that would be required to implement the Project(s) and how these resources will negatively impact the environment, e.g., additional traffic, pollution, etc. The EIR should consider mitigation efforts to reduce these negative impacts.
- The EIR should consider if the District has sufficient financial resources to undertake the Project(s) and any and all alternatives, any and all mitigation efforts, and the impact on the environment if the Project(s) or alternatives were started but the District was unable to complete, e.g., due to financial limitations. Note that to fully fund the District’s pension, including for any additional employees resulting from the Project, will significantly increase the District’s costs, and thus the cost of water to residents. The EIR should consider the impact on the Project and mitigation requirements if water usage is insufficient to cover the costs

necessary to complete the Project(s), e.g. if the Project(s) or any and all alternatives are only able to be partially completed. For example, what are the impacts to the health and safety and to the environment if the Projects are not fully completed or if there is a default on the financing necessary for the Project(s).

Sincerely,



Margaret Thum

Subject:

Coletti: EIR Scoping Comment (4/21/2020).

-----Original Message-----

From: Luke Coletti <pgneighborsunited@gmail.com>

Sent: Tuesday, April 21, 2020 5:36 PM

To: comments <comments@mpwmd.net>

Subject: Coletti: EIR Scoping Comment (4/21/2020).

Care and time should be taken to generate a single EIR, instead of one that (by design) relies on multiple “creeping feature” Supplemental EIRs, which have become so popular and obfuscate project analysis.

Luke Coletti
Pacific Grove

Subject: Scoping meeting for EIR

From: Kevin Kamnikar <kkamnikar@mcrfd.org>

Sent: Monday, April 20, 2020 7:59 AM

To: comments <comments@mpwmd.net>

Subject: Scoping meeting for EIR

Good morning,
Please add me to the address list for the Scoping Meeting for the EIR.

Kevin Kamnikar,
Division Chief/Fire Marshal
Monterey County Regional Fire

19900 Portola DR, Salinas, CA 93908

PHONE [831-455-1828](tel:831-455-1828)(Office) [831-809-4526](tel:831-809-4526)(Mobile)

FAX [831-455-0646](tel:831-455-0646)

EMAIL kkamnikar@mcrfd.org

*Serving the Northern Salinas Valley, Highway 68 Corridor, and the Communities of Chualar, East Garrison,
Spreckels, Carmel Valley, Mid Carmel Valley & the Santa Lucia Preserve*

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Subject: Addition to Mailing List for
Attachments: MPWMD NOP_2020-0406_Final.pdf

From: Fried, Lauren <LFried@manatt.com>
Sent: Monday, April 20, 2020 1:12 PM
To: comments <comments@mpwmd.net>
Subject: Addition to Mailing List for

Per the attached document,

Please add George Soneff and myself to the mailing list.

GSoneff@manatt.com and lfried@manatt.com

Thank you,

Lauren

Lauren Fried
Associate

Manatt, Phelps & Phillips, LLP
2049 Century Park East
Suite 1700
Los Angeles, CA 90067
D (310) 312-4195 **F** (310) 914-5705
LFried@manatt.com

manatt.com



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Subject: Potential Acquisition of Monterey Water Supply and District Boundary Adjustment Project

From: Donald Wilcox <DWilcox@mcwd.org>

Sent: Monday, April 6, 2020 3:53 PM

To: comments <comments@mpwmd.net>

Subject: Potential Acquisition of Monterey Water Supply and District Boundary Adjustment Project

Please add me to the mailing list for the above referenced project:

Thx,
Don

Don Wilcox, PE
Senior Engineer
Marina Coast Water District
2840 4th Avenue
Marina, CA 93933
831.883.5935
<https://www.mcwd.org/>



Subject: From the Office of Senator Monning

From: Courtney, Colleen <Colleen.Courtney@sen.ca.gov>

Sent: Monday, April 13, 2020 9:59 AM

To: comments <comments@mpwmd.net>

Subject: From the Office of Senator Monning

Good Morning,

My name is Colleen and I am a Field Representative for State Senator Bill Monning. May I please be added to the mailing list?

Thank you in advance.

All my best,
Colleen

Colleen Courtney
Field Representative
Office of Senator William W. Monning
California State Senate, District 17
99 Pacific Street, Suite 575F
Monterey, CA 93940
P: (831) 657-6315 | F: (831) 657-6320
<http://sd17.senate.ca.gov/>

Subject: MCD Project Mailing List

-----Original Message-----

From: Marx, Erika R CIV USARMY IMCOM (USA) <erika.r.marx.civ@mail.mil>

Sent: Tuesday, April 7, 2020 11:49 AM

To: comments <comments@mpwmd.net>

Subject: MCD Project Mailing List

Good afternoon,

Please add me to your mailing list for the Potential Acquisition of Monterey Water Supply and District Boundary Adjustment Project.

Thank you,

Erika Marx

Environmental Protection Specialist/Water Program Manager Directorate of Public Works - Environmental Division U.S.

Army Garrison, Presidio of Monterey

4463 Gigling Road, Seaside, CA 93955

Phone: 831-242-7925

Subject: EIR Scoping meeting - Monterey Water Supply and District Boundary Adjustment Project

From: Michael Weaver <michaelweaver@mac.com>

Sent: Tuesday, April 21, 2020 12:38 PM

To: comments <comments@mpwmd.net>

Subject: Re: EIR Scoping meeting - Monterey Water Supply and District Boundary Adjustment Project

David Stoldt, General Manager
Monterey Peninsula Water Management District
5 Harris Court, Building G
Monterey, CA 93940
comments@mpwmd.net

▪ Written comments are due by Wednesday, May 6, 2020 @ 5:00 PM

Re: Potential Acquisition of Monterey Water Supply and District Boundary Adjustment Project EIR Scoping Meetings

April 21, 2020

Dear Mr. Stoldt,

I will be unable to Zoom in to the Public Scoping Meeting scheduled for today at 5 p.m. However, I do plan on providing some Scoping Comments on or before May 6, 2020.

Please do keep me on the informational and notification lists for all things regarding the EIR and any proposed District Boundary Adjustments.

Any questions, please do not hesitate to call.

Thank you very much,

Mike Weaver
831-484-2243