



January 31, 2022

Ms. Kate McKenna
Executive Officer
Local Agency Formation Commission of Monterey County
132 W. Gabilan St., Suite 102
Salinas, CA 93901

Via Email

Subject: Application for Reconsideration of Resolution No. 2022-01 of the Local Agency Formation Commission Disapproving the Monterey Peninsula Water Management District's Proposed Activation of Latent Powers, (LAFCO File #21-01)

Dear Ms. McKenna:

This letter and appendices comprise the Monterey Peninsula Water Management District's (District) formal Application for Reconsideration of the LAFCO of Monterey County Resolution No. 2022-01 disapproving the Monterey Peninsula Water Management District's proposed activation of latent powers.

LAFCO Number and Title for Reconsideration

- LAFCO No.: LAFCO of Monterey County File #21-01
- Title: Monterey Peninsula Water Management District 2021 Sphere of Influence, Annexation, and Latent Power Activation Proposal
- Date of Action: January 5, 2022
- Reconsideration of: Resolution No. 2022-01 disapproving the Monterey Peninsula Water Management District's proposed activation of latent powers.

Specific Change Requested

Adoption of proposed Resolution No. 21-XX included as Attachment 14.1 to LAFCO of Monterey County agenda packet December 6, 2021

Justification

New or different facts that were not or could not have been previously presented to the Commission, related specifically to:

1. Property tax impacts on local tax receiving agencies and proposed tax sharing agreements
2. Impact on Ratepayers of the Chualar satellite water system, as well as other satellite water

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and wastewater systems

3. District's cost exposure deriving from a potential failed condemnation proceeding
4. Comments received from the Monterey Peninsula Unified School District
5. Improper focus paid by Commissioners on water supply issues
6. Commissioner statements of December 6, 2021 not supported by findings and vice versa
7. Commissioner statements of December 6, 2021 violate Gov. Code Sec. 56331.4
8. Proposed District Resolution 2022-XX

The attached "District Statement of Justification for Reconsideration" addresses each point cited above by related Section number.

The District's Reconsideration Application Fee of \$1,000¹ is provided under separate cover.

The Monterey Peninsula Water Management District requests your serious consideration of this application.

Sincerely,



David Stoldt
General Manager

¹ Per LAFCO of Monterey County "PROCESSING AND FILING FEES" Adopted by Commission on 8-24-2020

District Statement of Justification for Reconsideration
LAFCO of Monterey County Resolution No. 2022-01 Disapproving the Monterey
Peninsula Water Management District's Proposed Activation of Latent Powers,
(LAFCO File #21-01)

Section 1: Property Tax Impacts on Local Tax Receiving Agencies

New information related to property tax issues on local taxing agencies shows:

- Local agencies regularly face reductions in tax receipts; Facts presented by the District-proposed activation of latent powers are not unique, and cannot be differentiated from other Decisions made by LAFCO;
- The impact to local agencies is de minimis;
- Very few entities are impacted;
- The losses will be outstripped by gains in assessed valuation very quickly;
- The District is offering a better tax-sharing deal than most other County examples; and
- Ratepayers gain more than local agencies lose, so more money stays in the community.
- Resulting savings to local agencies caused by reduced potable water rates have not been considered.

Much attention has been paid to the potential impact on local taxing agencies of the loss of property taxes paid by California-American Water (Cal-Am) to the County. This can be found in the words spoken by Commissioners and others at the December 6, 2021 Public Hearing and the January 5, 2022 meetings, as shown in the certified transcripts included as Appendices A and B.² Specifically, at the December 6, 2021 Public Hearing during consideration of the motion by Commissioner Gourley to disapprove of activation of the District's latent powers the following statements were made:

Commissioner Poitras stated: "I'm a representative of special districts on LAFCO, and there are several of them that are pending or have the potential to lose a great deal of money."³ "And there are other special districts and school districts, none of whom have received any kind of guarantee that they're going to be made whole as a part of this."⁴ And further: "But, at this point, there seems to be nothing in stone. We're all taking it on good faith that we'll be made whole."⁵ And "And so I'm not prepared to move forward on it without guarantees. And so I'd have to vote no if it comes up today."⁶

² New material not previously available.

³ From "Partial Transcription of LAFCO Commission Meeting" December 6, 2021 by Cypress Court Reporting, included as Appendix A hereto, page 5, lines 13-15

⁴ From "Partial Transcription of LAFCO Commission Meeting" December 6, 2021 by Cypress Court Reporting, included as Appendix A hereto, page 5, lines 21-24

⁵ From "Partial Transcription of LAFCO Commission Meeting" December 6, 2021 by Cypress Court Reporting, included as Appendix A hereto, page 6, lines 6-8

⁶ From "Partial Transcription of LAFCO Commission Meeting" December 6, 2021 by Cypress Court Reporting,

Commissioner Leffel stated: “And it’s - - you know, it’s a little bit like robbing Peter to pay Paul. You say you are going to save so much money on this district, but, meanwhile, all the other districts give it up to save that money.”⁷ “And it seems like a lot of these what-ifs, maybes, might be, could be, all of these speculative things, maybe someone should have sat down and really dug into them and tried to find solutions. But I don’t believe the solutions are there.”⁸

At the January 5, 2022 LAFCO meeting the following statements were made:

Darren McBain, LAFCO staff: “Reflecting discussion by the commissioners on December 6th, the main reasons for denial being expressed here in this draft include the following, which are also mentioned on page two of the staff report: There are the property tax impacts to the county, cities, special districts, and school districts.”⁹

George Soneff, attorney for Cal-Am stated on January 5, 2022: “Mr. Stoldt just now talked about these agreements and how 14 agreements that they’ve made. Well, nobody’s ever seen them. I mean, these are phantom agreements. Their initial application, back in May of last year, said they were going to do tax-sharing agreements. I’ve never seen one. There’s nothing signed. There’s no guarantee here. The District hasn’t offered, hasn’t committed, to pay a dime. And, even if you did, I mean, when you look at what he’s written and you look at what the District said, they said, Well, we will, quote, ameliorate near-term losses.”¹⁰

All of the above-quoted observations lack basis and suffer from their speaker not having seen the District’s proposed Revenue Neutrality Transition Agreements attached as Appendix C hereto. Such agreements do, in fact, exist but were not considered as part of LAFCO’s January 5, 2022 deliberations.¹¹ A draft agreement was sent to the Monterey County Regional Fire District on December 3, 2021 and again December 28, 2021. Also on December 28, 2021 letters including the proposed Revenue Neutrality Transition Agreement were sent to the following affected local taxing agencies: the Cities of Seaside, Monterey, Sand City, Pacific Grove, and Carmel-by-the-Sea, County of Monterey, Carmel Unified School District, Pacific Grove Unified School District, Pebble Beach Community Services District, Monterey County Library, Monterey Peninsula Regional Park District, Cypress Fire Protection District, and Seaside County Sanitation District.

The District received responses from three local taxing agencies: Monterey County, the City of

included as Appendix A hereto, page 6, lines 10-12

⁷ From “Partial Transcription of LAFCO Commission Meeting” December 6, 2021 by Cypress Court Reporting, included as Appendix A hereto, page 6, lines 19-22

⁸ From “Partial Transcription of LAFCO Commission Meeting” December 6, 2021 by Cypress Court Reporting, included as Appendix A hereto, page 7, lines 3-7

⁹ From “Partial Transcription of Special Commission Meeting” January 5, 2022 by Cypress Court Reporting, included as Appendix B hereto, page 6, lines 14-19

¹⁰ From “Partial Transcription of Special Commission Meeting” January 5, 2022 by Cypress Court Reporting, included as Appendix B hereto, page 24, lines 20-24 and page 25, lines 1-6

¹¹ New material not previously available.

Carmel-by-the-Sea, and Monterey County Regional Fire District.¹² The responses are attached as Appendix D.

These materials directly respond to the comments of Commissioner Poitras and Commissioner Leffel cited above. The materials also provide clarifying information with respect to comments offered by LAFCO staff member Darren McBain and the attorney for Cal-Am, George Soneff.

It should be noted that LAFCO is required to consider comments of affected or other agencies under Government Code Sec. 56668(j), but **only two of the forty affected local taxing agencies submitted any comments to LAFCO regarding property tax impacts** – Monterey County Regional Fire District and Monterey Peninsula Unified School District (MPUSD) – and MPUSD is ultimately unaffected by the property tax impacts. Six members of the public mentioned the issue in their comment letters, but only two of those stated it as a concern, the other four recommending LAFCO approval of the activation of latent powers.

One of the top affected local taxing agencies, the Pebble Beach Community Services District, at its September 24, 2021 Board meeting discussed potential property tax impacts and the minutes of the meeting reflect “Mr. Niccum reported receiving communication from California American Water (CAW) indicating that PBCSD stood to lose property tax revenues in the event of a takeover by the Monterey Peninsula Water Management District. Staff determined that PBCSD receives \$54,000 per year in tax revenue from CAW, which represents a loss of approximately 0.3% of the \$16.2 million in property tax PBCSD collects per year. The board directed staff to remain neutral on the issue.”¹³ It is notable that this assumed loss did not factor water cost savings that PBCSD would receive due to the District’s buyout of Cal-Am.

In other new information not previously available to the Commission, on January 18, 2022 the County Assessor Steve Vagnini made a presentation at the Monterey County Special Districts Association quarterly meeting.¹⁴ Commissioners Leffel and Poitras attended the presentation. His presentation highlighted several key points:

- Property tax paid goes off the rolls “all the time” due to public acquisition of private property. Mr. Vagnini cited examples related to Rancho Canada golf course, and various aquarium properties, among others.
- Appeals for reduction in assessed value can have a property tax impact which is similar to a purchase of private property by a public entity. Mr. Vagnini gave the example of the downward reassessment of the Vistra power plant at Moss Landing and its negative impact on North County Fire District, as an example of a loss in property tax revenue that a local taxing agency cannot protest.
- Mr. Vagnini stated that in his experience, no acquiring public agency has offered tax

¹² New material not previously available.

¹³ Minutes of the 9-24-21 PBCSD Board meeting, page 5; New material not previously reported; See Appendix N

¹⁴ New material not previously available; Agenda available as Appendix O; No recording available.

sharing agreements with the affected local taxing agencies like the District has done as part of this LAFCO proceeding.

- The growth in property tax values in recent years has been very favorable and is expected to approximate 6 ½% in the current year. He stated that such growth in assessed value more than offsets property tax losses due to conversion of property from private to public ownership. The Assessor subsequently provided a table showing that the 50-year average growth rate in assessed value in the County was 7.29% per year (see Appendix E attached). In just the past five years assessed value has risen by \$17 billion, or \$170 million in new property tax for the County.

Finally, the District believes it is important to clarify the macroeconomic impacts of conversion of property from private utility ownership to public ownership because this change actually improves the total dollars kept within Monterey County.¹⁵ That is because Cal-Am treats its payment of property taxes as an operating expense. The offsetting revenue that Cal-Am must receive to pay the property taxes first comes into the company as income, subject to income taxes. The 2017 Tax Cut and Jobs Act reduced the federal income tax rate for Cal-Am from 35% to 21% and the State income tax level has been assumed to be 8.84% in Cal-Am's projections model. Hence the combined tax rate is 29.84%. Thus, for every dollar of property taxes paid by Cal-Am they must receive \$1.43 of pre-tax revenue from ratepayers. In the event the property tax obligation goes away, ratepayers will save that amount plus an additional 43%. The lost income taxes have very little local impact – and the amount is negligible relative to the nation's and State's total income tax receipts. Hence, even without tax sharing agreements from the District, the economic impact of lost property tax revenues is better for the local economy under public ownership than under private ownership. Ratepayers gain more than local agencies lose, and more money stays in the community.

The District believes LAFCO has erred by assigning far too much weight to the property tax impacts on local taxing agencies. In addition to property tax paid going off the rolls “all the time” due to public acquisition of private property, it is also not unusual for a local taxing agency to receive a negative apportionment, from time to time, such as the South Monterey County Fire Protection District which will not receive a share of property tax revenues for the fiscal year 2021-22, but will instead be required to return funds back to the County (see Appendix F).¹⁶

LAFCO further erred by citing property tax revenue as a basis for its findings regarding the District's ability to provide water service (Government Code 56668(k)). The potential loss of de minimis tax revenues by *other agencies* does not impact the *District's* ability to offer water service.

The foregoing new information, coupled with information previously submitted, indicates the property tax impacts are de minimis and do not outweigh other factors which support activation of the District's latent powers.

¹⁵ This is a new line of reasoning, not previously made clear to LAFCO Commissioners

¹⁶ New material not previously available.

Section 2: Chualar Water System and Other Satellite Systems

New information related to the Chualar water system and other satellite water and wastewater systems shows:

- Upon acquisition, Cal-Am failed to provide Chualar special discounted rate-setting;
- Chualar’s special rate-setting procedure is not likely to go away;
- Cal-Am has a demonstrated history of folding such satellites into a larger base to spread costs; and
- Cal-Am and the CPUC¹⁷ have a policy of helping to subsidize small stand-alone systems.

In its January 3, 2022 letter to LAFCO, Cal-Am included CPUC Resolution No. W-4365 under which Cal-Am was approved by the CPUC to acquire the Chualar Water System (along with the Ralph Lane Water System) from the County of Monterey in a transaction approved by the CPUC on January 16, 2003. Under that Resolution “Cal-Am proposes to keep the CW (Chualar) rates as they are and incrementally increase the rates over the next five years until they reach the same level as those in the Monterey District into which it will be merged. Because the number of customers in the CW system is insignificant compared to the number of customers in the Monterey District, the lower rates assessed the CW customers will have no impact on the cost of providing service and, therefore, no effect on rates in the Monterey District after Cal-Am acquires CW.”¹⁸ ***Cal-Am’s assertion of lower rates to Chualar customers was wrong.*** Rates to Chualar customers were not lower, rather rose significantly and had a significant impact on the cost to Chualar ratepayers of providing service. This was made evident by the May 30, 2006 article by the L.A. Times included as Appendix G.¹⁹ Chualar water rates rose significantly, ratepayers protested, and the CPUC forced Cal-Am to address the problem and reconsider its rate-setting. This information corrects erroneous assertions made by Cal-Am in this proceeding.

On November 10, 2006 Cal-Am filed Advice Letter No. 654-A, attached as Appendix H, requesting implementation of new revised rates for the Chualar system. That Advice Letter indicated: “California American Water is requesting a reduction in rates compared to those approved in Resolution W-4365 after participating in several community meetings on the subject of rates.” It was the “several community meetings” that led Cal-Am to revise the rate structure. The same pressure to keep rates low in disadvantaged and smaller communities will not go away. Rather, it is entirely speculative for Cal-Am to suggest it would treat Chualar and other satellite systems on a “stand alone” basis as stated in Mr. Linam’s January 3, 2022 letter, rather than once again finding a way to address the need for subsidy by a larger base. Again, ***Cal-Am’s assertion was wrong and should be corrected.***

In its same January 3, 2022 letter Cal-Am cites State policies that encourage larger water systems

¹⁷ “CPUC” shall mean the California Public Utilities Commission

¹⁸ January 3, 2022 letter from Cal-Am to LAFCO, Exhibit B, CPUC Resolution No. W-4365, page 13 of PDF

¹⁹ The LA Times article was first presented to LAFCO at the January 5, 2022 meeting and is therefore considered new information.

to acquire and operate smaller systems, seeking economies of scale and benefits to certain ratepayers, including the legislatively enacted Public Water System Investment and Consolidation Act of 1997 (Pub. Util. Code Section 2718 *et seq.*), the CPUC Water Action Plan, and policies of the State Water Resources Control Board.

The most recent Cal-Am general rate case (GRC) shows how Cal-Am is likely to address the Monterey County satellite system issue. In the most recently completed GRC, Cal-Am sought, and received, CPUC authorization to normalize the rate base of four small water system acquisitions by **spreading the utility plant acquisition costs statewide**²⁰ by determining the revenue requirement associated with each acquisition and allocating the revenue requirement to each district. As described to LAFCO previously, in its most recent rate case decision the CPUC allowed Cal-Am to recover wildfire-related costs incurred after May 31, 2019, recover the 2017 Larkfield Wildfire related costs, allocate the costs associated with Cal-Am's four recent acquisitions, and adopt a surcharge for previous acquisitions such as Citizens Water assets, all on a statewide basis. *This is Cal-Am's current philosophy regarding its small systems and unique cost-related circumstances, which is unlikely to change.*

Cal-Am further asserts "California American Water can better achieve economies of scale, replace and upgrade systems to comply with important safety regulations, and access necessary capital. Smaller water utilities often cannot provide the economies of scale needed to build and maintain adequate water systems, lack resources and expertise to manage long-term operations, and need financial and technical assistance to maintain compliance. By expanding the customer base over which costs are incurred, these acquisitions will benefit all customers, including California American Water's current customers."²¹ "Benefits of a more consolidated system of rates include: (1) improved affordability; (2) utilization of economies of scale to address water quality challenges; (3) more robust and resilient systems through broadening of the customer base; and (4) improved incentives for customers to conserve through strengthening of conservation signaling."²² *This is the Company's current rationale for acquiring more small Cal-Am systems and unlikely to change.* Therefore, Cal-Am is likely to seek methodology to subsidize the Monterey satellite systems on a broader base of customers, not a stand-alone basis. Mr. Linam's January 3, 2022 letter to LAFCO was disingenuous in this regard and does not provide substantial evidence as to future Cal-Am or CPUC rate decisions impacting the Chualar water system..

How the remaining Monterey satellites would be treated is best demonstrated by how Cal-Am addresses its "Northern Division" in the most recent and other general rate cases. The Cal-Am Northern Division includes seven systems in the Sacramento area, Dunnigan water and wastewater 40 miles north in Yolo County, Walnut Grove and Isleton 47 miles south of Cal-Am's Sacramento headquarters on Beloit Drive, the Larkfield system 108 miles west in Sonoma

²⁰ Cal-Am 2019 GRC Application 19-07-004, direct testimony of Jeffrey Linam, page 83-84, July 1, 2019, Appendix P

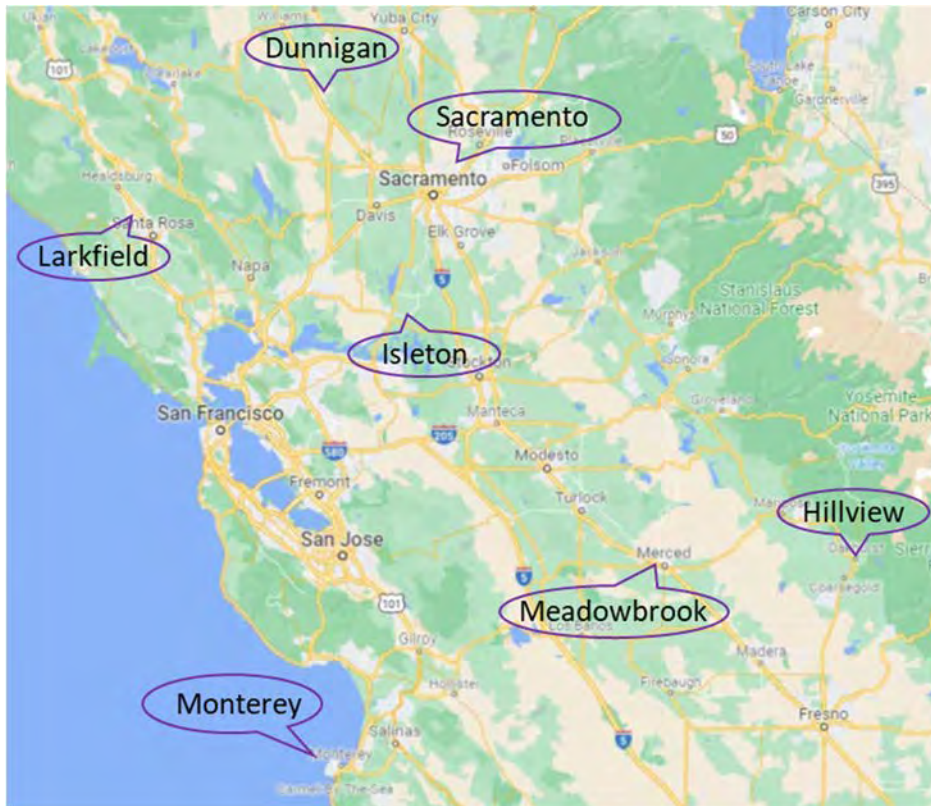
²¹ Cal-Am 2019 GRC Application 19-07-004, direct testimony of Garry Hofer, page 69, lines 11-18, July 1, 2019, Appendix Q

²² Application of California-American Water Company (U210W) to Increase Revenues in each of its Districts Statewide, A.19-07-004, pages 14-15, Appendix R

County, which also includes the old Geyserville Water Works 125 miles west, Meadowbrook 126 miles southeast in Merced, and finally the recently acquired Hillview Water Company in Oakhurst, Madera County, 190 miles from the Sacramento headquarters (miles based on driving distances). The Hillview Water Company is comparable in size to the Chualar system. Remarkably, the Monterey Peninsula is also 190 driving miles from the Northern Division headquarters. The diagram below shows the geographic expanse of Cal-Am's Northern Division.

The most likely approach is that, after acquisition of the Main System, Cal-Am will request the CPUC allow the remaining satellite systems join the Northern Division for service and ratemaking purposes. The District would support this approach at the CPUC. This would meet goals of both Cal-Am and the CPUC to reap the benefits of a more consolidated system and economies of scale. Cal-Am would be hard-pressed to demonstrate how it makes sense for Hillview Water in Oakhurst (190 miles from Sacramento), but does not make sense for the Monterey County satellites (190 miles from Sacramento). For Cal-Am to propose anything different for local Monterey County satellites is purely speculative, unlikely to be approved by the CPUC, and is unsupported by substantial evidence.

Geographic Expanse of Cal-Am's Northern Division
(Monterey not Presently Included)



General rate case proceedings for Monterey were held in 2006, 2008, 2010, 2013, 2016 and 2019. During each of those matters, no change was made to calculating Chualar rates. While the

CPUC has authority to modify the arrangement, given its sensitivity to the cost of water for low-income customers, it is highly unlikely to change and consolidation into the Northern Division is the most reasonable outcome.

Section 3: District's Cost Exposure from a Potential Failed Condemnation Proceeding

New information related to Section 3 of LAFCO Resolution No. 2022-01 and District cost exposure for legal expenses shows:

- Section 3 of LAFCO Resolution No. 2022-01 inadequately describes 3rd-party consultant Berkson's conclusions and misrepresents reality;
- LAFCO staff's response to Commissioner Oglesby's question was incomplete; and
- LAFCO Commissioners relied on an incomplete and inadequate finding in support of Section 3 of the Resolution.

Section 3 of Resolution No. 2022-01 adopted at LAFCO's January 5, 2022 meeting states "The Commission considered Berkson Associate's October 11, 2021 memo which, on page 5, detailed the financial consequences to the District if it loses, abandons, or fails to finance and acquire Cal-Am's system. Berkson's memo finds significant District costs could be incurred, specifically as much as \$34 million. Additionally, the Commission considered Cal-Am's October 19, 2021 letter on page 5 and Tab C, which stated, in part: "The mere prosecution of the eminent domain lawsuit carries considerable financial risk for MPWMD, and hence to Monterey residents ... If MPWMD fails in its eminent domain lawsuit, it will be required to pay all attorneys' fees and costs incurred by Cal-Am, as well as its own - with nothing to show for it ... Data from the Claremont and Apple Valley cases suggest that a \$25 million to \$34 million loss estimate is conservative. There has been no proof that MPWMD could sustain such a financial loss without impairment of operations or assumption of costs new debt."²³

During the January 5th LAFCO meeting, Commissioner Oglesby asked for additional information on this section of the Resolution: "So I'm trying to figure out exactly where the -- the \$34 million potential court case fees that the staff is saying in a resolution that the District could not afford, where did that come from? Where can we find those facts that its -- it's, roughly, 30- - it could be up to \$34 million?"²⁴

LAFCO Staff member Jonathan Brinkman responded "It's included in Richard Berkson's report that he provided October 11th. He was seeking information from the District and from Cal-Am on what that number was, and, in his report he -- he thought it would -- could be up to that number, 34 million."²⁵

²³ LAFCO Resolution No. 2022-01, adopted January 5, 2022, Section 3, page 9; Attributed to Cal-Am letter of 10-19-21

²⁴ From "Partial Transcription of Special Commission Meeting" January 5, 2022 by Cypress Court Reporting, included as Appendix B hereto, beginning at page 51, line 22

²⁵ From "Partial Transcription of Special Commission Meeting" January 5, 2022 by Cypress Court Reporting, included as Appendix B hereto, beginning at page 52, line 13

LAFCO staff's response was inadequate and did not paint a realistic picture of the potential cost exposure. The Berkson report also included the following: "MPWMD indicated that it was using a "pay as you go" approach to financing its eminent domain costs, which means that by the end of the initial phase "right to take" trial it would have already paid its own costs including pre-trial and litigation expenses. In case of an initial phase loss, MPWMD then would still need to fund Cal-Am's litigation expenses that could presumably range from \$7.6 million to \$12 million based on prior examples. Abandonment after the subsequent valuation trial would further increase MPWMD's liability."²⁶ However, Cal-Am posed a number of \$10 million total for both parties in the "right to take" bench trial in its April 14, 2021 letter. The District's own eminent domain attorneys, who have worked on water system takeovers before, pegged the combined costs at \$15-\$20 million. Either way, only a portion represents the Cal-Am incurred costs and District costs will already have been paid. As shown in Appendix I attached, the District's current reserves presently exceed \$17 million (as of 11-30-21). It is the District's intention to stabilize or grow its reserves during the Measure J acquisition process.

Further, the District has never wavered in its statements that the District is mindful of the legal and financial risks of this path and is making responsible decisions for the benefit of its constituents, in accord with the electorate's mandate as stated in Measure J. The District, in accord with the voter-approved direction in Measure J, cannot proceed on the eminent domain path unless it is satisfied risks of an unfavorable outcome are both unlikely and financially manageable. With this caveat in mind, the District fully expects to have cash reserves available to manage an adverse legal judgment or a later decision to abandon acquisition. In the unlikely situation should reserves be insufficient, the District would have access to either publicly offered notes or to private lending from select banks who desire to leverage their balance sheets for the amount of any shortfall. Such lending is not unusual and would be secured by future District revenues. In no case would such an outcome affect solvency of the District or its ability to deliver services.

During the January 5, 2022 LAFCO meeting, George Soneff - Cal-Am's attorney - made two false statements: "The District does not have the reserves to cover such a loss of taxpayer proceeds."²⁷ ***Cal-Am's assertion was wrong.*** As stated above, the District does have, and expects to have, reserves to cover legal costs. Soneff continued to say Mr. Stoldt "sent a letter on November 15 to LAFCO arguing, with not a shred of proof, that the District could borrow the money to cover that loss of \$34 million or more from, quote, publicly-offered notes or private lending from select banks."²⁸ Contrary to Mr. Soneff's statement, exposure is only a portion of the \$34 million (which is a high estimate) and the "shred of proof" was footnoted in the District's November 15, 2022 letter as based upon April 21, 2021 discussion with Barclays Bank.

²⁶ "Financial Review of MPWMD Proposal to Provide & Distribute Potable Water", Berkson Associates, October 11, 2021, page 23

²⁷ From "Partial Transcription of Special Commission Meeting" January 5, 2022 by Cypress Court Reporting, included as Appendix B hereto, beginning at page 22, line 5

²⁸ From "Partial Transcription of Special Commission Meeting" January 5, 2022 by Cypress Court Reporting, included as Appendix B hereto, beginning at page 22, line 13

The District believes that Section 3 of LAFCO Resolution No. 2022-01 inadequately describes 3rd-party consultant Berkson's conclusions and misrepresents reality. Further, the District finds that LAFCO staff response to Commissioner Oglesby's question was incomplete. Therefore, LAFCO Commissioners relied on an incomplete and inadequate finding in support of Section 3 of the Resolution. *This error should be corrected.*

In any event, the potential cost of an eminent domain proceeding is an inappropriate factor for LAFCO to consider as part of this application. Activating the District's latent powers does not necessitate an eminent domain action, and it is inappropriate to conflate the two processes. As discussed, under Measure J, the District will not pursue acquisition of the Cal-Am system if it is not financially feasible to do so, regardless of whether LAFCO approves this application.

Section 4: Comments Received from the Monterey Peninsula Unified School District (MPUSD)

New information related to MPUSD comment letters shows:

- The District accurately and adequately responded to MPUSD comments;
- MPUSD previously dealt with similar property tax losses on multiple occasions; and
- MPUSD will not be impacted by lost property taxes.

The District addressed MPUSD's multiple comment letters in a single response to Ryan Altemeyer, Associate Superintendent for Business Services, on January 4, 2022. The LAFCO Commissioners did not have an opportunity to review the letter. It is attached as Appendix J.

The District's letter reminded MPUSD that property moving from private to public hands happens all the time and cited a few specific instances that would have affected MPUSD. Regarding District assistance in computing changes to MPUSD voter-approved bonded indebtedness and tax rates, the District reiterated in its letter that such must not be considered losses to MPUSD because other payers will have to cover them and the mathematics of dealing with voter-approved debt is not for the District to calculate. In fact, MPUSD already possesses the internal capability to do so since every year the overall County-wide assessed valuation rises, companies acquire property or go out of business, individual properties are reassessed upward or downward, requiring the amount on the Treasurer-Tax Collector tax bill for bonded indebtedness to be revised almost annually. The District letter shows MPUSD has regularly dealt with similar property tax losses and MPUSD will not be impacted by losses in property taxes for its school funding.

Section 5: Improper Focus by Commissioners on Water Supply Issues

New information relates to LAFCO's consideration of water supply issues and shows:

- LAFCO exceeds the scope of its legislative role when its decision addresses selection of future water supply projects;
- LAFCO errs in assuming Pure Water Monterey Expansion relies on additional Salinas

Valley Water;

- LAFCO’s statements in Section 3 of Resolution No. 2022-01 are unsupported by substantial evidence; ***this error should be corrected.***
- LAFCO errs when it conflates the intent of Government Code 56668(l) as a factor for consideration.

During Commissioner deliberation of the motion to deny the activation of the District’s latent powers on December 6, 2021 several Commissioners made erroneous and irrelevant statements regarding water supply impacts:

Commissioner Craig stated: “however, what we are talking about is water. In the Salinas Valley, the water used in the Salinas Valley is absolutely part of this discussion.” And “I know people have danced around the water subject for decades, quite literally decades, and it is clear to me that the peninsula needs desal. It's clear to me that peninsula doesn't want desal. And so there is quite a bit of discussion over whether or not that water comes from the Salinas Valley.”²⁹

Commissioner Leffel stated: “there are a whole lot of issues with feasibility, not only just with the financial, but also with water sources and with how we're going to go forward with this.”³⁰

First, Cortese-Knox-Hertzberg does not confer a role upon LAFCO to select future water supply projects. Any effort to do so is an ultra vires act, contrary to law.

Second, LAFCO’s Resolution No. 2022-01 erroneously relies on a questionable assertion related to “Timely availability of water supplies adequate for projected needs as specified in Government Code section 65352.5”³¹ Section 3 of the Resolution states: “Among other approved and proposed projects, the District, Monterey One Water, and Cal-Am are working to develop a replacement water supply known as the Pure Water Monterey (PWM) Expansion project, which would include several water sources from the Salinas Valley.” LAFCO provided no evidence to support this statement as true; in fact, it is false. This does not constitute substantial evidence and ***this error should be corrected.***

The Resolution also states “the Commission finds that the District's proposal, as well as the evidence in the record, does not adequately establish that the District's current efforts to expand the Peninsula area's water supply will be sufficient to meet current and future needs,³² especially in times of drought, and to do so without utilizing water from the Salinas Valley.” Again, LAFCO has provided no evidence that additional Salinas Valley water will be used for

²⁹ From “Partial Transcription of LAFCO Commission Meeting” December 6, 2021 by Cypress Court Reporting, included as Appendix A hereto, beginning page 4, line 13

³⁰ From “Partial Transcription of LAFCO Commission Meeting” December 6, 2021 by Cypress Court Reporting, included as Appendix A hereto, beginning page 7, line 13

³¹ LAFCO Resolution No. 2022-01, page 7

³² This statement also contradicts LAFCO’s own findings in Resolution 2021-10 Sections 4 and 5, and Resolution 2021-11 Section 3 (see Appendix S and Appendix T, hereto.)

expansion. This statement is another example where LAFCO’s decision exceeds the legal scope of Cortese-Knox-Hertzberg by addressing selection of future water supply projects, contrary to any authority of law. Further, the conclusion reached is false.

As shown in Appendix K, the Pure Water Monterey Supplemental Environmental Impact Report (SEIR) “Source Water Operational Plan Technical Memorandum”, Monterey One Water (M1W) already has water rights to secondary effluent prescribed by California Water Code section 1210 and rights to other sources committed to in the Amended and Restated Water Recycling Agreement (November 3, 2015, as amended in June 2019, referred to here as the ARWRA). Volumes of wastewater flowing into the primary and secondary treatment processes that would be available to use as influent to the Pure Water Monterey and its expansion include municipal wastewater to which M1W and Marina Coast Water District (MCWD) have contractual rights and the “new source waters” as agreed to and described in the ARWRA are subject to pre-existing legal agreement. The source waters for PWM and PWM Expansion are shown below:

Priority	Source Water	Quantity of Water Available to M1W in a Typical Year (Acre Feet per Year)
1	Secondary Effluent to Ocean Outfall	5,811
2	Reclamation Ditch	808
3	Blanco Drain	2,620
4	AWW**	3,099
5	Recycle Sump #1*	41
6	Recycle Sump #2*	104
7	Approved PWM Project and MCWD AWWP Backwashes*	290
8	Proposed Modifications AWWP Backwashes (only available for Modifications) *	152
9	SVRP Backwash*	515
10	Boronda*	95
11	Farmworker Housing*	18
12	M1W’s ARWRA Summer Water (ARWRA Section IV 4.01 1(d))	650
13	SRDF Screening ***	95
14	Salinas IWTF Pond System ***	150
	Total Available for M1W (without AWW, SRDF & Salinas IWTF Pond)	11,104
<p><i>Values shown are for 2018. Drought year (2015) values are provided in the attachments. *Those source water marked with * are assumed available ½ for M1W to meet the AWWP influent needs for Seaside Groundwater Basin injections and ½ for SVRP influent for CSIP. The values shown above are the M1W portion of the water source. **AWW is only available if conditions precedent are met and are assumed to not be available for the Proposed Modifications for the purpose of this analysis. ***SRDF Screening and Salinas IWTF Pond System waters are assumed to not be available.</i></p>		

Sources 1-3 are already contractually committed to PWM and Sources 4, 13, and 14 were assumed to be unavailable for purposes of PWM Expansion in the SEIR. Sources 10 and 11 are wastewater that flows to the M1W treatment plant. ***Therefore, there are NO new source waters from the Salinas Valley for PWM Expansion. The assertion was wrong and should be corrected.***

The report discussed above in Appendix K is complementary to the Perkins Coie Report “Water Rights Analysis for Proposed Modification to the Pure Water Monterey Groundwater Replenishment Project” included in the SEIR and attached to this Application for Reconsideration as Appendix L. That report concluded:

- M1W, MCWD, and MCWRA all have secured rights to use water from the M1W's collection and treatment system.
- M1W has secured rights to divert and use Agricultural Wash Water (AWW) for recycling and delivery to customers, including SVRP treatment then distribution to Castroville for irrigation plus PWM treatment then injection to the Seaside Groundwater Basin (Agreement for Conveyance and Treatment of Industrial Waste Water By and Between the City of Salinas and the Monterey Regional Water Pollution Control Agency, dated Oct. 27, 2015).
- M1W needs a contract with the City of Salinas to acquire rights to divert, and treat for reuse, the City of Salinas storm water as enabled by M1W's Salinas Storm Water Projects. Prior agreements could be amended to allow M1W AWW to recycle flows through the SVRP and AWPf from Pond 3 at the City's IWTF to the Regional Treatment Plant (RTP) as enabled by the Salinas Storm Water Phase 1B Project. However, these sources are not necessary for PWM expansion.
- M1W and MCWRA have rights to Reclamation Ditch and Blanco Drain waters through two relevant SWRCB permits and the ARWRA, as amended. According to the ARWRA Section XVI, 16.16, if conditions precedent in Section XVI, 16.15 are not satisfied, M1W would retain the right to divert and use these waters and AWW would be available for MCWRA to use.

LAFCO conflates the purpose of this "approval factor" which applies to annexations and development, and not activation of latent powers. Further, water supply on the Peninsula must be resolved before any acquisition is finalized. The District has stated it is compelled to acquire whatever water supply Cal-Am has developed. Thus, any new sources of water supply would occur regardless of whether the District activates its latent powers or acquires Cal-Am's system. Hence, this factor, as presented in the Resolution is irrelevant to the activation of latent powers.

Section 6: Commissioner Statements of December 6, 2021 are not Supported by Findings and Vice Versa

Transcripts³³ of the LAFCO meetings of December 6, 2021 and January 5, 2022 show:

- No findings in Resolution 2022-01 support Commissioner Gourley's motion to dismiss.
- There are findings in Resolution 2022-01 for which no discussion was had on December 6, 2021.

The full text of Commissioner Gourley's December 6, 2021 statement follows:

"Good evening. 15 years ago I was president of AMBAG, and the reason the peninsula,

³³ New information not previously available.

the Water Management District, shut down moving forward with the desal 15 years ago was a cumulative look at all the desals that were planned on the peninsula, which was the most ridiculous thing, taking a look at them cumulatively.

But, of course, it -- it hasn't even moved forward.

I think the reason Cal Water -- Cal-Am has not moved forward with desal is the public. And, had they been carte blanche, given authority to move forward on it, I think -- I think it would have happened by now.

And, no, I'm definitely from a private sector, not the public sector. I don't think the government can run anything efficiently, and I think we've seen that. So I think keeping it -- keeping it where it's at, I don't think that it's been proven to me.”³⁴

Direction provided to LAFCO General Counsel and staff at the December 6, 2021 hearing by LAFCO Chair was to develop findings that support the comments made in favor of denial:

“COMMISSIONER ROOT ASKEW: Yeah. I'm just --can you explain or could we have county counsel or Miss McKenna explain what the conditions of denial are that we're voting on right now. I'm unclear what the --what the rationale for denial would be.

CHAIR LOPEZ: The conditions are coming back in January, I believe, was the amended motion from Matt.

COMMISSIONER ROOT ASKEW: Well, what are those conditions that are coming back in January?

MS. KELLY DONLON: If anything, I would recommend that you continue the item to January 5th, in which time staff can work on a resolution that can be put before the Commission, given the comments made tonight in support of the denial of the latent power item.

CHAIR LOPEZ: Matt, that's --that's in your direction given your active motion on the floor.

COMMISSIONER GOURLEY: We have an item that's been put before the Commission this evening, and the item was put before us to vote on yay or nay. I'm choosing to vote nay on staff's recommendation excluding not including the annexation and the new resolution that puts in forth our -- my -- my motion will be brought back before us the first part of January. That's just going to clarify what the motion is that we're voting on this evening.”³⁵

³⁴ From “Partial Transcription of LAFCO Commission Meeting” December 6, 2021 by Cypress Court Reporting, included as Appendix A hereto, beginning page 10, line 12

³⁵ From “Partial Transcription of LAFCO Commission Meeting” December 6, 2021 by Cypress Court Reporting, included as Appendix A hereto, beginning page 28, line 9

Nowhere in Resolution 2022-01 is a finding to support Commissioner Gourley's lack of faith in the public sector. This is vital as it formed the foundational reason in support of his motion to dismiss activation of latent powers.

Conversely, Section 2 of Resolution 2022-01 regarding Gov. Code 56668(n) provides in-depth description in its findings where "comments made by those in opposition to the proposal raised significant concerns"³⁶ and cited 29 letters or emails, several from the same authors. Oddly, nowhere in the Commissioner's December 6, 2021 discussion of the motion to dismiss were any information or comments from the landowner or owners, voters, or residents of the affected territory cited as factors for dismissal.

Section 7: Commissioner Statements of December 6, 2021 Violate Gov. Code Sec. 56331.4

The December 6, 2021 transcript³⁷ shows:

- Several Commissioners acted on behalf of their own limited interests, rather than on behalf of the public as a whole; and
- Such action is contrary to the independent judgment requirement for Commission members set by Gov. Code 56331.4

The Cortese-Knox-Hertzberg Act states: "While serving on the commission, all commission members shall exercise their independent judgment on behalf of the interests of residents, property owners, and the public as a whole in furthering the purposes of this division. *Any member appointed on behalf of local governments shall represent the interests of the public as a whole and not solely the interests of the appointing authority.*"³⁸

The "appointing authority" for Commissioners Lopez and Root-Askew is the board of supervisors.

The appointing authority for Commissioners Oglesby and Craig is the city selection committee organized in the county pursuant to and in the manner provided in Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1.

The appointing authority for Commissioners Leffel and Poitras is the independent special district selection committee consisting of the presiding officer of the legislative body of each independent special district.

As rationale to support the December 6, 2021 vote to dismiss the District's application to activate its latent powers four Commissioners stated the following:³⁹

³⁶ LAFCO Resolution 2022-01, Section 2, discussion of GC 56668(n), page 8

³⁷ New information not previously available.

³⁸ "Guide to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000", Prepared by Assembly Committee on Local Government, Honorable Cecilia M. Aguiar-Curry, Chair, December 2021, page 43

³⁹ From "Partial Transcription of LAFCO Commission Meeting" December 6, 2021 by Cypress Court Reporting, included as Appendix A hereto

Commissioner Lopez:

“And I need to know what the impacts are to those districts outside of this particular district that's being taken over. For me, it's -- it's these other commitments that have been made over time that leave me questioning what the long run's going to look like for them.”⁴⁰

“And I get that I'm the guy who represents Chualar. I fought for Chualar... And I am not comfortable with where we are today in terms of supporting this moving forward without knowing that that community has its interest taken care of in terms of this conversation.”⁴¹

“Well, I, obviously -- my -- my position has not changed. I heard a lot of opinions about votes and percentages and numbers. But it's -- you know, I -- the time and the effort was not spent in solving the issue for those satellite communities, and so, for that reason, my position has not changed. I hear folks saying that folks voted, but Chualar was not given that opportunity.”⁴²

Commissioner Craig:

“In the Salinas Valley, the water used in the Salinas Valley is absolutely part of this discussion.”⁴³

“And so there is quite a bit of discussion over whether or not that water comes from the Salinas Valley. And, at that point, bringing it back to this decision today, I'm not prepared to move forward with staff recommendation.”⁴⁴

Commissioner Poitras:

“I'm a representative of special districts on LAFCO, and there are several of them that are pending or have the potential to lose a great deal of money. The district I represent, personally, is Monterey County Regional Fire District. They are slated to lose \$140,000 per year if this goes through. That is a considerable concern to me. As it was expressed by our chief earlier, that represents a firefighter.

And we can't afford to lose a frontline firefighter as a result of this.

And so I'm not prepared to move forward on it without guarantees. And so I'd have to

⁴⁰ Ibid pp 2-3

⁴¹ Ibid pp3-4

⁴² From “Partial Transcription of Special Commission Meeting” January 5, 2022 by Cypress Court Reporting, included as Appendix B hereto, beginning at page 50, line 15

⁴³ From “Partial Transcription of LAFCO Commission Meeting” December 6, 2021 by Cypress Court Reporting, included as Appendix A hereto, beginning page 4, line 14

⁴⁴ Ibid page 5

vote no if it comes up today.”⁴⁵

Commissioner Leffel:

“I, like Commissioner Poitras, represent the special districts on this Commission.

And it seems like a lot of these what-ifs, maybes, might be, could be, all of these speculative things, maybe someone should have sat down and really dug into them and tried to find solutions. But I don't believe the solutions are there.

And I -- it's just -- there are too many questions. I would really ask the Water District to really take a good look at what it's got and come back with some good answers. But I -- I can't support this tonight.”⁴⁶

In each of these four cases, the Commissioner in question either did not exercise their independent judgment on behalf of the interests of residents, property owners, and *the public as a whole*, or voted solely for the benefit of interests of the appointing authority – clearly contravening Gov. Code 56331.4. An overwhelming number of comment letters received by LAFCO were clearly in favor of activation of the District’s latent powers in support of will expressed by voters in 2018 Measure J election. This is substantial evidence representative of the interests of the public as a whole, and contradicts the unsupported reasons cited for a “no vote” by the four identified Commissioners.

Section 8: Proposed District Resolution 2022-XX

The District proposes that it adopt a new resolution at its February Board meeting, Resolution 2022-XX attached as Appendix M, which identifies the following facts:

- The continuing commitment to enter into tax sharing agreements;
- The continuing commitment to require equitable treatment of the satellite systems;
- The continuing commitment to work with Marina Coast Water District to avoid duplication of services;
- The continuing commitment to secure a viable permanent water supply, without new commitments of Salinas Valley water; and
- The continuing willingness to discuss and negotiate outcomes satisfactory to LAFCO.

Please see Appendix M which is a draft of District Resolution 2022-XX.

(End of District Statement of Justification for Reconsideration)

⁴⁵ Ibid pp 5-6

⁴⁶ Ibid pp 6-7

Appendix A

ORIGINAL

December 06, 2021

PARTIAL TRANSCRIPTION OF: LAFCO COMMISSION MEETING



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PARTIAL TRANSCRIPTION OF:
LAFCO OF MONTEREY COUNTY
LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY
REGULAR COMMISSION MEETING
DATED: DECEMBER 6, 2021
(Time transcribed 3:09:50 through 3:48:10)

- LAFCO COMMISSIONERS:
- | | |
|-----------------------------|---------------|
| CHRIS LOPEZ, CHAIR | KIMBLEY CRAIG |
| MARY ANN LEFFEL, VICE CHAIR | IAN OGLESBY |
| WARREN E. POITRAS | MATT GOURLEY |
- ALTERNATE LAFCO COMMISSIONERS:
- | | |
|-------------------|------------------|
| ANNA VELAZQUEZ | WENDY ROOT ASKEW |
| GRAIG R. STEPHENS | |

Transcribed by: Lisa A. Meeske
CSR Number 10617

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CHAIR LOPEZ: Seeing no additional hands up, we will close public comment and bring it back.

And, with that, we are back with the Commission.

And, at this point, I want to see if there's any questions from commissioners to either our staff or any of the presenters.

Okay. Then, before us, we have a decision to make.

I'm happy to open up the floor and see if anybody wishes to share comments to start us off.

Okay. Happy to start off.

I know this is a tough decision for everybody. For me, there's still questions that I need answered. I'm not comfortable moving forward today.

And I have spoken with several folks on every side of this issue, but I still have questions about the impact to my community, specifically, the community of Chualar.

And I don't feel comfortable in the opinions that have been shared so far that it's guaranteed that their rates won't go up.

And I need to know what the impacts are to those districts outside of this particular district that's being taken over. For me, it's -- it's these other commitments

1 that have been made over time that leave me questioning
2 what the long run's going to look like for them.

3 And I ran on equity. It's not a new word in
4 my -- in my language box. It's something that I've kept
5 at the forefront of every decision that I make.

6 And I have questions. And I've heard from so
7 many folks, you know, regardless of where you are, please,
8 make a decision this time. Just give us a decision. Let
9 us go forward one way or another.

10 And so I'm at that point today where I'm not --
11 you know, in terms of what's in front of us, I have too
12 many questions outstanding to prove today, and that's
13 where I'm sitting.

14 But, again, it's up to the full Commission. I'm
15 one vote.

16 And I get that I'm the guy who represents
17 Chualar. I fought for Chualar. I've sandbagged Chualar;
18 sandbagged, quite literally, not in the other sense. I've
19 been out there on rainy nights with some of the
20 firefighters from Monterey County Regional sandbagging
21 homes to keep those folks out of harm's way.

22 And this is what I was elected to do was ask
23 tough questions. And I'm not comfortable with where we
24 are today in terms of supporting this moving forward
25 without knowing that that community has its interest taken

1 care of in terms of this conversation.

2 VICE CHAIR LEFFEL: Yes. This is Mary Ann.

3 Oh, sorry, Kimbley. Go ahead.

4 COMMISSIONER CRAIG: Through the Chair, if I
5 may?

6 CHAIR LOPEZ: Please.

7 COMMISSIONER CRAIG: Okay. You know, so I
8 appreciate your comments, Chair Lopez.

9 I have to say Eric Tyden's (phonetic) words
10 resonated with me, certainly representing the largest city
11 within the county.

12 I certainly am very well aware that Cal-Am is
13 not our service area; however, what we are talking about
14 is water. In the Salinas Valley, the water used in the
15 Salinas Valley is absolutely part of this discussion.

16 I do have concerns. I, like you, Chair Lopez, I
17 have concerns of the \$75 million in lost revenue over
18 smaller agencies. I have concerns on the \$700 million in
19 the eminent domain process.

20 And, like you, I understand, you know, that we
21 are being pressed to make a decision today, and I'm not
22 comfortable moving forward with the staff recommendation.

23 And so, just to be very direct about it, you
24 know, I know people have danced around the water subject
25 for decades, quite literally decades, and it's clear to me

1 that the peninsula needs desal. It's clear to me that
2 peninsula doesn't want desal.

3 And so there is quite a bit of discussion over
4 whether or not that water comes from the Salinas Valley.

5 And, at that point, bringing it back to this
6 decision today, I'm not prepared to move forward with
7 staff recommendation.

8 Thank you.

9 CHAIR LOPEZ: Thank you, Kimbley.

10 We'll go to Pete. I see your hand up next.

11 You're muted, Pete. Sorry.

12 COMMISSIONER POITRAS: Sorry about that.

13 I'm a representative of special districts on
14 LAFCO, and there are several of them that are pending or
15 have the potential to lose a great deal of money.

16 The district I represent, personally, is
17 Monterey County Regional Fire District. They are slated
18 to lose \$140,000 per year if this goes through. That is a
19 considerable concern to me. As it was expressed by our
20 chief earlier, that represents a firefighter.

21 And there are other special districts and school
22 districts, none of whom have received any kind of
23 guarantee that they're going to be made whole as a part of
24 this.

25 Now, it is true that the Water Management

1 District sent us a letter, which arrived around 11:00 a.m.
2 on Friday, last Friday, and we've just now, and today,
3 gotten it to our attorneys. So, perhaps, those
4 negotiations could be ongoing.

5 But, at this point, there seems to be nothing in
6 stone. We're all taking it on good faith that we'll be
7 made whole.

8 And we can't afford to lose a frontline
9 firefighter as a result of this.

10 And so I'm not prepared to move forward on it
11 without guarantees. And so I'd have to vote no if it
12 comes up today.

13 Thank you.

14 CHAIR LOPEZ: Thank you, Pete.

15 Mary Ann, you're up.

16 VICE CHAIR LEFFEL: Thank you.

17 I, like Commissioner Poitras, represent the
18 special districts on this Commission.

19 And it's -- you know, it's a little bit like
20 robbing Peter to pay Paul. You say you are going to save
21 so much money on this district, but, meanwhile, all the
22 other districts give it up to save that money. And that
23 money still comes back to the citizens that are within the
24 District.

25 So, for me, it's -- we had an incomplete

1 application in February. So we've gotten to how many
2 months to get to now? Ten months.

3 And it seems like a lot of these what-ifs,
4 maybes, might be, could be, all of these speculative
5 things, maybe someone should have sat down and really dug
6 into them and tried to find solutions. But I don't
7 believe the solutions are there.

8 And I do not believe that, in good faith, I can
9 take from one part of my community just to make another
10 part of the community happy. I don't think that that
11 works.

12 I also believe there's -- if -- if you look at
13 it long term, there are a whole lot of issues with
14 feasibility, not only just with the financial, but also
15 with water sources and with how we're going to go forward
16 with this.

17 And I -- it's just -- there are too many
18 questions.

19 I would really ask the Water District to really
20 take a good look at what it's got and come back with some
21 good answers.

22 But I -- I can't support this tonight.

23 CHAIR LOPEZ: Thank you, Mary Ann.

24 Wendy.

25 COMMISSIONER ROOT ASKEW: Yeah, thank you.

1 So I'm going to deviate from some of the
2 comments that have been made.

3 I think that our staff has done exceptionally
4 good work, professional work. Our consultants have done
5 fantastic work. We've studied this issue deeply. And --
6 I want to recognize that the staff recommendation we have
7 tonight and that has been presented is good. It's a good
8 recommendation from staff.

9 I share the concerns that are being talked about
10 in regards to property tax impacts of moving forward;
11 however, the resolution of those issues is clearly
12 included as a condition of approval.

13 With all due respect to my colleagues who have
14 concerns, the approval process includes clear conditions
15 that must be resolved before LAFCO can issue the
16 certificate of completion. The opportunity for our
17 concerns to be addressed is through the conditions of
18 approval. This is a long process.

19 The District needs this -- this action on our
20 part so that they can move forward to find resolution to
21 the concerns in question that you're holding today.

22 The conditional approval is necessary so that we
23 can collectively move forward to identify and -- and have
24 community support for viable water solutions. We
25 desperately need additional water supply for affordable

1 to take this action tonight, we will find ourselves in
2 litigation with the Water Management District without any
3 justifiable defense.

4 So I urge my colleagues to think clearly about:
5 What are your concerns? What are your questions? Let's
6 get those included in as conditions of approval. And
7 let's move this forward tonight so that the entire
8 peninsula can move forward when it comes to our water
9 discussions.

10 CHAIR LOPEZ: Thank you, Wendy.

11 We'll go to Matt next.

12 COMMISSIONER GOURLEY: Good evening.

13 15 years ago I was president of AMBAG, and the
14 reason the peninsula, the Water Management District, shut
15 down moving forward with the desal 15 years ago was a
16 cumulative look at all the desals that were planned on the
17 peninsula, which was the most ridiculous thing, taking a
18 look at them cumulatively.

19 But, of course, it -- it hasn't even moved
20 forward.

21 So I think the reason Cal Water -- Cal-Am has
22 not moved forward with desal is the public. And, had they
23 been carte blanche, given authority to move forward on it,
24 I think -- I think it would have happened by now.

25 And, no, I'm definitely from a private sector,

1 not the public sector. I don't think the government can
2 run anything efficiently, and I think we've seen that.

3 So I think keeping it -- keeping it where it's
4 at, I don't think that it's been proven to me.

5 And the what-ifs, especially hearing from
6 Chief Urquides earlier about not knowing what his funding
7 mechanism is on moving forward, just scares the hell out
8 of me.

9 So I -- I would like to put a motion out there
10 right now to not move forward and not move forward with
11 staff's recommendation.

12 So I move that.

13 COMMISSIONER CRAIG: I'll second that. Craig.

14 CHAIR LOPEZ: We've got a motion and a second.

15 But I still haven't heard from Ian. Ian, we'll
16 go ahead and open it up.

17 COMMISSIONER OGLESBY: Yeah, I thank the Chair.

18 I want to start off by saying it's disappointing
19 to hear what my colleagues are saying, because you all
20 have a right to say it, and I'm listening to you clearly.

21 But I think we're judging this on the wrong
22 criteria, and the criteria that should be judged on is: A
23 special district within LAFCO is asking for us to approve
24 a simple application about their latent powers with
25 conditions that, if they don't make -- make these

1 to evaluate numerous complaints and concerns that, I
2 think, you guys have rightly.

3 The largest concern being the finisco
4 feasibility -- financial feasibility of aggravating the
5 District latent powers.

6 As you know, this draft study, as done by staff
7 for the Board, it's our study. Everything in this study,
8 the stuff that you guys reading, is ours. It's the
9 Board's.

10 The study lists substantial evidence in support
11 of a yes-vote. It is clear the District can provide and
12 maintain potable water production and distribution service
13 for retail customers, per the Cortese-Knox-Hertzberg Act.

14 The study includes findings from additional,
15 independent third-party consultant, the Berkson report. I
16 think we heard it tonight. This review states, in part,
17 "The rev fellas report provides a reasonable basis for
18 LAFCO to determine that the Water District proposal will
19 have sufficient revenues throughout uncertainty; although,
20 there remain uncertainties." ^

21 And Mr. Berkson stated that he stands by his
22 report again.

23 Therefore, there's little in this study, our
24 study, to support findings that the District could not
25 provide, maintain potable water production and

1 distribution services for retail customers, which is our
2 test. That's the LAFCO's test.

3 Providing money for the special district is not
4 the test. But you have a right to -- you have a right to
5 hold your vote for that.

6 I'm just saying I don't know how the District,
7 actually, gives you a certified signature stating that
8 that will happen before you give them approval to move
9 forward.

10 The study should be used today to approve, or it
11 will be used in a court of law in the future.

12 A no-vote would only result, in my opinion, as
13 far as the Water District is concerned, they almost will
14 be required to file a lawsuit.

15 LAFCO not -- cannot sustain a lawsuit where the
16 Water District must fight to the end, even to the supreme
17 court, state supreme court, just to be able to negotiate
18 with Cal-Am, knowing Cal-Am is not for sale.

19 In short, to negotiate with Cal-Am, they must
20 have the Court's approval or ours. But, to get to Cal-Am,
21 they got to go through us. And I don't think LAFCO has
22 the money in our budget to sustain that type of lawsuit.

23 The question is really: Is it in LAFCO's best
24 interest to place ourselves in front of these two titans,
25 Cal-Am with its money, and the Water District with its

1 right to eminent domain?

2 In my opinion, using only this comprehensive
3 draft study, a judge or a jury would be very comfortable
4 declaring or deciding in the District's favor that LAFCO's
5 Boards disregarded the facts as they were set out in front
6 of us in our own draft study.

7 A conditional approval is supported by the
8 District application, staff review, and the facts in our
9 own study.

10 I believe the only legally-defensible position
11 for me is to vote to approve in accordance with the
12 Cortese-Knox-Hertzberg Act.

13 This application meets the approval and the
14 requirements to move forward tonight.

15 Now, I understand its members that have concerns
16 and questions, and, hopefully, we can move forward and
17 engage the District to have further discussions.

18 But, if it's just a hard, fast rule that it has
19 to be some signed document, then we know where we're going
20 to end up at. And I need to just be on the record.

21 So, when we meet again, the Board, we can look
22 each other in the eye, and we can agree this is why we're
23 here talking about things we will be talking about in the
24 future.

25 But I definitely respect each one of your points

1 of view. And I know you guys take these things to heart,
2 and you're making the best decision that you can for the
3 people that you feel you represent.

4 I'm here as a representative of small cities,
5 and I know, when small cities come up, or cities, period,
6 come before LAFCO, and they talk about they want to
7 increase their sphere of influence, there's no difference.
8 A simple application, if they meet the application, then
9 we should approve it.

10 Getting into the weeds about how much that
11 Cal-Am costs, people talking about \$700 million. Where'd
12 that come from? We don't have no proof that Cal-Am costs
13 that much.

14 And so thank you so much, Chair. You've done --
15 you've done this well. You led us through this, and I
16 appreciate your leadership.

17 CHAIR LOPEZ: Thank you, Ian.

18 Matt, your hand is still up. Did you have
19 another comment?

20 COMMISSIONER GOURLEY: Yeah. I just wanted to
21 clarify my motion was to -- to reject all of staff's
22 recommendations in the motion.

23 CHAIR LOPEZ: Thank you, Matt.

24 I see a hand up from Alternate Anna Velazquez,
25 Mayor Velazquez, Commissioner Velazquez, all the titles.

1 Floor is yours.

2 ALTERNATE COMMISSIONER VELAZQUEZ: Thank you,
3 Chair, and thank you for -- for everybody's comments.

4 And I know this has been a long process, and,
5 obviously, this has been a battle that's been going --
6 going on for years.

7 So I just want to state my opinion. Although,
8 I'm an alternate, and I don't have a vote on this, I just
9 want to make it clear in terms of my position, especially
10 representing the south county communities.

11 But I support to move forward with the staff
12 recommendations based on what was provided by -- by staff
13 and all the different studies provided by Mr. BESHG son.

14 I know that there's been a lengthy discussion on
15 the different issues that have been discussed in terms of
16 impacts. And I know that we had discussed about providing
17 additional independent studies on the financial
18 feasibility. And the independent study -- the independent
19 study report was provided.

20 And, as we heard tonight from Mr. Berkson, that
21 there was no additional information that was provided
22 today that would change his mind in terms of what was his
23 determination in terms of financial feasibility.

24 Also, you know, I agree with some of my other
25 colleagues in regards to that we have an application

1 before us that has recommendations, and those
2 recommendations are clearly stated that this project,
3 if -- if not feasible, then will not be moving forward.

4 And I think it's really important, especially in
5 terms of some of the water supply solutions that we talked
6 about -- that were talked about today and affordable
7 housing needs.

8 I know for me -- and I'll speak on behalf of the
9 south county communities. I know that our south county
10 communities have been developing the majority of the
11 housing that's needed for our county, and there's been --
12 there's been issues in terms of the peninsula developing
13 housing because of the water supply issues.

14 So I think it's about time that we resolve this
15 water supply issue and start looking at how all of the
16 counties, when we talk about equity, all parts of the
17 cities really come to play into this affordable housing
18 for our communities.

19 For me, I'm -- I'm comfortable with the
20 conditions that were provided by our counsel, in terms of
21 looking at the application, the conditions for approval,
22 and move -- moving forward with that.

23 I also have, you know -- will pose a question to
24 our fellow Commissioners is: If there is additional
25 information needed, then how do we move forward to gather

1 that information? If there's additional conditional
2 approvals that are required, then how do we move forward
3 to be able to say these are the conditions that we need
4 before we move forward? And here's what -- what's going
5 to be provided and that we come back and that there is an
6 opportunity to finally conclude with what the
7 recommendation is going to be.

8 Thank you -- thank you, Chair. Those are my
9 comments.

10 CHAIR LOPEZ: Thank you. We'll go to Kate next.
11 Kate, I see your hand up.

12 MS. KATE MCKENNA: Yes, thank you Chair, Chair
13 Lopez.

14 The -- a couple of procedural questions for the
15 Commission and suggestions.

16 One is that your staff would appreciate
17 direction on the proposed sphere of influence annexation
18 item. I believe Commissioner Gourley's proposed motion to
19 be to deny that aspect of the District's proposal, as well
20 as denial of the latent powers activation, but I would
21 like clarification on that.

22 And the second point of procedure is, if -- if a
23 majority of your Commission chooses to recommend denial of
24 this matter, we would be coming back to you with -- we
25 would suggest that you include, as part of your motion,

1 that your staff come back to you at your next special
2 meeting on January 5th with a draft resolution that would
3 document the denial findings and determinations that
4 you're making tonight.

5 And I guess one last point of procedure raised,
6 actually, by Commissioner Velazquez.

7 If the Commission believes that a continuance is
8 warranted in order to tackle some of these outstanding
9 issues and address them, potentially, as additional
10 conditions of approval, then we would recommend that that
11 item be continued to -- probably to your next regular
12 meeting, which would be on January 24th.

13 Thank you.

14 CHAIR LOPEZ: Thank you, Kate.

15 I do see -- before I go back to Matt, I do see a
16 hand up still from Anna, and I want to make sure it's not
17 a new hand.

18 ALTERNATE COMMISSIONER VELAZQUEZ: Sorry, Chair.
19 I forgot to lower my hand. I'll do that now.

20 CHAIR LOPEZ: Okay. Thank you.

21 Then we'll go back to you, Matt, on the
22 suggestions from staff.

23 COMMISSIONER GOURLEY: Yeah, I'm sorry.

24 If we could adjust my motion to not include the
25 annexation and to bring back the first of January the

1 resolution for the majority if this resolu- -- if my
2 motion passes.

3 CHAIR LOPEZ: So, clarifying, we're -- we're
4 directing staff to come back at the next meeting with --
5 with the necessary documentation.

6 Is that what I heard, Kate?

7 COMMISSIONER GOURLEY: Yes, sir, along with
8 letting the annexation move forward.

9 CHAIR LOPEZ: Is that clear, Kate?

10 MS. KATE MCKENNA: Yes, it is.

11 I believe then that the Commission would be
12 approving the annexation sphere of influence resolution
13 tonight that's part of your staff packet and directing
14 staff to come back on January 5th with a new resolution
15 containing the necessary rationale and determinations for
16 denial of the latent powers activation.

17 CHAIR LOPEZ: You good with that, Matt?

18 COMMISSIONER GOURLEY: Yeah.

19 CHAIR LOPEZ: Okay. I heard a yes there; got
20 cut off a little bit.

21 But does the second stand?

22 COMMISSIONER CRAIG: Second stands. Thank you.
23 Craig.

24 CHAIR LOPEZ: Okay. Thank you.

25 So we've got a motion to second.

1 I did see some new hands. I'm going to go to
2 Mary Ann, and I think Greg was trying to raise his hand,
3 so we'll go there next.

4 VICE CHAIR LEFFEL: I have a question, actually,
5 for one of our attorneys.

6 And how did this impact timing, and how does it
7 impact just the general moving forward?

8 MS. KELLY DONLON: What do you mean by "timing,"
9 specifically?

10 VICE CHAIR LEFFEL: Well, we did have a time
11 limit of when we made a decision or not. So are we still
12 within our --

13 COMMISSIONER CRAIG: See if --

14 VICE CHAIR LEFFEL: -- our rights?

15 MS. KELLY DONLON: Yeah. I believe, if -- and
16 you're talking about the latent power item?

17 VICE CHAIR LEFFEL: Yes.

18 MS. KELLY DONLON: If we return on the 5th, yes,
19 we'll be fine in that regard.

20 And what was your second question? I'm sorry.
21 Or did it get answered?

22 VICE CHAIR LEFFEL: No.

23 You're, obviously, setting, and I haven't heard
24 any comments of what we're doing. And I'm just asking you
25 to weigh in here if we're going down a path we shouldn't.

1 MS. KELLY DONLON: No.

2 What we're hearing in the motion on the floor is
3 that the annexation resolution would be approved tonight,
4 and then we would come back on January 5th with the
5 appropriate resolution for you to approve denying the
6 latent power proposal.

7 VICE CHAIR LEFFEL: Okay. Thank you for
8 clarification.

9 CHAIR LOPEZ: Thank you, Mary Ann.

10 I'm going to go to Graig next. I know he's been
11 having trouble raising his hand, so. . . .

12 ALTERNATE COMMISSIONER STEPHENS: Yes. Thank
13 you very much.

14 I would just like the Commission to consider
15 Kate's suggestion that we allow her time to work with
16 the -- the District to see if we can resolve some of the
17 issues that you all have brought up, which I happen to
18 share, and then to make sure that we have the legal
19 standing or legal coverage so that -- that we can protect
20 us from lawsuit and check with that.

21 So that would be my concern is maybe we can
22 delay this and see if Kate can meet with the District and
23 resolve some of the issues that you all have raised.

24 CHAIR LOPEZ: Thank you, Graig. We appreciate
25 that.

1 I'm going to go back to you Wendy.

2 COMMISSIONER ROOT ASKEW: Thank you.

3 I'd like to make a substitute motion to accept
4 the staff recommendation with an additional condition that
5 I'd ask county counsel to draft that addresses your
6 concerns, Supervisor Lopez, about the satellite water
7 district issue so that you can get your concerns
8 addressed, and we can still move forward.

9 COMMISSIONER OGLESBY: I move to second.

10 CHAIR LOPEZ: And there's a substitute motion
11 and second.

12 Ian, was there additional comments with your
13 hand up?

14 COMMISSIONER OGLESBY: Yeah, if you could,
15 Chair.

16 I was just trying to get clarification as it
17 relates to the original motion.

18 What -- what are the findings we're looking for?
19 Because I didn't hear them, and some of them, as far as
20 I'm concerned, is illegal to be putting down in a
21 document; right?

22 So what are the findings that Matt want us to
23 take?

24 And then, if -- if the original motion passed,
25 is the District and the special district or people with

1 next meeting to go forward or not go forward, is the
2 District able to negotiate those things? That was my real
3 concern.

4 CHAIR LOPEZ: Kate or Kelly?

5 MS. KATE MCKENNA: Well, with -- Chair Lopez,
6 Members of the Commission, with respect to the -- the
7 proposed agreement that Chief Urquides referenced, it has
8 been received. As he mentioned by his -- by his office,
9 it's under review by his counsel, has yet to be considered
10 by his board of directors.

11 But, as to whether or not they would continue to
12 discuss that draft agreement in this next month, I don't
13 know.

14 MS. KELLY DONLON: I agree.

15 If the Commission stands with its decision to
16 deny approval of the latent power, and we return in early
17 January, I don't know -- that would be up to the District
18 what they want to do as far as those potential agreements.

19 CHAIR LOPEZ: Okay. So any additional comments,
20 Ian?

21 I just want to make sure we got all your --

22 COMMISSIONER OGLESBY: No. I'm sorry, Chair.
23 Take it down.

24 CHAIR LOPEZ: Okay. No problem.

25 So, at this point, we do have a substitute

1 motion. Again, in terms of process, substitute motion
2 goes first in terms of order -- order of the vote.

3 And so, at this point, we will take up and ask
4 Safarina to take us through a rollcall vote on the
5 substitute motion. Again, not the initial motion by Matt.
6 It was a substitute motion by Wendy.

7 So, with that, Safarina.

8 COMMISSIONER ROOT ASKEW: And I just want to
9 be -- restate the motion to be very clear for everyone
10 that I'm moving staff's recommendation to approve latent
11 powers with the conditions listed and an additional
12 condition that addresses the concerns about satellite
13 water districts.

14 MS. SAFARINA MALUKI: And I'll start with
15 Commissioner Root Askew.

16 COMMISSIONER ROOT ASKEW: Aye.

17 MS. SAFARINA MALUKI: Commissioner Craig?

18 COMMISSIONER CRAIG: No.

19 MS. SAFARINA MALUKI: Commissioner Gourley?

20 COMMISSIONER GOURLEY: Nay.

21 MS. SAFARINA MALUKI: Commissioner Oglesby?

22 COMMISSIONER OGLESBY: Aye.

23 MS. SAFARINA MALUKI: Commissioner Poitras?

24 COMMISSIONER POITRAS: No.

25 MS. SAFARINA MALUKI: Vice Chair Leffel?

1 VICE CHAIR LEFFEL: No.

2 MS. SAFARINA MALUKI: And Chair Lopez?

3 CHAIR LOPEZ: No.

4 The motion has failed.

5 At this point, we'll take up the original motion

6 from Gourley, from Matt.

7 And so, at this point, I'll go ahead and ask

8 Matt to -- Wendy, I see a hand up.

9 COMMISSIONER ROOT ASKEW: Yeah.

10 I'm just -- can you explain or could we have

11 county counsel or Miss McKenna explain what the conditions

12 of denial are that we're voting on right now. I'm unclear

13 what the -- what the rationale for denial would be.

14 CHAIR LOPEZ: The conditions are coming back in

15 January, I believe, was the amended motion from Matt.

16 COMMISSIONER ROOT ASKEW: Well, what are those

17 conditions that are coming back in January?

18 MS. KELLY DONLON: If anything, I would

19 recommend that you continue the item to January 5th, in

20 which time staff can work on a resolution that can be put

21 before the Commission, given the comments made tonight in

22 support of the denial of the latent power item.

23 CHAIR LOPEZ: Matt, that's -- that's in your

24 direction given your active motion on the floor.

25 COMMISSIONER GOURLEY: We have an item that's

1 been put before the Commission this evening, and the item
2 was put before us to vote on yay or nay.

3 I'm choosing to vote nay on staff's
4 recommendation excluding -- not including the annexation
5 and the new resolution that puts in forth our -- my -- my
6 motion will be brought back before us the first part of
7 January. That's just going to clarify what the motion is
8 that we're voting on this evening.

9 MS. KELLY DONLON: You're correct.

10 And I misspoke when I spoke up.

11 You've -- if there's any additional comments by
12 Commissioners that you want included in the resolution,
13 you can certainly vote no tonight, and we will include
14 your comments as support in the resolution.

15 Alternatively, you could vote tonight to
16 continue the item to January 5th whereby staff could put
17 together a resolution for your approval following the
18 direction -- general direction tonight.

19 Either would work. It's up to the Commission
20 how you would want to proceed.

21 CHAIR LOPEZ: Okay. So Matt's clarified his
22 motion.

23 One more time, can I get Kimbley to confirm the
24 second stance.

25 COMMISSIONER CRAIG: I'll go ahead and confirm

1 draft resolution before you this evening.

2 CHAIR LOPEZ: Any other questions, Pete?

3 COMMISSIONER POITRAS: No. I'll move ahead.

4 Thank you.

5 CHAIR LOPEZ: Ian?

6 COMMISSIONER OGLESBY: Yeah, I'll go quick.

7 Chair, that was my point.

8 What happens if the entities continue to
9 negotiate, and they resolve some of these impasses? We'll
10 come to a meeting, and we have -- we only have one
11 resolution that says no. Then we have to start again.

12 So I would like for -- you know, Chair, for you
13 to think about the possibility of some of these impasses
14 being resolved, then we may be able to vote on the latent
15 powers in an affirmative manner.

16 So is that two resolutions?

17 I ask you to take a look at that, Chair.

18 CHAIR LOPEZ: I understand.

19 And I think nothing is precluding anybody from
20 having conversations and negotiations. And, over that
21 period, if the -- if the ground -- what the elements look
22 like on the ground changes, and it comes back with some
23 solutions, maybe we end up somewhere else.

24 But, at this point, on voting tonight, no on the
25 proposal that was put before us in terms of the

1 CHAIR LOPEZ: Yes.
2 Motion carries.
3 With that, we have concluded this item.
4 (End of transcription.)


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1 STATE OF CALIFORNIA.)
2 COUNTY OF MONTEREY) ss.
3)

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Appendix D

Appendix B

January 05, 2022

PARTIAL TRANSCRIPTION OF: SPECIAL COMMISSION MEETING



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PARTIAL TRANSCRIPTION OF:
LAFCO OF MONTEREY COUNTY
LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY
SPECIAL COMMISSION MEETING
DATED: JANUARY 5, 2022
(Time transcribed 24:46 through 1:39:34)

LAFCO COMMISSIONERS:

CHRIS LOPEZ, CHAIR	KIMBLEY CRAIG
MARY ANN LEFFEL, VICE CHAIR	IAN OGLESBY
WARREN E. POITRAS	MATT GOURLEY

ALTERNATE LAFCO COMMISSIONERS:

ANNA VELAZQUEZ	WENDY ROOT ASKEW
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Transcribed by: Lisa A. Meeske
CSR Number 10617

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CHAIR LOPEZ: That brings us to Item Six, all business concerning the adoption of a resolution formalizing and effectuating the Commission's December 6th decision to deny the Monterey Peninsula Water Management District's proposed activation of latent powers to provide and maintain potable water production and distribution services for retail customers, LAFCO File 21-01.

Given that item, little bit of -- see if Darren wants to give an intro here and lay out how we're going to proceed today.

Darren, the floor is yours.

MR. DARREN McBAIN: Thank you, Chair, Members of the Commission.

Darren McBain here on behalf of our executive officer, Dean (unintelligible), who could not be here today.

This -- this item is a followup action to the Commissioners' December 6th decision to deny the Water Management District's proposed activation of latent powers relating to retail potable water services.

On December 6, staff brought the District's proposal to a public hearing before this Commission with a recommendation of conditional approval and a draft resolution with staff-recommended determinations

1 supporting approval of the proposal.

2 After the December 6th hearing and following
3 presentations, public comments, and discussion among the
4 commissioners, the Commission voted 5/2 to deny this
5 proposal and directed staff to come back with a revised
6 resolution documenting the Commission's reasons for
7 denial. And that's Attachment One that you have before
8 you in your packet today.

9 To be clear, although, this is an open business
10 item on the agenda with opportunities for public comment
11 and Commission discussion, today's agenda item is not an
12 additional public hearing or a continued public hearing on
13 the District's application, and it's also not a
14 reconsideration of the Commission's decision to deny the
15 District's requested latent powers' activation; however,
16 there is a 30-day reconsideration process that becomes
17 applicable and available after the Commission has adopted
18 a resolution formalizing its decision to deny a proposal
19 if that's what occurs today.

20 And we will come back to the reconsideration
21 process in a moment when we talk about next steps.

22 But, in terms of just an overview, a basic
23 overview, of today, the narrow purpose of today's agenda
24 item following a process established by state law is for
25 the Commission to consider the draft resolution in today's

1 packet in making determinations for denial of the
2 active -- activation of latent powers' proposal and then
3 either adopt the resolution or provide other direction to
4 staff as the Commission may feel necessary to implement
5 its December 6th decision for denial.

6 And I'm really emphasizing this last point about
7 the limitations of today's agenda, because we do recognize
8 that there are many people here today on this meeting who
9 are very committed to Measure J and the public ownership
10 of the water supply.

11 Attachment Two of your packet today,
12 Attachment Two to the staff report, includes 14 letters
13 and emails that we received before we completed and posted
14 the agenda packet for this meeting, and we -- we completed
15 this packet and posted it to our site back on -- on or
16 around December 22nd.

17 And, in the last two weeks, especially over the
18 last couple days, we've received, I believe, 165 letters
19 and emails, most of which were in support of the
20 District's proposal. We do really respect the time and
21 effort that went into the writing of those messages to
22 LAFCO, its letters and emails. We have reviewed each one
23 of those, and we have passed them along to the Commission
24 for your consideration -- for your consideration today.

25 But, again, just in terms of the -- the

1 procedural, technical purpose of -- of today's meeting,
2 although we have reviewed all that correspondence and
3 passed it along to the Commission, we're here today
4 because the Commission, on December 6th, after reviewing
5 the entire record, in light of the broad scope of factors
6 for consideration established by the legislature in the
7 CKH, Cortese-Knox Hertzberg Act, the Commission has made a
8 decision on December 6th to deny this proposal. And the
9 item before the Commission today is adoption of a
10 resolution that would formalize and put into effect that
11 prior decision that has been made.

12 I'd just like to mention here also that, since
13 yesterday afternoon through this morning, we have received
14 an additional seven emails that did not make it into the
15 supplemental memo that we transmitted to you -- to you
16 yesterday with that 165 letters and emails that I
17 mentioned. So, again, there are seven emails that we
18 received from Kay Cline (phonetic), Mark Cresenza
19 (phonetic), Bertrand Depray (phonetic) I think. No --
20 there was one from -- with no name but an email address of
21 sirprename@aol.com (phonetic). Sorry for the
22 pronunciation there. We received an email from Dick
23 Scott, Diana Galbreath (phonetic), and Ruth Carter. These
24 will be included in the permanent file for the proposal.
25 And I would just mention for the record that they were

1 supplemental memo.

2 In terms of the resolution, we do have one
3 recommended change today. This is based on reflecting on
4 comments in the District's December 29th letter. This has
5 to do with the accuracy of the \$75 million total
6 cumulative property tax impact that we had mentioned, one
7 part of that resolution.

8 Jonathan, I don't know if you are -- if you have
9 that at the ready. We could put that change up on the
10 screen.

11 But, anyway, we do have a correction up at the
12 top of that page there shown in redline striked through
13 and underlined.

14 The idea here is to reflect that not all of that
15 \$75 million total cumulative impact over 20 years would be
16 at the local level. Some of those -- some of that impact
17 would be to entities outside of -- outside of the area.

18 And this is all -- the item -- part of -- the
19 other part of the reason for this revision is that the --
20 the Ralph Tellus (phonetic) report that was part of the
21 District's application had to do with financial
22 feasibility. Also had -- part of that -- that financial
23 feasibility had assumed the existence of a Cal-Am desal
24 plant at the time that the report was done, and, of
25 course, that desal plant doesn't currently exist. There's

1 no certainty that it's -- it's going to exist. And,
2 although, it does remain a project that is, as far as we
3 know, the -- Cal-Am is still interested in pursuing.

4 So, anyway, the long story short is a little
5 bit -- part of the property tax impact is related to the
6 existence of a -- of a desal plant that doesn't currently
7 exist. So we just wanted to soften the wording there a
8 little bit. And that's why there's a change from a would
9 be \$75 million to a could be, approximately, \$75 million.

10 So that's the one correction we have to the
11 resolution today.

12 And, other than that, staff respectfully
13 believes that the issues raised in the District's two
14 letters, those two letters I mentioned to LAFCO, are
15 matters that have already been discussed in the
16 December 6th staff report and at that public hearing and
17 do not require any changes to the draft resolution before
18 you today.

19 Okay. So that -- that's really all I have for
20 you today regarding the -- the resolution.

21 I just wanted to briefly talk about next steps,
22 which is, basically, the reconsideration process that we
23 have mentioned in the staff report on page two.

24 Part of the overall LAFCO process outlined in
25 state law includes a 30-day reconsideration process that

1 starts from the time of adoption of a resolution, which
2 would, potentially, be -- be today.

3 There is some wording there on the -- page two
4 of the staff report that talks about some technical
5 requirements related to reconsideration.

6 Briefly, in a nutshell, anybody can file a
7 reconsideration request. It must be filed within 30 days.
8 So that would be by Friday, February 4th, if the
9 Commission acts on the resolution today.

10 It must -- any reconsideration request must
11 state the specific modification to the resolution that is
12 being requested and must also state what new or different
13 facts that could not have been presented previously are
14 claimed to warrant the reconsideration.

15 If -- if we do receive a reconsideration
16 request, staff will move forward with agendaizing that
17 request for reconsideration for review by the Commission.
18 That could possibly be -- that's something that could
19 possibly occur at the February 28th regular meeting, but
20 we will definitely keep people informed about the timing
21 of any hearing on a reconsideration request.

22 Again, the -- the details of the reconsideration
23 process are discussed there in the staff report. And, in
24 terms of filing a written reconsideration request, I'm
25 pretty sure most folks on this meeting are familiar with

1 how to get in touch with LAFCO staff by email, but, if
2 not, all of our email addresses are on the -- are on the
3 website. And the reconsideration request could be
4 submitted to any or all of us here at LAFCO.

5 So, with that, thank you very much for your time
6 and attention here today.

7 I'm going to just ask our general counsel, Kelly
8 Donlon, special counsel, Paula de Sousa, and senior
9 analyst, John -- Jonathan Brinkmann, here if there's
10 anything to add or clarify, anything I missed, or anything
11 that we'd benefit from. If so, please -- please go ahead
12 and weigh in.

13 But, if not, thanks again, and I'll turn it back
14 over to you, Mr. Chair.

15 CHAIR LOPEZ: Darren, one more question for you
16 in terms of process here.

17 We were going to expect up to ten minutes from
18 the District and then up to ten minutes from Cal-Am; is
19 that correct?

20 MR. McBAIN: Yes, it is, Mr. Chair.

21 CHAIR LOPEZ: Okay. And then, after that, we
22 will open it up for public comment and then bring it to
23 the Board for decision.

24 Are there any questions from commissioners?

25 Okay. Seeing no hands up from commissioners,

1 we'll go ahead and kick it off here.

2 We'll send it over to Dave Stoldt to start us
3 off.

4 I see your hand up, Dave. Floor is yours.

5 MR. DAVE STOLDT: Thank you. Let me share
6 screens here.

7 Yes. Thank you for this opportunity. It's good
8 to see you all again.

9 I've got a brief presentation. There we go.

10 This whole process I'm a little reminded when I
11 was raising my kids, and they'd get in an argument. And
12 the one that yelled the loudest always thought it was --
13 it was right, he or she was right, which didn't always
14 mean to be the case.

15 And sometimes you get into this where the
16 loudest voice is the one that wants to be heard, but is
17 not always the most accurate voice. And I think, in this
18 particular case, among your children, Cal-Am has been the
19 loudest voice, but it hasn't been the most accurate voice.

20 What I see is that the December 6 denial of
21 activation of powers was inconsistent with substantial
22 evidence presented. The evidence clearly outweighs the
23 dismissal what, I believe, defies the laws of physics.

24 Darren has done a very good job to identify that
25 the government code does cite factors for LAFCO to

1 consider. There are 17 in all. Not all apply in this
2 case. But there are seven which have been cited in the
3 resolution as findings for support.

4 So Factor B, the adequacy of services in the
5 area, focus on two issues. The first of which is property
6 tax impacts.

7 We believe this issue's been blown way out of
8 proportion and that substantial evidence has been
9 presented to show that potential impacts to local agencies
10 are neither, quote, substantial, nor, quote, long term,
11 terms used in your resolution. In fact, the tax losses
12 are less than one-half of one percent of the local agency
13 budgets and be -- and can be recovered in less than four
14 years. That proportion is reflected by this pi chart on
15 the bottom of the graph.

16 So property tax impacts. You know, these happen
17 all the time, and they never received as much attention as
18 it has here at LAFCO.

19 And let me give you some examples of what I'm
20 talking about.

21 The County buys 1441 Schilling Place from
22 Capital One in 2014, a \$36 million building, that
23 immediately took the property off the tax rolls, and no
24 one became a taxpayer.

25 The Aquarium buys a city block on Cannery Row in

1 2014 as a nonprofit that immediately takes the property
2 off the tax rolls.

3 Monterey, over the couple of decades, have been
4 buying up Window on the Bay Park from private entities,
5 including a Honda dealership, Cellular One, and others,
6 taking those properties off the tax roll.

7 Pebble Beach Company, just in 2019, transferred
8 135 acres zoned for housing, which is now restricted to
9 open space and has been taken off the tax roll.

10 Seaside, tomorrow, is buying two parcels at
11 Broadway and Del Monte for a million-one taking them off
12 the tax roll.

13 And this goes on and on and on. Any time a
14 public agency buys property from a private company, it
15 goes off the tax roll. Where has been the hue and the cry
16 over any or all of these in the community?

17 Property tax impacts. The District's offered
18 more to mitigate than any other water company acquisition.
19 We currently have offered 14 revenue-neutrality transition
20 agreements to the identified 14 affected agencies that
21 LAFCO's identified.

22 Pardon me.

23 When Casitas Municipal Water District in Ojai
24 acquired Golden State Water in 2017 for 34 million, there
25 was no property tax sharing.

1 Cal-Am main system, has over 10,000 disadvantaged
2 community members by block group method; even more, about
3 14,000, by census track method in Monterey and Seaside
4 versus a population of 1,139 in the Chualar system.

5 Again, which is the greater good? Is the tail
6 wagging the dog?

7 And you may want to read this. "Would Cal-Am
8 really stick it to Chualar again?"

9 So, in 2003, Chualar bought -- or Cal-Am bought
10 the Chualar system from the County. They planned to ramp
11 rates up, as shown in Resolution W4365, which was included
12 in the Manatt January 3rd letter. Residents who had been
13 paying \$21 per month got a rude introduction to
14 privatization when Cal-Am started raising those rates
15 along that five-year plan.

16 A couple years later, a bill more than \$200
17 prompted some scrutiny, and some bills were up by \$500.

18 The ratepayers were incredulous and protested to
19 the Public Utilities Commission, and Cal-Am agreed to
20 restore the old rates until a more reasonable one be
21 developed.

22 And I like this quote at the bottom. "We were
23 running on auto pilot," said Kevin Tilden, Cal-Am vice
24 president of external relations. "Obviously, the adjacent
25 community was not the right template."

1 originally intended for annexations and development to
2 ensure that there is sufficient water supply for future
3 development.

4 But the fact of the matter is the water supply
5 issue on the peninsula will be resolved before any
6 acquisition is finalized. It's on track for the next two
7 to three years; whereas, the annex- -- I'm sorry -- the
8 acquisition is more likely a three- to seven-year process.
9 And the District will acquire whatever water supply Cal-Am
10 has developed.

11 So, in essence, this whole factor is irrelevant
12 to the activation of the latent powers.

13 Factor N, information from landowners, voters,
14 and residents. Surprisingly, the LAFCO finding makes no
15 mention, whatsoever, of voters who overwhelmingly support
16 acquisition. This factor refers to voters, and there's
17 nothing in your resolution about it.

18 Furthermore, there were many more positive
19 letters of support from landowners, residents, and voters
20 than there have been of negative letters.

21 And, again, comment letters may express concern,
22 but they're not necessarily facts. And, again, the
23 District has provided substantial evidence to address any
24 of the concerns raised in these letters.

25 Finally -- or not finally. Factor P, promoting

1 environmental justice. I would say see the earlier slides
2 just to remind you that the acquisition geography has way
3 more disadvantaged community members than the satellite
4 systems. And, again, we're talking about 97 percent of
5 the population; 24,000 of which voted in favor of this
6 process.

7 Section three of your resolution talks about the
8 cost of a failed acquisition. We have presented
9 substantial evidence that we can handle the cost of
10 failure.

11 Why does LAFCO take Cal-Am's word for it? Why
12 does LAFCO take Cal-Am's word for almost everything?

13 The District has done its research. We have
14 experts too. We've presented substantial evidence. We
15 think that you are heading down the wrong path as
16 evidenced by my first slide.

17 Finally, why is it in the public interest? The
18 lower cost to operate, same or better quality of service,
19 and exceptional governance and transparency for the local
20 residents of the Monterey Peninsula.

21 Finally, I think it's important to remember the
22 Monterey Peninsula Water Management District is 45 years
23 old. It has an elected board of directors. It should be
24 empowered and respected, empowered and respected, to
25 fulfill its legislative functions just like any other

1 duly-created special district.

2 And, with that, I thank you for your time.

3 CHAIR LOPEZ: Thank you, Mr. Stoldt. We did go
4 10 minutes, 30 seconds.

5 At this point, I'm going to go ahead and open it
6 up to any representative from Cal-Am who wishes to use
7 their ten minutes.

8 MR. GEORGE SONEFF: Thank you, Mr. Chairman and
9 Members of the Commission.

10 This is George Soneff, again, counsel for
11 Cal-Am.

12 I'm here to respond, I guess, to Mr. Stoldt's
13 statements.

14 I haven't prepared to reargue this Commission's
15 December 6th decision, which is much of what we just
16 heard. I haven't prepared and reviewed a 15-year-old
17 LA Times article or any of these other things that were
18 just said.

19 We had a full record and lively debate and a lot
20 of material presented on December 6th. We argued the
21 merits, and the Commission asked questions and made its
22 decision.

23 As a matter of law, today, under the Brown Act,
24 the only matter that is on the agenda is the adoption of
25 the resolution formalizing that decision that was reached

1 by a vote of five to two on December 6th. There's no
2 basis today to re-debate, revote, or otherwise reconsider
3 that denial.

4 So, again, the only question before you today is
5 whether the proposed resolution that staff has presented
6 accurately memorializes LAFCO's December 6th action to
7 deny the application.

8 Your staff has done an excellent job on this
9 proposed resolution. Mr. Stoldt had virtually nothing to
10 say about it. It was merely a reargument of much of what
11 we've heard from them before.

12 The proposed resolution is tied to the
13 requirements of the Cortese-Knox Act. It needn't go
14 through every single element in that act to memorialize
15 the decision, and it does not do that. It goes through
16 the pertinent factors that the Commission considered and
17 voted upon.

18 The proposed resolution specifies the
19 determinations that accurately reflect the Commission's
20 action.

21 For example, take one example. LAFCO's
22 consultant, Mr. Berkson, has estimated that the District
23 faces a loss of \$34 million or more from attempting to
24 prosecute the largest eminent domain lawsuit in
25 California's history.

1 irresponsible of LAFCO to approve the District's proposal
2 given this financial risk for the taxpayers of Monterey
3 and to the District, itself.

4 So the District's lack of sufficient funds is
5 properly and appropriately a part of the proposed
6 resolution. And there are several other grounds in the
7 resolution that support LAFCO's denial.

8 Section two determines that the proposed tax
9 reductions, quote, would present a substantial and
10 unwarranted long-term impact to local agencies. That
11 determination is entirely right.

12 Mr. Stoldt, showing other circumstances and
13 purchases of property, I guess he could have shown that
14 before, but it has no bearing on whether the resolution
15 reflects LAFCO's decision. It does.

16 Now, LAFCO had more than adequate support for
17 that conclusion. The District's own financial model
18 prepared by -- prepared by Ralph Tellus calculated that,
19 over a 20-year period, the total loss of property tax
20 revenues would be -- excuse me -- would be in excess of
21 \$75 million.

22 Now, I heard Mr. McBain talk about the fact that
23 the District says, Well, that includes a desalination
24 plant, and so it could be less. Well, if so, then the
25 District's entire financial model is -- is askew. It's --

1 it's rendered meaningless. Its model of lower rates was
2 based on saving \$75 million. That's the Ralph Tellus'
3 model.

4 So you can't have it both ways. You can't say
5 we're going to save \$75 million over 20 years, and that's
6 a way that we're going to provide lower rates, but, oh, if
7 the \$75 million is the problem, don't worry. Maybe the
8 savings won't be that high. If that's the case, then you
9 needed to start from scratch. And what it is is an effort
10 to back away from a fact that is highly unfavorable.

11 Now, the draft resolution says that it would be
12 substantial and an unwarranted long-term impact to local
13 agencies. Well, \$75 million is over 20 years. In fact,
14 it would be a permanent loss. The District will never pay
15 property taxes for long -- for as long as it owns the
16 water system.

17 So the determination in the proposed resolution
18 that there's a substantial and long-term impact is right
19 on the mark.

20 Mr. Stoldt just now talked about these
21 agreements and how 14 agreements that they've made. Well,
22 nobody's ever seen them. I mean, these are phantom
23 agreements. Their initial application, back in May of
24 last year, said they were going to do tax-sharing
25 agreements. I've never seen one. There's nothing signed.

1 Cal-Am would face an undue hardship of potential future
2 costs. This determination is fully supported by the
3 facts.

4 The District's own consultant, Ralph Tellus,
5 acknowledged that there would be a loss of economies in
6 scale once you take all of Cal-Am's main water system and
7 would leave the higher costs for the remaining customers.
8 And some of those customers are in disadvantaged community
9 of Chualar.

10 The District has argued that the PUC
11 rates-setting process will protect Chualar. But, as we
12 demonstrated in our letter last week, that argument is
13 wishful thinking. It ignores the reality of how rates are
14 set.

15 I -- I don't -- I have more. I don't have
16 anything more this morning.

17 I do want to thank LAFCO staff for its hard work
18 on this, and I'm sure that preparing a resolution and
19 staff report was especially tough and unwelcome over the
20 holidays. But, as before, staff has faithfully done its
21 work -- done its job on behalf of Monterey residents.

22 Thank you.

23 CHAIR LOPEZ: All right. That's right at nine
24 minutes.

25 At this point, we're going to go ahead and open

1 it up to public comment. We ask folks to use the
2 raised-hand function, star nine via landline, in order to
3 be recognized. We'll be taking the hands in the order
4 that they went up.

5 We will be running the clock on our end. There
6 won't be a warning. It will be at one minute. I'll let
7 you know your time is up.

8 I'm asking folks to really stay focused on
9 what's in front of us today, which is the resolution, and
10 not rehashing the entire argument as we did on the 6th.
11 Again, we're focused today on the resolution.

12 And so, with that, we will open it up for public
13 comment.

14 The first hand I see raised is a cell phone or
15 landline that starts with a 650 area code and ends with
16 366.

17 The floor is yours. Star six will unmute you.

18 MS. JEAN RASCH: Thank you. Thank you.

19 This is Jean Rasch. I live in Monterey. I'm an
20 attorney in Carmel.

21 And I ask the LAFCO commissioners for
22 reconsideration of your vote to deny the Cal-Am buyout,
23 pursuant to Government Code 56895.

24 Mr. Stoldts has submitted needed evidence to
25 trigger the reconsideration.

1 and voted based off the facts and based on protecting all
2 the taxpayers.

3 I think the resolution covers all items.

4 The only thing I had submitted a letter a week
5 or two ago pointing out that, even the District's
6 consultant underestimated the impacts of property taxes,
7 yet did not consider that PG and Carmel Valley Unified are
8 (unintelligible) districts and not in the same situation
9 as MPUSD; therefore, direct loss of property tax to them
10 is direct loss from their budget and is not made whole
11 from other budgets.

12 I look forward to --

13 CHAIR LOPEZ: Thank you, Mr. Heuer. You're at a
14 minute.

15 MR. RICK HEUER: Thank you.

16 CHAIR LOPEZ: Thank you.

17 I'm going to go to Alexander Henson next.

18 Mr. Henson, the floor is yours.

19 MR. ALEXANDER HENSON: Thank you.

20 This Commission is being asked to adopt this
21 resolution. In that regard, the resolution must be
22 supported by facts in the record, which this resolution is
23 not; therefore, under the law, you have but one choice,
24 and that is to reject this resolution.

25 In that regard, I wanted to mention that

1 property taxes -- pardon me -- property values throughout
2 Monterey County are appreciating somewhere in the
3 neighborhood of five percent per year. The -- there is a
4 two-percent cap on how much the property values can go up
5 in any one year. And this one percent, or whatever the
6 percentage is, that's being lost by this condemnation will
7 be made up in property tax -- property values and, thus,
8 property tax within one year without anything further.

9 CHAIR LOPEZ: Mr. Henson, we're at time.

10 Thank you.

11 I'm going to go to Mark Watson next.

12 Mark, the floor is yours.

13 MR. MARK WATSON: Good afternoon.

14 I operate five businesses in the Water
15 Management District, and I would like to thank the LAFCO
16 Commissioners for their due diligence in assessing the
17 proposal and voting against the proposal.

18 Measure J was passed on the promise that the
19 cost to the ratepayers would not increase, and, absent
20 this reality and other impacts, such as the significant
21 loss of tax revenue and the concern over what happened
22 with the Chualar water system and others, all support a
23 no-vote for the welfare of the District, its ratepayers,
24 and the County.

25 And I must add: The distasteful and misleading

1 ad paid for by Public Water Now that singled out Mary Ann
2 Leffel out of context for her difficult and well-reasoned
3 no-vote should be a warning to us all about how this group
4 will say anything to get what they want. Mary Ann Leffel
5 has been a tireless advocate for this community and the
6 county, and she deserves our thanks and gratitude for the
7 work she does.

8 Thank you.

9 CHAIR LOPEZ: Thank you for your comment,
10 Mr. Watson.

11 I'm going to go to Tyler Williamson next.

12 The floor is yours, Tyler.

13 MR. TYLER WILLIAMSON: Hi. I'm Monterey Council
14 Member Tyler Williamson; though, I'm not speaking on
15 behalf of the City.

16 I'm disappointed to see the decisions denying
17 the District's voter-approved mandate to buy out the local
18 water utility from Cal-Am. 56 percent of District voters
19 overwhelmingly supported the buyout, and that's 60 percent
20 in the city of Monterey.

21 It's also frustrating to hear that \$240,000
22 already spent in the District's application to LAFCO, a
23 significant element being an understudy to determine if
24 the buyout would be more cost effective.

25 In the end, the study supported the buyout, yet

1 still LAFCO Commissioners are choosing to deny citizens'
2 overwhelming desire to move forward. Actions like this
3 create a deeper wedge between those of us in positions of
4 power and those we are elected to serve.

5 We've heard from several residents who feel it
6 is hopeless to speak publicly about their desire for a
7 more affordable water utility.

8 Today's meeting will likely further validate
9 that their input means little to the majority of the
10 Commission with Monterey Peninsula residents paying \$125
11 versus Chaular's \$30; ignores the fact that there are
12 disadvantaged parts of our communities, those working in
13 the hospitality industry, small business owners, students,
14 and seniors with fixed incomes.

15 We urge you to change course, and, at the very
16 least, identify a reasonable compromise that can be a
17 win-win for the entire region and not motivated by special
18 interest.

19 We appreciate your consideration.

20 CHAIR LOPEZ: Thank you, Council Member
21 Williamson. Time is up. We appreciate your comment.

22 I'm going to go to DLTod, D-L-T-O-D, next.

23 The floor is yours. You have the ability to
24 unmute yourself.

25 MR. "DLTOD": The -- Mr. Soneff likes to talk

1 about the lost tax revenue. Well, I would like to address
2 that.

3 The lost tax revenue over the last 20 years was
4 cited at \$75 million, last 20 years.

5 Cal-Am's arguments comes from the \$95,000
6 taxpayer revenues that's going to be lost. But the money
7 comes from those 95,000 people. The revenue, the tax
8 revenue, is generated by the taxpayers, by the ratepayers,
9 not by Cal-Am. It's not a charitable gesture.

10 Cal-Am's water rates are the highest in the
11 nation. You need to look that up.

12 Thank you.

13 CHAIR LOPEZ: Thank you for your comment.

14 I'm going to go to Rick Aldinger next.

15 Rick, the floor is yours. You have the ability
16 to unmute yourself.

17 MR. RICK ALDINGER: Thank you.

18 LAFCO Commissioners last month engaged in the
19 thoughtful process of determining if Cal-Am buyout process
20 should continue. Reams of documentation submitted from
21 all sides was reviewed and discussed as it should have
22 been.

23 In the end, the Commission voted and made their
24 decision.

25 In a retaliatory effort, Public Water Now

1 published a half-page ad personally condemning a
2 well-respected commissioner and community member in what I
3 can only describe as a cheap shot, not the sort of
4 behavior we should expect from anyone claiming to act in
5 public interest.

6 Commissioner Leffel has, time and again, proven
7 herself as a person of high morals and integrity, a public
8 servant who takes her responsibility seriously.

9 The Water Management District made an attempt as
10 well to discredit the commissioner's decision presenting a
11 potential solution to the documented tax revenue reduction
12 to Cal-Am buyout with cost that falls far short of an
13 actual sustainable solution.

14 LAFCO has made a responsible, appropriate
15 decision on this issue.

16 Please support that decision today.

17 Thank you.

18 CHAIR LOPEZ: Thank you, Mr. Aldinger.

19 We're going to go to Wallace Notley next.

20 Wallace, the floor is yours. You should have
21 the ability to unmute yourself now.

22 MR. WALLACE NOTLEY: Yes. Good afternoon.

23 First some questions.

24 Why are most of you forwarding a working
25 relationship between the businesses and the peninsula

1 water ratepayers? Why would a minimal rate -- rate
2 increase to 904 households outweigh the desire for lower
3 rates to 39,489 households? Why would business interests
4 side with Cal-Am, which has a terrible track record,
5 instead of the Peninsula Water Management District, which
6 has an excellent track record of service and
7 accountability?

8 All your misgivings are outside of LAFCO's
9 domain. Your immediate responsibility is to keep the
10 process moving to the next step. It is anti-productive to
11 continue countywide divisions.

12 We need to work together to listen to and to
13 support our needs as a countywide community.

14 Thank you.

15 CHAIR LOPEZ: Thank you, Wallace.

16 We're going to go to Saoirse next. I see that
17 there's an "and" there, so there may be two comments
18 there.

19 We'll start with the first, Saoirse, and Shawn.

20 MS. SAOIRSE FOLSOM: Yes, there's two of us.

21 I'll go ahead and begin.

22 I sent a letter yesterday. I'm going to just
23 read some of the highlights.

24 I am a low-income ratepayer for Cal-Am, and I am
25 in debt. I am in debt to the tune of over \$500. And I've

1 been in debt since the beginning of the pandemic.

2 Blocking the Public Water buyout on the
3 peninsula will not stop Cal-Am from continuing to attempt
4 to raise Chualar's rates. That is a false argument by
5 Cal-Am.

6 Chualar pays \$30 for the same amount of water
7 that costs me 125, and that's, actually, about to go up
8 thanks to LAFCO blocking our buyout.

9 There are many impoverished and low-income
10 families living in the valley and the peninsula despite
11 Cal-Am's false dichotomy divide-and-conquer rhetoric that
12 MC LAFCO is intent on parroting.

13 Please stop standing in the way of our access to
14 affordable water.

15 Low-income families and customers, like me,
16 are --

17 CHAIR LOPEZ: I'm sorry. We're over time.

18 MS. SAOIRSE FOLSOM: -- drowning in high water
19 bills.

20 CHAIR LOPEZ: Do you mind turning it over to
21 Shawn, please.

22 MR. SHAWN FOLSOM: Yes. My name is Shawn
23 Folsom. I've been a resident here since 1956.

24 I've seen the water trucks pull up to the tower
25 at Rosy's Bridge and draft water out of the aquifer. It's

1 called the Carmel River, and it doesn't flow through
2 Salinas. It flows through Carmel Valley.

3 Are we petulant children because we want lower
4 water rates? Is that what constitutes petulance?

5 Well, for me, I feel that I -- I am looking at a
6 Board that has somehow -- and I don't know -- its
7 appointees taken up a kind of flunky, dumb position for
8 Cal-Am.

9 Thank you. Bye.

10 CHAIR LOPEZ: Thank you, Shawn.

11 We're going to go Susan next, Susan Schiavone --
12 Schiavone.

13 The floor is yours.

14 MS. SUSAN SCHIAVONE: Thank you.

15 The CPUC reduced Chualar's rates when Cal-Am
16 attempted to raise them, and there's no reason that they
17 would not do it again.

18 And the US census, in 2020, population for
19 Chualar was 1,512 people. The average income was 69,241
20 with a poverty rate of 23.28 percent. That's 348 people.

21 In Seaside, we have 3- -- 32,366 people with a
22 median income of 63,575, less than Chualar, a poverty rate
23 of 13.4 percent, which is 4,337 people under the poverty
24 level. Most do not qualify for assistance because they're
25 renters, and those that do are still struggling.

1 to fruition, our water will become unaffordable for so
2 many of us living here.

3 I'm asking LAFCO to reconsider, for the greater
4 good of the 97 percent of us, and to uphold the
5 overwhelming majority vote of Measure J.

6 CHAIR LOPEZ: Thank you, KW.

7 We're going to go to Jason Campbell next.

8 Jason, the floor is yours.

9 MR. JASON CAMPBELL: Thank you.

10 My name is Jason Campbell, Seaside City Council
11 member, and I'm representing my constituents today.

12 As a cautionary note to appointed and elected
13 representatives, it is clear the shallow reasoning
14 espoused by this Commission and Cal-Am does not fool the
15 well-informed voters whose ire's been raised by your
16 actions.

17 Also, the antigovernment rhetoric we've heard
18 insults hardworking and competent government employees,
19 including firefighters.

20 As a member of the LMW1 Ord and Monterey
21 Water -- the Waste Management District -- excuse me --
22 Boards, I know that the -- without a doubt these
23 government agencies provide services at a considerably
24 lower cost than equivalent private entities.

25 Please dispense with the falsehoods.

1 managed by public agencies that are accountable to the
2 people they serve, not for for-profit companies.

3 We owe our Monterey Peninsula Water District so
4 much gratitude. They are the only ones that have done
5 anything for us. And they are -- have been able to -- to
6 develop water supplies that have benefitted all of our
7 community.

8 And we also have to --

9 CHAIR LOPEZ: We're over a minute. Thank you.

10 MS. ANNA THOMPSON: Thank you so much.

11 CHAIR LOPEZ: We're going to go to Paul's iPad
12 next.

13 Paul, the floor is yours.

14 MR. "PAULSiPAD": Thank you.

15 I want to commend staff for putting together the
16 resolution.

17 I think that, you know, this takeover attempt
18 puts the District at serious risk of financial ruin. I
19 don't think people realize how much financial danger they
20 are -- they're at, you know, if they were to pursue this
21 and be unsuccessful. They do not have the money to -- to
22 cover it if that were to happen. I think the LAFCO has
23 looked at that and has made a good decision.

24 As far as the bullying that has been going on,
25 it's -- it's uncalled for. The commissioners, you know,

1 they make decisions, and we live with their decisions. To
2 call them out and bully them is completely inappropriate
3 and should never take place in a public forum.

4 Thank you.

5 CHAIR LOPEZ: Thank you, Paul.

6 We're going to go to a phone number that's an
7 831 that ends in 312. Again, it ends in 312.

8 The floor is yours. Star six should unmute your
9 landline or cell phone.

10 MS. MARGARET-ANNE COPPERNOLL: Good afternoon,
11 Chair Lopez and Commissioners.

12 My name is Margaret-Anne Coppernoll.

13 American heroes, George Washington and his
14 troops, fought most valiantly against unimaginable odds to
15 procure the God-given rights enshrined in our
16 Constitution.

17 Today you can honor our Constitution and empower
18 a positive solution to the decades-long, existential,
19 (unintelligible) struggle for sustainable, affordable
20 water security and for freedom from the yolk of
21 monopolistic oppression and greed.

22 Please just reconsider and grant conditional
23 approval. That honorable action will surely ring
24 liberty's bell. The public interest, truth, and justice
25 deserve nothing less.

1 God bless you all. Thank you.

2 CHAIR LOPEZ: Thank you.

3 We're going to go to Melodie Chrislock next.

4 Melodie, the floor is yours. Melodie?

5 MS. MELODIE CHRISLOCK: Can you hear me?

6 CHAIR LOPEZ: Got you now.

7 MS. MELODIE CHRISLOCK: Melodie Chrislock,
8 Public Water Now.

9 Let's be honest here. This is not about a tiny
10 tax revenue loss or speculative increase in costs for
11 Cal-Am satellites. What's the real reason LAFCO wants to
12 block the Cal-Am buyout?

13 Chair Lopez made it quite clear to me when we
14 spoke. His real reason is the peninsula's water supply.
15 Like the majority of his board, he believes Cal-Am is the
16 solution.

17 Wake up. Cal-Am is the problem, not the
18 solution.

19 After decades of failure, why do you still trust
20 Cal-Am? In pursuit of profits, they have done nothing but
21 block water supply plans.

22 The Water Management District and our public
23 agencies have given us over 7,000-acre feet of new water
24 in the past 20 years. Cal-Am, zero.

25 Dictating water policy is not LAFCO's job.

1 I'm speaking as an individual, and I support
2 this resolution. It's going to pass.

3 And I think this is a good time for the idea
4 that the Salinas Valley's supposed to fix the Monterey
5 Peninsula's water problem to -- to be dispelled. It's not
6 a fair situation to put out into the public domain.

7 And I would also say it's time for the Water
8 District to prioritize providing us with water rather than
9 Measure J.

10 We had a water supply project in place. It was
11 subverted by Measure J and the Public Water Now takeover
12 that district board, and now we do not have a future that
13 is secure with the water supply.

14 Thank you very much.

15 CHAIR LOPEZ: Thank you.

16 I did see a hand go up and down from Tammy
17 Jennings.

18 Tammy, did you want to make a public comment?

19 MS. TAMMY JENNINGS: Yes.

20 I feel that this whole thing today after the
21 first person that spoke is ridiculous because the
22 decision's already been made.

23 And I am just appalled that the reasons that
24 were given and the people -- and the commissioners that
25 voted against the -- the -- the proposal -- I can't even

1 talk right now. I'm so upset. I'm sorry.

2 I -- I don't think even any of the stuff that
3 has been said today makes a difference. I have been
4 fighting this for years.

5 It doesn't make sense that a for-profit company
6 can ruin the lives of so many people, and five people can
7 dispel what thousands of people voted for.

8 I'm done. Thank you. Bye.

9 CHAIR LOPEZ: Thank you, Tammy.

10 We're going to circle back to Bruce.

11 Bruce, are you with us?

12 MR. BRUCE DELGADO: Yes, Chair. Can you hear me
13 now?

14 CHAIR LOPEZ: We can. Floor is yours.

15 MR. BRUCE DELGADO: Thank you.

16 I was chair of your commission several years ago
17 and have been chair of other districts in our county. So
18 I -- I kind of can see the writing on the wall -- I think
19 we all can -- where today's vote's going.

20 But I -- before you make the vote, I just wanted
21 to put my -- my opinion in that the resolution before you
22 is -- is nothing more than a recitation of the claims made
23 at your last meeting, which were coming at this from a
24 sideways effort in a way to, basically, give Cal-Am what
25 they want.

1 today by passing this resolution.

2 And so, with that, I'm happy to make the motion
3 that we approve staff's -- the resolution that staff has
4 provided with the amendment made on the assumption -- on
5 the \$75 million impact clarification at the top of page
6 four.

7 COMMISSIONER CRAIG: Second. Craig.

8 CHAIR LOPEZ: We've got a motion and a second.
9 Any additional conversation?

10 COMMISSIONER OGLESBY: Yeah. I have a question,
11 Chair; just make some comments. I -- I waited for the
12 motion so we can move the process.

13 But I did have a couple questions of staff, if
14 you wouldn't mind. So I think they're for Jonathan.

15 That's okay, Chair?

16 CHAIR LOPEZ: Proceed.

17 COMMISSIONER OGLESBY: Okay. Thank you.

18 So I would -- I would just ask that -- we were
19 talking about facts, and I guess it was the District and
20 Cal-Am. You know, both sides believe they have their
21 facts. But I'm talking about the facts that LAFCO has.

22 So I'm trying to figure out exactly where the --
23 the \$34 million potential court case fees that the staff
24 is saying in a resolution that the District could not
25 afford, where did that come from? Where can we find those

1 facts that its -- it's, roughly, 30- -- it could be up to
2 \$34 million?

3 MR. DARREN McBAIN: Chair, if I may? I'm not
4 sure if that question was meant to be directed to our
5 senior analyst, Jonathan Brinkmann, or to me, personally,
6 or to both of us here at staff.

7 But, actually, Jonathan, if you wouldn't mind
8 giving a little bit of context on how that number was
9 developed and what some of the supporting evidence is.
10 You're probably closest to that information.

11 I appreciate it.

12 MR. JONATHAN BRINKMANN: Sure.

13 It's included in Richard Berkson's report that
14 he provided October 11th.

15 He was seeking information from the District and
16 from Cal-Am on what that number was, and, in his report
17 he -- he thought it would -- could be up to that number,
18 34 million.

19 COMMISSIONER OGLESBY: Right.

20 Correct me if I'm wrong. I'm trying to read it
21 to understand here.

22 I believe he -- was it him or -- okay.

23 I believe I got it from this data from Claremont
24 and Apple Valley suggesting that it could be between
25 25 million and 34 million if the District lost or

1 continued with -- and I'm trying to figure out. How do we
2 know the District will go all the way to the end, and it
3 could be \$34 million? Why do we go to the maximum when we
4 don't know when the District could call it quits? They
5 could cut their losses at \$6 million. They could cut them
6 at \$12 million; cut them at 15. Why would we assume that
7 they would go to the maximum of 34? And then why would we
8 assume that 34 is the highest? I'm just -- I'm just
9 trying to figure out why would you pick the highest
10 number? And then why would you say that's -- that's
11 facts?

12 MR. JONATHAN BRINKMANN: Well, I think
13 Mr. Berkson was looking at what is -- what is a possible
14 worst-case scenario. He thought it could be up to
15 34 million having considered both. And so that's, I
16 think, what's in the record.

17 COMMISSIONER OGLESBY: No. No. Thank you. I
18 was trying to clarify.

19 Just one or two more, Chair.

20 Then we talked about the property tax revenue
21 loss. I think you guys said about 1.7 million. And then
22 we -- we updated the resolution today to include some of
23 that estate taxes.

24 Do we know that because we have seen the books
25 from the District? And I think we understand the books

1 from the other public agencies. But do we know how much
2 revenue or profit Cal-Am has taken out of this -- this
3 District's, their Cal-Am district? Do we know that
4 number? I think -- you know, we're . . .

5 I think the District said it's, roughly, about
6 19, 20 million dollars a year.

7 Does that sound right, Jonathan?

8 MR. JONATHAN BRINKMANN: I've seen numbers to
9 that cited in the public comment, et cetera. I haven't
10 verified those numbers.

11 COMMISSIONER OGLESBY: Oh, okay. But we --
12 but -- okay. But have we verified Cal-Am's numbers?

13 MR. JONATHAN BRINKMANN: In terms of they're --
14 how much revenue (unintelligible) the community from --
15 from their business here?

16 COMMISSIONER OGLESBY: I want to get -- I'm
17 sorry. But I want to get to the -- okay.

18 Roughly, about \$20 million over the next
19 20 years is about \$400 million worth of profit taken out
20 of this community.

21 And so what I really want to establish is that
22 this resolution is supported by the majority. You know,
23 they sent you guys out, and you guys did a great job of
24 putting together what you could with little bit of
25 evidence in the record in my opinion.

1 I think, if we ran into an independent body,
2 they would use this as a indication that we did not do our
3 due diligence, and we did not do a good job.

4 So thank you so much, Chair.

5 CHAIR LOPEZ: Thank you, Commissioner Oglesby.

6 We're going to go to Commissioner Askew next.

7 MS. KELLY DONLON: You're muted.

8 CHAIR LOPEZ: You're muted.

9 COMMISSIONER ROOT ASKEW: Thank you. Thank you
10 for that.

11 I just want to, first off, just thank everyone
12 from the public who took the time to follow this process,
13 to communicate with LAFCO, to be at our multitude of
14 meetings, to speak, to testify. I -- I hear you loud and
15 clear.

16 And I think the points that you've raised are
17 accurate. The -- the concerns that you have are -- are
18 clear, and it's -- it's clear, from where I sit, that the
19 original work done by our LAFCO staff to prepare a
20 resolution last December to approve the latent powers for
21 the Water Management District was done with an abundance
22 of due diligence. It was done with the abundance of
23 independent assessments that verified the information. It
24 was -- it would have been the right direction for LAFCO to
25 go in.

1 for water solutions. And I hope that we can find the
2 right way to move into a direction where water solutions
3 are what we're talking about, and it's no longer, you
4 know, different approaches to how we can fight each other
5 to -- to achieve those shared goals.

6 CHAIR LOPEZ: Thank you, Commissioner Askew.

7 I'm going to go to Commissioner Velasquez. I
8 see your hand up.

9 And I do see some folks with their hands up in
10 the public. But I'll just let you to know: We've already
11 closed public comments, and we won't be returning to that
12 at this point.

13 So Commissioner Velasquez.

14 COMMISSIONER VELASQUEZ: Yeah. Thank you,
15 Chair.

16 I also want to thank the LAFCO staff for doing
17 their job despite the overwhelming evidence to approve the
18 Water Management's District request to activate their
19 latent powers.

20 I don't support the resolution, and I don't
21 believe it will be defensible in court either.

22 However, I also hope that we can find a water
23 solution -- a water solution to this issue that benefits
24 the entire district and all of the members of our
25 community.

1 CHAIR LOPEZ: Okay. Seeing no other hands up --
2 I, again, do see hands up from the public, but we have
3 closed public comment.

4 I am going to ask Safarina to take us to a
5 rollcall vote.

6 MS. SAFARINA MALUKI: Thank you -- thank you,
7 Chair.

8 And we will start with Commissioner Root Askew.

9 COMMISSIONER ROOT ASKEW: No.

10 MS. SAFARINA MALUKI: Commissioner Craig?

11 COMMISSIONER CRAIG: Yes.

12 MS. SAFARINA MALUKI: Commissioner Gourley?

13 COMMISSIONER GOURLEY: Aye.

14 MS. SAFARINA MALUKI: Commissioner Oglesby?

15 COMMISSIONER OGLESBY: No.

16 MS. SAFARINA MALUKI: Commissioner Poitras?
17 Commissioner Poitras?

18 COMMISSIONER POITRAS: Sorry. Yes, please.
19 Thank you.

20 MS. SAFARINA MALUKI: Vice Chair Leffel?

21 VICE CHAIR LEFFEL: Yes.

22 MS. SAFARINA MALUKI: And Chair Lopez?

23 CHAIR LOPEZ: Yes.

24 The motion carries.

25 With that, I believe we have come to the

1 conclusion of our business for the day.

2 Let me double check my agenda.

3 (End of transcription at 1:39:34.)

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1 STATE OF CALIFORNIA.)
2 COUNTY OF MONTEREY) ss.
3)

4 The transcription was taken down by me, LISA A.
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6 California.

7 I further certify that I am not of counsel or
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10 the cause named in said caption and that I am not related
11 to any party thereto.

12 IN WITNESS WHEREOF, I have hereunto set my hand
13 this 21st of January, 2022.

14
15 *Lisa Meeske*

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17 FOR THE STATE OF CALIFORNIA
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Appendix E

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REVENUE NEUTRALITY TRANSITION AGREEMENT
BY AND BETWEEN
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
AND
[INSERT NAME OF TAX RECEIVING AGENCY]

This Revenue Neutrality Transition Agreement (“Agreement”) is entered into by and between the Monterey Peninsula Water Management District (“District”) and the [insert name of tax receiving agency] (“Local Taxing Agency”), collectively the “Parties” or individually a “Party”.

1.0 Recitals. This Agreement is entered into with reference to the following:

- 1.1 The District may seek to acquire the California American Company (Cal-Am) Monterey Water System in the future. As a governmental entity the District would not pay property taxes to the County of Monterey.
- 1.2 The Local Taxing Agency presently receives a portion of the County 1% property tax paid by Cal-Am which revenue would be lost as a result of District ownership of the Monterey Water System. The magnitude and duration of such loss is in dispute between the District and the Local Taxing Agency.
- 1.3 This circumstance is detailed in Section 9 (c) of the Resolution of the Local Agency Formation Commission (LAFCO) approving the Monterey Peninsula Water Management District’s Activation of Latent Powers (LAFCO File 21-01) (“Resolution”). A term and condition of LAFCO approval requires the District to engage in good faith efforts to resolve impacts due to projected potential property tax losses resulting from public acquisition of the Cal-Am Monterey Water System. This condition applies to local taxing agencies projected to realize property tax losses of more than \$5,000 annually (in 2021 dollars).
- 1.4 District Counsel and the District’s special outside counsel have determined that section 99.02 of the California Revenue and Taxation Code provides the District with flexibility to achieve tax sharing purposes and is legally permissible. The District proposes to utilize its own share of the County-wide 1% property tax assessment to fund the tax sharing effort, and would not require the District to use revenues derived from rates and charges.

2.0 Definitions. In this Agreement, unless the context otherwise requires:

- 2.1 “Base Year” means the Fiscal Year prior to the Effective Date, unless the Effective Date occurs after the second property tax installment has been paid, in which case the Base Year is the Fiscal Year which contains the Effective Date.

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- 2.2 “Effective Date” means the date on which the District receives ownership of the Cal-Am Monterey Water System.
- 2.3 “Fiscal Year” means July 1 through June 30.
- 2.4 “Transition Period” means a five-year period consisting of the Base Year plus the subsequent four additional Fiscal Years.

3.0 Revenue Transfers.

- 3.1 Calculation of Base Year tax received. Immediately upon the Effective Date the District will undertake to update its property tax analysis to determine potential Cal-Am tax losses based on the Base Year tax received by the Local Taxing Agency including (i) general 1% property taxes received by the County no longer available for redistribution to the Local Taxing Agency, (ii) lost tax increment from the former Seaside Redevelopment Agency (RDA), if any, passed through to the Local Taxing Agency, and (iii) lost tax increment from the former Sand City RDA, if any, passed through to the Local Taxing Agency. However, the 1% general property taxes shall be adjusted for the shift to the County’s Educational Revenue Augmentation Fund (ERAF) which monies local taxing agencies do not receive for beneficial use.
- 3.2 Calculation of Revenue Transfer. For each year in the Transition Period after the Base Year, the District will transfer to the Local Taxing Agency an amount such that the amount received by the Local Taxing Agency is equal to the following percentages of the Base Year tax received, inflated each subsequent year at the last five-year average growth rate as reported in the County of Monterey “Net Taxable Assessed Value History” report for the Base Year.

Base Year	100%
Year 2	75%
Year 3	50%
Year 4	25%
Year 5	0%

- 3.3 Reallocation of Property Taxes. Should the calculation of property taxes allocated to the Local Taxing Agency by the County be modified as a result of court action or as a result of legislative action with retroactive application, and that modified allocation provides a larger percentage be retained by the County and a smaller percentage be transferred to the Local Taxing Agency than occurred in the Base Year, the revenue transfer computation shown above shall be adjusted accordingly.

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4.0 Defaults and Remedies.

4.1 Events of Default. A default under this Agreement shall be deemed to have occurred upon the happening of one or more of the following events or conditions:

- 4.1.1 One party to this Agreement is proven to have knowingly made a material false representation to the other.
- 4.1.2 The District fails to make any payment due hereunder
- 4.1.3 Any other act or omission by the District or the Local Taxing Agency which materially interferes with the terms of this Agreement.

4.2 Procedure upon Default.

- 4.2.1 Upon the occurrence of default by the other party, the District or the Local Taxing Agency shall provide the other party thirty (30) days written notice specifying the nature of the alleged default and, when appropriate, the manner in which said default may be satisfactorily cured. After proper notice to the other party of the occurrence of default by that party and the expiration of said thirty (30) day cure period without substantial cure, either party may terminate this Agreement. In the event that the District's or the Local Taxing Agency's default is not subject to cure within the thirty (30) day cure period but is subject to cure within a longer period of time, the District or the Local Taxing Agency shall be deemed not to remain in default in the event that District or Local Taxing Agency commences to cure within such thirty (30) day cure period and diligently prosecutes such cure to completion. Failure to delay in giving notice of any default shall not constitute a waiver of any default, nor shall it change the time of default. Notwithstanding any other provision of this Agreement, the District and the Local Taxing Agency reserve the right to formulate and propose to the other party options for curing any defaults under this Agreement for which a cure is not specified in this Agreement.
- 4.2.2 In the event of the District's uncured default of its obligations to make any payment due hereunder, the Local Taxing Agency may request the County Auditor to retain in a segregated escrow account for the benefit of the Local Taxing Agency any funds on hand due the Local Taxing Agency pending cure or resolution of the default by judicial order or other means.
- 4.2.3 All other remedies at law or in equity, which are not inconsistent with the provisions of this Agreement, are available to the District and the Local Taxing Agency to pursue in the event of default.

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4.3 Institution of Legal Action. In addition to any other rights or remedies, the District or the Local Taxing Agency may institute legal action to cure, correct, or remedy any default or breach, to specifically enforce any covenants or agreements set forth in this Agreement, or to enjoin any threatened or attempted violation of the Agreement, or to obtain any remedies consistent with the purpose of this Agreement. Venue for any legal action shall be in the Superior Court of the County of Monterey, State of California.

5.0 Amendments.

5.1 Mutual Agreement. This Agreement may be modified by written agreement of the District and the Local Taxing Agency.

5.2 Negotiation of Amendments. The parties acknowledge that circumstances may arise which may call for or require mutual good faith negotiations for amendment of this Agreement. The parties agree to meet and confer regarding the possible mutual amendment of this Agreement within 30 days of the written notice by one party to the other party of the occurrence of one or more of the following:

5.2.1 The passage of a statute or issuance of a legislative or executive order from a federal, state or local governmental entity that materially alters the manner in which revenues to the District or Local Taxing Agency are paid or allocated, including without limitation refund by the State of California of Education Reform Act Fund ("ERAF") monies or other monies provided as compensation for ERAF deductions.

5.2.2 Unanticipated loss of revenue to the District by circumstances outside the District's jurisdictional control, other than statute or legislative or executive order, that materially alters the District's anticipated revenue.

5.2.3 Natural disasters that materially destroy District or Local Taxing Agency infrastructure to the extent that the District's ability to make payments would be materially impaired.

5.2.4 The discovery by the District or the Local Taxing Agency of any error or omission in the data utilized for development of the Base Year tax received that materially affects the basis for the amount of payments due hereunder, or the projection of future revenues and /or costs on which the payment schedule was based. Such errors are limited to base assumptions and inputs provided by the County and its office of Treasurer/Tax Collector, Auditor/Controller and/or Assessor.

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Upon receipt of such written notice, the parties shall, within 30 days, hold at least one meeting to negotiate in good faith a mutual amendment of this Agreement. However, nothing contained herein shall require the mutual amendment of this Agreement or authorize the unilateral amendment hereof.

6.0 Miscellaneous Provisions.

- 6.1 Rules of Construction. The singular includes the plural; the masculine gender includes the feminine; "shall" is mandatory; "may" is permissive.
- 6.2 Entire Agreement, Waivers, and Recorded Statement. This Agreement constitutes the entire understanding and agreement of the parties with respect to the matters set forth in this Agreement. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the District and the Local Taxing Agency.
- 6.3 Incorporation of Recitals. The recitals set forth in Section 1.0 of this Agreement are an integral part of this Agreement.
- 6.4 Captions. The captions of this Agreement are for convenience and reference only and shall not define, explain, modify, construe, limit, amplify, or aid in the interpretation, construction, or meaning of any of the provisions of this Agreement.
- 6.5 Consent. Where the consent or approval of the District or the Local Taxing Agency is required in or necessary under this Agreement, the consent or approval shall not be unreasonably withheld, delayed, or conditioned.
- 6.6 Covenant of Cooperation. The District and the Local Taxing Authority shall cooperate and deal with each other in good faith and assist each other in the performance of the provisions of this Agreement.
- 6.7 Recording. The Clerk of the Board of Supervisors shall cause a copy of this Agreement to be recorded with the Office of the County Recorder of Monterey County, California, within ten (10) days following the Effective Date.
- 6.8 Delay and/or Extension of Time for Performance. In addition to any specific provision of this Agreement, performance by either the Local Taxing Agency or the District of its obligations hereunder shall be excused, and the term of this Agreement extended, during any period of delay caused at any time by reason of any event beyond the control of the Local Taxing Agency or the District which prevents or delays performance by the Local Taxing Agency or the District of obligations under this Agreement, including, but not limited to, acts of God, enactment of new conflicting Federal or State laws or regulations, judicial actions such as the issuance

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of restraining orders and injunctions, riots, strikes, or damage to work in progress by reason of fire, floods, earthquake, or other such casualties. If the Local Taxing Agency or the District seeks excuse from performance, it shall provide written notice of such delay to the other within thirty (30) days of the commencement of such delay. If the delay or default is beyond the control of the Local Taxing Agency or the District and is excused, an extension of time for such cause shall be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

- 6.9 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California.
- 6.10 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.
- 6.11 Counterparts. This Agreement may be executed and acknowledged in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one (1) Agreement, binding on the parties hereto.
- 6.12 Severability. If any term, covenant, condition, provision or agreement contained in this Agreement is held to be invalid, void or unenforceable by any court of competent jurisdiction, the invalidity of any such term, covenant, condition, provision or agreement shall in no way affect any other term, covenant, condition, provision or agreement and the remainder of this Agreement shall still be in full force and effect.

7.0 Notices.

All notices to a Party required or permitted under this Agreement shall be in writing and shall be deemed delivered (i) when delivered in person; (ii) on the third day after mailing, if mailed, postage prepaid, by registered or certified mail (return receipt requested); or (iii) on the day after mailing if sent by a nationally recognized overnight delivery service which maintains records of the time, place, and recipient of delivery. Notices to the Parties shall be sent to the following addresses or to other such addresses as may be furnished in writing by one Party to the other Parties:

Monterey Peninsula Water Management District
5 Harris Court, Building G
Monterey, CA 93940
Attention: General Manager

[insert name of tax receiving agency]

DRAFT

Street

City, State, Zip

Attention: _____

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT,

By: _____

Printed Name: _____

Chair, District Board of Directors

[INSERT NAME OF TAX RECEIVING AGENCY],

By: _____

Printed Name: _____

[Insert Title]

Appendix F

MONTEREY COUNTY



COUNTY ADMINISTRATIVE OFFICE

CHARLES J. MCKEE
COUNTY ADMINISTRATIVE OFFICER

168 West Alisal St., 3rd Fl
Salinas CA 93901-2680
(831) 755-5113
FAX (831) 757-5792
www.co.monterey.ca.us

January 11, 2022

Mr. David Stoldt
Monterey Peninsula Water Management District
5 Harris Court, Building G
Monterey, CA 93940
Via Email: dstoldt@mpwmd.net

SUBJECT: MPWMD Application to LAFCO

Dear Mr. Stoldt:

Thank you for your correspondence, dated December 28, 2021, regarding property tax-related issues in Monterey Peninsula Water Management District's (hereon "MPWMD" or "District") proposal to the Local Agency Formation Commission of Monterey County (LAFCO). We understand that MPWMD has submitted an application to LAFCO requesting "activation" of the District's latent powers authority to provide and maintain potable water production and distribution services for retail customers, as well as the annexation of approximately 139 acres (58 parcels) in the Yankee Point and Hidden Hills areas. We also understand that LAFCO expected MPWMD to address tax loss impacts. County staff will continue to monitor the status of your LAFCO proposal.

The County appreciates MPWMD's commitment towards negotiating with each affected tax receiving entity, as it relates to a reasonable basis to mitigate revenue impacts. Being that a significant number of parties could potentially be impacted, we believe that future discussions on mitigating tax revenue losses could benefit from a unified approach. We would appreciate you including the County in unified discussions. We look forward to such discussions following the conclusion of LAFCO's formal review of your District's application.

Should you have any questions, please do not hesitate to contact me at (831) 755-5113.

Sincerely,

DocuSigned by:

Charles J. McKee

County Administrative Officer

Cc: Leslie J. Girard, County Counsel
Nicholas Chiulos, Assistant CAO

From: [Robin Scattini](#)
To: [Dave Stoldt](#)
Cc: [Chip Rerig](#); dave@laredolaw.net
Subject: Re: District's LAFCO Application
Date: Wednesday, January 12, 2022 4:36:20 PM

Hi David:

Thank you for giving the City advance notice of this change. When you are ready to engage in negotiations, please include me in all communications as I will be taking the lead in presenting the agreement to Carmel's City Council.

Thank you,
Robin Scattini, Finance Manager, Acting Director of Budget & Contracts
City of Carmel-By-The-Sea
P.O. Box CC
Carmel-by-the-Sea, CA 93921
Direct: 831-620-2019

----- Forwarded message -----

From: **Dave Stoldt** <dstoldt@mpwmd.net>
Date: Tue, Dec 28, 2021 at 1:23 PM
Subject: District's LAFCO Application
To: Chip Rerig - City of Carmel (crerig@ci.carmel.ca.us) <crerig@ci.carmel.ca.us>
Cc: Dave Laredo <dave@laredolaw.net>

Please see attached correspondence.

David J. Stoldt
General Manager
Monterey Peninsula Water Management District
5 Harris Court – Bldg G
Monterey, CA 93940

831.658.5651

From: [David Sargenti](#)
To: [Dave Stoldt](#)
Cc: [Pete Poitras \(info@weddingphotographercarmel.com\)](mailto:info@weddingphotographercarmel.com); [Dave Laredo](#)
Subject: Re: District's LAFCO Application
Date: Wednesday, December 29, 2021 10:41:04 AM

Dave,

Thank you for reaching out to me on this matter. As indicated in Chief Urquides email to you on December 9th, no additional staff time or legal review has been put into the Revenue Neutrality Transition Agreement. If on January 5th, the LAFCO Board changes its position on the District's request to activate its latent powers, we will be conducting the appropriate review of the document and provide you with our concerns.

Thank you and Happy New Year,

David

On Tue, Dec 28, 2021 at 1:36 PM Dave Stoldt <dstoldt@mpwmd.net> wrote:

Please see attached correspondence.

David J. Stoldt

General Manager

Monterey Peninsula Water Management District

5 Harris Court – Bldg G

Monterey, CA 93940

831.658.5651

--

David Sargenti
Deputy Chief
Monterey County Regional Fire District
19900 Portola Drive
Salinas, CA 93908
Office- 831-455-1828
Cell- 831-596-4724
Fax- 831-455-0646

Confidentiality Notice:

This is a transmission from Monterey County Regional Fire District. This message and any attached documents may be confidential and contain information protected by state and federal medical privacy

Appendix G

Appendix E

Growth in Monterey County Total Assessed Valuation 1970 - 2020

(Source: County Assessor Vagnini 1-21-22)

	Secured		Unsecured		Total AV		Monterey County % Growth
1970	\$536,903,496		\$40,379,586		\$2,309,132,328		
1971	\$557,047,803	%	\$44,182,585		\$2,404,921,552		4.15%
1972	\$616,035,900		\$45,260,066		\$2,645,183,864		9.99%
1973	\$720,924,095		\$53,404,545		\$3,097,314,560		17.09%
1974	\$840,479,955		\$59,790,018		\$3,601,079,892		16.26%
1975	\$958,146,895		\$95,485,824		\$4,214,530,876		17.04%
1976	\$1,075,105,620		\$82,617,740		\$4,630,893,440		9.88%
1977	\$5,413,947,921		\$108,208,547		\$5,522,156,468		19.25%
1978	\$1,365,925,955		\$104,159,428		\$5,880,341,532		6.49%
1979	\$5,831,775,309		\$140,466,583		\$5,972,241,892		1.56%
1980	\$1,636,954,615		\$89,808,687		\$6,907,053,208		15.65%
1981	\$6,997,284,103		\$416,163,016		\$7,413,447,119		7.33%
1982	\$7,684,256,165		\$465,628,661		\$8,149,884,826		9.93%
1983	\$8,574,924,563		\$497,487,389		\$9,072,411,952		11.32%
1984	\$9,335,082,814		\$544,751,623		\$9,879,834,437		8.90%
1985	\$10,142,146,664		\$595,158,909		\$10,737,305,573		8.68%
1986	\$11,028,765,677		\$700,944,311		\$11,729,709,988		9.24%
1987	\$11,847,839,373		\$706,589,165		\$12,554,428,538		7.03%
1988	\$12,182,325,613		\$709,139,707		\$12,891,465,320		2.68%
1989	\$13,241,887,393		\$804,027,762		\$14,045,915,155		8.96%
1990	\$14,705,564,515		\$861,898,194		\$15,567,462,709		10.83%
1991	\$16,397,077,207		\$832,468,669		\$17,229,545,876		10.68%
1992	\$17,253,289,332		\$868,403,187		\$18,121,692,519		5.18%
1993	\$17,744,155,532		\$896,931,717		\$18,641,087,249		2.87%
1994	\$18,321,880,836		\$937,440,801		\$19,259,321,637		3.32%
1995	\$18,993,626,610		\$1,069,813,125		\$20,063,439,735		4.18%
1996	\$19,668,160,478		\$1,102,591,693		\$20,770,752,171		3.53%
1997	\$20,614,148,681		\$1,157,958,379		\$21,772,107,060		4.82%
1998	\$21,783,788,852		\$1,230,830,983		\$23,014,619,835		5.71%
1999	\$23,771,276,804		\$1,310,752,924		\$25,082,029,728		8.98%
2000	\$25,998,658,964		\$1,386,909,413		\$27,385,568,377		9.18%
2001	\$28,993,637,984		\$1,382,973,705		\$30,376,611,689		10.92%
2002	\$31,829,779,226	9.78%	\$1,571,613,376	13.64%	\$33,401,392,602		9.96%
2003	\$33,135,162,580	4.10%	\$1,600,427,015	1.83%	\$34,735,589,595		3.99%
2004	\$35,979,699,283	8.58%	\$1,638,775,976	2.40%	\$37,618,475,259		8.30%
2005	\$40,019,487,123	11.23%	\$1,766,099,389	7.77%	\$41,785,586,512		11.08%
2006	\$44,791,304,920	11.92%	\$1,900,450,107	7.61%	\$46,691,755,027		11.74%
2007	\$48,646,781,445	8.61%	\$1,943,801,446	2.28%	\$50,590,582,891		8.35%
2008	\$49,572,897,796	1.90%	\$2,148,558,392	10.53%	\$51,721,456,188		2.24%
2009	\$47,776,608,790	-3.62%	\$2,164,773,805	0.75%	\$49,941,382,595		-3.44%
2010	\$45,795,650,828	-4.15%	\$2,024,731,357	-6.47%	\$47,820,382,185		-4.25%
2011	\$45,871,595,535	0.17%	\$2,038,929,581	0.70%	\$47,910,525,116		0.19%
2012	\$46,479,492,857	1.33%	\$2,058,287,690	0.95%	\$48,537,780,547		1.31%
2013	\$48,281,139,734	3.88%	\$2,055,615,177	-0.13%	\$50,336,754,911		3.71%
2014	\$51,241,152,648	6.13%	\$2,120,652,183	3.16%	\$53,361,804,831		6.01%
2015	\$54,292,944,694	5.96%	\$2,242,248,953	5.73%	\$56,535,193,647		5.95%
2016	\$56,845,806,357	4.70%	\$2,269,366,040	1.21%	\$59,115,172,397		4.56%
2017	\$60,119,600,849	5.76%	\$2,380,713,251	4.91%	\$62,500,314,100		5.73%
2018	\$63,910,785,568	6.31%	\$2,500,437,732	5.03%	\$66,411,224,940		6.26%
2019	\$67,640,604,637	5.84%	\$2,502,534,823	0.08%	\$70,143,139,460		5.62%
2020	\$71,026,319,011	5.01%	\$2,873,968,370	3.96%	\$73,900,287,381		5.36%

Appendix H

Appendix F

MONTEREY COUNTY

AUDITOR - CONTROLLER

(831) 755-5040 • FAX (831) 755-5098 •
168 W. Alisal St, 3rd Fl, Salinas, CA 93901

Rupa Shah, CPA
AUDITOR-CONTROLLER



November 5, 2021

Mr. Reno DiTullio Jr., Fire Chief

Email: reno.ditulliojr@fire.ca.gov

Dear Mr. DiTullio,

This is to inform you that due to a negative apportionment the South Monterey County Fire Protection District will not receive a share of property tax revenues for the fiscal year 2021-22 but will instead be required to return funds back to the County.

Factors contributing to this negative apportionment are 1) a decline in values in areas annexed by the district in 2016-17 and 2) the methodology in a property tax sharing agreement between the district and the County (County Board Resolution 15-072). As part of the tax sharing agreement, the County agreed to share some of its property tax increment with the district in the annexed tax rate areas. The tax sharing agreement was for increment revenues only and no base property tax was shared with the district. While the tax-rate areas involved in the tax sharing agreement increased in values in the subsequent years, and therefore increased the property tax revenues to the district, these tax rates areas have now experienced a significant reduction in value due to a drop in oil prices and corresponding decline in value of the Chevron and AERO oil fields, as assessed by the County Assessor. Because the district did not negotiate a property tax base share in these areas, it does not have sufficient accumulated base revenues to offset the decline in values, therefore, creating a negative apportionment.

The Auditor-Controller's Office calculates the revenue allocation of the 1% general property tax levy pursuant to Revenue and Taxation Code 96.5 and has no authority to make changes to the calculation. Generally, each agency receives the same property tax revenue it received in the prior year plus its share of any growth in property tax within its boundaries. This year due to the decline instead of growth of values while the tax base for the district has not yet built up sufficiently, the calculation is rendering an overall negative apportionment.

We realize that the loss of revenues may be an unforeseen situation for the district. Please contact Ms. Joey Nolasco, Property Tax Manager at 831-784-5716 or via email at nolascoj@co.monterey.ca.us with any questions or if you'd like to schedule a meeting to discuss.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Rupa Shah', with a stylized flourish at the end.

Rupa Shah, CPA
Auditor-Controller

Cc: Christopher M. Lopez, District 3 Supervisor
Charles J. McKee, County Administrative Officer
Nick Chiulos, Assistant County Administrative Officer
Stephen L. Vagnini, County Assessor
Leslie J. Girard, County Council

Appendix I

Appendix G

Los Angeles Times

Small Towns Tell a Cautionary Tale About the Private Control of Water

BY TIM REITERMAN

MAY 30, 2006 12 AM PT

TIMES STAFF WRITER

In nearby Chualar, residents who had been paying \$21 per month for water got a rude introduction to privatization two years ago, when Monterey County sold the town's water system to California-American Water Co.

A monthly charge of more than \$200 prompted Rebecca Trujillo, a farmworker whose husband owns a concrete business, to call Cal-Am's customer service line in Illinois. She said she was told there must be a serious leak.

But that was not the problem -- and Trujillo was not alone. Some monthly bills exceeded \$500. With approval from the California Public Utilities Commission, which regulates investor-owned water companies, Cal-Am had started assessing Chualar customers the same rates as its customers in a Carmel Valley neighborhood of million-dollar homes.

The rates were designed to encourage conservation by steeply increasing charges for households that used more water than a typical family of four. But Chualar's households often are much larger than that.

When residents protested at a PUC meeting in San Francisco, Cal-Am agreed to restore the old rates until more reasonable ones could be developed.

"We were running on autopilot," said Kevin Tilden, Cal-Am vice president of external relations. "Obviously the adjacent community was not the right template."

Appendix J

Appendix H



California-American Water Company

November 10, 2006

ADVICE LETTER NO. 654-A

CONFERENCE-

EFFECTIVE - 12/2/06

RESOLUTION-

TO THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

California American Water Company (CalAm) (U210W) hereby submits for filing the following tariff sheets applicable to its Monterey District which are attached hereto:

<u>C.P.U.C. Sheet No.</u>	<u>Title of Sheet</u>	<u>Canceling Sheet No.</u>
4437-W	Schedule No. MO CO-1 Monterey District Tariff Area Ralph Lane and Chualar Service Areas GENERAL METERED SERVICE	4239-W
4438-W	TABLE OF CONTENTS (continued)	4425-W
4439-W	TABLE OF CONTENTS	4246-W

This advice letter filing is being made supplement Advice Letter 654 which requested the implementation of new rates for California American Water's Monterey District, Chualar system.

On January 16, 2003, the California Public Utilities Commission authorized rates for five years for the Chualar system. California American Water is requesting a reduction in rates compared to those approved in Resolution W-4365 after participating in several community meetings on the subject of rates.

CalAm requests the rates to become effective thirty days after the filing date of this advice letter.

In accordance with Section III of General Order No. 96-A, a copy of this advice letter is being sent to those entities listed in Exhibit A.

The actions requested in this advice letter are not now the subject of any formal filings with the California Public Utilities Commission, including a formal complaint, nor action in any court of law.

This filing will not cause the withdrawal of service, nor conflict with other schedules or rules.

Protests and Responses:

A protest is a document objecting to the granting in whole or in part of the authority sought in this advice letter. A response is a document that does not object to the authority sought, but nevertheless presents information that the party tendering the response believes would be useful to the Commission in acting on the request.

A protest must be mailed within 20 days of the date the Commission accepts the advice letter for filing. The filing date is the date the advice letter was placed on the Commission's Calendar.



RECEIVED
SEP 18 2006
WATER DIVISION



California-American Water Company

4701 Beloit Drive • Sacramento, CA 95838-2434 / P.O. Box 15468 • Sacramento, CA 95851-0468 • (916) 568-4200 • FAX (916) 568-4260

Advice Letter No. 654-A
November 10, 2006
Page 2 of 2

The Calendar is available on the Commission's website at www.cpuc.ca.gov. Click on **SEARCH SITE** (upper left corner). Uncheck all but **Daily Calendar**. Enter "**WATER 654A-W**" (include the quotation marks) and click **SEEK**. A protest must state the facts constituting the grounds for the protest, the effect that approval of the advice letter might have on the protestant, and the reasons the protestant believes the advice letter, or a part of it, is not justified. If the protest requests an evidentiary hearing, the protest must state the facts the protestant would present at an evidentiary hearing to support its request for whole or part denial of the application.

All protests or responses to this filing should be sent to:


California-Public Utilities Commission, Water Division
505 Van Ness Avenue
San Francisco, CA 94102
Fax: (415) 703-4426
E-Mail: water_division@cpuc.ca.gov

And to this utility to:

David P. Stephenson
Director – Rates & Planning
4701 Beloit Drive
Sacramento, CA 95838
Fax: (916) 568-4260
E-Mail: dstephen@amwater.com

If you have not received a reply to your protest within 10 business days, contact this person at (916) 568-4222.

CALIFORNIA AMERICAN WATER



David P. Stephenson *SPE*
Director - Rates & Revenues



City of Monterey
City Hall
Monterey, CA 93940
Attn: City Clerk

Residents Water Committee
27195 Meadows Road
Carmel, CA 93923
Attn: Pat Bernardi

Ross G. Hubbard
City of Pacific Grove
c/o City Manager's Office
300 Forest Ave, 2nd floor
Pacific Grove, CA 93950

Karen Crouch
City Clerk,
Carmel-By-The-Sea
PO Box CC
Carmel-by-the-Sea, CA 93921

City of Sand City
City Hall
California & Sylvan Avenues
Sand City, CA 93955
Attn: City Clerk

City of Seaside
City Hall
440 Harcourt Avenue
Seaside, CA 93955
Attn: City Clerk

Monterey Peninsula Water Mgmt Dist.
P.O. Box 85
Monterey, CA 93942
Attn: Mr. Ray Millard

Darlene Drain
County Clerk
County of Monterey
P.O. Box 1728
Salinas, CA 93902

City of Del Rey Oaks
City Hall
650 Canyon Del Rey Road
Del Rey Oaks, CA 93940
Attn: City Clerk

Bishop Water Company
11552 Hidden Hills Road
Carmel Valley, CA 93924

Alco Water Service
249 Williams Road
Salinas, CA 93901

Hoge, Fenton, Jones, & Appel
P.O. Box 791
Monterey, CA 93942
Attn: Thomas H. Jamison
Attn: Ronald F. Scholl

Pebble Beach Company
P.O. Box 1767
Pebble Beach, CA 93953
Attn: Steven Eimer

Sung Han
California Public Utilities Commission
Room 3200
505 Van Ness Avenue
San Francisco, CA 94102

Richard Andrews
General Manager
Pebble Beach Community Svcs. I
Forest Lake and Lopez Roads
Pebble Beach, CA 93953

Administrative Law Judge Christine
Walwyn
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Monica L. McCrary
California Public Utilities Commission
Legal Division, Room 5134
505 Van Ness Avenue
San Francisco, CA 94102

Miriam L. Stompler
Attorney at Law
County of Santa Cruz
701 Ocean Street, Room 505
Santa Cruz, CA 95060

Harriet Burt
California Public Utilities Commission
Public Advisor Office, Room 2103
505 Van Ness Avenue
San Francisco, CA 94102-3214

Fred L. Curry
California Public Utilities Commission
Water Advisory Branch, Room 3106
505 Van Ness Avenue
San Francisco, CA 94102-3214

Diana Brooks
California Public Utilities Commis
Room 4102
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San Francisco, CA 94102-3214

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Attorney at Law
7532 Fawn Court
Carmel, CA 93923

Lou Haddad
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Monterey, CA 93940

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Attorney at Law
DeLay & Laredo
606 Forest Ave
Pacific Grove, CA 93950

David A McCormick
Department of Defense
901 N. Stuart Street Rm 700
Arlington, VA 22203-1837

Richard Andrews
Pebble Beach Community Services District
Forrest Lake and Lopez Roads
Pebble Beach, CA 93953

Fort Ord Reuse Authority
100 12th Street, Bldg 2880
Marina, CA 93922

San Jose Water Company
374 W. Santa Clara St
PO Box 229
San Jose, CA 95196

City of Pacific Grove
City Attorney
300 Forest Ave 2nd floor
Pacific Grove, CA 93950

Lloyd Lowery Jr.
Noland, Hammerly, Etienne & Ho
P.C.
333 Salinas St
PO Box 2510
Salinas, CA 93902-2510

Thomas Jamison
Fenton & Keller, P.C.
2801 Monterey Salinas Highway
Po Box 791
Monterey, CA 93942

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One Embarcadero Center, Suite 600
San Francisco, CA 94111-3834

Jeffrey P. Gray
Davis Wright Tremaine LLP
One Embarcadero Center, Suite 600
San Francisco, CA 94102

Carmel Area Wastewater District
3945 Rio Road
Carmel, CA 93923

Monterey Regional Water Pollution
Control Agency (MRWPCA)
5 Harris Court Road, Bldg D.
Monterey, CA 93940

Marc J. Del Piero
4062 El Bosque Drive
Pebble Beach, CA 93953-301

Danilo Sanchez
California Public Utilities
Commission, DRA
505 Van Ness Avenue
San Francisco, CA 94102

Michael Depaul
Noland, Hamerly, Etienne & Hoss
333 Salinas Street
Salinas, CA 93902-2510

Darryl D. Kenyon
Monterey Commercial Property
Owners Association
P.O. Box 398
Pebble Beach, CA 93953

Virginia Hennessey
Monterey County Herald
P.O. Box 271
Monterey, CA 93942

Norman Furuta
Department of Navy
2001 Junipero Serra Blvd, Suite 600
Daly City, CA 94014-3890

Tanya A. Gulesserian
Adams Broadwell Joseph &
Gardoza
601 Gateway Blvd, Suite 100C
South San Francisco, CA 94080

Jondi Gumz
Santa Cruz Sentinel
207 Church Street
Santa Cruz, CA

Robin Tokmakian
League of Women Voters
252 Chestnut
Pacific Grove, CA 93950

Reed V. Schmidt
Bartle Wells Associates
1889 Alcatraz Avenue
Berkeley, CA 94703-2714

Joe Rosa
Pajaro-Sunny Mesa Comm. Serv.
District
136 San Juan Road
Watsonville, CA 95076

Irvin L. Grant
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168 W. Alisal Street, 3rd floor
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555 Capitol Mall, 10th Floor
Sacramento, CA 95814

State Water Resources Control Board
PO Box 100
Sacramento, CA 95812

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County Counsel
Monterey County
168 W. Alisal Street, 3rd floor
Salinas, CA 93901-2680

California Dept of Health Services
Division of Drinking Water &
Environmental Management
PO Box 997416
Sacramento, CA 95899-7413

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City of Salinas
200 Lincoln Avenue
Salinas, CA 93901

Don Freeman
City of Seaside
City Attorney
440 Harcourt Avenue
Seaside, CA 93955

Kevin Coughlan
California Public Utilities
Commission, Water Division
505 Van Ness Avenue
San Francisco, CA 94102

Donald G. Freeman
City Attorney
City of Carmel-By-The-Sea
PO Box 805
Carmel-by-the-Sea, CA 93921

Efren N. Iglesia
Office of the County Counsel
County of Monterey
168 W. Alisal Street, 3rd floor
Salinas, CA 93901-2680

Ann Camel
City Clerk
City of Salinas
200 Lincoln Avenue
Salinas, CA 93901

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William Connors
City of Monterey
City Attorney
399 Madison Street
Monterey, CA 93940

Gerard A. Rose
PO Box 5427
Carmel, CA 93921

Craig A. Marks
American Water Company
19820 N. 7th Street, Ste. 201
Phoenix, AZ 85024

Paul G. Townsley
California American Water
303 H Street, Suite 250
Chula Vista, CA 91910

Lenard G. Weiss
Steefel, Levitt & Weiss
One Embarcadero Center 30th F
San Francisco, CA 94111

Lori Anne Dolqueist
Steefel, Levitt & Weiss
One Embarcadero Center 30th Floor
San Francisco, CA 94111

Christine J. Hammond
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One Embarcadero Center 30th Floor
San Francisco, CA 94111

Sarah Leeper
Steefel, Levitt & Weiss
One Embarcadero Center 30th F
San Francisco, CA 94111

David P. Stephenson
California American Water
4701 Beloit Drive
Sacramento, CA 95838

Appendix K

Appendix I

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT TREASURER'S REPORT FOR NOVEMBER 2021

<u>Description</u>	<u>Checking</u>	<u>MPWMD Money Market</u>	<u>L.A.I.F.</u>	<u>Multi-Bank Securities</u>	<u>MPWME Total</u>	<u>PB Reclamation Money Market</u>
Beginning Balance	\$223,027.39	\$1,825,153.31	\$10,633,914.53	\$3,412,392.67	\$16,094,487.90	\$733,823.05
Fee Deposits		2,396,174.29			2,396,174.29	691,107.74
MoCo Tax & WS Chg Installment Pymt					0.00	
Interest Received				5,388.11	5,388.11	
Transfer - Checking/LAIF					0.00	
Transfer - Money Market/LAIF					0.00	
Transfer - Money Market/Checking	1,600,000.00	(1,600,000.00)			0.00	
Transfer - Money Market/Multi-Bank					0.00	
Transfer to CAWD					0.00	(723,000.00)
Voided Checks					0.00	
Bank Corrections/Reversals/Errors					0.00	
Bank Charges/Other	(1,065.58)				(1,065.58)	
Credit Card Fees	(1,712.35)				(1,712.35)	
Returned Deposits	-				0.00	
Payroll Tax/Benefit Deposits	(97,915.56)				(97,915.56)	
Payroll Checks/Direct Deposits	(136,306.56)				(136,306.56)	
General Checks	(897,935.92)				(897,935.92)	
Bank Draft Payments	(10,381.53)				(10,381.53)	
Ending Balance	\$677,709.89	\$2,621,327.60	\$10,633,914.53	\$3,417,780.78	\$17,350,732.80	\$701,930.79

Appendix L

Appendix J



January 4, 2022

Mr. Ryan Altemeyer
Associate Superintendent, Business Services
Monterey Peninsula Unified School District (MPUSD)
PO Box 1031
700 Pacific Street
Monterey, CA 93942

RE: Monterey Peninsula Water Management District Application to LAFCO
Regarding Activation of Latent Powers

Dear Mr. Altemeyer:

This letter is to reply to some of the issues raised in your December 3, 2021 letter to Kate McKenna, Executive Officer of LAFCO of Monterey County.

The District believes that MPUSD has a fundamental misunderstanding of the financial impacts of a District acquisition of California American Water Company's (Cal-Am) Monterey Water System and is over-reaching in its request for additional information.

The proposed acquisition should be treated by MPUSD no differently than the following examples, among others, of property transferring from private ownership to public ownership:

- Windows-on-the-Bay Park from near Wharf #2 to Sloat Avenue beginning in the 1980s, which included acquisition of private properties owned by Fugazi/Honda, Cellular One, Kereta, a meat company, Vapor Cleaners, and Pebble Beach Company.
- The 2007 sale of the Monterey Convalescent Hospital at 735 Pacific to the City of Monterey.
- The acquisition by the City of Monterey of parcels at and around 669 Van Buren in the early 2000s which were ultimately developed as tax-exempt senior housing in 2018.
- The 2019 transfer of 135 acres of the Old Capitol Site, then zoned for housing, to the City of Monterey for permanent open space.

Where was the outcry then regarding potential lost property taxes? Yet, the impact to MPUSD and other Impacted Agencies is exactly the same as the District's proposal. We suggest that MPUSD treat the potential financial impacts in exactly the same manner as it has for these and other previous transactions.

Mr. Ryan Altemeyer

Page 2 of 2

January 4, 2022

The District stands by its earlier statements, validated by LAFCO's third-party consultant Berkson Associates, as well as the California Department of Education (CDE) that school districts such as MPUSD that are not "basic aid" districts will be backfilled through the Local Control Funding Formula. The District has also pointed to the sections of the California Education Code and the State Constitution providing such guarantees. Similarly, any reductions in County ERAF funds will be made-up through the State funding formula. As for non-school Impacted Agencies, the District has already offered Revenue Neutrality Transition Agreements to the 14 most impacted of them – achieving sufficient mitigation for each.

Regarding voter approved bonded indebtedness, tax rates, and what you refer to as "Other Financial Impacts", the District reiterates that such must not be considered losses because other payers will have to cover them. The mathematics of doing so is not for the District to calculate. In fact, MPUSD should already have the internal capability to do so since every year the overall County-wide assessed valuation rises, companies acquire property or go out of business, individual properties are reassessed upward or downward, requiring the amount on the Treasurer-Tax Collector tax bill for bonded indebtedness to be revised almost annually.

If MPUSD remains dissatisfied with the CDE response the District has cited, we suggest that the school district, or its Sacramento attorneys, are better equipped to engage CDE in greater detail.

Restating an earlier point, the District believes the level of complexity of the proposed acquisition is no different than the myriad of public purchases of private property that have occurred over the years and the same financial rubrics should be applied by any Impacted Agency.

As for the long-term or permanent nature of lost tax revenue, the District's position is very clear: the magnitude of the potential lost revenue is very small for every affected agency. While each such agency can easily "grow" out of the loss, the District has stated a willingness to help affected agencies transition over time.

Sincerely,



David Stoldt
General Manager

Monterey Peninsula Water Management District

cc: VIA EMAIL
David C. Laredo
Constantine Baranoff

Appendix M

Appendix K



TECHNICAL MEMORANDUM

To: *Jennifer Gonzalez, PE, Engineering Manager*
Monterey One Water

From: *Bob Holden, PE, LS, M.ASCE*
Principal Engineer
Monterey One Water

Alison Imamura, PE, AICP
Associate Engineer
Monterey One Water



Date: **April 11, 2020**

Subject: **Approved Pure Water Monterey (PWM) Project and Proposed Modifications to Expand the PWM Project - Source Water Operational Plan**

INTRODUCTION AND BACKGROUND

The Pure Water Monterey (PWM) Final Environmental Impact Report (EIR) certified in 2015 with addenda and the Draft Supplemental EIR dated 2019 (Draft SEIR) for the Proposed Modifications to expand the PWM Project¹ describe the source water availabilities, water rights, and uses. The EIR and Draft SEIR source waters analyses assumed 2009 to 2013 average flows would be consistent with future flows, plus these analyses assumed that the quantities of Salinas Industrial Wastewater (Ag Wash Water, AWW) would increase in the future. The PWM Project and the Proposed Modifications to expand the PWM Project yield include use of secondary-treated water as influent for the Advanced Water Purification Facility (AWPF) that provides purified water to MCWD for landscape irrigation and to convey for injection into the Seaside Groundwater Basin plus use of additional source water to augment Regional Treatment Plant (RTP) influent for the Salinas Valley Reclamation Project (SVRP) and the Castroville Seawater Intrusion Project (CSIP). The EIR identified that one acre-foot (AF) of AWPF product water requires 1.23 AF of RTP influent water (i.e., for every one AF of product water that is produced at the AWPF, 0.23 AF of reverse osmosis (RO) concentrate is sent into the outfall). Those analyses were not concerned with quantifying screening and membrane filtration (MF) backwashes as the backwash water returns to the RTP headworks and can be reused after primary and secondary treatment.

The purposes of this memorandum are 1) to describe M1W's rights to the AWPF feed water, 2) to describe quantities by month of secondary effluent that are available to use as influent to the AWPF in various conditions, and 3) to show how the AWPF feed water could be adjusted to a specific year's monthly flow. In these analyses, one AF of AWPF product water is assumed to require 1.37 AF water rights in the form

¹ The 2019 – 2020 SEIR addresses expanding the PWM Project for the purpose of providing a Back Up Plan for CalAm to meet the CDO in case the MPWSP desalination plant is delayed beyond milestones established in the State Water Resources Control Board's Cease and Desist Order.

of Ozone Feed Water. Of each one AF of product water, the Ozone Strainer and MF Pre-strainer backwashes removes 0.03 AF which returns to the headworks. Next, 0.11 AF are removed during MF backwash which is also returned to the Headworks. Finally, 0.23 AF of RO concentrate is removed and sent to the outfall. The analyses herein separately quantify the backwash water flows from the AWPf because when those flows return to primary and secondary treatment their water rights change. Water rights consider those rights to RTP secondary effluent prescribed by California Water Code section 1210 and the Amended and Restated Water Recycling Agreement (November 3, 2015, as amended in June 2019, herein referred to as the ARWRA). Volumes of wastewater flowing into the RTP's primary and secondary treatment processes that would be available to use as influent to the AWPf include municipal wastewater to which M1W and MCWD have contractual rights and the "new source waters" as described in the ARWRA. These AWPf source water flows will be determined for the three distinct AWPf uses: MCWD, the approved PWM Project, and the Proposed Modifications. Water sources and yields for the remainder of the PWM Project (SVRP/CSIP) are described in the Schaaf & Wheeler reports published in the Final PWM Project EIR (M1W/DD&A, 2015), Addendum No. 3 to the EIR (M1W/DD&A, October 2017), and in the Final SEIR in Master Response #3 of Chapter 3, and in Appendices I and R (M1W/DD&A, 2019).

COMPOSITION OF MUNICIPAL WASTEWATER FLOWS

Relative contributions of municipal wastewater from M1W's geographic areas that enters the M1W headworks and is metered there include: 51% from the Salinas urban area, 3% from Moss Landing and Castroville, 46% from the Monterey Peninsula, Marina, and Fort Ord areas (Source: M1W Sewer System Management Plan, 2019). Addition of AWW in recent years increases the percentage of flows from the Salinas area by up to 4% (peaking in the summer). These municipal flows are primarily from areas within M1W's 2001 Service Area, but also include some municipal/domestic flows from outside M1W's 2001 Service Area, including the following key geographic locations:²

1. North County High School and the southeast portion of Castroville, as shown in Figures 1 and 2,³
2. Boronda and areas north and southeast of the City of Salinas, as shown Figures 1 and 2,
3. Starting in 2019, the Farmworker Housing site on Hitchcock Road, southwest of Salinas,
4. Monterey Regional Waste Management District landfill starting in 2016, and
5. M1W Regional Treatment Plant on-site wastewater.

These flows have not previously been individually metered and some flow through the headworks meter, however, monthly volumes throughout the year have been estimated for the analyses in this memorandum based on available pumping operations data, use assumptions, and other metered flow data (flow balance calculations). Because these are also wastewater flows which enter M1W-owned infrastructure, rights to these waters are also governed by California Water Code Section 1210 which provides for the ability for M1W to enter into agreements for assigning those rights to other entities. Currently, the ARWRA and the March 1996 *Annexation Agreement and Groundwater Mitigation Framework for Marina Area Lands* are the main agreements governing the water rights to these flows.

² The distinction between municipal flows coming from within and outside of the M1W 2001 Service Area are important for interpreting rights assigned to MCWRA by the Amended and Restated Water Recycling Agreement (November 2015).

³ Figures 1 and 2 use maps of the M1W (at that time, known as Monterey Regional Water Pollution Control Agency) published by the Monterey County Local Agency Formation Commission in 2003 and 2012 because maps of the service area were not published in 2001, and a newer map has not been published since 2012.

Figure 1. LAFCO Boundary Maps of MRWPCA Service Areas in 2003 and 2012

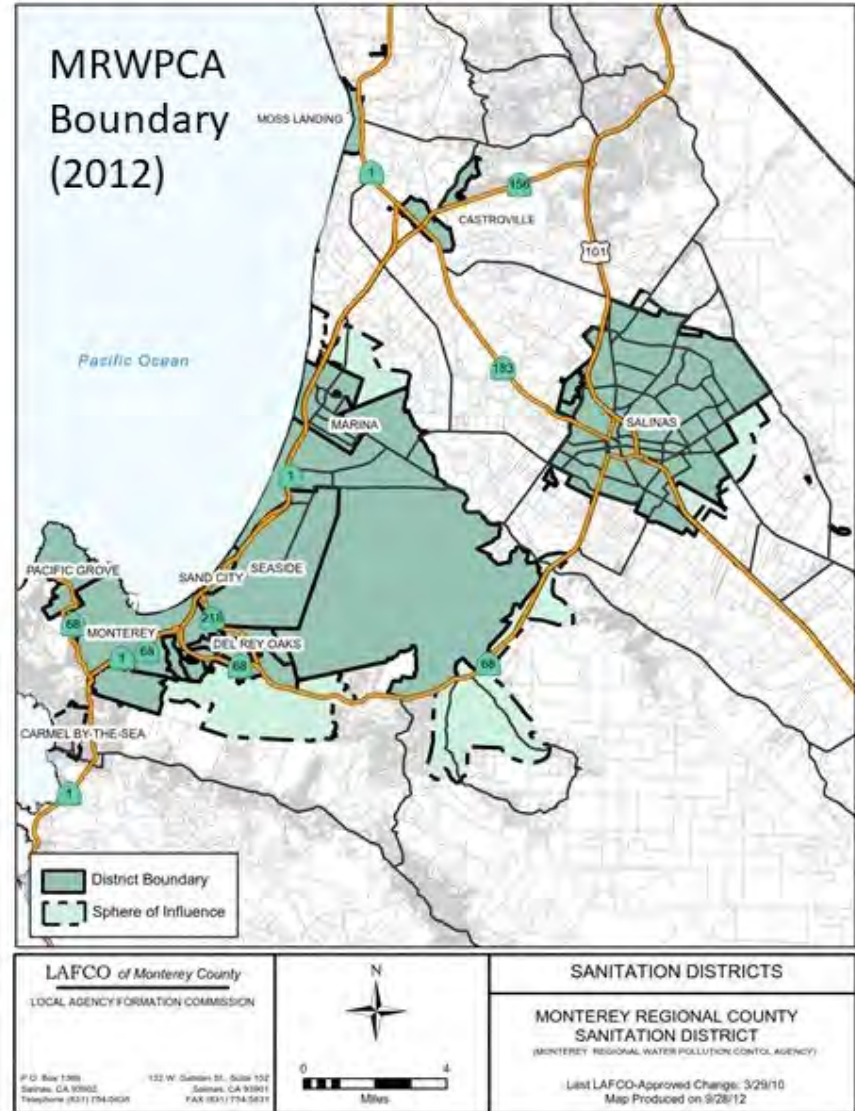
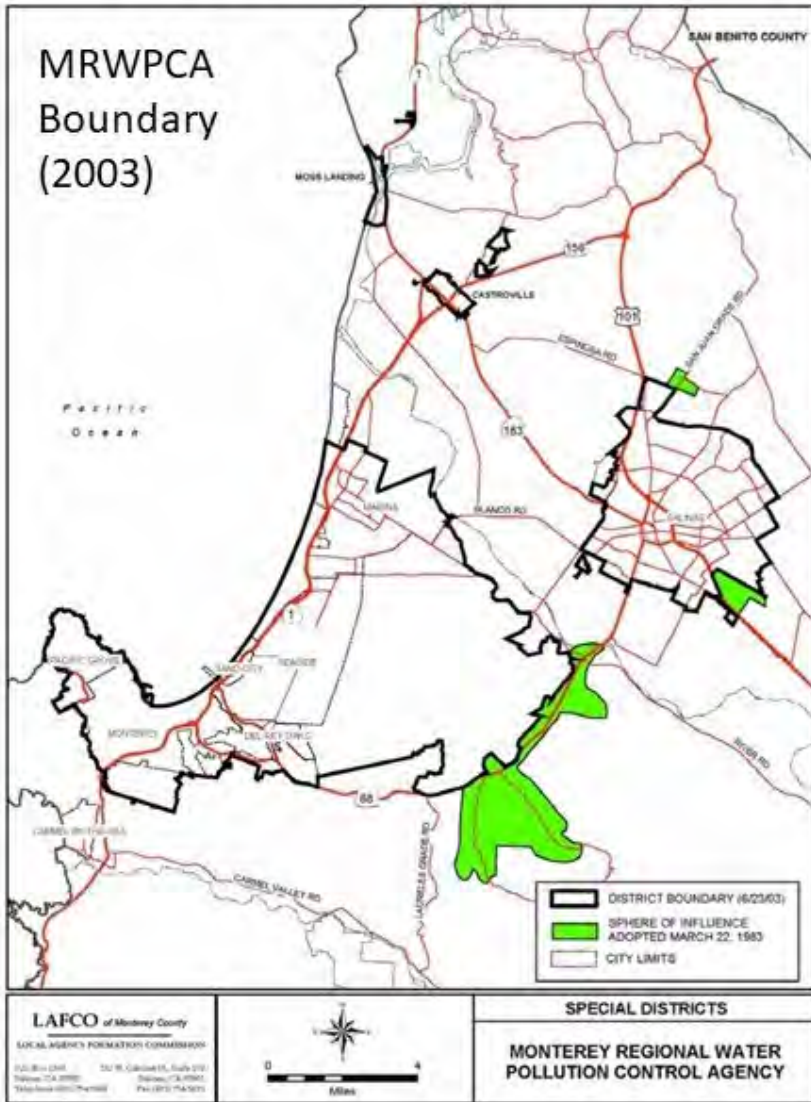
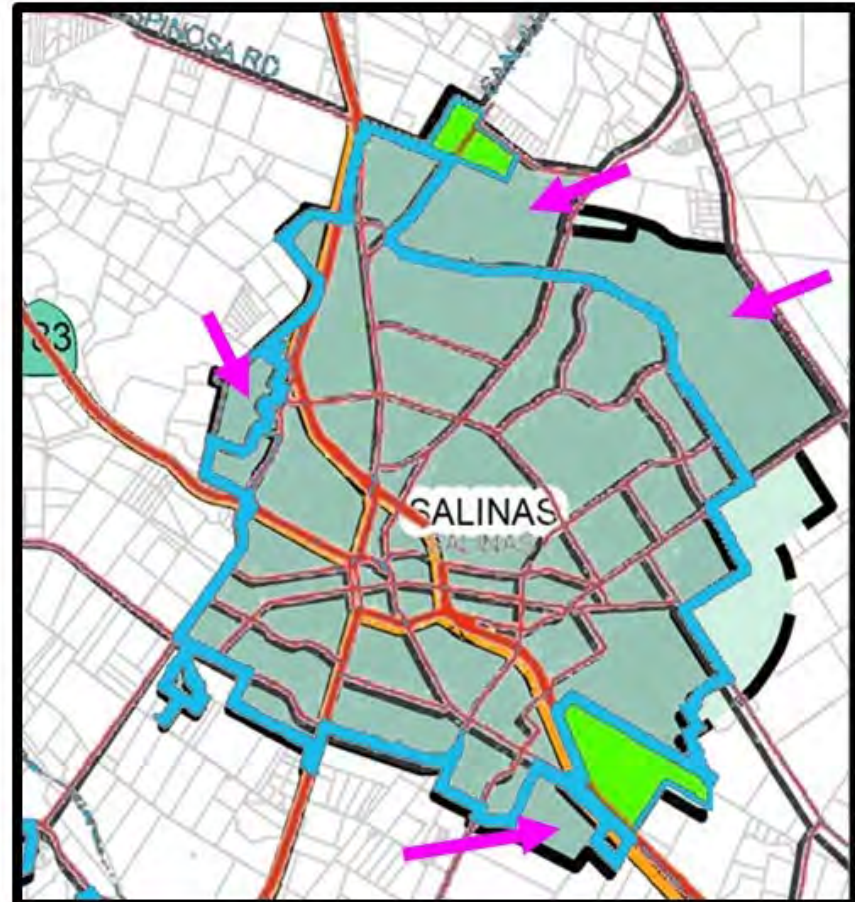






Figure 2. M1W Service Areas (northern & Salinas Area) added after 2003 (Noted with: )



 = 2003 LAFCO-published of MRWPCA Service Area Boundary
 = Current LAFCO-published M1W Service Area Boundary

  = Areas within sphere of influence, but not within service area.

NEW SOURCE WATERS IN ARWRA

As described in the ARWRA, new source waters available for use for recycling include the following:

- **Reclamation Ditch surface water.** M1W can divert this water into the City wastewater collection system by using the recently completed diversion structure near Davis Road (which then flows to the RTP), as allowed by a State Board Water Rights Permit #21377 issued to the MCWRA and discussed by the ARWRA.
- **Blanco Drain surface water.** M1W can divert this water to the RTP headworks using the recently completed diversion structure near the Salinas River, as allowed by a State Board Water Rights Permit #21377 issued to the MCWRA and discussed by the ARWRA.
- **Agricultural Wash Water (Ag Wash Water).** M1W can divert this water directly from the City of Salinas' separate industrial wastewater collection system to the M1W Salinas Pump Station using M1W's diversion facilities, as allowed by a State Board's Order approving Wastewater Change Petition #WW-0089 issued to the City of Salinas and the City/M1W Agreement for Conveyance and Treatment of Industrial Waste Water (October 27, 2015).

The use of these three categories of source water by M1W is subject to conditions precedent in Section 16.15 of the ARWRA as updated in Amendment No. 1 to the ARWRA. Under Amendment No. 1 to the ARWRA, M1W has rights to immediately use all the Reclamation Ditch and Blanco Drain surface waters and the Ag Wash Water, even before the conditions precedent are met. M1W may choose to use the Ag Wash Water to provide additional influent to the SVRP before the conditions precedent are met. In addition, Section 16.16 provides that if the conditions precedent are not met, then MCWRA would retain rights to the Ag Wash Water and M1W would retain rights to the Blanco Drain and Reclamation Ditch; however, for Section 16.16 to be in effect would require a separate agreement. Therefore, the analyses in this Technical Memorandum conservatively assume that Ag Wash Water:

1. is not available for use at the AWWP if conditions precedent are not met,
2. is only used for the Approved PWM Project during October through May in the scenarios where the conditions precedent are met, and
3. is not used for the Proposed Modifications.

Other new source waters that will be available to divert to the RTP to augment secondary effluent for recycling (and that are listed in the ARWRA) include City of Salinas urban runoff/stormwater that currently flows to the Salinas River, that will be mixed with AWW, conveyed to, and treated and stored in the Salinas Industrial Waste Water Treatment Facility (IWTF) ponds, and then diverted to the RTP from the northwest corner of Pond 3 at the IWTF. The infrastructure to enable this diversion is currently under construction. Currently, M1W does not have the ability to divert that treated water but will upon completion of the Pond 3 pump station. Nevertheless, because a contract with the City of Salinas or a contract amendment would be needed for M1W to use City of Salinas urban runoff/ stormwater, the analyses in this Technical Memorandum conservatively assume that City of Salinas urban runoff mixed with wastewater is not available for use at the AWWP. The ARWRA also lists Lake El Estero waters and SVRP modifications as new source waters, but to date there has been no implementation of this infrastructure due to lack of funding; therefore the analyses in this Technical Memorandum do not assume that these sources are available for use at the AWWP.

OTHER RELEVANT ANALYSES

This memorandum is complementary to the Perkins Coie Report “Water Rights Analysis for Proposed Modification to the Pure Water Monterey Groundwater Replenishment Project” (Perkins Coie Report). That report concluded:

- M1W, MCWD, and MCWRA all have secured rights to use water from the M1W’s collection and treatment system.
- M1W has secured rights to divert and use AWW for recycling and delivery to customers, including SVRP treatment then distribution to CSIP plus AWWPF treatment then injection to the Seaside Groundwater Basin (Agreement for Conveyance and Treatment of Industrial Waste Water By and Between the City of Salinas and the Monterey Regional Water Pollution Control Agency, dated Oct. 27, 2015).
- M1W needs a contract with the City of Salinas to acquire rights to divert, and treat for reuse, the City of Salinas storm water as enabled by M1W’s Salinas Storm Water Projects. Prior agreements could be amended to allow M1W AWW to recycle flows through the SVRP and AWWPF from Pond 3 at the City’s IWTF to the Regional Treatment Plant (RTP) as enabled by the Salinas Storm Water Phase 1B Project.
- M1W and MCWRA have rights to Reclamation Ditch and Blanco Drain waters through two relevant SWRCB permits and the ARWRA, as amended. According to the ARWRA Section XVI, 16.16, if conditions precedent in Section XVI, 16.15 are not satisfied, M1W would retain the right to divert and use these waters and AWW would be available for MCWRA to use.

Another complementary report was Schaaf & Wheeler’s Memorandum “Proposed Modifications to the Pure Water Monterey Groundwater Replenishment Project – Source Water Availability, Yield, and Use” dated November 1, 2019 (S&W Report) which was used to support the findings in the Draft SEIR. The Schaaf & Wheeler Report:

1. Dealt with the whole PWM Project that includes water for the AWWPF and water for SVRP/CSIP. It emphasized the calculation of total additional water to flow into the RTP for treatment and reuse (added to existing wastewater flows) and the use of the flows by the AWWPF and the SVRP and discharge to the outfall as recycled water or ocean discharge.
2. Used the 2015 EIR baseline data. This assumption was of interest to some stakeholders as the volumes of source water assumed to be available were based on 2009 through 2013 averages and industrial wastewater projections.⁴ This Technical Memorandum provides supplemental analyses and results based on a different set of assumptions not reliant on the same baseline data.
3. Modeled flows going into or out of the RTP site and facilities owned by M1W but did not account for the backwash and on-site-generated flows that do not pass through the RTP headworks flow meter. The red box on **Figure 3** represents this flow model boundary as is appropriate for the overall PWM Project.

⁴ Although some opined that this baseline did not incorporate more current data, this average was used only for the analysis of normal and wet years and included a severe drought year. In addition, wastewater influent volumes over the past three years has flattened and the provision of new water supplies to the Monterey Peninsula to eliminate constraints to growth will increase wastewater flows in the future under the Proposed Modifications. For these reasons, use of a 2009-2013 average for wastewater flows during normal and wet years is adequate.

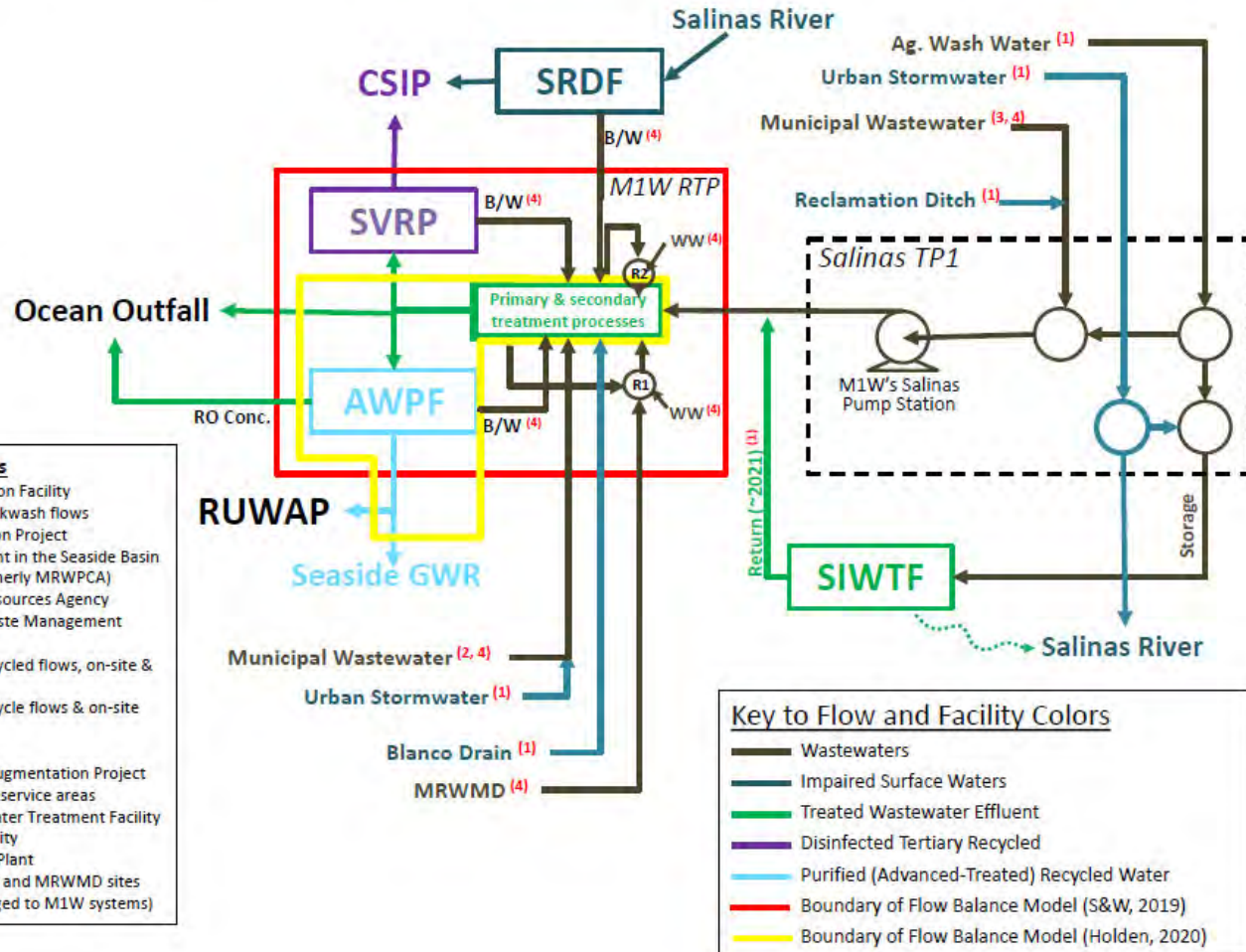
4. Analyzed use of source waters, RTP inflows, ocean discharges, and recycling yields by month to meet both AWPf and SVRP demands based on the following four potential future scenarios:
 - a. normal and wet year with drought reserve less than 1,000 AF,
 - b. a normal and wet year with a 1,000 AF drought reserve,
 - c. a drought year with a full 1,000 AF drought reserve, and
 - d. a maximum diversion year without limiting diversion based on projected recycled demands.

NOTE: The last scenario formed the basis for the environmental impact report analysis for various water resource topics since it provided a worst-case, conservative analysis of downstream impacts of surface water resources.

5. Ignored the SVRP, and AWPf backwash flows because they do not increase the amount of water at the RTP.
6. Ignored SRDF screening backwash flows because when screening is occurring, this indicates excess water available for meeting CSIP demands and these flows are inconsistent year-to-year.
7. Ignored rain and water in hauled waste (saline and septage) as influent to the RTP (these volumes are negligible).
8. Ignored evaporation and water in biosolids as a flow out of the RTP because these volumes are negligible.
9. Assumed AWW and Salinas Storm Water would be available directly and from Pond 3 IWTF Facility.
10. Assumed that the agencies implement the Lake El Estero Source Water diversion and the winter modifications to the Salinas Valley Reclamation Plant.
11. Estimated the reduced Reclamation Ditch water flow during drought for the drought scenario.
12. Estimated that Blanco Drain flow would not be reduced in drought, given that irrigation practices are consistent in drought and normal years enabled by the diversity of sources of irrigation water (river, groundwater wells, and recycled water -- the latter two of which are available even during drought years).

The Schaaf & Wheeler Report describes and quantifies source waters and uses for the entire PWM Project including SVRP/CSIP whereas this Technical Memorandum addresses use of flows for the AWPf portion of PWM Project.

Figure 3. Conceptual Flow Schematic for the Regional Collection, Treatment, and Recycling



NOTES:

(1) Contractual rights to these “New Source Waters” as defined in the ARWRA, would be available to MCWRA if conditions in ARWRA section 16.15 are satisfied. An agreement or amended agreement with the City of Salinas is required for rights to SIWTF Return Flows and Salinas Urban Stormwater.

(2) Pursuant to the ARWRA section IV. 4.01, Marina Coast Water District, MCWRA, and M1W have contractual rights to a portion of these wastewater flows.

(3) Pursuant to the ARWRA section IV. 4.01, MCWRA and M1W have contractual rights to a portion of these wastewater flows.

(4) Pursuant to the ARWRA section IV. 4.01, wastewater discharged into the M1W-owned treatment infrastructure which originates from outside M1W’s 2001 Service Area, including Farmworker Housing, Boronda, treatment process filter backwash flows, and rights to these flows are evenly divided between M1W and MCWRA. Ag. Wash Water, Reclamation Ditch, and Blanco Drain would have fallen under this provision; however, due to other provisions in the ARWRA (assuming conditions precedent in section 16.15 are met), these water sources are more accurately described by Note (1).

METHODOLOGY AND ASSUMPTIONS

The volumes of the municipal wastewater and new source waters for recycling for each M1W customer are described, quantified, and prioritized herein considering California Water Code section 1210, treated wastewater rights assigned by M1W with agreements, environmental benefits (reducing discharge of secondary effluent), operational needs (including efficiency of treatment and regulatory compliance), and cost considerations. The new source waters would preferentially be used for the Approved PWM Project as described by the ARWRA (Reclamation Ditch, Blanco Drain, and AWW if conditions precedent are met and just the Reclamation Ditch and Blanco Drain if conditions precedent are not met). The new source waters conservatively are not assumed to be available for the Proposed Modifications, regardless whether the conditions precedent are met. Flows from outside M1W's 2001 Service Area are prioritized to be used for the Proposed Modifications to avoid use of Salinas area drainage waters (Reclamation Ditch and Blanco Drain) and AWW. This strategy minimizes ocean discharges, optimizes water treatment efficiency, and keeps costs for recycling as low as possible. The analyses in this memorandum use updated source water flow rates and monthly volumes compared to the baseline data used previously in the EIR documents. Two scenarios are evaluated and presented representing two sets of assumptions about water availability and use for recycling:

- *A normal or wet water year while building a Drought Reserve (or Operating Reserve) in the Seaside Basin.* For these analyses, municipal wastewater and AWW flows are assumed to be the same as actual calendar year 2018 flows, which provide values for a representative (typical wet or normal) year.
- *A drought year starting with a full (1,000 AF) drought reserve.* Municipal wastewater and AWW flows for this scenario are assumed to be the same as in calendar year 2015, which had the lowest effluent flow to the ocean and the highest SVRP recorded use. The SVRP backwash flows are estimated assuming CSIP is optimized to maximize days of SVRP water production.

This memorandum looks at the source water use assuming scenarios in which MCWRA does or does not complete the "Conditions Precedent for New Source Water Facilities" from Section XVI, 16.15 of the ARWRA. According to the terms of the ARWRA, the Reclamation Ditch, Blanco Drain, and AWW water may be used by M1W at the AWPf if conditions precedent are met. This analysis conservatively assumes no New Source Waters (as defined by the ARWRA) are used for the Proposed Modifications regardless of whether conditions precedent are met. If conditions precedent are not met, AWW would be used to increase influent to the SVRP pending a new agreement pursuant to Section 16.16 of the ARWRA. In addition, if conditions precedent are not met, there would be no drought reserve and the Approved PWM Project would produce 3,500 AFY to 3,700 AFY in wet, normal, and drought years.

The analyses documented in this memorandum support responses to concerns about the quantity of water (as influent to the RTP) that would be available for recycling and advanced treatment at the AWPf (landscape irrigation and groundwater injection) portion of the approved PWM Project and Proposed Modifications to the PWM Project under an updated set of assumptions. The assumptions herein represent newer information and reflect how source waters might be used, depending upon whether conditions precedent are met or not, for specific types of water years noting that water source quantities differ each year so the quantity of water treated each month will differ each year.⁵ These assumptions include the following:

⁵ This analysis does not consider that the ARWRA would be revoked or rescinded as this scenario would mean that M1W would hold all rights to wastewater flows entering its collection and treatment system per California Water Code section 1210 less that water already allocated to MCWD by agreements.

1. Separately accounts for all flows going into or out of the primary and secondary processes at the RTP, the SVRP, and the AWPf, such as the recycle flows that do not pass through the RTP meter at the headworks. The yellow polygon on **Figure 3** represents this flow model boundary.
2. Considers recycle flow such as screening and MF backwash losses from the AWPf. Thus, the source water needs for the approved and expanded PWM Projects are assumed to be larger than the source water needs identified in the 2015 EIR, the 2019 Draft SEIR, and in the S&W Report. Screening and backwash flows, since they return to the RTP Headworks for retreatment do not change the overall amount of water available for the PWM Project. However, these losses are a required AWPf flow and for the analyses herein, the losses are assumed to reduce the amount of water to which M1W has rights. Backwash is a necessary part of the process but its return to the RTP primary and secondary treatment process results in the water rights to those flows being split between M1W and MCWRA in accordance with the ARWRA.
3. Identifies MCWD use of municipal wastewater flows from their service area as the source for meeting the RUWAP irrigation system demands for AWPf product water.
4. Assumes the 200 AFY of AWPf product water for building the CSIP drought reserve (if conditions precedent are met) would instead build the CalAm/M1W/MPWMD Water Purchase Agreement Operating Reserve (if conditions precedent have not been met).
5. Assumes the Farmworker Housing project's additional influent flows (35 AFY estimate) are additive to historic influent volumes (project came on line in 2019).
6. Identifies Boronda area on the western side of Salinas (170 AFY wastewater volume estimate) as the largest developed area that was not in M1W's 2001 Service Area. There are several other areas that would also be considered outside of M1W's 2001 Service Area, but they are smaller, and their flows have not yet been estimated.
7. Assumes Ozone and MF screening recovery is 98% and MF recovery is 92%.
8. Assumes AWPf is operational on average 90% of the time. It is assumed that more maintenance will be performed during April through September so the AWPf will be operational 87% during that period and would be operational 93% of the remainder of the year.
9. Assumes that the SVRP modifications have not been constructed to enable lower daily volumes of SVRP water to be delivered to CSIP directly, through bypassing the SVRP Storage Pond. If built, this would decrease the amount of secondary effluent to the ocean throughout the year, but primarily in the winter, and would increase the volume of SVRP backwash water.
10. Assumes that the extra 200 AF (beyond 3,500 AFY) will be injected every winter, even if the Drought Reserve and Operating Reserves are full, since M1W will not know during the winter if it will be a drought year and adequate excess secondary effluent will be available to meet this production amount in all year types.⁶

Like the Schaaf & Wheeler source water analysis, the analyses herein ignore rain, evaporation, hauled wastes (saline and septage), and the water content of biosolids. These analyses use the same RO recovery rate of 81%. These analyses also exclude SRDF screening backwash flows for the same rationale as the Schaaf & Wheeler analysis. Specifically, when SRDF is operating, this indicates excess water is available for meeting all CSIP demands, and these flows are inconsistent year-to-year.

⁶ If a drought year does occur and the drought reserve is full, then the summer injection rate will be reduced to prevent exceeding the permitted annual injection volumes and to enable more secondary-treated RTP effluent to be available for CSIP in peak irrigation months, when demands are high enough.

The analysis presented in this memorandum assumes the following for analyzing the effect of MCWD use of their initial phase demands of 600 AFY AWPf product:

- MCWD demand schedule is in accordance with Section 3.02 (a) of the Pure Water Delivery and Supply Project Agreement Between Monterey Regional Water Pollution Control Agency and Marina Coast Water District (M1W/MCWD Agreement), dated April 8, 2016 which was amended in December 2017.
- MCWD has rights to all wastewater they provide to M1W which was 1,218 AF during 2018 subject to restrictions noted in the schedule discussed in the prior bullet item. Specifically, MCWD annexed portions of the former Fort Ord into their service area which may increase their annual rights to recycled water but limit their use of these water rights in peak irrigation months pursuant to restrictions in the ARWRA.
- MCWD needs 822 AFY of source water for 600 AFY of product water for their irrigation needs, including screening, MF backwash, and RO concentrate losses and MCWD needs 741 AF as shown in the Schaaf & Wheeler source water memorandum referenced above when excluding waste flows returned to the headworks,
- MCWD will utilize their full 300 AFY summer water allocation between April and September each year.
- M1W will utilize 342 AFY of their 650 AFY summer water allocation (ARWRA 4.01 (a)) as needed to supplement MCWD's water supply demand between May and August each year.
- MCWD has rights to the remainder of their rights to return flows during the winter (October through March) plus reallocation of any summer water (April through September) they do not use during those winter months.
- MCWD will utilize 179 AFY of their wastewater rights during October through March each year.
- MCWD has enough water rights that their 600 AFY project can proceed in wet, normal, or drought conditions. During severe droughts, the amount of MCWD's unutilized water rights would be reduced slightly. Because of its special nature, MCWD's portion of the AWPf source water issue is described above and summarized in **Table 1**.

Table 1. Source Waters for MCWD During Wet, Normal or Drought Years (600 AFY)

Source Water	Total (AFY)	April to September (AF)	October to March (AF)
Product Water Demand	600	469	131
Secondary Effluent (Winter)	179	0	179
MCWD Summer Water	300	300	0
M1W ARWRA 4.01 1 (d)	342	342	0
Total Source Water Utilized	822	642	179
Unutilized MCWD Effluent Rights	738	0	738

- MCWD's use of their summer water rights directly plus use of a portion of M1W's ARWRA 4.01 1(d) water rights reduces the amount of water available for SVRP/CSIP by about 642 AF between April and September. The result is that -- independent from the Proposed Modifications -- new source waters may be needed by SVRP/CSIP to meet peak demands if the Salinas River Diversion Facility is not operating and MCWD and M1W use some of, or all, their wastewater rights from April through September. Similarly, about 179 AF of MCWD's winter water rights will be utilized between October and March; however, this use will only reduce the ocean discharge of secondary effluent.

RESULTS

Prioritization of Source Waters (All Scenarios)

The assumed source water prioritization and quantities available to M1W are identified in **Table 2** for the Approved PWM Project and in **Table 3** for the Proposed Modification. This prioritization can and will change based on many factors over the years. These factors include: infrastructure reliability, treatability and efficiencies, changing agreements, regulatory requirements, agricultural and industrial changes, and population/economic growth and recessions. If there are no other infrastructure or external restrictions, including changes to agreements, priority will be based on minimizing water cost, including treatability/water quality and energy demands.

Table 2. Source Water Priority for Approved Project AWPf (All Scenarios)

Priority	Source Water	Quantity of Water Available to M1W in a Typical Year (Acre Feet per Year)
1	Secondary Effluent to Ocean Outfall	5,811
2	Reclamation Ditch	808
3	Blanco Drain	2,620
4	AWW**	3,099
5	Recycle Sump #1*	41
6	Recycle Sump #2*	104
7	Approved PWM Project and MCWD AWPf Backwashes*	290
8	Proposed Modifications AWPf Backwashes (only available for Modifications) *	152
9	SVRP Backwash*	515
10	Boronda*	95
11	Farmworker Housing*	18
12	M1W's ARWRA Summer Water (ARWRA Section IV 4.01 1(d))	650
13	SRDF Screening ***	95
14	Salinas IWTF Pond System ***	150
	Total Available for M1W (without AWW, SRDF & Salinas IWTF Pond)	11,104
<p><i>Values shown are for 2018. Drought year (2015) values are provided in the attachments. *Those source water marked with * are assumed available ½ for M1W to meet the AWPf influent needs for Seaside Groundwater Basin injections and ½ for SVRP influent for CSIP. The values shown above are the M1W portion of the water source. **AWW is only available if conditions precedent are met and are assumed to not be available for the Proposed Modifications for the purpose of this analysis. ***SRDF Screening and Salinas IWTF Pond System waters are assumed to not be available.</i></p>		

Table 3. Source Water Priority for Proposed Modifications AWPf (All Scenarios)

Priority	Source Water
1	Secondary Effluent to Ocean Outfall
2	Recycle Sump #1
3	Recycle Sump #2
4	Approved PWM Project and MCWD AWPf Backwashes
5	Proposed Modifications AWPf Backwashes (152 AFY additional above Table 2 quantities)
6	SVRP Backwash
7	Boronda
8	Farmworker Housing
9	M1W's ARWRA Summer Water (ARWRA Section IV 4.01 1(d))
Potential water quantities were provided in Table 2, except as noted.	

Scenario 1 (N-In): Source Waters for Normal/Wet Year Operation of AWPf While Building a Drought Reserve Assuming Conditions Precedent Are Met

Table 4 shows results of this analysis of water sources/types that would be available for AWPf influent (excluding MCWD which is covered in **Table 1**, above) to achieve the yield of the Approved PWM Project in a normal year of AWPf production (3,700 AFY), which includes Seaside Basin injections to build a reserve, assuming the Conditions Precedent are met. **Table 5** shows the parallel results for the Proposed Modifications to achieve a yield of 2,250 AFY production. **Table 6** shows the volumes of source waters to which M1W has existing water rights that will be left over after use of all of the flows needed for the full normal/wet year operation of an approved PWM Project and Proposed Modifications, including building a reserve and supplying MCWD's RUWAP demands (6,550 AFY total). These results are based on the assumptions listed above. **Figure 4** shows the results of this scenario of use of the various source waters for the Approved PWM Project and for the Proposed Modifications by month. **Attachment 1** provides the spreadsheet showing the detailed month by month use of the various waters.

Table 4. Typical Source Waters Utilized for the Approved PWM Project (no MCWD) During Wet or Normal Years (3,700 AFY of AWPf Production) Assuming Conditions Precedent Are Met

Source Water	Total (AFY)	April to September (AF)	October to March (AF)
<i>Excess Secondary Effluent to Outfall</i>	1,885	120	1,765
SVRP Backwash	94	94	0
Boronda	0	0	0
Farmworker Housing	0	0	0
Recycle Sump #1	11	11	0
Recycle Sump #2	38	38	0
Approved PWM Project AWPf Backwash Flows	101	101	0
Reclamation Ditch	555	362	193
Blanco Drain	1,870	1,456	414
Ag Wash Water (October thru May)	513	210	303
Total Source Water	5,067	2,391	2,675
Total Backwash (Screening & MF) Returned to RTP	499	235	263
Total RO Concentrate to Outfall	868	410	458
Total AWPf Product Water	3,700	1,746	1,954

Table 5. Typical Source Waters Utilized for the Proposed Modifications During Wet or Normal Years (2,250 AFY of AWPf Production) Assuming Conditions Precedent Are Met

Source Water	Total (AFY)	April to September (AF)	October to March (AF)
<i>Excess Secondary Effluent to Outfall</i>	2,595	66	2,529
SVRP Backwash	195	195	0
Boronda	32	32	0
Farmworker Housing	5	5	0
Recycle Sump #1	7	7	0
Recycle Sump #2	18	18	0
PWM Project AWPf Backwash Flows	47	47	0
Additional AWPf Backwash Flows w/ Proposed Modifications	22	22	0
Reclamation Ditch	0	0	0
Blanco Drain	0	0	0
M1W ARWRA 4.01 1 (d)	159	159	0
Total Source Water	3,081	551	2,530
Total Backwash (Screening & MF) Returned to RTP	303	54	249
Total RO Concentrate to Outfall	528	94	433
Total AWPf Product Water	2,250	403	1,847

Figure 4. Source Water Use Scenario 1 Charts

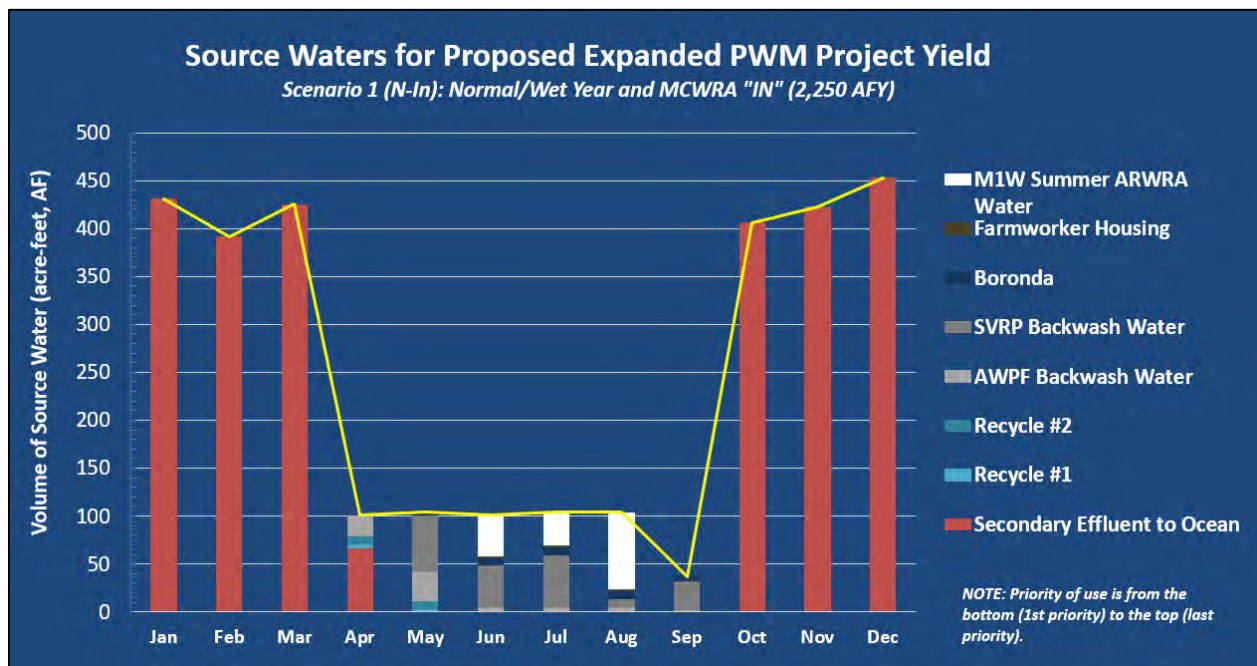
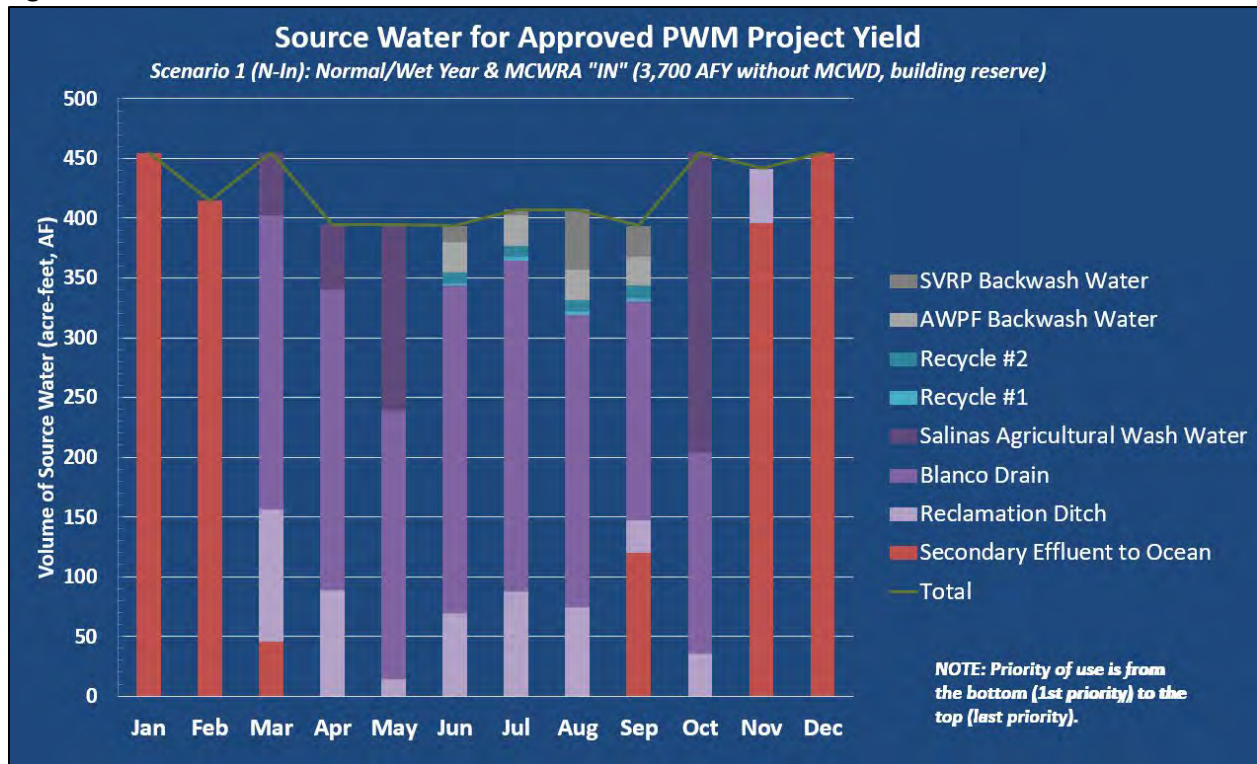


Table 6. Excess Winter Secondary Effluent, New Source Waters, and M1W Water Rights Remaining After Approved PWM Project (including MCWD RUWAP Phase 1) and Proposed Modifications During Wet or Normal Years (AWPF Producing 6,550 AFY, Total) Assuming Conditions Precedent Are Met

Source Water	Total (AFY)	April to September (AF)	October to March (AF)
<i>Excess Unused Secondary Effluent to Outfall</i>	1,331	0	1,331
<i>M1W Source Waters</i>			
SVRP Backwash	226	50	175
Boronda	63	16	47
Farmworker Housing	12	5	7
Recycle Sump #1	23	0	23
Recycle Sump #2	48	0	48
PWM Base Project and MCWD AWPB Backwashes	142	2	140
PWM Expansion Project AWPB Backwashes	129	5	124
Reclamation Ditch	253	0	253
Blanco Drain	750	0	750
M1W ARWRA 4.01 1 (d)	149	149	0
Total Unused Source Waters (excluding <i>Excess Unused Secondary Effluent to Ocean, above</i>)	1,797	227	1,4570
Total Unused Source Waters (including <i>Excess Unused Secondary Effluent to Ocean, above</i>)	3,128	227	2,901
<i>* The ability to use Salinas Ag Wash Water and Storm Water that goes to the Salinas River would increase water remaining available for recycling by approximately 2,600 AFY, in this case (peaking in the summer).</i>			

Scenario 2 (D-In): Source Waters for Drought Year Operation of AWPB With a Full Drought Reserve Assuming Conditions Precedent Are Met

A drought year, as mentioned above, does not affect MCWD water demands and only minimally their source waters. If conditions precedent in ARWRA Section 16.15 are completed, AWPB production under the approved PWM Project will be reduced to approximately 2,500 AFY during a drought year with a full drought reserve (reduction of 1,200 AFY production (including elimination, for one year, of building the drought reserve) and reducing AWPB influent by over 1,600 AFY) during the irrigation season. If conditions precedent in ARWRA Section 16.15 are not completed, then there would be no requirement for M1W to build a drought reserve for MCWRA and this reduction would not be required. The drought year source water availability estimates for Blanco Drain and Reclamation Ditch are based on Schaaf & Wheeler's report (Appendix I of the Draft SEIR) assuming the 2015 calendar year data (a severe drought condition). The SVRP backwash flow was estimated assuming CSIP optimization to maximize the number of days the SVRP would be producing water. The same source water priorities (Tables 2 & 3) will apply in a drought. The expectation is that winter production of purified water would be maximized in all years, such that during the winters of a drought year, flows to the ocean would be decreased further. The analysis in this scenario assumes that the Drought Reserve is available as a tool to provide water to CSIP in dry years.

Table 7 shows the results of this analysis of water sources/types needed for AWPB influent for the Approved PWM Project analysis for a drought year (2,500 AFY of production) starting with a full drought reserve. Table 8 shows the results of this analysis of source waters to produce an additional 2,250 AFY of purified recycled water in a drought year. Figure 5 shows the results of this scenario of use of the various

source waters for the Approved PWM Project and for the Proposed Modifications by month. **Table 9** shows the types and amounts of water rights that M1W will retain after satisfying the influent needs for the AWPf with the Approved PWM Project and Proposed Modifications to expand the AWPf capacity (a total of 4,637 AFY, which includes 2,500 AFY for Approved PWM Project injections, 600 AFY for MCWD irrigation, and 1,537 AFY for Proposed Modifications injections) during a drought year. **Attachment 2** provides the detailed analysis of drought year source water uses.

Table 7. Source Waters to be Used for the Approved PWM Project (2,500 AFY of yield, excludes MCWD) During Drought Year with Full Drought Reserve of 1,000 AF Assuming Conditions Precedent Are Met

Source Water	Total (AFY)	April to September (AF)	October to March (AF)
<i>Secondary Effluent to Outfall</i>	1,850	0	1,850
Reclamation Ditch	187	127	60
Blanco Drain	1,090	621	469
AWW (March & October only)	269	0	269
Recycle Sump #1	5	0	5
Recycle Sump #2	5	0	5
PWM Base Project and MCWD AWPf Backwashes	17	0	17
SVRP Backwash	0	0	0
Boronda	0	0	0
Farmworker Housing	0	0	0
M1W ARWRA 4.01 1 (d)	0	0	0
Total Source Water	3,423	748	2,675
Total Backwash (Screening & MF) Returned to RTP	337	74	263
<i>Total RO Concentrate to Outfall</i>	586	128	458
<i>Total AWPf Product Water</i>	2,500	546	1,954

Table 8. Source Waters to be Used for the Proposed Modifications to the PWM Project Yield During Drought Years (2,250 AFY using 133 AF Operating Reserve) Assuming Conditions Precedent Are Met

Source Water	Total (AFY)	April to September (AF)	October to March (AF)
<i>Secondary Effluent to Outfall</i>	1,779	90	1,689
Recycle Sump #1	23	18	5
Recycle Sump #2	72	55	17
PWM Base Project and MCWD AWPf Backwashes	122	68	54
PWM Expansion Project AWPf Backwashes	78	45	33
SVRP Backwash	442	302	139
Boronda	61	38	23
Farmworker Housing	10	7	3
M1W ARWRA 4.01 1 (d)	310	294	16
Reclamation Ditch	0	0	0
Blanco Drain	0	0	0
Total Source Water	2,898	918	1,981
Total Backwash (Screening & MF) Returned to RTP	285	90	195
<i>Total RO Concentrate to Outfall</i>	496	157	339
<i>Total AWPf Product Water</i>	2,116	670	1,446

Figure 5. Source Water Use Scenario 2 Charts

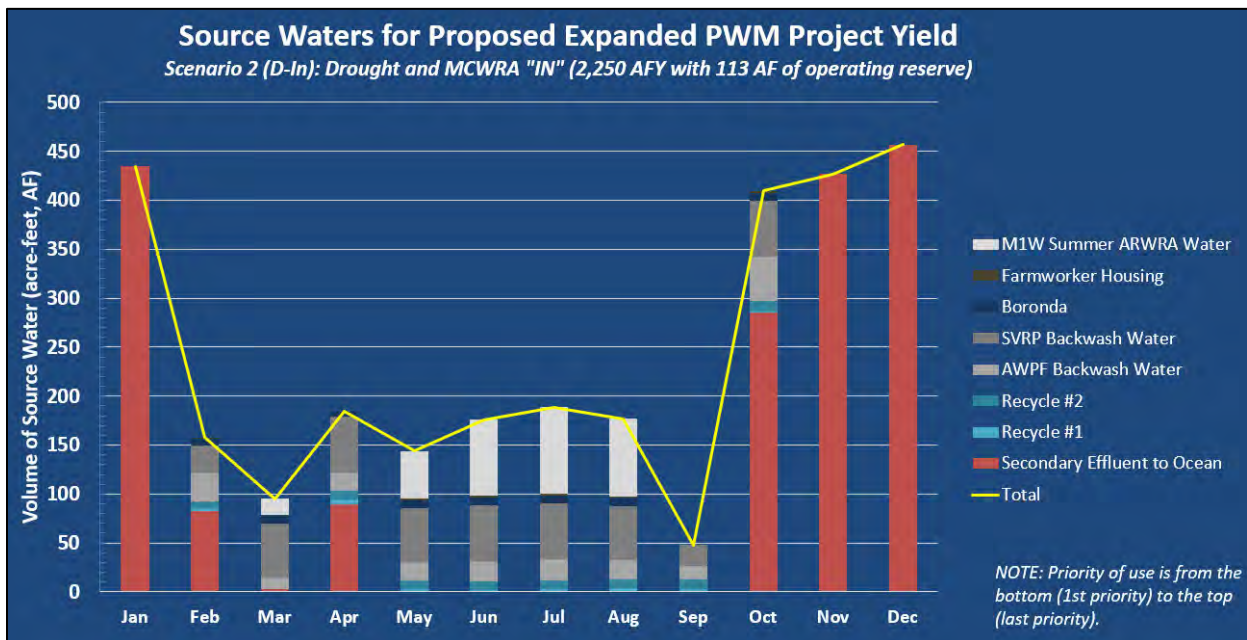
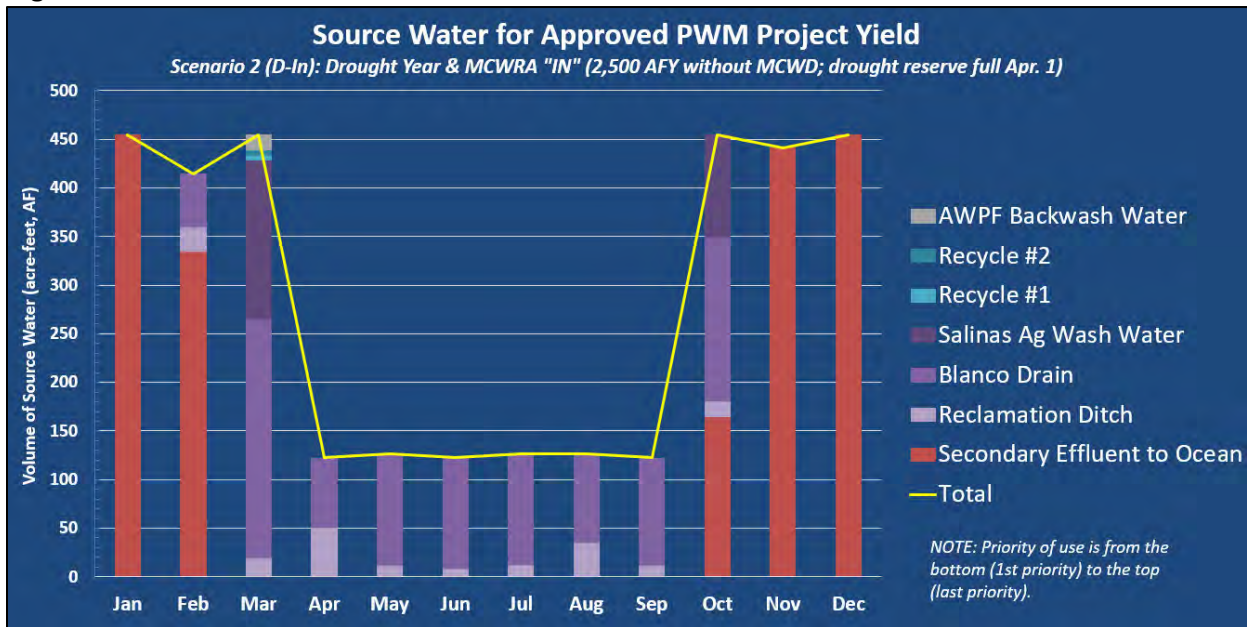


Table 9. Excess Winter Secondary Effluent, New Source Waters, and M1W Water Rights Remaining after Approved PWM Project (including MCWD RUWAP Phase 1), and Proposed Modifications During Wet or Normal Years (AWPF Producing 5,350 AFY) Assuming Conditions Precedent Are Met

Source Water	Total (AFY)	April to September (AF)	October to March (AF)
Secondary Effluent to Outfall	2,023	0	2,023
SVRP Backwash	108	35	73
Boronda	34	10	24
Farmworker Housing	7	3	4
Recycle Sump #1	13	0	13
Recycle Sump #2	26	0	26
PWM Base Project and MCWD AWPB Backwashes	70	0	70
PWM Expansion Project AWPB Backwashes	65	0	65
Reclamation Ditch	205	0	205
Blanco Drain	1,530	835	695
M1W ARWRA 4.01 1 (d)	0	0	0
Total Unused Source Waters (excluding Excess Unused Secondary Effluent to Ocean, above)	2,059	884	1,175
Total Unused Source Waters (including Excess Unused Secondary Effluent to Ocean, above)	4,082	884	3,198
* Salinas Ag Wash Water and Storm Water that drains from the City of Salinas to the Salinas River, if available to M1W for diversion, would increase secondary effluent remaining available for recycling by approximately 2,700 AFY.			

Scenario 3 (N-Out): Source Waters for Normal/Wet Year Operation of AWPB While Building an Operating Reserve Assuming Conditions Precedent Are Not Met

Table 10 shows results of this analysis of water sources/types that would be available for AWPB influent (excluding MCWD which is covered in **Table 1**, above) to achieve the yield of the Approved PWM Project in a normal year of AWPB production (3,700 AFY), which includes Seaside Basin injections to build an Operating Reserve, assuming the Conditions Precedent are not met. **Table 11** shows the parallel results for the Proposed Modifications to achieve a yield of 2,250 AFY production, assuming the Conditions Precedent are not met. The Proposed Modifications would be dependent upon a Water Purchase Agreement (WPA) with California American Water Company. It is assumed, as with the existing WPA that the Operating Reserve would be one-half the average annual production (1,750 AF for the Approved PWM Project plus 1,125 AF for the Proposed Modifications or 2,875 AF total). **Figure 6** shows the results of this scenario of use of the various source waters for the Approved PWM Project and for the Proposed Modifications by month. **Table 12** shows the volumes of source waters to which M1W has existing water rights that will be left over after use of all of the flows needed for the full normal/wet year operation of the approved PWM Project and Proposed Modifications, including building an Operating Reserve and supplying MCWD's RUWAP Phase 1 demands (6,550 AFY total), assuming Conditions Precedent are not met. These results are based on the assumptions listed above. **Attachment 3** provides the spreadsheet showing the detailed month by month usage of the various waters.

Table 10. Typical Source Waters Utilized for the Approved PWM Project (no MCWD) During Wet or Normal Years While Building an Operating Reserve (3,700 AFY of AWPf Production) Assuming Conditions Precedent Are Not Met

Source Water	Total (AFY)	April to September (AF)	October to March (AF)
<i>Secondary Effluent to Outfall</i>	2,232	174	2,059
Reclamation Ditch	509	362	147
Blanco Drain	1,821	1,456	365
Recycle Sump #1	17	14	3
Recycle Sump #2	56	47	10
Approved PWM Project and MCWD AWPf Backwashes	151	126	25
SVRP Backwash	210	153	57
Boronda	16	8	8
Farmworker Housing	4	2	2
M1W's ARWRA Summer Water (ARWRA §IV 4.01 1(d))	50	50	0
Total Source Water	5,066	2,391	2,675
<i>Total Backwash (Screening & MF) Returned to RTP</i>	<i>499</i>	<i>235</i>	<i>263</i>
<i>Total RO Concentrate to Outfall</i>	<i>868</i>	<i>410</i>	<i>458</i>
<i>Total AWPf Product Water</i>	<i>3,700</i>	<i>1,746</i>	<i>1,954</i>

Table 11. Typical Source Waters Utilized for the Proposed Modifications During Wet or Normal Years (2,250 AFY of AWPf Production) Assuming Conditions Precedent Are Not Met

Source Water	Total (AFY)	April to September (AF)	October to March (AF)
<i>Secondary Effluent to Outfall</i>	2,358	12	2,346
Recycle Sump #1	12	4	8
Recycle Sump #2	24	9	15
Approved PWM Project and MCWD AWPf Backwashes	70	23	47
Proposed Modifications AWPf Backwashes	79	27	52
SVRP Backwash	223	187	36
Boronda	48	40	8
Farmworker Housing	9	9	1
M1W ARWRA 4.01 1 (d)	258	258	0
Reclamation Ditch	0	0	0
Blanco Drain	0	0	0
Total Source Water	3,081	568	2,513
<i>Total Backwash (Screening & MF) Returned to RTP</i>	<i>303</i>	<i>56</i>	<i>247</i>
<i>Total RO Concentrate to Outfall</i>	<i>528</i>	<i>97</i>	<i>431</i>
<i>Total AWPf Product Water</i>	<i>2,250</i>	<i>415</i>	<i>1,835</i>

Figure 6. Source Water Use Scenario 3 Charts

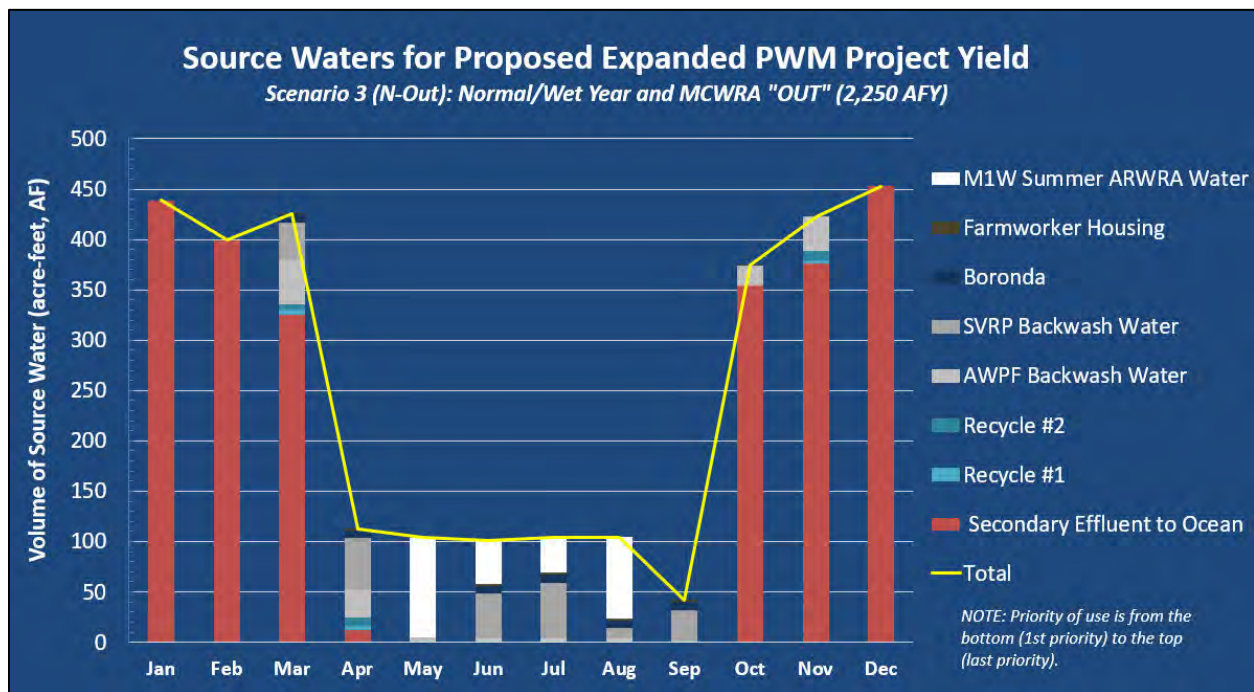
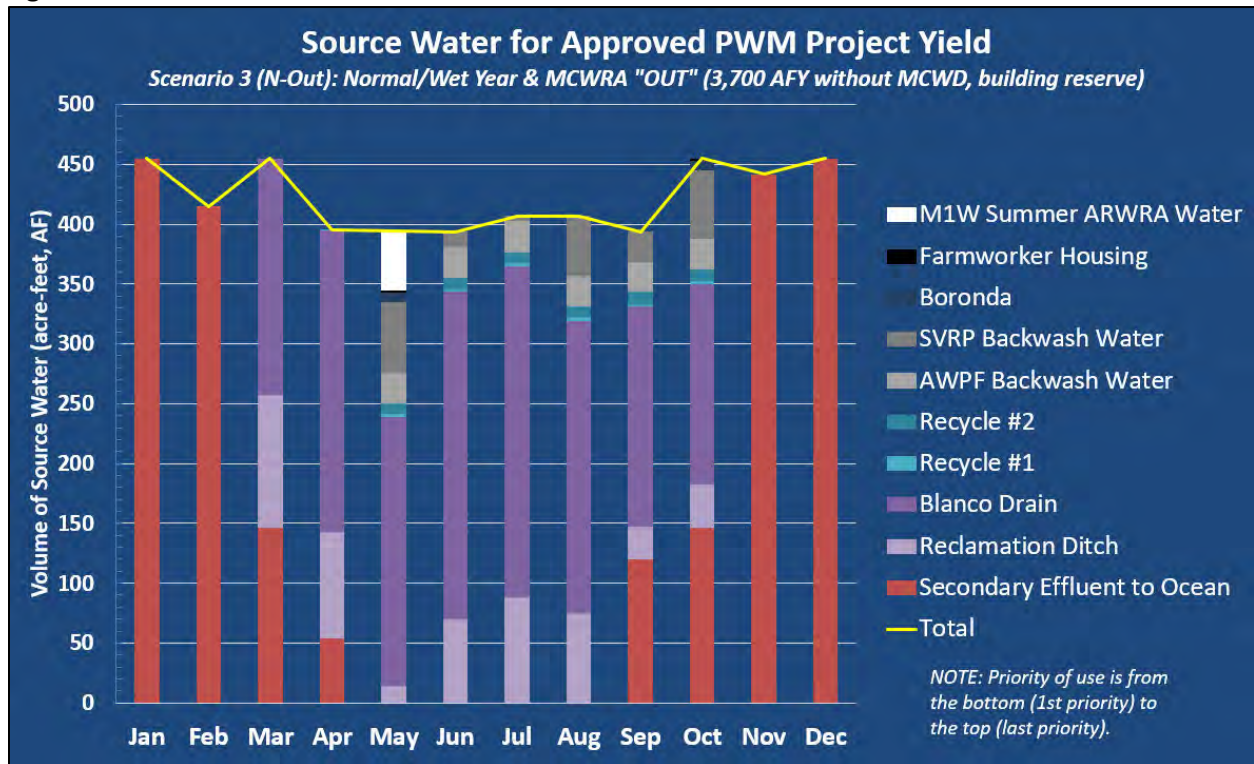


Table 12. Excess Winter Secondary Effluent, New Source Waters, and M1W Water Rights Remaining after the Approved PWM Project (including MCWD RUWAP Phase 1), and Proposed Modifications During Wet or Normal Years (AWPF Producing 6,550 AFY, Total) Assuming Conditions Precedent Are Not Met

Source Water	Total (AFY)	April to September (AF)	October to March (AF)
Secondary Effluent to Outfall	1,221	0	1,221
Recycle Sump #1	13	0	13
Recycle Sump #2	24	0	24
PWM Base Project and MCWD AWPF Backwashes	68	0	68
PWM Expansion Project AWPF Backwashes	72	0	72
SVRP Backwash	82	0	82
Boronda	31	0	31
Farmworker Housing	4	0	4
M1W ARWRA 4.01 1 (d)	0	0	0
Reclamation Ditch	299	0	299
Blanco Drain	799	0	799
Total Unused Source Waters (excluding Excess Unused Secondary Effluent to Ocean, above)	1,393	0	1,393
Total Unused Source Waters (including Excess Unused Secondary Effluent to Ocean, above)	2,614	0	2,614

Scenario 4 (D-Out): Source Waters for Drought Year Operation of AWPF With a Full Operating Reserve Assuming Conditions Precedent Are Not Met

A drought year, as mentioned above, does not affect MCWD water demands and only minimally their source waters. If conditions precedent in ARWRA Section 16.15 are not met, AWPF production under the approved PWM Project will remain 3,500 AFY during a drought year with a full Operating Reserve. If conditions precedent in ARWRA Section 16.15 are not completed, then there would be no drought reserve and no reduction in AWPF production in a drought. The drought year source water availability estimates for Blanco Drain and Reclamation Ditch are based on Schaaf & Wheeler's report (Appendix I of the Draft SEIR) assuming the 2015 calendar year data (a severe drought condition). The SVRP backwash flow was estimated assuming CSIP optimization to maximize the number of days the SVRP would be producing water. The same source water priorities (Tables 2 & 3) will apply in a drought. The expectation is that winter production of purified water would be maximized in all years, such that during the winters of a drought year, flows to the ocean would be decreased further. The analysis in this section assumes that the Operating Reserve is available as a tool to provide water to Cal Am in dry years.

Table 13 shows the results of this analysis of water sources/types needed for AWPF influent for the Approved PWM Project analysis for a drought year (3,500 AFY of production) starting with a full Operating Reserve. Table 14 shows how 713 AF of the Operating Reserve would be utilized so that only 1,537 AFY of additional purified recycled water would need to be produced in the drought year. Figure 7 shows the results of this scenario of use of the various source waters for the Approved PWM Project and for the Proposed Modifications by month. Table 15 shows the types and amounts of water rights that M1W will retain after satisfying the influent needs for the AWPF with the Approved PWM Project and Proposed Modifications to expand the AWPF capacity (a total of 5,637 AFY, which includes 3,500 AFY for Approved PWM Project injections, 600 AFY for MCWD irrigation, and 1,537 AFY for Proposed Modifications injections) during a drought year). Attachment 4 provides the detailed analysis of drought year source water uses.

Table 13. Source Waters to be Used for the Approved PWM Project (3,500 AFY of yield, excludes MCWD) During Drought Year with Full Operating Reserve of 1,000 AF Assuming Conditions Precedent Are Not Met

Source Water	Total (AFY)	April to September (AF)	October to March (AF)
<i>Secondary Effluent to Outfall</i>	1,978	0	1,978
Reclamation Ditch	177	127	50
Blanco Drain	1,870	1,456	414
Recycle Sump #1	26	18	8
Recycle Sump #2	70	55	15
Approved PWM Project and MCWD AWPf Backwashes	185	140	46
SVRP Backwash	382	321	61
Boronda	32	24	8
Farmworker Housing	4	4	1
M1W ARWRA 4.01 1 (d)	68	50	19
Total Source Water	4,793	2,194	2,599
<i>Total Backwash (Screening & MF) Returned to RTP</i>	<i>472</i>	<i>216</i>	<i>256</i>
<i>Total RO Concentrate to Outfall</i>	<i>821</i>	<i>376</i>	<i>445</i>
<i>Total AWPf Product Water</i>	<i>3,500</i>	<i>1,602</i>	<i>1,898</i>

Table 14. Source Waters to be Used for the Proposed Modifications to the PWM Project Yield During Drought Years (2,250 AFY using 713 AF of Operating Reserve) Assuming Conditions Precedent Are Not Met

Source Water	Total (AFY)	April to September (AF)	October to March (AF)
<i>Secondary Effluent to Outfall</i>	1,651	90	1,651
Recycle Sump #1	3	0	3
Recycle Sump #2	7	0	7
Approved PWM Project and MCWD AWPf Backwashes	21	0	21
Proposed Modifications AWPf Backwashes	39	19	19
SVRP Backwash	95	16	79
Boronda	39	24	15
Farmworker Housing	9	7	3
M1W ARWRA 4.01 1 (d)	239	239	0
Reclamation Ditch	0	0	0
Blanco Drain	0	0	0
Total Source Water	2,104	395	1,709
<i>Total Backwash (Screening & MF) Returned to RTP</i>	<i>207</i>	<i>39</i>	<i>168</i>
<i>Total RO Concentrate to Outfall</i>	<i>361</i>	<i>68</i>	<i>293</i>
<i>Total AWPf Product Water</i>	<i>1,537</i>	<i>289</i>	<i>1,248</i>

Figure 7. Source Water Use Scenario 4 Charts

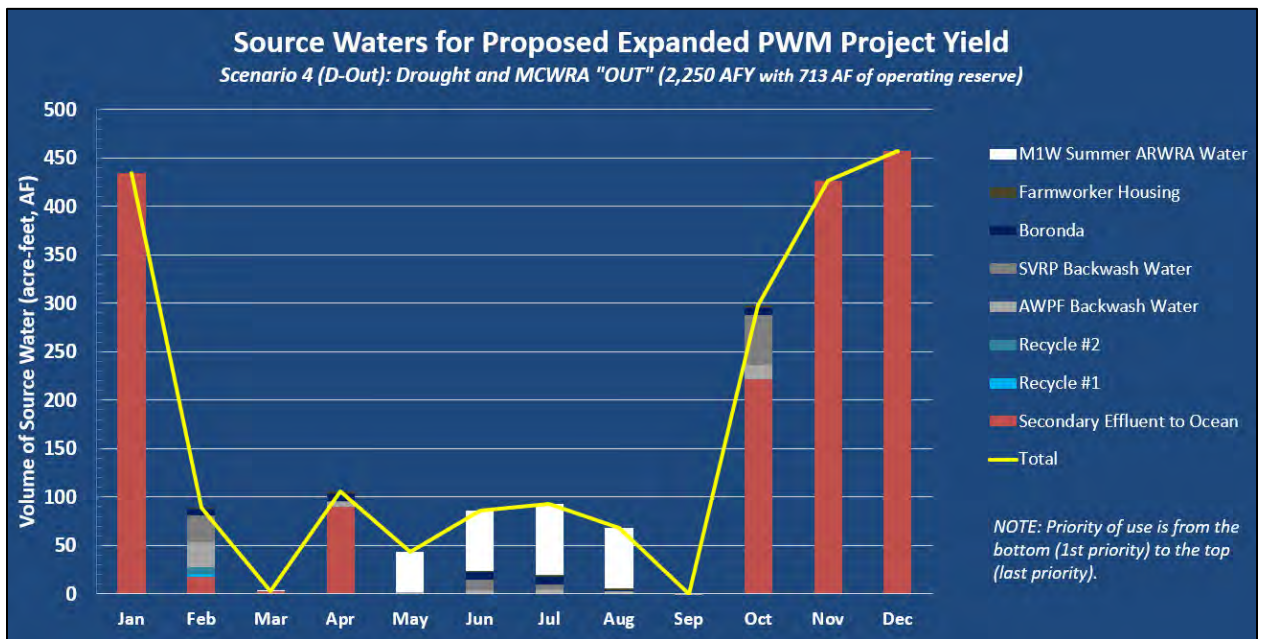
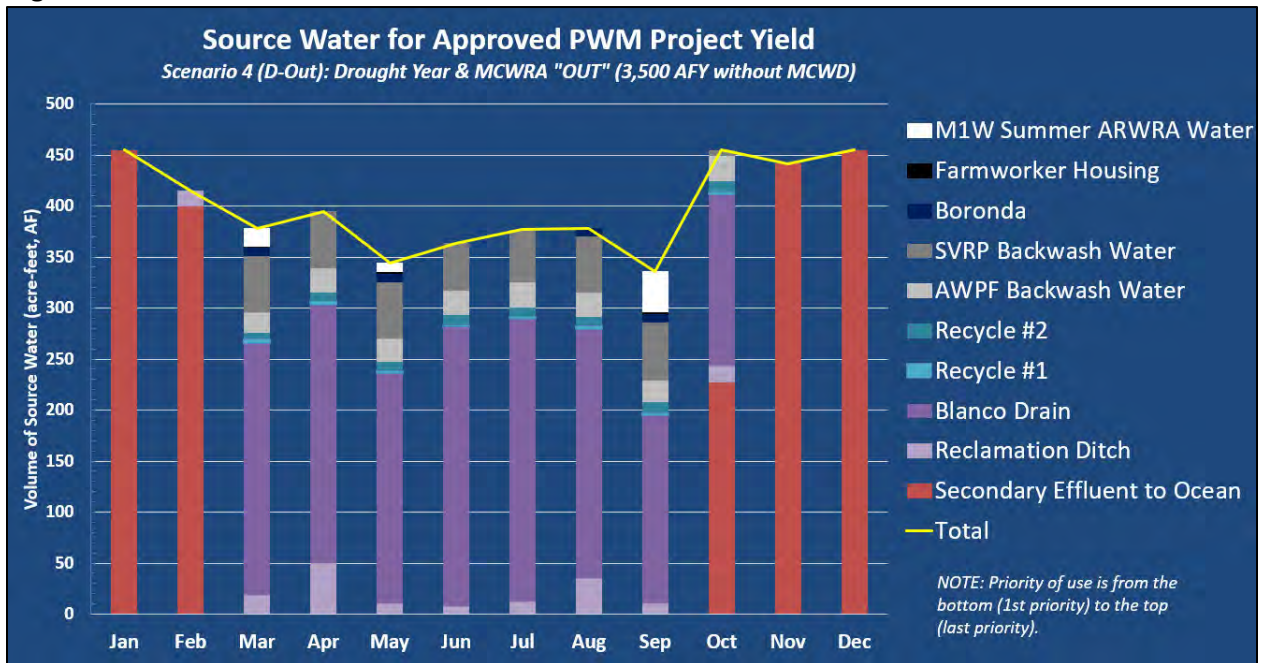


Table 15. Excess Winter Secondary Effluent, New Source Waters, and M1W Water Rights Remaining After Proposed Modifications to PWM Project During Drought Year (5,350 AFY, of AWPf production) Assuming Conditions Precedent Are Not Met

Source Water	Total (AFY)	April to September (AF)	October to March (AF)
Secondary Effluent to Outfall	2,023	0	2,023
SVRP Backwash	73	0	73
Boronda	24	0	24
Farmworker Housing	4	0	4
Recycle Sump #1	13	0	13
Recycle Sump #2	26	0	26
Approved PWM Project and MCWD AWPf Backwashes	70	0	70
Proposed Modifications AWPf Backwashes	65	0	65
Reclamation Ditch	215	0	215
Blanco Drain	750	0	750
M1W ARWRA 4.01 1 (d)	0	0	0
Total Unused Source Waters (excluding Excess Unused Secondary Effluent to Ocean, above)	1,240	0	1,240
Total Unused Source Waters (including Excess Unused Secondary Effluent to Ocean, above)	3,263	0	3,263

CONCLUSIONS

As shown above and in Appendix I of the Draft SEIR, the wastewater flows available for M1W to use to meet recycled water demands from the AWPf are substantial. No other reasonably foreseeable projects that would increase CSIP demands or other recycled water use of these waters have been proposed or presented to M1W indicating an imminent reduction in availability. Even if the MCWRA takes its full rights to municipal wastewater within the 2001 service area, and the rights given via contract under the ARWRA, M1W would still have sufficient water rights for achieving the yield anticipated for the Proposed Modifications.

If Conditions Precedent are met, secondary effluent otherwise discharged to the ocean, wastewater from outside the 2001 service area, Blanco Drain, Reclamation Ditch, AWW, the Drought Reserve and Operating Reserve (during drought years), and the ARWRA water (4.01 1(d)) provide more than sufficient water for the Approved PWM Project. Secondary effluent otherwise discharged to the ocean, one-half of wastewater from outside the 2001 service area, and the ARWRA water (4.01 1(d)) provide more than sufficient source water for the Proposed Modifications in wet, normal, and drought conditions.

If Conditions Precedent are not met, secondary effluent otherwise discharged to the ocean, wastewater from outside the 2001 service area, Blanco Drain, Reclamation Ditch, the Operating Reserve (during drought year), and the ARWRA water (4.01 1(d)) provide more than sufficient water for the Approved PWM Project. Secondary effluent otherwise discharged to the ocean, one-half of wastewater from outside the 2001 service area, and the ARWRA water (4.01 1(d)), and the Operating Reserve provide more than sufficient source water for the Proposed Modifications in wet, normal, and drought conditions. In the future, City of Salinas IWTF Pond 3 Water and stormwater could also be available.

Attachment 1

Scenario 1 (N-In): Source Water Use During Normal/Wet Years and Conditions Precedent Are Met

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Apr-Sep	Oct-Mar
Source Water for M1W Portion of Base Project (3,700 AFY after removing 600 AFY MCWD's Portion from the 4,300 AFY total, building reserve)															
Source Water Needed for M1W Portion of Base Project (3,700)	455	415	455	395	395	394	407	407	394	455	441	455	5,067	2,391	2,675
Secondary Effluent to Ocean used for base project, 1st priority	455	415	46	0	0	0	0	0	120	0	395	455	1,885	120	1,765
Secondary Effluent to Ocean Remaining after Base Project	882	474	426	66	0	0	0	0	0	501	422	1155	3,926	66	3,860
Feed water needed after ocean flows	0	0	409	395	395	394	407	407	274	455	46	0	3,182	2,272	910
Reclamation Ditch used for base project, 2nd priority	0	0	111	89	14	70	88	75	27	36	46	0	555	362	193
Reclamation Ditch Flows remaining after Base Project	81	18	0	0	0	0	0	0	0	0	19	136	253	0	253
Feed Water needed after Reclamation Ditch	0	0	298	306	381	324	319	332	247	419	0	0	2,627	1,909	717
Blanco Drain used for base project, 3rd priority	0	0	246	252	225	274	277	244	184	168	0	0	1,870	1,456	414
Blanco Drain Flows after Base Project	209	223	0	0	0	0	0	0	0	0	133	185	750	0	750
Feed Water needed after Blanco Drain	0	0	52	54	156	50	42	88	63	251	0	0	757	453	303
AWW used for base project, 4th priority	0	0	52	54	156	0	0	0	0	251	0	0	513	210	303
AWW Flows remaining after Base Project	184	149	130	206	150	305	318	319	305	82	252	186	2,585	1,603	982
Feed Water needed after Reclamation Ditch	0	0	0	0	0	50	42	88	63	0	0	0	243	243	0
Recycle #1 used for base project, 5th priority	0	0	0	0	0	2	3	4	2	0	0	0	11	11	0
M1W's Portion of Recycle #1 after Base Project	7	3	5	5	3	0	0	0	0	3	3	3	30	7	23
Feed Water needed after Recycle #1	0	0	0	0	0	48	40	84	60	0	0	0	232	232	0
Recycle #2 used for Base Project, 6th priority	0	0	0	0	0	9	9	9	11	0	0	0	38	38	0
M1W's portion of Recycle #2 after base project	9	7	5	9	9	0	0	0	0	10	10	8	66	18	49
Feed Water needed after Recycle #2 water	0	0	0	0	0	39	31	75	50	0	0	0	195	195	0
PWM Base Project Backwash Water used for Base Project, 7th priority	0	0	0	0	0	25	26	25	24	0	0	0	101	101	0
M1W's portion of AWPB Backwash Water from base project after Base Project (1/2)	24	21	24	23	25	0	0	0	0	25	23	23	189	49	140
Feed Water needed after AWPB Backwash water	0	0	0	0	0	13	4	50	26	0	0	0	94	94	0
SVRP Backwash Water used for base project, 8th priority	0	0	0	0	0	13	4	50	26	0	0	0	94	94	0
M1W's portion of SVRP Backwash Water after Base Project	18	13	36	50	59	43	54	9	31	57	45	6	421	246	175
Feed Water needed after SVRP Backwash	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Boronda used for base project, 9th priority	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
M1W's Portion of Boronda after Base Project	8	7	8	8	8	8	8	8	8	8	8	8	95	48	47
Feed Water needed after Boronda	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Farmworker Housing used for Base Project 10th priority	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
M1W's Portion of Farmworker Housing after Base Project	1	1	1	2	2	2	2	2	2	2	2	1	17	11	7
Remaining Source Waters needed after Farmworker Housing	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
M1W Summer ARWRA Water used only for Expansion remaining after MCWD Project, 11th prio	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
M1W ARWRA Remaining Summer Water after MCWD, Base & Expansion Projects	0	0	0	0	50	82	93	83	0	0	0	0	308	308	0
Remaining Source Waters needed after ARWRA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Apr-Sep	Oct-Mar
Source Waters for 2,250 AFY Proposed Expanded PWM/GWR Project--Winter Peaking Flow Scenario															
Source Waters needed for 2,250 AFY Expansion	431	392	425	101	104	101	104	104	37	406	423	453	3,081	551	2,530
Secondary Effluent to Ocean used for Expansion after Base Project, 1st Priority*	431	392	425	66	0	0	0	0	0	406	422	453	2,595	66	2,529
Remaining Effluent to Ocean after Base & Expansion Projects	451	83	0	0	0	0	0	0	0	94	0	702	1,331	0	1,331
Remaining Source Waters needed for Expansion after Ocean Flows	0	0	0	35	104	101	104	104	37	0	0	0	486	485	0
Recycle #1 after base project used for expansion, 2nd priority	0	0	0	5	3	0	0	0	0	0	0	0	7	7	0
M1W's Portion of Recycle #1 after Base & Expansion Projects	7	3	5	0	0	0	0	0	0	3	3	3	23	0	23
Feed Water needed after Recycle #1	0	0	0	30	102	101	104	104	37	0	0	0	478	478	0
Recycle #2 after base project used for Expansion, 3rd priority	0	0	0	9	9	0	0	0	0	0	0	0	18	18	0
M1W's portion of Recycle #2 after base & expansion Projects	9	7	5	0	0	0	0	0	0	10	9	8	48	0	48
Feed Water needed after Recycle #2 water	0	0	0	22	93	101	104	104	37	0	0	0	460	460	0
M1W's portion of PWM Base Backwash Water from Base used for Expansion Project, 4th Priority	0	0	0	22	25	0	0	0	0	0	0	0	47	47	0
M1W portion of Base PWM Backwash after Base & Expansion Projects	24	21	24	2	0	0	0	0	0	25	23	23	142	2	140
Remaining Source Waters needed after M1W Portion of AWPB Backwash	0	0	0	0	67	101	104	104	37	0	0	0	413	413	0
M1W's portion of PWM Expansion Backwash Water used for Expansion Project, 5th priority	0	0	0	0	5	5	5	5	2	0	0	0	22	22	0
M1W portion of PWM Expansion Backwash Water after Base & Expansion Projects	21	19	21	5	0	0	0	0	0	20	21	22	129	5	124
Feed Water needed after AWPB Expansion Backwash water	0	0	0	0	62	96	99	99	35	0	0	0	391	391	0
M1W's portion of SVRP Backwash Water used for expansion after Base Project, 6th Priority	0	0	0	0	59	43	54	9	31	0	0	0	195	195	0
M1W's portion of SVRP Backwash after Base & Expansion Projects	18	13	36	50	0	0	0	0	0	57	45	6	226	50	175
Remaining Source Waters needed after SVRP Backwash	0	0	0	0	3	53	45	91	5	0	0	0	196	196	0
Boronda after base project used for expansion, 7th priority	0	0	0	0	3	8	8	8	5	0	0	0	32	32	0
M1W's Portion of Boronda after Base & Expansion Projects	8	7	8	8	5	0	0	0	3	8	8	8	63	16	47
Feed Water needed after Boronda	0	0	0	0	0	45	37	82	0	0	0	0	164	164	0
Farmworker Housing after Base Project used for Expansion, 8th priority	0	0	0	0	0	2	2	2	0	0	0	0	5	5	0
M1W's Portion of Farmworker Housing after Base & Expansion Projects	1	1	1	2	2	0	0	0	2	2	2	1	12	5	7
Remaining Source Waters needed after Farmworker Housing	0	0	0	0	0	43	35	81	0	0	0	0	159	159	0
M1W Summer ARWRA Water used for Expansion remaining after MCWD Project, 9th priority	0	0	0	0	0	43	35	81	0	0	0	0	159	159	0
M1W ARWRA Summer Water Remaining after MCWD, Base & Expanded PWM	0	0	0	0	50	39	58	2	0	0	0	0	149	149	0
Remaining Source Waters needed after ARWRA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

*Available if otherwise not collected or would be discharged to ocean

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Apr-Sep	Oct-Mar
M1W Source Waters Not Used for Approved or Proposed Expanded PWM/GWR Projects															
Remaining Effluent to Ocean after Base & Expansion Project	451	83	0	0	0	0	0	0	0	94	0	702	1,331	0	1,331
M1W's portion of SVRP Backwash after Base & Expansion Projects	18	13	36	50	0	0	0	0	0	57	45	6	226	50	175
M1W's Portion of Boronda after Base & Expansion Projects	8	7	8	8	5	0	0	0	3	8	8	8	63	16	47
M1W's Portion of Farmworker Housing after Base & Expansion Projects	1	1	1	2	2	0	0	0	2	2	2	1	12	5	7
M1W's Portion of Recycle #1 after Base & Expansion Projects	7	3	5	0	0	0	0	0	0	3	3	3	23	0	23
M1W's portion of Recycle #2 after base & expansion Projects	9	7	5	0	0	0	0	0	0	10	9	8	48	0	48
M1W portion of Base PWM Backwash after Base & Expansion Projects	24	21	24	2	0	0	0	0	0	25	23	23	142	2	140
M1W portion of PWM Expansion Backwash Water after Base & Expansion Projects	21	19	21	5	0	0	0	0	0	20	21	22	129	5	124
Reclamation Ditch after Base & Expansion Projects	81	18	0	0	0	0	0	0	0	0	19	136	253	0	253
Blanco Drain Remaining Water after Base & Expansion Projects	209	223	0	0	0	0	0	0	0	0	133	185	750	0	750
M1W ARWRA Summer Water Remaining after MCWD, Base & Expanded PWM	0	0	0	0	50	39	58	2	0	0	0	0	149	149	0
M1W's Plus Unused other Source Waters after Base and Expansion Projects (excl. ocean)	378	313	101	66	57	39	58	2	5	125	262	391	1,797	227	1,570
M1W's Plus Unused other Source Waters after Base and Expansion Projects (incl. ocean)	829	395	101	66	57	39	58	2	5	219	262	1,094	3,128	227	2,901
M1W portion of SRDF Backwash Water	0	0	0	0	6	24	25	25	11	4	0	0	95	91	4
Salinas Industrial Wastewater (2018) Remaining	184	149	130	206	150	305	318	319	305	82	252	186	2,585	1,603	982
Salinas Pond Recovery Water (2018)*	0	0	0	0	300	0	0	0	0	0	0	0	300	300	0

*Flow may be much higher in 2021 when Salinas Pond PS Project Completed

Attachment 2

Scenario 2 (D-In): Source Water Use During Drought Years and Conditions Precedent Are Met

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Apr-Sep	Oct-Mar
Source Water for M1W Portion of Base Project (2,500 AFY after removing 600 AFY MCWD's Portion from the 3,100 AFY total, drought)															
Source Water Needed for M1W Portion of Base Project (2,500)	455	415	455	123	127	123	127	127	123	455	441	455	3,423	748	2,675
Secondary Effluent to Ocean used for base project, 1st priority	455	335	0	0	0	0	0	0	0	165	441	455	1,850	0	1,850
Secondary Effluent to Ocean Remaining after Base Project	1,161	83	3	90	0	0	0	0	0	285	1,083	1,097	3,803	90	3,713
Feed water needed after ocean flows	0	80	455	122	127	123	127	127	123	290	0	0	1,573	748	825
Reclamation Ditch used for base project, 2nd priority	0	25	19	50	11	8	12	35	11	16	0	0	187	127	60
Reclamation Ditch Flows remaining after Base Project	0	0	0	0	0	0	0	0	0	0	133	72	205	0	205
Feed Water needed after Reclamation Ditch	0	55	436	72	116	115	115	92	112	274	0	0	1,386	621	765
Blanco Drain used for base project, 3rd priority	0	55	246	72	116	115	115	92	112	168	0	0	1,090	621	469
Blanco Drain Flows after Base Project	209	168	0	180	109	159	162	152	72	0	133	185	1,530	835	695
Feed Water needed after Blanco Drain	0	0	190	0	0	0	0	0	0	106	0	0	296	0	296
AAW used for base project, 4th priority	0	0	163	0	0	0	0	0	0	106	0	0	269	0	269
AAW Flows remaining after Base Project	172	139	0	270	297	302	305	300	288	206	239	154	2,672	1,763	910
Feed Water needed after Reclamation Ditch	0	0	27	0	0	0	0	0	0	0	0	0	27	0	27
Recycle #1 for expansion, 5th priority	0	0	5	0	0	0	0	0	0	0	0	0	5	0	5
M1W's Portion of Recycle #1 after Expansion	7	3	0	5	3	2	3	4	2	3	3	3	36	18	18
Feed Water needed after Recycle #1	0	0	22	0	0	0	0	0	0	0	0	0	22	0	22
Recycle #2 for Expansion, 6th priority	0	0	5	0	0	0	0	0	0	0	0	0	5	0	5
M1W's portion of Recycle #2 after expansion	9	7	0	9	9	9	9	9	11	10	10	8	99	55	44
Feed Water needed after Recycle #2 water	0	0	17	0	0	0	0	0	0	0	0	0	17	0	17
PWM Base Project Backwash Water used for Base Project, 7th priority	0	0	17	0	0	0	0	0	0	0	0	0	17	0	17
M1W's portion of AWPB Backwash Water after Base Project (1/2)	24	21	7	10	12	12	12	11	11	25	23	23	192	68	124
Feed Water needed after AWPB Backwash water	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
SVRP Backwash Water used for base project, 8th priority	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
M1W's portion of SVRP Backwash Water after Base Project	18	27	55	57	55	57	57	55	57	57	37	18	550	337	213
Feed Water needed after SVRP Backwash	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Boronda for expansion, 9th priority	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
M1W's Portion of Boronda after Expansion	8	7	8	8	8	8	8	8	8	8	8	8	95	48	47
Feed Water needed after Boronda	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Farmworker Housing for Expansion, 10th priority	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
M1W's Portion of Farmworker Housing after Expansion	1	1	1	2	2	2	2	2	2	2	2	1	17	11	7
Remaining Source Waters needed after Farmworker Housing	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
M1W Summer ARWRA Water for Expansion remaining after MCWD Project, 10th priority	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
M1W ARWRA Remaining Summer Water after Expansion	0	0	0	0	50	82	93	83	0	0	0	0	308	308	0
Remaining Source Waters needed after ARWRA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Apr-Sep	Oct-Mar
Source Waters for 2,250 AFY Proposed Expanded PWM/GWR Project--Drought Year Scenario (Source Water = 2,898 AFY and 133 AF Operational Reserve)															
Source Waters needed for 2,250 AFY Expansion	435	157	95	184	144	176	189	177	48	410	427	457	2,898	917	1,981
Remaining Secondary Effluent to Ocean for Expansion after Base Project, 1st Priority*	435	83	3	90	0	0	0	0	0	285	427	457	1,779	90	1,689
Remaining Effluent to Ocean after Expansion Project	726	0	0	0	0	0	0	0	0	0	657	640	2,023	0	2,023
Remaining Source Waters needed for Expansion after Ocean Flows	0	75	92	94	144	176	189	177	48	125	0	0	1,119	827	291
Recycle #1 for expansion, 2nd priority	0	3	0	5	3	2	3	4	2	3	0	0	23	18	5
M1W's Portion of Recycle #1 after Expansion	7	0	0	0	0	0	0	0	0	0	3	3	13	0	13
Feed Water needed after Recycle #1	0	72	92	90	141	174	186	173	45	122	0	0	1,095	809	286
Recycle #2 for Expansion, 3rd priority	0	7	0	9	9	9	9	9	11	10	0	0	72	55	17
M1W's portion of Recycle #2 after Expansion	9	0	0	0	0	0	0	0	0	0	10	8	26	0	26
Feed Water needed after Recycle #2 water	0	65	92	81	132	165	177	164	35	112	0	0	1,023	754	269
M1W's portion of PWM Base Backwash Water Remaining from Base Project, 4th Priority	0	21	7	10	12	12	12	11	11	25	0	0	122	68	54
M1W portion of Base PWM Backwash after Base & Expansion	24	0	0	0	0	0	0	0	0	0	23	23	70	0	70
Remaining Source Waters needed after M1W Portion of AWPB Backwash	0	43	85	71	120	153	165	153	24	87	0	0	901	686	215
M1W's portion of PWM Expansion Backwash Water after Base & Expansion	0	8	5	9	7	9	9	9	2	20	0	0	78	45	33
M1W portion of PWM Expansion Backwash Water after Base & Expansion	21	0	0	0	0	0	0	0	0	0	21	22	65	0	65
Feed Water needed after AWPB Expansion Backwash water	0	35	80	62	113	144	155	144	22	67	0	0	823	641	182
M1W's portion of SVRP Backwash Water after Base Project, 6th Priority	0	27	55	57	55	57	57	55	22	57	0	0	442	302	139
M1W's portion of SVRP Backwash after Base & Expansion	18	0	0	0	0	0	0	0	35	0	37	18	108	35	73
Remaining Source Waters needed after SVRP Backwash	0	8	25	5	58	87	98	89	0	10	0	0	381	338	43
Boronda for expansion, 7th priority	0	7	8	5	8	8	8	8	0	8	0	0	61	38	23
M1W's Portion of Boronda after Expansion	8	0	0	2	0	0	0	0	8	0	8	8	34	10	24
Feed Water needed after Boronda	0	1	17	0	50	80	90	81	0	2	0	0	320	301	20
Farm Worker Housing for Expansion, 8th priority	0	1	1	0	2	2	2	2	0	2	0	0	10	7	3
M1W's Portion of Farmworker Housing after Expansion	1	0	0	2	0	0	0	0	2	0	2	1	7	3	4
Remaining Source Waters needed after Farmworker Housing	0	0	16	0	48	78	89	79	0	0	0	0	310	294	16
M1W Summer ARWRA Water for Expansion remaining after MCWD Project, 9th priority	0	0	16	0	48	78	89	79	0	0	0	0	310	294	16
M1W ARWRA Remaining Summer Water after Expansion	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Remaining Source Waters needed after ARWRA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

*Available if otherwise not collected or would be discharged to ocean

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Apr-Sep	Oct-Mar
Source Waters Not Used for Approved or Proposed Expanded PWM/GWR Projects															
Remaining Effluent to Ocean after Expansion Project	726	0	0	0	0	0	0	0	0	0	657	640	2,023	0	2,023
M1W's portion of SVRP Backwash after Base & Expansion	18	0	0	0	0	0	0	0	35	0	37	18	108	35	73
M1W's Portion of Boronda after Expansion	8	0	0	2	0	0	0	0	8	0	8	8	34	10	24
M1W's Portion of Farmworker Housing after Expansion	1	0	0	2	0	0	0	0	2	0	2	1	7	3	4
M1W's Portion of Recycle #1 after Expansion	7	0	0	0	0	0	0	0	0	0	3	3	13	0	13
M1W's portion of Recycle #2 after Expansion	9	0	0	0	0	0	0	0	0	0	10	8	26	0	26
M1W portion of Base PWM Backwash after Base & Expansion	24	0	0	0	0	0	0	0	0	0	23	23	70	0	70
M1W portion of PWM Expansion Backwash Water after Base & Expansion	21	0	0	0	0	0	0	0	0	0	21	22	65	0	65
Reclamation Ditch after Base & Expansion	0	0	0	0	0	0	0	0	0	0	133	72	205	0	205
Blanco Drain Remaining Water after Base & Expansion	209	168	0	180	109	159	162	152	72	0	133	185	1,530	835	695
M1W ARWRA Remaining Summer Water after Expansion	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
M1W's Plus Unused other Source Waters after Base and Expansion Projects (exclude ocean)	297	168	0	184	109	160	163	152	117	0	369	340	2,059	884	1,175
M1W's Plus Unused other Source Waters after Base and Expansion Projects (exclude ocean)	1,023	168	0	184	109	160	163	152	117	0	1,025	981	4,082	884	3,198
M1W portion of SRDF Backwash Water	0	0	0	0	6	24	25	25	11	4	0	0	95	91	4
Salinas Industrial Wastewater Flows Remaining	172	139	0	270	297	302	305	300	288	206	239	154	2,672	1,763	910
Salinas Pond Recovery Water (2015)*	0	0	0	100	15	0	0	0	0	0	0	0	115	115	0

*Flow may be much higher in 2021 when Salinas Pond PS Project Completed

Attachment 3

Scenario 3 (N-Out): Source Water Use During Normal/Wet Years and Conditions Precedent Are Not Met

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Apr-Sep	Oct-Mar
Source Water for M1W Portion of Base Project (3,700 AFY after removing 600 AFY MCWD's Portion from the 4,300 AFY total, building Operational Reserve)															
Source Water Needed for M1W Portion of Base Project (3,700)	455	415	455	395	395	394	407	407	394	455	441	455	5,067	2,391	2,675
Secondary Effluent to Ocean used for base project, 1st priority	455	415	147	54	0	0	0	0	120	146	441	455	2,232	174	2,059
Secondary Effluent to Ocean Remaining after Base Project	882	474	325	12	0	0	0	0	0	354	376	1155	3,579	12	3,567
Feed water needed after ocean flows	0	0	308	341	395	394	407	407	274	309	0	0	2,834	2,218	617
Reclamation Ditch used for base project, 2nd priority	0	0	111	89	14	70	88	75	27	36	0	0	509	362	147
Reclamation Ditch Flows remaining after Base Project	81	18	0	0	0	0	0	0	0	0	65	136	299	0	299
Feed Water needed after Reclamation Ditch	0	0	197	252	381	324	319	332	247	273	0	0	2,325	1,855	470
Blanco Drain used for base project, 3rd priority	0	0	197	252	225	274	277	244	184	168	0	0	1,821	1,456	365
Blanco Drain Flows after Base Project	209	223	49	0	0	0	0	0	0	0	133	185	799	0	799
Feed Water needed after Blanco Drain	0	0	0	0	156	50	42	88	63	105	0	0	504	399	105
Recycle #1 used for base project, 4th priority	0	0	0	0	3	2	3	4	2	3	0	0	17	14	3
M1W's Portion of Recycle #1 after Base Project	7	3	5	4	0	0	0	0	0	0	3	3	25	4	21
Feed Water needed after Recycle #1	0	0	0	0	153	48	40	84	60	102	0	0	488	386	102
Recycle #2 used for Base Project, 5th priority	0	0	0	0	9	9	9	9	11	10	0	0	56	47	10
M1W's portion of Recycle #2 after base project	9	7	5	9	0	0	0	0	0	0	10	8	48	9	39
Feed Water needed after Recycle #2 water	0	0	0	0	144	39	31	75	50	92	0	0	431	339	92
PWM Base Project Backwash Water used for Base Project, 6th priority	0	0	0	0	25	25	26	25	24	25	0	0	151	126	25
M1W's portion of AWPB Backwash Water from base project after Base Project (1/2)	24	21	24	23	0	0	0	0	0	0	23	23	139	23	115
Feed Water needed after AWPB Backwash water	0	0	0	0	119	13	4	50	26	67	0	0	280	213	67
SVRP Backwash Water used for base project, 7th priority	0	0	0	0	59	13	4	50	26	57	0	0	210	153	57
M1W's portion of SVRP Backwash Water after Base Project	18	13	36	50	0	43	54	9	31	0	45	6	305	187	118
Feed Water needed after SVRP Backwash	0	0	0	0	60	0	0	0	0	10	0	0	70	60	10
Boronda used for base project, 8th priority	0	0	0	0	8	0	0	0	0	8	0	0	16	8	8
M1W's Portion of Boronda after Base Project	8	7	8	8	0	8	8	8	8	0	8	8	79	40	39
Feed Water needed after Boronda	0	0	0	0	52	0	0	0	0	2	0	0	54	52	2
Farmworker Housing used for Base Project 9th priority	0	0	0	0	2	0	0	0	0	2	0	0	4	2	2
M1W's Portion of Farmworker Housing after Base Project	1	1	1	2	0	2	2	2	2	0	2	1	14	9	5
Remaining Source Waters needed after Farmworker Housing	0	0	0	0	50	0	0	0	0	0	0	0	50	50	0
M1W Summer ARWRA Water used for Expansion remaining after MCWD Project, 10th priority	0	0	0	0	50	0	0	0	0	0	0	0	50	50	0
M1W ARWRA Remaining Summer Water after MCWD, Base & Expansion Projects	0	0	0	0	0	82	93	83	0	0	0	0	258	258	0
Remaining Source Waters needed after ARWRA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Apr-Sep	Oct-Mar
Source Waters for 2,250 AFY Proposed Expanded PWM/GWR Project--Winter Peaking Flow Scenario															
Source Waters needed for 2,250 AFY Expansion	439	399	425	113	104	101	104	104	42	374	423	453	3,081	568	2,513
Secondary Effluent to Ocean used for Expansion after Base Project, 1st Priority*	439	399	325	12	0	0	0	0	0	354	376	453	2,358	12	2,346
Remaining Effluent to Ocean after Base & Expansion Projects	443	75	0	0	0	0	0	0	0	0	0	702	1,221	0	1,221
Remaining Source Waters needed for Expansion after Ocean Flows	0	0	101	101	104	101	104	104	42	20	46	0	723	556	167
Recycle #1 after base project used for Expansion, 2nd priority	0	0	5	4	0	0	0	0	0	0	3	0	12	4	8
M1W's Portion of Recycle #1 after Base & Expansion Projects	7	3	0	0	0	0	0	0	0	0	0	3	13	0	13
Feed Water needed after Recycle #1	0	0	95	97	104	101	104	104	42	20	44	0	711	552	159
Recycle #2 after base project used for Expansion, 3rd priority	0	0	5	9	0	0	0	0	0	0	10	0	24	9	15
M1W's portion of Recycle #2 after base & expansion Projects	9	7	0	0	0	0	0	0	0	0	0	8	24	0	24
Feed Water needed after Recycle #2 water	0	0	90	88	104	101	104	104	42	20	34	0	688	543	144
M1W's portion of PWM Base Backwash Water from Base used for Expansion Project, 4th Priority	0	0	24	23	0	0	0	0	0	0	23	0	70	23	47
M1W portion of Base PWM Backwash after Base & Expansion Projects	24	21	0	0	0	0	0	0	0	0	0	23	68	0	68
Remaining Source Waters needed after M1W Portion of AWPB Backwash	0	0	66	65	104	101	104	104	42	20	11	0	617	520	97
M1W's portion of PWM Expansion Backwash Water used for Expansion Project , 5th priority	0	0	21	5	5	5	5	5	2	20	11	0	79	27	52
M1W portion of PWM Expansion Backwash Water after Base & Expansion Projects	21	19	0	0	0	0	0	0	0	0	10	22	72	0	72
Feed Water needed after AWPB Expansion Backwash water	0	0	45	60	99	96	99	99	40	0	0	0	538	493	45
M1W's portion of SVRP Backwash Water used for Expansion after Base Project, 6th Priority	0	0	36	50	0	43	54	9	31	0	0	0	223	187	36
M1W's portion of SVRP Backwash after Base & Expansion Projects	18	13	0	0	0	0	0	0	0	0	45	6	82	0	82
Remaining Source Waters needed after SVRP Backwash	0	0	9	9	99	53	45	91	10	0	0	0	315	306	9
Boronda after base project used for Expansion, 7th priority	0	0	8	8	0	8	8	8	8	0	0	0	48	40	8
M1W's Portion of Boronda after Base & Expansion Projects	8	7	0	0	0	0	0	0	0	0	8	8	31	0	31
Feed Water needed after Boronda	0	0	1	2	99	45	37	82	2	0	0	0	267	267	1
Farmworker Housing after Base Project used for Expansion, 8th priority	0	0	1	2	0	2	2	2	2	0	0	0	9	9	1
M1W's Portion of Farmworker Housing after Base & Expansion Projects	1	1	0	0	0	0	0	0	0	0	2	1	4	0	4
Remaining Source Waters needed after Farmworker Housing	0	0	0	0	99	43	35	81	0	0	0	0	258	258	0
M1W Summer ARWRA Water used for Expansion remaining after MCWD Project, 9th priority	0	0	0	0	99	43	35	81	0	0	0	0	258	258	0
M1W ARWRA Remaining Summer Water after MCWD, Base & Expansion Projects	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Remaining Source Waters needed after ARWRA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

*Available if otherwise not collected or would be discharged to ocean

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Apr-Sep	Oct-Mar
Source Waters Not Used for Approved or Proposed Expanded PWM/GWR Projects															
Remaining Effluent to Ocean after Base & Expansion Project	443	75	0	0	0	0	0	0	0	0	0	702	1,221	0	1,221
M1W's portion of SVRP Backwash after Base & Expansion Projects	18	13	0	0	0	0	0	0	0	0	45	6	82	0	82
M1W's Portion of Boronda after Base & Expansion Projects	8	7	0	0	0	0	0	0	0	0	8	8	31	0	31
M1W's Portion of Farmworker Housing after Base & Expansion Projects	1	1	0	0	0	0	0	0	0	0	2	1	4	0	4
M1W's Portion of Recycle #1 after Base & Expansion Projects	7	3	0	0	0	0	0	0	0	0	0	3	13	0	13
M1W's portion of Recycle #2 after base & expansion Projects	9	7	0	0	0	0	0	0	0	0	0	8	24	0	24
M1W portion of Base PWM Backwash after Base & Expansion Projects	24	21	0	0	0	0	0	0	0	0	0	23	68	0	68
M1W portion of PWM Expansion Backwash Water after Base & Expansion Projects	21	19	0	0	0	0	0	0	0	0	10	22	72	0	72
Reclamation Ditch after Base & Expansion Projects	81	18	0	0	0	0	0	0	0	0	65	136	299	0	299
Blanco Drain Remaining Water after Base & Expansion Projects	209	223	49	0	0	0	0	0	0	0	133	185	799	0	799
M1W ARWRA Remaining Summer Water after MCWD, Base & Expansion Projects	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
M1W's Plus Unused other Source Waters after Base and Expansion Projects (excl. ocean)	378	313	49	0	0	0	0	0	0	0	262	391	1,393	0	1,393
M1W's Plus Unused other Source Waters after Base and Expansion Projects (incl. ocean)	821	388	49	0	0	0	0	0	0	0	262	1,094	2,614	0	2,614
M1W portion of SRDF Backwash Water	0	0	0	0	6	24	25	25	11	4	0	0	95	91	4
Salinas Industrial Wastewater (2018)	184	149	182	261	305	305	318	319	305	333	252	186	3,099	1,813	1,285
Salinas Pond Recovery Water (2018)*	0	0	0	0	300	0	0	0	0	0	0	0	300	300	0

*Flow may be much higher in 2021 when Salinas Pond PS Project Completed

Attachment 4

Scenario 4 (D-Out): Source Water Use During Drought Years and Conditions Precedent Are Not Met

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Apr-Sep	Oct-Mar
Source Water for M1W Portion of Base Project (3,500 AFY after removing 600 AFY MCWD's Portion from the 4,300 AFY total, drought)--not filling Operational Reserve															
Source Water Needed for M1W Portion of Base Project (3,700)	455	415	378	395	344	364	377	378	336	455	441	455	4,793	2,194	2,599
Secondary Effluent to Ocean used for base project, 1st priority	455	400	0	0	0	0	0	0	0	228	441	455	1,978	0	1,978
Secondary Effluent to Ocean Remaining after Base Project	1,161	18	3	90	0	0	0	0	0	222	1,083	1,097	3,675	90	3,585
Feed water needed after ocean flows	0	15	379	394	344	364	377	378	336	227	0	0	2,815	2,194	621
Reclamation Ditch used for base project, 2nd priority	0	15	19	50	11	8	12	35	11	16	0	0	177	127	50
Reclamation Ditch Flows remaining after Base Project	0	10	0	0	0	0	0	0	0	0	133	72	215	0	215
Feed Water needed after Reclamation Ditch	0	0	360	344	333	356	365	343	325	211	0	0	2,638	2,067	571
Blanco Drain used for base project, 3rd priority	0	0	246	252	225	274	277	244	184	168	0	0	1,870	1,456	414
Blanco Drain Flows after Base Project	209	223	0	0	0	0	0	0	0	0	133	185	750	0	750
Feed Water needed after Blanco Drain	0	0	114	92	108	82	88	99	141	43	0	0	768	611	157
Recycle #1 for base project, 5th priority	0	0	5	5	3	2	3	4	2	3	0	0	26	18	8
M1W's Portion of Recycle #1 after Expansion	7	3	0	0	0	0	0	0	0	0	3	3	15	0	15
Feed Water needed after Recycle #1	0	0	108	88	106	80	85	95	139	41	0	0	741	592	149
Recycle #2 for base project, 6th priority	0	0	5	9	9	9	9	9	11	10	0	0	70	55	15
M1W's portion of Recycle #2 after expansion	9	7	0	0	0	0	0	0	0	0	10	8	34	0	34
Feed Water needed after Recycle #2 water	0	0	103	79	97	71	76	87	128	31	0	0	671	537	134
PWM Base Project Backwash Water used for base project, 7th priority	0	0	20	23	23	24	25	24	21	25	0	0	185	140	46
M1W's portion of AWPB Backwash Water after Base Project (1/2)	24	21	0	0	0	0	0	0	0	0	23	23	91	0	91
Feed Water needed after AWPB Backwash water	0	0	83	56	74	47	52	63	107	6	0	0	486	398	88
SVRP Backwash Water used for base project, 8th priority	0	0	55	56	55	47	52	55	57	6	0	0	382	321	61
M1W's portion of SVRP Backwash Water after Base Project	18	27	0	1	0	10	5	0	0	51	37	18	168	16	152
Feed Water needed after SVRP Backwash	0	0	28	0	19	0	0	8	50	0	0	0	104	77	28
Boronda for base project, 9th priority	0	0	8	0	8	0	0	8	8	0	0	0	32	24	8
M1W's Portion of Boronda after Expansion	8	7	0	8	0	8	8	0	0	8	8	8	63	24	39
Feed Water needed after Boronda	0	0	20	0	11	0	0	0	42	0	0	0	73	53	20
Farmworker Housing for base project, 10th priority	0	0	1	0	2	0	0	0	2	0	0	0	4	4	1
M1W's Portion of Farmworker Housing after Expansion	1	1	0	2	0	2	2	2	0	2	2	1	13	7	6
Remaining Source Waters needed after Farmworker Housing	0	0	19	0	9	0	0	0	41	0	0	0	68	50	19
M1W Summer ARWRA Water for base project remaining after MCWD Project, 10th priority	0	0	19	0	9	0	0	0	41	0	0	0	68	50	19
M1W ARWRA Remaining Summer Water after Expansion	0	0	0	0	41	62	73	63	0	0	0	0	240	239	0
Remaining Source Waters needed after ARWRA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Apr-Sep	Oct-Mar
Source Waters for 2,250 AFY Proposed Expanded PWM/GWR Project--Drought Year Scenario (Source Water = 2,105 AFY and 713 AF Operational Reserve)															
Source Waters needed for 2,250 AFY Expansion	435	89	4	105	43	86	93	68	0	298	427	457	2,105	395	1,709
Remaining Secondary Effluent to Ocean for Expansion after Base Project, 1st Priority*	435	18	3	90	0	0	0	0	0	222	427	457	1,651	90	1,561
Remaining Effluent to Ocean after Expansion Project	726	0	0	0	0	0	0	0	0	0	657	640	2,023	0	2,023
Remaining Source Waters needed for Expansion after Ocean Flows	0	71	1	15	43	86	93	68	0	76	0	0	453	306	148
Recycle #1 for Expansion, 2nd priority	0	3	0	0	0	0	0	0	0	0	0	0	3	0	3
M1W's Portion of Recycle #1 after Expansion	7	0	0	0	0	0	0	0	0	0	3	3	13	0	13
Feed Water needed after Recycle #1	0	69	1	15	43	86	93	68	0	76	0	0	451	306	145
Recycle #2 for Expansion, 3rd priority	0	7	0	0	0	0	0	0	0	0	0	0	7	0	7
M1W's portion of Recycle #2 after expansion	9	0	0	0	0	0	0	0	0	0	10	8	26	0	26
Feed Water needed after Recycle #2 water	0	61	1	15	43	86	93	68	0	76	0	0	443	306	138
M1W's portion of PWM Base Backwash Water Remaining from Base Project, 4th Priority	0	21	0	0	0	0	0	0	0	0	0	0	21	0	21
M1W portion of Base PWM Backwash after Base & Expansion	24	0	0	0	0	0	0	0	0	0	23	23	70	0	70
Remaining Source Waters needed after M1W Portion of AWPB Backwash	0	40	1	15	43	86	93	68	0	76	0	0	422	306	116
M1W's portion of PWM Expansion Backwash Water , 5th priority	0	4	0	5	2	4	5	3	0	15	0	0	39	19	19
M1W portion of PWM Expansion Backwash Water after Base & Expansion	21	0	0	0	0	0	0	0	0	0	21	22	65	0	65
Feed Water needed after AWPB Expansion Backwash water	0	35	0	10	41	82	88	65	0	61	0	0	383	286	97
M1W's portion of SVRP Backwash Water after Base Project, 6th Priority	0	27	0	1	0	10	5	0	0	51	0	0	95	16	79
M1W's portion of SVRP Backwash after Base & Expansion	18	0	0	0	0	0	0	0	0	0	37	18	73	0	73
Remaining Source Waters needed after SVRP Backwash	0	8	0	9	41	72	83	65	0	10	0	0	288	270	18
Boronda for Expansion, 7th priority	0	7	0	8	0	8	8	0	0	8	0	0	39	24	15
M1W's Portion of Boronda after Expansion	8	0	0	0	0	0	0	0	0	0	8	8	24	0	24
Feed Water needed after Boronda	0	1	0	2	41	64	75	65	0	2	0	0	249	246	3
Farmworker Housing for Expansion, 8th priority	0	1	0	2	0	2	2	2	0	2	0	0	9	7	3
M1W's Portion of Farm Worker Housing after Expansion	1	0	0	0	0	0	0	0	0	0	2	1	4	0	4
Remaining Source Waters needed after Farmworker Housing	0	0	0	0	41	62	73	63	0	0	0	0	239	239	0
M1W Summer ARWRA Water for Expansion remaining after MCWD Project, 9th priority	0	0	0	0	41	62	73	63	0	0	0	0	239	239	0
M1W ARWRA Remaining Summer Water after Expansion	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Remaining Source Waters needed after ARWRA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

*Available if otherwise not collected or would be discharged to ocean

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Apr-Sep	Oct-Mar
Source Waters Not Used for Approved or Proposed Expanded PWM/GWR Projects															
Remaining Effluent to Ocean after Expansion Project	726	0	0	0	0	0	0	0	0	0	657	640	2,023	0	2,023
M1W's portion of SVRP Backwash after Base & Expansion	18	0	0	0	0	0	0	0	0	0	37	18	73	0	73
M1W's Portion of Boronda after Expansion	8	0	0	0	0	0	0	0	0	0	8	8	24	0	24
M1W's Portion of Farm Worker Housing after Expansion	1	0	0	0	0	0	0	0	0	0	2	1	4	0	4
M1W's Portion of Recycle #1 after Expansion	7	0	0	0	0	0	0	0	0	0	3	3	13	0	13
M1W's portion of Recycle #2 after expansion	9	0	0	0	0	0	0	0	0	0	10	8	26	0	26
M1W portion of Base PWM Backwash after Base & Expansion	24	0	0	0	0	0	0	0	0	0	23	23	70	0	70
M1W portion of PWM Expansion Backwash Water after Base & Expansion	21	0	0	0	0	0	0	0	0	0	21	22	65	0	65
Reclamation Ditch after Base & Expansion	0	10	0	0	0	0	0	0	0	0	133	72	215	0	215
Blanco Drain Remaining Water after Base & Expansion	209	223	0	0	0	0	0	0	0	0	133	185	750	0	750
M1W ARWRA Remaining Summer Water after Expansion	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
M1W's Plus Unused other Source Waters after Base and Expansion Projects (exclude ocean)	297	233	0	0	0	0	0	0	0	0	369	340	1,240	1	1,240
M1W's Plus Unused other Source Waters after Base and Expansion Projects (exclude ocean)	1,023	233	0	0	0	0	0	0	0	0	1,025	981	3,263	1	3,263
M1W portion of SRDF Backwash Water	0	0	0	0	6	24	25	11	4	0	0	0	95	91	4
Salinas Industrial Wastewater (2015)	172	139	163	270	297	302	305	300	288	312	239	154	2,942	1,763	1,179
Salinas Pond Recovery Water (2015)*	0	0	0	100	15	0	0	0	0	0	0	0	115	115	0

*Flow may be much higher in 2021 when Salinas Pond PS Project Completed

Appendix N

October 3, 2019

TO: Bob Holden and Alison Imamura, M1W

FROM: Laura Zagar and Anne Beaumont

RE: *Water Rights Analysis for Proposed Modifications to the Pure Water Monterey Groundwater Replenishment Project*

I. Introduction

The Pure Water Monterey Groundwater Replenishment Project (the PWM/GWR Project) consists of two components: the Pure Water Monterey Groundwater Replenishment improvements and operations that will develop high-quality replacement water for existing urban supplies, and a component that would increase flows for enhanced agricultural irrigation.

The approved PWM/GWR Project and the proposed modifications to expand the PWM/GWR Project would recycle and reuse water from a number of sources, including:

- A. Municipal wastewater,
- B. Industrial wastewater (agricultural wash water),
- C. Urban stormwater runoff, and
- D. Surface water diversions.

Below is a description of the Amended and Restated Water Recycling Agreement (the document that describes the framework for rights and associated responsibilities for these source waters), followed by an analysis of each water source, including the legal framework and current status of water rights for each source. A summary chart is included at the end.

II. Background and Status of the Amended and Restated Water Recycling Agreement

Monterey One Water (M1W) has entered into a number of relevant contracts, including contracts that assigned wastewater rights to Marina Coast Water District and Monterey County Water Resources Agency (Water Resources Agency). We understand M1W has entered into the following:

- The 1989 Annexation Agreement between M1W and the Marina Coast Water District provides the Marina Coast Water District with the right to obtain treated wastewater from M1W. The Marina Coast Water District has not exercised its recycled water rights but may do so in the future.
- The 1992 agreement between M1W and Water Resources Agency (including amendments) (1992 Agreement) provides for the construction and operation of the

Salinas Valley Reclamation Plant by M1W to provide water treated to a level adequate for agricultural irrigation for use by the Castroville Seawater Intrusion Project. In particular, Section 3.03 of the 1992 Agreement (Amendment 3) provides that M1W commits all of its incoming wastewater flows to the treatment plant from sources within the 2001 M1W service area, up to 29.6 million gallons per day, except for flows taken by the Marina Coast Water District under the Annexation Agreements, losses, flows not needed to meet the Water Resource Agency's authorized demand, and flows to which M1W is otherwise entitled under the agreement.

- In 1996, pursuant to another Annexation Agreement, the Marina Coast Water District received the right to tertiary-treated water from the Salinas Valley Reclamation Plant, in satisfaction of the 1989 agreement rights.
- In 2009, the Marina Coast Water District and M1W entered into a Memorandum of Understanding relating to the Regional Urban Water Augmentation Agreement (RUWAP MOU). In the RUWAP MOU, the M1W assigned a portion of its allotment from the Amendment 3 of the 1992 Agreement between M1W and Monterey County Water Resources Agency. M1W agreed to, among other things, provide 650 AFY of recycled waters during the months of May through August each year from M1W entitlements.¹ Marina Coast Water District agreed to commit 300 AFY of recycled water during the months of April through September from Marina Coast Water District's entitlements.

To address certain water rights, the stakeholder agencies entered into a Memorandum of Understanding (Source Waters MOU). The Source Waters MOU reaffirmed the Marina Coast Water District's and Water Resources Agency's recycled water entitlements and presented a proposal for collection of additional source waters to meet the PWM/GWR Project objectives.

The Source Waters MOU was not binding; rather, it was intended to provide a framework for negotiation of a definitive agreement that would establish the contractual rights and obligations of the parties. That definitive agreement between M1W and the Water Resources Agency, approved by the M1W Board in October 2016, is called the Amended and Restated Water Recycling Agreement (ARWRA). The ARWRA supersedes the Source Waters MOU.

A. *ARWRA Conditions and Amendment*

The ARWRA provides for new source waters from the Blanco Drain, Reclamation Ditch, and the City of Salinas (produce wash water) for the CSIP and the PWM/GWR Project. However, the

¹ Certain parties have disputed the validity of Amendment 3. If Amendment 3 were to be found invalid, the assignment of M1W's recycled waters to Marina Coast Water District in the RUWAP MOU may also be found to be invalid. For purposes of this analysis, however, it is assumed that Amendment 3 is valid and enforceable and that Marina Coast Water District has an existing right to 650 AFY during the summer months.

portions of the ARWRA applicable to the New Source Water Facilities do not become effective until the following six conditions in ARWRA Section 16.15 have been met:

1. Water Rights for the Blanco Drain and Reclamation Ditch are obtained from the California State Water Resources Control Board; and,
2. A fully executed, and California Public Utilities Commission approved, Water Purchase Agreement, between MRWPCA, MPWMD, and California-American Water; and,
3. Written findings are made by the Regional Water Quality Control Board that utilization of the Blanco Drain dry weather flows as New Source Water meets all treatment requirements for the aforesaid dry weather flows; and,
4. An independent third-party review of proposed capital and operating costs and preparation of an Engineer's Report is approved by the WRA Board of Directors and Board of Supervisors. The costs of the aforesaid third-party review shall be shared equally between WRA and M1W; and,
5. A successful assessment or Proposition 218 process for rates and charges related to the operation and maintenance of the New Source Water Facilities and proportional primary and secondary treatment charges; and,
6. Inclusion of Salinas Pond Water Return Facilities as New Source Water Facilities requires execution of a separate agreement between the Parties.

Due to delays in completing the cost-based Engineer's Report (condition 4 above) and changes in Water Resources Agency personnel, the conditions noted above have not yet been completed. Specifically, as of June 2019, conditions 1 and 2 had been satisfied; but conditions 3, 4, 5, and 6 have not been completed.

As a result, M1W and the Water Resources Agency developed an amendment to the ARWRA that will allow additional time to address the conditions precedent, delay required payments by the Water Resources Agency, and allow M1W to use the source waters for the PWM/GWR Project until such time as the conditions are met. The M1W Board approved the amendment in June 2019.

Under the amendment, therefore, M1W currently has the rights to use the new source waters from the Blanco Drain, Reclamation Ditch, and the City of Salinas (produce wash water) discussed in greater detail below until the conditions are met.

III. Source Waters

A. Municipal Wastewater Collection and Treatment System

1. *Brief Description of Project Use*

M1W collects municipal wastewater from communities in northern Monterey County and treats it at its Regional Wastewater Treatment Plant (Regional Treatment Plant). Most of the

wastewater is recycled for crop irrigation at an onsite tertiary treatment plant called the Salinas Valley Reclamation Plant. The tertiary-treated wastewater is delivered to growers through a conveyance and irrigation system called the Castroville Seawater Intrusion Project (CSIP). The treated wastewater that is not recycled for crop irrigation, or used as influent to the AWPf, is discharged to the ocean through M1W's existing ocean outfall. The proposed modifications to the PWM/GWR Project enable more of the municipal wastewater to be recycled; thus, less municipal wastewater would be discharged through the ocean outfall.

2. *Legal Framework*

Unless otherwise provided by agreement, the owner of a wastewater treatment plant has the exclusive right to the treated wastewater it produces as against anyone who has supplied the water discharged into any part of its wastewater collection and/or treatment system, including a person using water under a service contract.² M1W therefore has the exclusive right to use municipal wastewater that is discharged into its collection system, except as that right has been varied by contractual arrangements.³

Here, as described above in Section II, M1W and the stakeholder agencies have entered into a number of relevant contracts, up to and including the ARWRA.

3. *Status of Water Rights*

As described in Section II above, the ARWRA is now in effect to address and resolve competing water rights of M1W, Marina Coast Water District, and the Water Resources Agency.

Separately, the ARWRA also provides the Water Resources Agency with rights to additional wastewater flows, since under the ARWRA, certain wastewater flows are to be evenly divided between M1W and the Water Resources Agency. Section 4.01(2) of the ARWRA states, "WRA shall be entitled to one-half of the volume of wastewater flows from areas outside of [M1W]'s 2001 Boundary provided; however, at the request of WRA, [M1W] passes the wastewater flows through the tertiary treatment facility or Pure Water Monterey Facilities." Because it is not applicable to the New Source Waters, this section is not subject to the ARWRA conditions described above and thus remains in effect, even if the conditions in ARWRA Section 16.15 have not been satisfied or completed.

Several flows that are treated at the Regional Treatment Plant are considered to be from areas outside of the 2001 M1W service area, and some of these flows are not metered (measured) with other influent to the Regional Treatment Plant at the headworks, as indicated. Thus, pursuant to

² Cal. Water Code § 1210.

³ California Water Code § 1211 requires the owner of a wastewater treatment plant to obtain approval of the State Board for a change in the point of discharge of treated wastewater when the proposed change would result in decreased flow in any portion of a watercourse. The proposed diversion of municipal wastewater from the Regional Treatment Plant from communities in northern Monterey County would not impact the flows in a watercourse; thus, approval from the State Board for this proposed diversion would not be needed.

the ARWRA section 4.01(2), rights to these wastewater flows would be evenly divided between M1W and the Water Resources Agency. They include the following:

- Backwash flows from the Salinas River Diversion Facility screening process (totaling up to approximately 200 AFY in the summer months (when the facility is operating and limited to April through September) [not metered as influent];
- Filter backwashing flows from the mixed media filters at the Salinas Valley Reclamation Plant (totaling approximately 2,000 AFY peaking in the summer months) [not metered as influent];
- AWWPF filter backwash and clean in place flows (approximately 900 AFY distributed evenly throughout the year) [not metered as influent];
- Recycled Sumps #1 and #2 flows that convey wastewaters generated on-site and at the adjacent landfill (approximately 300 AFY) to the Regional Treatment Plant headworks [not metered as influent]; and
- Several areas in and around the City of Salinas and the community of Castroville (currently only the western annexation of the Boronda area constitute substantive flows totaling approximately 200 AFY distributed evenly throughout the year).

Total water rights to these wastewater flows at the Regional Treatment Plant available to M1W and the Water Resources Agency would range from approximately 1,700 to 1,900 AFY each,⁴ depending upon flows of these waters, and particularly upon whether the Salinas River Diversion Facility is operating.

These flows are substantial, and use of these flows by M1W for meeting recycled water demands is *in addition to* M1W use of its wastewater rights and rights to new source waters from the Blanco Drain, Reclamation Ditch, and the City of Salinas (ag wash water and, potentially, storm water). Thus, even if the Water Resources Agency takes its share under the ARWRA, M1W would still have sufficient water rights from the Blanco Drain, Reclamation Ditch, and the City of Salinas (ag water and, potentially, storm water) for meeting new influent water flow needs for the PWM/GWR Project and proposed modifications.

B. Salinas Agricultural Wash Water System

1. *Brief Description of Project Use*

Water from the City of Salinas agricultural industries, 80% to 90% of which is water used for washing produce, is currently conveyed to ponds at the Salinas Industrial Wastewater Treatment Facility for treatment (aeration) and disposal by evaporation and percolation. The PWM/GWR

⁴ This represents the total AFY available to each agency (M1W and the Water Resources Agency).

Project enables the agricultural wash water to be conveyed to the Regional Treatment Plant to be recycled. The PWM/GWR Project also includes improvements at the Salinas Industrial Wastewater Treatment Facility to allow storage of agricultural wash water and south Salinas stormwater in the winter and recovery of that water to the RTP for recycling and reuse in the spring, summer and fall.⁵

2. *Legal Framework*

The City of Salinas has the exclusive right to the treated wastewater it collects in its system and treats at the Salinas Industrial Wastewater Treatment Facility, unless modified in a contractual agreement.⁶ Prior to making a change in the point of discharge of treated wastewater, the owner of a wastewater treatment plant shall obtain approval from the State Water Resources Control Board (State Water Board) for that change if the proposed change would result in decreased flow of any portion of a watercourse.⁷

3. *Status of Water Rights*

Since the City of Salinas would otherwise have exclusive right to its treated wastewater, M1W entered into a contract with the City of Salinas for the diversion and use of agricultural wash water. M1W entered into an agreement with the City of Salinas to utilize agricultural wash water (Salinas industrial wastewater) for recycling through the Salinas Valley Reclamation Plant for CSIP and for use by the PWM/GWR Project for groundwater replenishment in the Seaside Groundwater Basin.⁸ If the conditions precedent in ARWRA section 16.15 are not met, section 16.16 states “WRA will retain the right to utilize the Agricultural Wash Water component from the City of Salinas.” As discussed above, M1W currently has rights to use Agricultural Wash Water pursuant to Amendment No.1 to the ARWRA.

In addition, as the State Water Board clarified in its comments on the Draft EIR, its approval is needed for diversion of wastewater that is currently discharged into percolation ponds adjacent to the Salinas River, because such a diversion would reduce the flow of the Salinas River. The City of Salinas filed a Wastewater Change Petition with the State Water Board in October 2015, proposing a change in wastewater operation that would redirect wastewater treated at the Salinas Industrial Wastewater Treatment Facility to M1W’s existing Regional Treatment Plant. In

⁵ The recovery of Salinas Industrial Wastewater Treatment Facility pond water to the Regional Treatment Plant is going to be enabled by the construction and operation of the Salinas Storm Water Phase 1B project that is grant-funded and currently under construction. The facilities are scheduled to be operational in early 2021. Rights and responsibilities for operational, maintenance, repair, and replacement costs of this new source water would be subject to a future agreement pursuant to the ARWRA section 16.15(6).

⁶ Cal. Water Code § 1210.

⁷ Cal. Water Code § 1211(a), (b).

⁸ Agreement for Conveyance and Treatment of Industrial Waste Water By and Between the City of Salinas and the Monterey Regional Water Pollution Control Agency (Oct. 27, 2015).

November 2015, the State Water Board issued its Order Approving Change in Place of Use, Purpose of Use, and Quantity of Discharge. Thus, this approval has been obtained.

C. Salinas Stormwater Collection System

1. *Brief Description of Project Use*

Stormwater from urban areas in southern portions of the City of Salinas is currently collected and released to the Salinas River through an outfall near Davis Road. The PWM/GWR Project includes improvements enabling Salinas Stormwater to be conveyed to the Salinas Industrial Wastewater Treatment Facility and to the Regional Treatment Plant to be recycled.

2. *Legal Framework*

To divert stormwater and dry weather flow from urban areas, agreements are needed between M1W and the relevant local agency that currently collects and conveys the flows in man-made facilities for discharge to surface waters. Stormwater runoff from urban areas through storm drain infrastructure (i.e., in the City of Salinas) does not become water of the state until it is discharged into a river or channel.

3. *Status of Water Rights*

M1W would need to obtain water rights from the applicable local agency, which here is the City of Salinas. We understand that there are currently no contractual arrangements or permits for diversion of stormwater or urban/agricultural runoff to the M1W wastewater collection and conveyance system. However, an agreement with the City of Salinas is being pursued by M1W. We understand that the City of Salinas has been working cooperatively with M1W, and agreement is reasonably likely. This demonstrates a reasonable likelihood that this source of water can be obtained.

D. Reclamation Ditch and Blanco Drain Surface Water Diversions

1. *Brief Description of Project Use*

The Reclamation Ditch is a network of excavated earthen channels used to drain natural, urban, and agricultural runoff and agricultural tile drainage. The PWM/GWR Project constructed infrastructure that enables water from the Reclamation Ditch watershed to be diverted from the Reclamation Ditch at Davis Road to be conveyed to the Regional Treatment Plant to be recycled.

The Blanco Drain collects water from approximately 6,400 acres of agricultural lands near Salinas. The PWM/GWR Project would include improvements that would enable water in the Blanco Drain to be diverted and conveyed to the Regional Treatment Plant to be recycled.⁹

2. Legal Framework

Water that enters surface streams and rivers is considered water of the state. A water rights permit is required to impound or divert waters of the state, except for certain riparian uses. Transfer of surface water flows out of known and defined channels for recycling would be a consumptive use that may come under the jurisdiction and regulation of the State Board.

Water rights permits from the State Board would be required for surface water diversions from the Reclamation Ditch and Blanco Drain. These source waters include agricultural return flow (overland flow and tile drainage), stormwater flow, and urban runoff. The State Board requires a completed CEQA document before issuing a permit.

In considering an application to appropriate water, the State Board considers a number of factors.¹⁰ Specifically, the State Board considers “the relative benefit to be derived from (1) all beneficial uses of the water concerned including, but not limited to, use for domestic, irrigation, municipal, industrial, preservation and enhancement of fish and wildlife, recreational, mining and power purposes, and any uses specified to be protected in any relevant water quality control plan, and (2) the reuse or reclamation of the water sought to be appropriated, as proposed by the applicant. The State Board may subject such appropriations to such terms and conditions as in its judgment will best develop, conserve, and utilize in the public interest, the water sought to be appropriated.”¹¹ The State Board is guided by the policy that domestic use is the highest use and irrigation is the next highest use of water.¹²

⁹ M1W originally also planned to use source waters from the Tembladero Slough (to which the Reclamation Ditch is a tributary) and Lake El Estero. However, neither Tembladero Slough nor Lake El Estero is currently being pursued.

The Tembladero Slough diversion is no longer being pursued as a PWM/GWR Project source water due to a settlement agreement signed with California Department of Fish and Wildlife to resolve the water rights permit protest.

The City of Monterey actively manages the water level in Lake El Estero so that there is storage capacity for large storm events. Prior to a storm event, the lake level is lowered by pumping or gravity flow for discharge to Del Monte Beach. The PWM/GWR Project originally included improvements that would enable water that would otherwise be discharged to the beach to instead be conveyed to the Regional Treatment Plant to be recycled. Although Lake El Estero is not currently being pursued to be constructed, the City of Monterey and the M1W may choose in the future to pursue this project component; therefore, it is still included in the PWM/GWR Project as approved.

¹⁰ Cal. Water Code §§ 1250 et seq.

¹¹ Cal. Water Code § 1257.

¹² Cal. Water Code § 1254.

The Water Resources Agency submitted an application in April 2014 to the State Board to appropriate waters of the Blanco Drain and the Reclamation Ditch, as well as the Tembladero Slough.¹³ Specifically, it applied to divert up to 25,000 acre-feet per year from each of the two water bodies at a combined rate of diversion of up to 100 cfs. On November 10, 2014, the State Water Resources Control Board sent a letter stating that staff had found the application was incomplete in several respects. In response, the Water Resources Agency submitted five separate applications on July 29, 2015, three of which are related to the PWM/GWR Project (Application Nos. 32263A, 32263B, 32263C).¹⁴ At the request of the State Board, the Water Resources Agency submitted amended applications with minor changes on July 29, 2015.

3. *Status of Water Rights*

These water rights are secured. The State Board has approved the pending applications and issued two permits (Permit 21376 and Permit 21377) authorizing the Water Resources Agency to divert and use water from the Blanco Drain and the Reclamation Ditch, respectively. The ARWRA further addresses these water rights. Under the ARWRA amendment, as explained above, M1W currently has the rights to use the new source waters from the Blanco Drain, and the Reclamation Ditch, until the ARWRA conditions are met.

E. **Summary Chart**

Source of Water	Status of Water Rights
Municipal Wastewater Collection and Treatment System	<u>Secured.</u> The ARWRA is now in effect to address and resolve competing water rights of Marina Coast Water District and Monterey County Water Resources Agency. The ARWRA also provides that rights to additional wastewater flows—that are treated at the Regional Treatment Plant and are from areas outside of the 2001 M1W service area—are evenly divided between M1W and the Water Resources Agency.
Salinas Agricultural Wash Water System	<u>Secured.</u> A contract is in place between M1W and the City of Salinas assigning rights for diversion and use of the agricultural wash water to M1W. Under the ARWRA as amended, M1W currently has rights to use the

¹³ See footnote 9 above regarding the Tembladero Slough.

¹⁴ Regarding the Tembladero Slough application, see footnote 9. The remaining two applications related to the PWM/GWR Project were for the Blanco Drain and the Reclamation Ditch.

	<p>new source waters from this source. In addition, the State Water Board has approved the diversion of the agricultural wash water away from the percolation ponds. Recovery of seasonally-stored agricultural wash water, mixed with storm water, from the City's system requires a contract between M1W and the City of Salinas.</p>
<p>Salinas Stormwater Collection System</p>	<p><u>Pending.</u> A contract is needed between M1W and the City of Salinas for diversion of storm water, mixed with agricultural wash water, from the City's system.</p>
<p>Reclamation Ditch and Blanco Drain Diversions</p>	<p><u>Secured.</u> The State Water Board has issued two permits authorizing the Water Resources Agency to divert and use water from the Blanco Drain and the Reclamation Ditch. Under the ARWRA as amended, M1W currently has the rights to use the new source waters from the Blanco Drain and Reclamation Ditch.</p>

Appendix M

Appendix M

RESOLUTION 2022-XX

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT IN SUPPORT OF ACTIVATION OF LATENT DISTRICT POWERS

WHEREAS, The Monterey Peninsula Water Management District (“District”) is organized and exists under the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977, and published at Water Code Appendix, Section 118-1, et seq.) (“District Law”).

WHEREAS, Pursuant to Section 325 of the District Law, and except as otherwise limited by the District Law, the District has the power to do any and every lawful act necessary in order that sufficient water may be available for any present or future beneficial use or uses of the lands or inhabitants within the District, including, but not limited to, irrigation, domestic, fire protection, municipal, commercial, industrial, recreational, and all other beneficial uses and purposes.

WHEREAS, Pursuant to Section 328 of the District Law, the District has the power, among other things, (a) to acquire public or private water systems necessary or proper to carry out the purposes of the District Law; (b) to store water in surface or underground reservoirs within or outside of the District for the common benefit of the District; (c) To conserve and reclaim water for present and future use within the District; (d) To appropriate and acquire water and water rights, and import water into the District and to conserve and utilize, within or outside of the District, water for any purpose useful to the District.

WHEREAS, Section 326 of the District Law authorizes the District to fix, revise, and collect rates and charges for the services, facilities, or water furnished by it, and authorizes the District to collect its rates and charges via the tax roll or other billing methods. Section 308 of the District Law authorizes the District, by resolution or ordinance, to fix and collect rates and charges for the providing of any service it is authorized to provide.

WHEREAS, The District engages in a variety of activities that supply water to properties within the District via a distribution system owned by California American Water (CAW), including water supplied by the Aquifer Storage and Recovery project and the Pure Water Monterey project.

WHEREAS, Since 1994 the District has provided highly treated water for retail sale to properties within the Del Monte Forest.

WHEREAS, On November 6, 2018, voters within the Water Management District passed initiative Measure J by 56% (23,757 voted yes) to 44% (18,810 voted no). Measure J directed that the following Rule 19.8 be added to the District Rules and Regulations, Regulation I, General Provisions:

Rule 19.8. Policy of Pursuing Public Ownership of Monterey Peninsula Water Systems

- A. It shall be the policy of the District, if and when feasible, to secure and maintain public ownership of all water production, storage and delivery system assets and infrastructure providing services within its territory.
- B. The District shall acquire through negotiation, or through eminent domain if necessary, all assets of California American Water, or any successor in interest to California American Water, for the benefit of the District as a whole.
- C. The General Manager shall, within nine (9) months of the effective date of this Rule 19.8, complete and submit to the Board of Directors a written plan as to the means to adopt and implement the policy set forth in paragraph A, above. The plan shall address acquisition, ownership, and management of all water facilities and services within and outside the District, including water purchase agreements as appropriate. The plan may differentiate treatment of non-potable water services.

WHEREAS, the District has held a duly noticed public hearing with respect to this Resolution in Support of Activation of Latent District Powers this day and considered all testimony, if any, presented at that hearing.

NOW, THEREFORE, BE IT RESOLVED, as follows:

The District commits to:

- (A) Engage in good faith dispute resolution efforts with local taxing agencies that are projected, as of the date of this Resolution, to lose more than \$5,000 in annual property tax revenue due to Cal-Am assets becoming subject to public ownership and thus exempt

from property taxes. The District shall use its best efforts to enter into legally permissible agreements which may include provisions to reduce the net impact of lost tax revenue over a five to seven-year transition period, or longer if warranted by unique facts, for each affected Local Taxing Agency.

(B) If the acquisition of the Monterey Water System is approved in Superior Court, act as an intervenor in any California Public Utilities Commission (CPUC) proceeding related to any CAW Monterey County satellite water system or wastewater system. In such a proceeding, the District will strongly encourage the CPUC to continue the rate structure presently in place for the Chualar division and to argue for the inclusion of such water and wastewater systems to be treated in the most economical manner for ratepayers, including annexing into the CAW Northern Division and/or seeking operating subsidies from CAW divisions statewide.

(C) Finalize an agreement to establish an initial framework for future discussions with MCWD and the affected jurisdictions on how to address long-term water service needs in the areas where the District's boundaries overlap with MCWD's boundaries or future study areas, contingent on the acquisition of the Monterey Water System as approved in Superior Court.

(D) Secure a viable permanent water supply, without new¹ commitments of Salinas Valley water, and to advance a desalination or other project when determined to be necessary for the water supply needs of the Peninsula.

In furtherance of the commitments cited above, the District will discuss and negotiate outcomes satisfactory to LAFCO.

This Resolution in Support of Activation of Latent District Powers is hereby adopted and approved by the Board of Directors of the Monterey Peninsula Water Management District.

The District requests the Local Agency Formation Commission (LAFCO) of Monterey County act pursuant to Sections 56824.10 *et seq.* of the Cortese Knox Hertzberg Act and pursuant to

¹ Existing contractual commitments of source waters remain intact.

California Government Code section 56700(a) to authorize the District to activate its latent powers to provide water production and distribution services for retail customers.

The District makes the proposal to the Local Agency Formation Commission pursuant to California Government Code section 56700(a) for the purpose of complying with the directive of Measure J, as cited above.

The Board designates its General Manager, David J. Stoldt, as chief petitioner. Chief petitioner's address is 5 Harris Court, Building G, Monterey, CA 93940.

The Board finds that its proposal is consistent with the sphere of influence of all affected jurisdictions, including water providers Marina Coast Water District and the City of Seaside. Further, it is consistent with the sphere of influence of the cities of Carmel, Del Rey Oaks, Monterey, Pacific Grove, Sand City, and Seaside and the County of Monterey.

On motion of Director _____, and second by Director _____, the foregoing resolution is duly adopted this ___th day of March 2022 by the following votes:

AYES:

NAYS:

ABSENT:

I, David J. Stoldt, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify that the foregoing is a resolution duly adopted on the ___th day of March 2022.

Witness my hand and seal of the Board of Directors this _____ day of March 2022.

David J. Stoldt,
Secretary to the Board

Appendix N

Appendix N

PEBBLE BEACH COMMUNITY SERVICES DISTRICT BOARD OF DIRECTORS Regular Meeting of September 24, 2021

MINUTES

CALL TO ORDER

A regular meeting of the Board of Directors of the Pebble Beach Community Services District (PBCSD) was held in the PBCSD board room on September 24, 2021. Board President Jeffrey B. Froke called the meeting to order at 9:37 a.m. after technical difficulties were resolved.

ROLL CALL

Present: Jeffrey B. Froke - President, Leo M. Laska – Vice President,
Directors Richard B. Gebhart, Richard D. Verbanec, and Peter B. McKee

Others Present:

Mike Niccum, General Manager

Rob Wellington, Legal Counsel

Nick Becker, District Engineer

Marianna Pimentel, Finance Director

Yuriana Nunez, Administrative Coordinator*

Nijesh Sthapit, Accountant*

Reno DiTullio Jr., Unit Chief, CAL FIRE San Benito-Monterey Unit (CAL FIRE)*

Michael Meddles, Division Chief, CAL FIRE

Roger Rinehart, EMS Coordinator Battalion Chief, CAL FIRE

Josh Silveira, Operations Battalion Chief, CAL FIRE*

Tim Jones, Deputy Fire Marshall/Fire Prevention and Planning, CAL FIRE

Dawn Mathes, Environmental/Governmental Affairs, Pebble Beach Company (PBCo)*

Peter Brown, Director of Security, PBCo*

Shawn Casey, Vice President Resource Management, PBCo*

Michael Rachel, Board Director, Carmel Area Wastewater District (CAWD)*

Barbara Buikema, General Manager, CAWD*

Vinod Badani, E2 Consulting Engineers*

Jacqueline Fobes, Board Director, Del Monte Forest Property Owners (DMFPO)*

Hampton Stewart, Pebble Beach resident

Jerry Verhasselt, Pebble Beach resident

Laura Paxton, Board Clerk*

Alayna Gocke, Assistant to Board Clerk

**Signifies virtual attendance*

APPEARANCES, ORDER OF BUSINESS, & ANNOUNCEMENTS

There were no appearances or changes to the agenda.

DMFPO Roads and Traffic

The board received and reviewed the agenda from the meeting held August 26, 2021, and the current roads and drainage project schedule. General Manager Niccum reported the local Monterey County Land Use Plan provides DMFPO some oversight whether road condition standards are being met by PBCo. Shawn Casey reported PBCo has spent 1.5 million dollars on asphalt and more than \$600,000 on drainage improvements this year. Limited paving was performed last year due to COVID.

Administrative Coordinator Report

The board received a list provided by Coordinator Nunez to review and provide input on topics for the fall/winter newsletter.

California Special Districts Association (CSDA) Annual Conference

The board received the *General Manager Report* on the CSDA annual conference held August 30 through September 2, 2021.

MISCELLANEOUS INFORMATION AND COMMUNICATIONS

Oral reports from General Manager

Finance Director Pimentel provided a copy of the Award of Financial Reporting Achievement received by the PBCSD finance department in June. She stated this is the third year in a row the District received this award. General Manager Niccum commended Administrative Coordinator Nunez for heading up the Household Hazardous and e-Waste Collection Event this year, to be held September 25th at the PBCSD parking lot from 9am – 2pm. The DMFPO semi-annual meeting will be held October 24th at Spanish Bay, with David Stivers of PBCo and Chief Meddles of PBCSD Fire Department as the featured speakers.

Mr. Niccum will present proposed organization and salary schedule changes at the next board meeting including a request for an additional maintenance worker.

Mr. Niccum reported receiving communication from California American Water (CAW) indicating that PBCSD stood to lose property tax revenues in the event of a takeover by the Monterey Peninsula Water Management District. Staff determined that PBCSD receives \$54,000 per year in tax revenue from CAW, which represents a loss of approximately 0.3% of the \$16.2 million in property tax collected per year. The board directed staff to remain neutral on the issue.

Regarding the Brown Act requirements for video conferenced meetings, Mr. Niccum felt this board had no conflict since all board members attend in person. The Brown Act allows for the public to attend remotely. If a board member desired to attend a board meeting remotely, then the Board would have to take action to allow an exemption for related Brown Act requirements.

CLOSED SESSION

It was determined that a closed session of the board was not required.

ADJOURNMENT

MOTION 21-09-04

M/S/C (unanimous) to adjourn at 11:47am to a regular Board meeting to be held on Friday, October 29, 2021, at 9:30am, in person/virtual.



Mike Niccum, Board Secretary

Appendix O



The Special Districts Association of Monterey County

The SDA of Monterey County will convene for our Regular Quarterly Meeting

Date: Tuesday, January 18, 2022

Time: 6:00 - 8:00 P.M.

Location: Zoom Meeting

<https://us02web.zoom.us/j/81781339037?pwd=Y291d285L0N6ZThFNStaL2hpeGg2UT09>

Meeting ID: 817 8133 9037

Password: 540914

To participate via phone, please call: 1-669-900-9128

Meeting ID: 817 8133 9037; Password: 540914

We encourage your District Directors, Commissioners
and General Managers to attend. This meeting's discussion might also benefit other
employees in your organization.



AGENDA
REGULAR MEETING OF THE
SPECIAL DISTRICTS ASSOCIATION
OF MONTEREY COUNTY



Tuesday, January 18, 2022

1. – Call to Order, welcome, introductions: President Mary Ann Leffel
2. – Speaker: Steve Vagnini, Monterey County Assessor
3. – New/Old Business:
 - a. Approval of Minutes from the October 19, 2021 meeting
 - b. Review Budget, Goals and Objectives for 2022
4. – Informational Reports:
 - a. Legislative Chair Report – Vince Ferrante
 - b. Finance Committee Chair Report – Rick Verbanec
 - c. CSDA Coastal Network 5 Representative Report – Vince Ferrante/Charlotte Holifield
 - d. LAFCO Representative Report – Kate McKenna, Executive Director
 - e. Other Reports –
5. – Members comments:
6. – Suggested topics and/or speakers for next agenda; next meeting date; location:

Bayonet Blackhorse Golf Course Club House
Tuesday, April 19, 2022, 6:00 pm
7. – Adjournment

Appendix P

Appendix P

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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of California-American Water Company (U210W) for Authorization to Increase its Revenues for Water Service by \$25,999,900 or 10.60% in the year 2021, by \$9,752,500 or 3.59% in the year 2022, and by \$10,754,500 or 3.82% in the year 2023.

Application 19-07-XXX
(Filed July 1, 2019)

**DIRECT TESTIMONY OF JEFFREY T. LINAM
(FINAL APPLICATION)**

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Attorneys for Applicant California-American Water Company

Attorneys for Applicant California-American Water Company

Dated: July 1, 2019

1 **K. Acquisition Rate Base Normalization – Special Request #11**

2 Q112. How is California American Water proposing to normalize the rate base of the
3 acquisitions that have been filed with the Commission?

4 A112. California American Water requests Commission authorization to normalize the rate base
5 of the four acquisitions by spreading the utility plant acquisition adjustment related to
6 these acquisitions statewide either partially, as is the case with the Bellflower acquisition,
7 or entirely as is the case with the Rio Plaza, Fruitridge, and Hillview acquisitions. As
8 discussed in Mr. Owens’ testimony, Section XI, this rate base normalization will be
9 accomplished by determining the revenue requirement associated with the UPAA and
10 allocating this revenue requirement to each district. The original cost rate base of the
11 acquisitions will remain with the districts proposed for consolidation.

12
13 Q113. Why is California American Water making this request?

14 A113. In California Public Utilities Code section 2719, the California Legislature found that
15 public water systems face the need to replace or upgrade system infrastructure to meet
16 increasingly stringent state and federal drinking water laws and regulations relating to fire
17 flow and protection. The Legislature also found that “increasing amounts of capital are
18 required to finance the necessary investment” in such “infrastructure,” “(s)cale
19 economies are achievable in the operation of public water systems,” and “(p)roviding
20 corporations with an incentive to achieve these scale economies will provide benefits to
21 ratepayers.”⁷⁴ Typically, the “incentive” allowed to achieve these scale economies is
22 allowance for the full purchase price as rate base consideration. If an acquisition is
23 consolidated into a single existing district, this rate base allowance can have a
24 disproportionate effect on both the existing customers within that district and ultimately
25 on the acquisition customers being consolidated. California American Water is making
26 this request in order to ensure that increased revenue due to the acquisitions be spread
27

28 ⁷⁴ Cal. Public Utilities Code Section 2719.

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over all customers of California American Water on a customer proportional basis, and not just be spread among the customers within the identified consolidation districts. This spreading of costs will help achieve the Legislature’s intent that scale economies provide benefits to all ratepayers without disproportionately impacting a smaller set of customers.

Please also refer to the testimony of Mr. Owens, Section XI, for a complete discussion of the acquisition rate base normalization proposal.

Appendix Q

Appendix Q

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of California-American Water Company (U210W) for Authorization to Increase its Revenues for Water Service by \$25,999,900 or 10.60% in the year 2021, by \$9,752,500 or 3.59% in the year 2022, and by \$10,754,500 or 3.82% in the year 2023.

Application 19-07-_____
(Filed July 1, 2019)

DIRECT TESTIMONY OF GARRY HOFER (FINAL APPLICATION)

* * * PUBLIC VERSION * * *

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Dated: July 1, 2019

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SYSTEM ACQUISITIONS

A. Overview

VIII.

Q129. What acquisition applications are pending for California American Water?

A129. California American Water has three applications currently before the Commission, as shown in Table 3. The Company intends to integrate Fruitridge Vista Water Company (Fruitridge) and Hillview Water Company (Hillview) into Northern Division operations; and Bellflower Municipal Water System (BMWS) into the Southern Division operations. In D.19-04-014 the Commission approved the acquisition of Rio Plaza Water Company (Rio Plaza) into the Southern Division operations. While the Company has also recently entered into signed agreements to acquire Warring Water Service (Warring) and East Pasadena Water Company (East Pasadena), those acquisitions are not included in this GRC application as they have not yet been filed with the Commission.

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Table 3. Acquisitions Included in this GRC		
Division	Acquisition	Application Number
Northern Division	Fruitridge	A.17-10-016
	Hillview	A.18-04-025
Southern Division	BMWS	A.18-09-013
	Rio Plaza	A.17-12-006; D.19-04-014

Q130. How do customers benefit from these acquisitions?

A130. As is explained in detail in the respective currently pending proceedings, when compared with smaller utilities, California American Water can better achieve economies of scale, replace and upgrade systems to comply with important safety regulations, and access necessary capital. Smaller water utilities often cannot provide the economies of scale needed to build and maintain adequate water systems, lack resources and expertise to manage long-term operations, and need financial and technical assistance to maintain compliance. By expanding the customer base over which costs are incurred, these acquisitions will benefit all customers, including California American Water’s current customers.

Additionally, several of our past and current acquisitions are in economically disadvantaged areas. California American Water is able to provide the customers of these systems with access to low-income programs and robust conservation programs.

Appendix R

Appendix R

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

RECEIVED

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MPWMD

Application of California-American Water Company (U210W) for Authorization to Increase its Revenues for Water Service by \$25,999,900 or 10.60% in the year 2021, by \$9,752,500 or 3.59% in the year 2022, and by \$10,754,500 or 3.82% in the year 2023.

Application 19-07-_____
(Filed July 1, 2019)

APPLICATION OF CALIFORNIA-AMERICAN WATER COMPANY (U210W) TO
INCREASE REVENUES IN EACH OF ITS DISTRICTS STATEWIDE

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Attorneys for Applicant California-American
Water Company

Date: July 1, 2019

a. **Contentious Issues**

i. **Consolidation**

California American Water is seeking to consolidate its Los Angeles County, Ventura County and San Diego County Districts together for ratemaking purposes. This would create a single Southern California Division tariff area. Consolidating rates as California American Water has proposed is in the public interest. Such consolidated rates will be more effective than the current (more geographically narrow rate structure) at meeting the Commission's Water Action Plan policy goals and delivering the best, most efficient service to the largest number of customers at the lowest overall rates. Benefits of a more consolidated system of rates include: (1) improved affordability; (2) utilization of economies of scale to address water quality

⁶ D.07-05-062, Appendix, p. A-22.

challenges; (3) more robust and resilient systems through broadening of the customer base; and (4) improved incentives for customers to conserve through strengthening of conservation signaling.

Additionally, California American Water has several pending applications before the Commission for the acquisition of water systems (including for the Bellflower, Fruitridge, and Hillview systems), and a recently approved acquisition of a water system (for Rio Plaza). California American Water is requesting Commission authorization to normalize the rate base of the four acquisitions by spreading the utility plant acquisition adjustment related to these acquisitions statewide either partially, as is the case with the Bellflower acquisition, or entirely as is the case with the Rio Plaza, Fruitridge, and Hillview acquisitions. California American Water is also requesting authorization to establish the Acquisition Contingency Memorandum Account, which would record the differences between revenues billed at current rates based on pre-acquisition rate base for customers of acquired water system and revenues that would have been billed based on the new, post-acquisition rate base and revenue requirement, to be applicable to any acquisition subsequently approved by the Commission after a decision is issued in this GRC. California American Water is also requesting Commission authorization to normalize the rate base of the four acquisitions by spreading the utility plant acquisition adjustment related to these acquisitions statewide. These special requests relating to acquisitions would help to facilitate consolidation of water system in line with Commission and State policy goals.

These issues are addressed in the Direct Testimony of Jeffrey Linam. Because these issues relate to how cost recovery occurs, and not the magnitude of cost recovery, there is no associated revenue impact.

Appendix S

Appendix S

RESOLUTION 21-10

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY MAKING DETERMINATIONS ADOPTING THE 2021 MUNICIPAL SERVICE REVIEW AND SPHERE OF INFLUENCE STUDY FOR THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

RESOLVED, by the Local Agency Formation Commission of Monterey County, State of California, that:

WHEREAS, State law requires that the Commission conduct periodic reviews and updates of the Sphere of Influence of each city and special district in Monterey County (Government Code section 56425); and

WHEREAS, State law further requires the Commission to update information about municipal services before, or in conjunction with, adopting a sphere update (Government Code section 56430); and

WHEREAS, the Monterey Peninsula Water Management District (“District”) is currently proposing to activate its latent powers to provide potable water production and distribution services for retail customers and to expand its existing sphere of influence and boundaries by approximately 139 acres (LAFCO file 21-01); and

WHEREAS, LAFCO staff has met and consulted with representatives of the District, and other affected agencies, and has received written information regarding current and expected growth boundaries, the location and characteristics of disadvantaged unincorporated communities, planned and present capacity of public facilities, adequacy of public services, financial ability to provide services, opportunities for shared facilities and services, government structure, and operational efficiencies; and

WHEREAS, the information gathered has provided the basis for preparation of *2021 Municipal Service Review and Sphere of Influence Study for the Monterey Peninsula Water Management District* (“Study”) and the Executive Officer has furnished a copy of this Study to each person entitled to a copy or expressing interest in receiving a copy; and

WHEREAS, the Commission set October 25, 2021 as the hearing date on which the Commission would conduct a public hearing to consider the Study and sphere of influence update, public notice was provided as required by law; and

WHEREAS, the Commission, on October 25, 2021, received a report from the Executive Officer on this proposal, opened the public hearing and public comment period, and then continued the public hearing to December 6, 2021 to allow additional time for review of the large volume of public correspondence submitted to LAFCO regarding the District’s related proposal (LAFCO file no. 21-01); and

WHEREAS, this Commission, on December 6, 2021 reopened the public hearing, heard from interested parties, considered the above-referenced Study and the report of the Executive Officer, and considered the factors determined by the Commission to be relevant to this matter, including, but not limited to, factors specified in Government Code sections 56425(e) and 56430(a), and the Commission’s policies;

NOW, THEREFORE, the Local Agency Formation Commission of Monterey County does HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. Acting as Lead Agency pursuant to California Environmental Quality Act (CEQA) Guidelines, the Commission finds that the Study is categorically exempt from the provisions of CEQA, in that the Study consists of basic data collection, research, management, and resource evaluation activities that will not result in a serious or major disturbance to an environmental resource, and pursuant to Section 15061(b)(3), because it can be seen with certainty that there is no possibility that this study may have a significant effect on the environment.

Section 3. In evaluating the District's sphere of influence, the Commission has conducted a review of the services provided by the District. This service review was conducted in accordance with Government Code section 56430. The analysis, conclusions and recommendations in this review were prepared with information provided by, and in consultation with, the District. Data sources are available for review in the office of the Commission.

Section 4. In evaluating the service review, the Commission has considered a written statement of its determinations in accord with Government Code section 56430(a). These determinations, included in the Study, are made with respect to each of the following seven areas:

- a. Growth and population projections for the affected area,
- b. The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence,
- c. Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged unincorporated communities within or contiguous to the sphere of influence,
- d. Financial ability of agencies to provide services,
- e. Status of, and opportunities for, shared facilities,
- f. Accountability for community service needs, including governmental structure and operational efficiencies, and
- g. Any other matter related to effective or efficient service delivery, as required by Commission policy.

Section 5. In evaluating the District's Sphere of Influence, the Commission has considered a written statement of its determinations, in accord with Section 56425(e) of the Government Code. These determinations, included in the Study, are made with respect to each of the following four areas and are incorporated by reference into this resolution.

- a. The present and planned land uses in the area, including agricultural and open-space lands,
- b. The present and probable need for public facilities and services in the area,
- c. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide,
- d. The existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency, and
- e. For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, that occurs pursuant to subdivision (g) on or after July 1, 2012, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

Section 6. In compliance with Cortese-Knox-Hertzberg Act Section 56425(i), the Commission hereby finds and affirms that the District provides the following functions and classes of service within its jurisdictional boundaries:

- Water management,
- Water augmentation,
- Water reuse and reclamation,
- Water conservation,
- Limited water services to seven golf courses and one school within the Del Monte Forest (Classes of service: Wholesale delivery of potable water, retail delivery of reclaimed water),
- Environmental protection and mitigation, and
- Permitting and regulatory compliance.

The Study was prepared in light of a current proposal by the District requesting that LAFCO activate latent District powers to provide and maintain potable water production and distribution services for retail customers throughout the District. Analysis and determinations within the Study provide support for the requested activation of these latent powers throughout the District. The Study also provides support for the Commission to potentially exclude from such activation lands within the Water Management District's boundary that are also within the jurisdictional boundary of Marina Coast Water District (an existing retail potable water services), in order to avoid duplication of authority to provide services.

Section 7. The Commission has considered, as a part of its deliberations, all oral presentations and written communications received prior to the close of the public hearing.

Section 8. In accordance with Government Code section 56430, the Commission hereby adopts the *2021 Municipal Service Review and Sphere of Influence Study for the Monterey Peninsula Water Management District* and makes Study's the seven recommended Municipal Service Review determinations and the five recommended Sphere of Influence determinations in accordance with Government Code sections 56430(a) and 56425(e), respectively, as set forth in the Study.

Section 9. As a condition of LAFCO's adoption of this resolution regarding a Municipal Service Review and Sphere of Influence study prompted by the District's application (LAFCO file no. 21-01), the District shall agree to defend at its sole expense any action brought against LAFCO (the Commission and its staff) with respect to the adoption of the Study. The applicant will reimburse LAFCO for any court costs and attorneys' fees which may be required by a court to pay as a result of such action. LAFCO may, at its sole discretion, participate in the defense of any such action; but such participation shall not relieve applicant of its obligations under this condition. The obligation on the part of the applicant to indemnify LAFCO is effective upon the adoption of this resolution and does not require any further action. Accepting the benefit of this resolution shall evidence the applicant's agreement to this term.

UPON MOTION OF Commissioner Oglesby, seconded by Commissioner Craig, the foregoing resolution is adopted this 6th day of December, 2021 by the following vote:

AYES:	Commissioners Root Askew, Craig, Gourley, Oglesby, Poitras, Leffel, Lopez
NOES:	None
ABSENT:	Commissioner Alejo
ALTERNATES:	Commissioners Snodgrass, Stephens, Velazquez (non-voting)

ABSTAIN:


None



Chris Lopez, Chair
Local Agency Formation Commission of Monterey County

ATTEST: I certify that the within instrument is a true and complete copy of the original resolution of said Commission on file within this office.

Witness my hand this 6th day of December, 2021

By: 
Kate McKenna, AIC.P
Executive Officer

Appendix T

Appendix T

LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

RESOLUTION NO. 21 – 11

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION APPROVING THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT'S SPHERE OF INFLUENCE AMENDMENT AND ANNEXATION, (LAFCO FILE 21-01)

WHEREAS, the Monterey Peninsula Water Management District (“District”) filed an application for proposed actions consisting of: (1) activation of latent powers to provide and maintain potable water production and distribution services for retail customers; and (2) sphere of influence amendment and annexation of approximately 138.74 acres outside current District boundaries, in the Yankee Point and Hidden Hills areas in unincorporated Monterey County was heretofore filed and accepted for filing by the Executive Officer of this Local Agency Formation Commission; and

WHEREAS, this Resolution only pertains to the proposed sphere of influence amendment and annexation aspect of the District’s application. The proposed activation of latent powers aspect of the District’s application is addressed in a separate resolution; and

WHEREAS, the District’s Board of Directors initiated, and is in support of, the proposed sphere of influence amendment and annexation; and

WHEREAS, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (hereinafter the “Cortese-Knox-Hertzberg Act”), Government Code section 56021 includes annexation of territory to a district as a change of organization for which LAFCO approval must be sought before annexation may occur; and

WHEREAS, the District held duly noticed public hearings and passed Resolution No. 2020-12 dated August 17, 2020 and Resolution 2021-03 dated May 17, 2021 (whereby Resolution No. 2021-03 replaced Resolution No. 2020-12), requesting, in part, that LAFCO amend its sphere of influence and annex 58 parcels, comprising approximately 138.74 acres, outside current District boundaries in accordance with the requirement of law [Government Code section 56654]; and

WHEREAS, a Certificate of Filing was issued for the application on July 30, 2021; and

WHEREAS, on October 7, 2021, after providing mailed notice to 53 of 58 property owners (five notices were returned as addressee unknown) in the areas of the proposed sphere of influence amendment and annexation, the District held an informational meeting to provide details about the proposed annexation. This meeting was attended by two District Board of Directors, the District General Manager, a representative from District Counsel’s office, and one property owner; and

WHEREAS, the Executive Officer, pursuant to Government Code section 56665, has reviewed this proposal and prepared a report, including recommendations thereon, and has furnished a copy of this report to each person entitled to a copy; and

WHEREAS, the Executive Officer, pursuant to Government Code section 56658, set October 25, 2021 as the hearing date on this proposal and provided public notice as required by law; and

WHEREAS, this Commission, on October 25, 2021, received a report from the Executive Officer recommending that the Commission continue the public hearing on this proposal, opened the public hearing and public comment period, and then continued the public hearing to December 6, 2021 to allow additional time for review of the large volume of public correspondence submitted to LAFCO regarding this proposal; and

WHEREAS, this Commission, on December 6, 2021 received a report from the Executive Officer on this proposal, reopened the public hearing, heard from interested parties, considered the proposal and the report of the Executive Officer, and considered the factors determined by the Commission to be relevant to this proposal, including, but not limited to, factors specified in Government Code sections 56425(e), 56430(a), and 56668; and

WHEREAS, irrespective of the Commission's decision on the proposed activation of latent powers, approval of the proposed sphere of influence amendment and annexation is a logical improvement to the District boundaries because the proposed annexation areas utilize the water supplies that the District currently manages; and

WHEREAS, in October 2020, the District, as the Lead Agency, certified, pursuant to the California Environmental Quality Act ("CEQA"), an Environmental Impact Report ("EIR") for this proposal for "Potential Acquisition of Monterey Water System and District Boundary Adjustment;" and

WHEREAS, the District and the Monterey County Board of Supervisors approved a property tax transfer agreement pursuant to the requirements of Revenue and Taxation Code section 99 for this proposal on March 15, 2021 and June 22, 2021, respectively.

NOW, THEREFORE, the Local Agency Formation Commission of Monterey County does HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. Acting as a Responsible Agency regarding the District's proposed sphere of influence amendment and annexation, the Commission certifies that it and its staff have independently reviewed and considered the EIR prepared and certified by the District's Board of Directors for this proposal pursuant to CEQA, and finds the EIR to be adequate.

Section 3. The Commission has considered the factors set forth for changes of organization in the Cortese-Knox-Hertzberg Act, Government Code section 56668 and finds the proposal to be consistent with these factors as outlined below:

- a) Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years:

The majority of the proposed sphere of influence amendment and annexation are developed to a density and intensity consistent with current and anticipated water supplies available during the next ten years. The two proposed spheres of influence and annexation expansion areas are relatively small in comparison to the District's existing jurisdictional boundaries, comprising approximately 138.74 acres as compared to the approximately 109,376 acres that are within the District's existing boundaries. Based on AMBAG's 2018 Regional Growth Forecast, the District's population growth is expected to be moderate, growing by approximately four percent in the next ten years. Based on the same forecast, in unincorporated Monterey County areas as whole, which includes the proposed sphere of influence and annexation areas, population

growth is expected to grow by approximately one percent in the next ten years.

- b) The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas:

The proposed sphere of influence amendment and annexation areas will benefit from the District's services because these 58 parcels are served by water supplies that the District currently manages. The District has adequate staffing, infrastructure, and other resources to serve the annexation area.

- c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county:

The proposed sphere of influence amendment and annexation are anticipated to promote efficient service provision since these areas are currently served by water supplies that the District currently manages.

- d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Government Code section 56377. [Note: Section 56377 pertains to directing development away from open-space and agricultural land, unless this would be detrimental to the promotion of the planned, orderly, efficient development of an area]:

The proposed sphere of influence amendment and annexation and their anticipated effects conform with both Commission policies on providing planned, orderly, efficient patterns of urban development and policies and priorities in Government Code section 56377. The proposed sphere of influence amendment and annexation will not direct development towards open-space and agricultural land. The proposal will not change the long-term County plan for growth.

- e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands:

Based on response (d) above, the proposed sphere of influence amendment and annexation will not affect the physical and economic integrity of agricultural lands. The District's proposal does not propose conversion of agricultural lands to urban development.

- f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries:

The proposed sphere of influence amendment and annexation boundaries are definite and certain.

- g) A regional transportation plan adopted pursuant to Section 65080:

The District's 2020 EIR on the potential acquisition of the Monterey Water System and District boundary adjustment identified less than significant impacts to transportation and circulation. Development that occurs within the District's proposed sphere of influence and annexation area is required to provide fair-share contributions for road improvements into a regional transportation improvement fund.

- h) The proposal's consistency with city or county general and specific plans.

The proposed sphere of influence amendment and annexation are consistent with the County of Monterey's General Plan land use designations and applicable policies. The County of Monterey has prepared and adopted appropriate policies to ensure consistency with adopted plans.

- i) The sphere of influence of any local agency which may be applicable to the proposal being reviewed:

The proposed sphere of influence amendment and annexation are consistent with adopted spheres of influence for local agencies, including Carmel Area Wastewater District, Carmel Highlands Fire Protection District, Monterey County Regional Fire District, Monterey Regional Waste Management District, Salinas Valley Memorial Healthcare System, Resource Conservation District of Monterey County, Moss Landing Harbor District, and Monterey County Mosquito Abatement District.

- j) The comments of any affected local agency or other public agency:

As of this writing, LAFCO has not received comments from any affected local agency commenting on the proposed sphere of influence amendment and annexation aspect of the proposal.

- k) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change:

The District already serves the area adjacent to the proposed sphere of influence and annexation areas and appears to be financially stable with expenses generally in line with revenues.

- l) Timely availability of water supplies adequate for projected needs as specified in Government Code section 65352.5:

The District has adopted a policy to develop and maintain a forecasted 20-year water supply, in service, to meet the future community needs. The District, Monterey One Water, and California American Water Company ("Cal-Am") are working to develop a replacement water supply to meet the 2009 State Water Resources Control Board's cease and desist order (as extended in 2016) to terminate all unauthorized diversions from the Carmel River by December 31, 2021. The District anticipates that the replacement water supply will include sufficient water for growth, which local jurisdictions have requested for decades. Responsibility for land use decisions related to growth resides with local land use jurisdictions within the District's boundaries. The District's proposed sphere of influence amendment and annexation will not affect the development of a replacement water supply.

- m) The extent to which the proposal will affect a City or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments:

The proposed sphere of influence amendment and annexation will not affect the ability of the County of Monterey and Cities of Seaside, Sand City, Del Rey Oaks, Monterey, Pacific Grove, and Carmel-by-the-Sea to achieve, or not achieve, their respective fair share of regional housing needs.

- n) Any information or comments from the landowner or owners, voters, or residents of the affected territory:

As of this writing, LAFCO has not received comments on the proposed sphere of influence amendment and annexation aspect of the proposal.

- o) Any information relating to existing land use designations:

The proposed sphere of influence amendment and annexation are consistent with existing land use designations of the County of Monterey. The proposed sphere of influence amendment and annexation would not affect these existing land use designations.

- p) The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the location of public facilities and the provision of public services, to ensure a healthy environment for all people such that the effects of pollution are not disproportionately borne by any particular populations or communities:

The proposed sphere of influence amendment and annexation would have no identified effect on issues related to environmental justice.

- q) Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to Section 4102 of the Public Resources Code, if it is determined that such information is relevant to the area that is the subject of the proposal.

Information contained in these documents and maps demonstrates that such hazards are relevant to the proposal area. However, the proposed sphere of influence amendment and annexation would have no identified effect on issues related to hazards. The District's certified EIR for this proposal found no impacts to hazards and hazardous materials.

Section 4. The Commission has considered the factors set forth for changes of organization in the Cortese-Knox-Hertzberg Act, Government Code section 56668.3 and found the proposal to be consistent with these factors as outlined below:

- (1) In the case of district annexation, whether the proposed annexation will be for the interest of landowners or present or future inhabitants within the district and within the territory proposed to be annexed to the district.

The proposed annexation will result in the District providing water management, water augmentation, water reuse and reclamation, water conservation, permitting and regulatory compliance, and environmental protection and mitigation services to landowners and inhabitants of the proposed annexation areas. Upon annexation, voters living within the proposed annexation areas will have the opportunity to run for District Board seats and participate in District Board elections. The interest of landowners and inhabitants within the District will be served by the proposed annexation because, upon annexation, the District boundaries will include the entirety of the Cal-Am Monterey Water System, which will make delivery of existing District services to coincide with the Cal-Am Monterey Water System.

- (2) In the case of a city detachment, whether the proposed detachment will be for the interest of the landowners or present or future inhabitants within the city and within the territory proposed to be detached from the city.

The proposal does not include a proposed city detachment.

- (3) Any factors which may be considered by the commission as provided in Section 56668.

Section 3 of this resolution includes factors a) through q) of California Government Code section 56668.

(4) Any resolution raising objections to the action that may be filed by an affected agency.

As of this writing, no affected agency has filed a resolution raising objections to the action.

(5) Any other matters which the commission deems material.

As of this writing, the Commission has not deemed any other matters to be material for the proposed annexation aspect of the proposal.

Section 5. The proposal is consistent with the Commission's adopted Policies and Procedures. Of most relevance, the proposal is consistent with policies relating to Economics, Service Delivery and Development Patterns (Section D.VII.). The proposal will provide for services in response to a demonstrated need.

Section 6. The Commission has considered, as a part of its deliberations, all oral presentations and written communications received prior to the close of the public meeting.

Section 7. The proposal is approved subject to the following terms and conditions. The Certificate of Completion for the annexation shall not be issued until all terms and conditions are met.

- a. Review and pre-clearance of the annexation by the United States Department of Justice pursuant to Section 5 of the Voting Rights Act, as applicable;
- b. Acceptance of maps and/or property descriptions, as needed, by the State Board of Equalization;
- c. Payment of all fees incurred in the processing of the application consistent with the LAFCO fee schedule, including the fee required by the State Board of Equalization; and
- d. The District shall agree, as a condition of the approval of this application to defend and indemnify at its sole expense any action brought against LAFCO, the Commission and its staff, with respect to the approval of this application. The District will reimburse LAFCO for any and all attorneys' fees and court costs. LAFCO may, at its sole discretion, participate in the defense of any such action; but such participation shall not relieve the District of its obligations under this condition. The obligation on the part of the District to indemnify LAFCO is effective upon the adoption of this resolution and does not require any further action. Accepting the benefit of this resolution shall evidence the District's agreement to this term.

Section 8. The effective date for the annexation shall be the filing of the Certificate of Completion. The sphere of influence amendment shall be effective immediately upon approval of this resolution and the completion of any requested reconsiderations.

Section 9. Pursuant to State law, if a Certificate of Completion for a change of organization or reorganization has not been filed within one year after the Commission approves a proposal for that proceeding, the proceeding shall be deemed abandoned unless prior to the expiration of that year the Commission authorizes an extension of time for that completion. The extension may be for any period deemed reasonable to the Commission for completion of necessary prerequisite actions by any party. If a proceeding has not been completed because of the order or decree of a court of competent jurisdiction temporarily enjoining or restraining the proceedings, this shall not be deemed a failure of completion and the one-year period shall be tolled for the time that order or decree is in effect. [Government Code section 57001].

Section 10. The proposed sphere of influence amendment and annexation totaling 138.74 acres are hereby approved as described in Exhibit "A," attached hereto and made a part hereof. The

change of organization is assigned the following distinctive short form designation: "Monterey Peninsula Water Management District – Yankee Point and Hidden Hills Annexation."

Section 11. The regular Monterey County assessment roll will be used; the annexation area will not be taxed for existing general bonded indebtedness of the District.

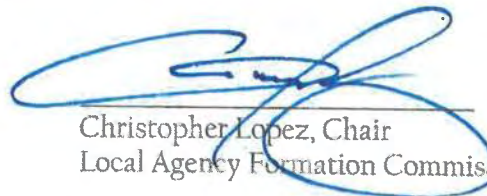
Section 12. State law requires the Commission to set a protest hearing for the proposed annexation in accordance with Government Code section 57000, *et seq.* The Commission hereby directs the Executive Officer to schedule the protest hearing for Monday, January 24, 2022 at 4:00 P.M.

Section 13. If any provision of this resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this resolution that can be given effect without the invalid provision or application, and to this end the provisions of this resolution are severable.

Section 14. The Executive Officer is hereby authorized and directed to mail certified copies of this resolution in the manner and as provided in Section 56882 of the Government Code.

UPON MOTION of Commissioner Gourley, seconded by Commissioner Craig, the forgoing resolution is adopted this 6th day of December 2021 by the following vote:

AYES:	Commissioners Craig, Gourley, Poitras, Leffel, Lopez
NOES:	Commissioners Root Askew, Oglesby
ABSENT:	Commissioner Alejo
ALTERNATES:	Commissioners Snodgrass, Stephens, Velazquez (non-voting)
ABSTAIN:	None



Christopher Lopez, Chair
Local Agency Formation Commission of Monterey County

ATTEST: I certify that the within instrument is a true and complete copy of the original resolution of said Commission on file within this office.

Witness my hand this 6th day of December, 2021

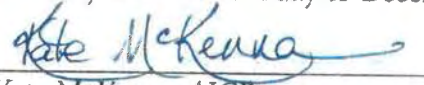
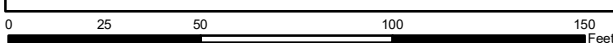
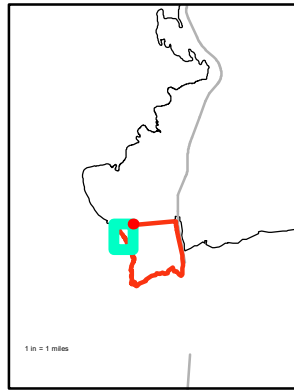
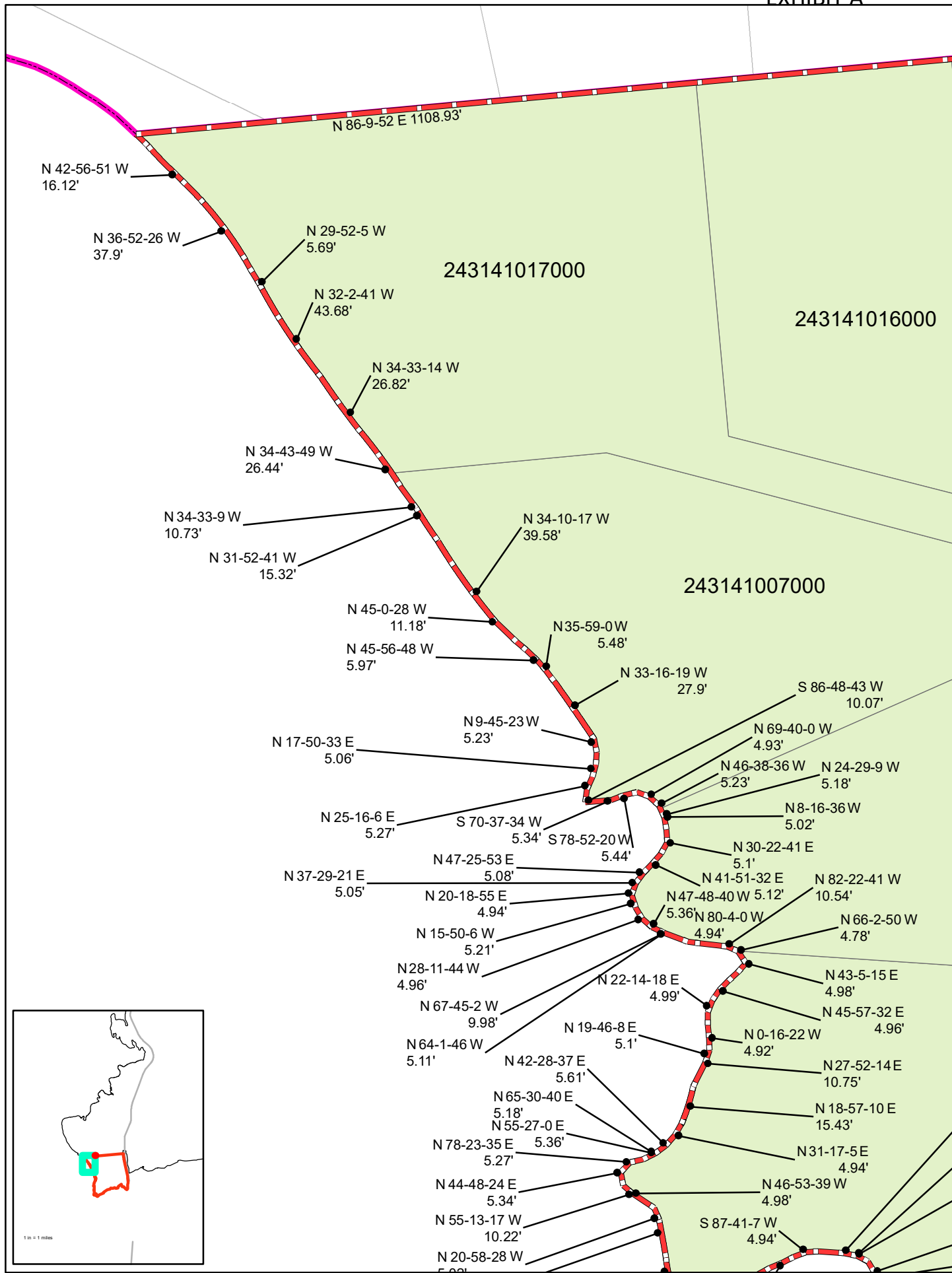
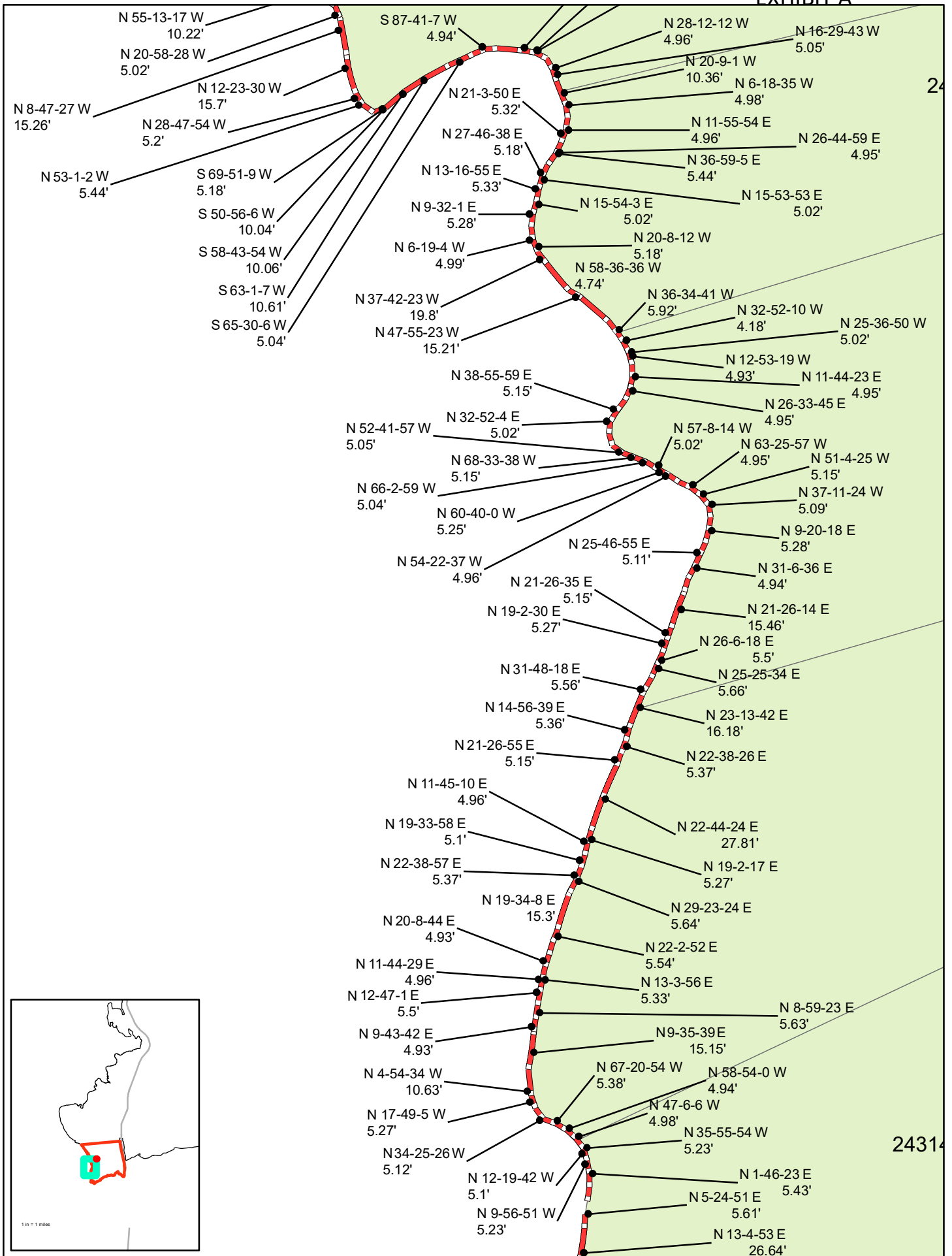
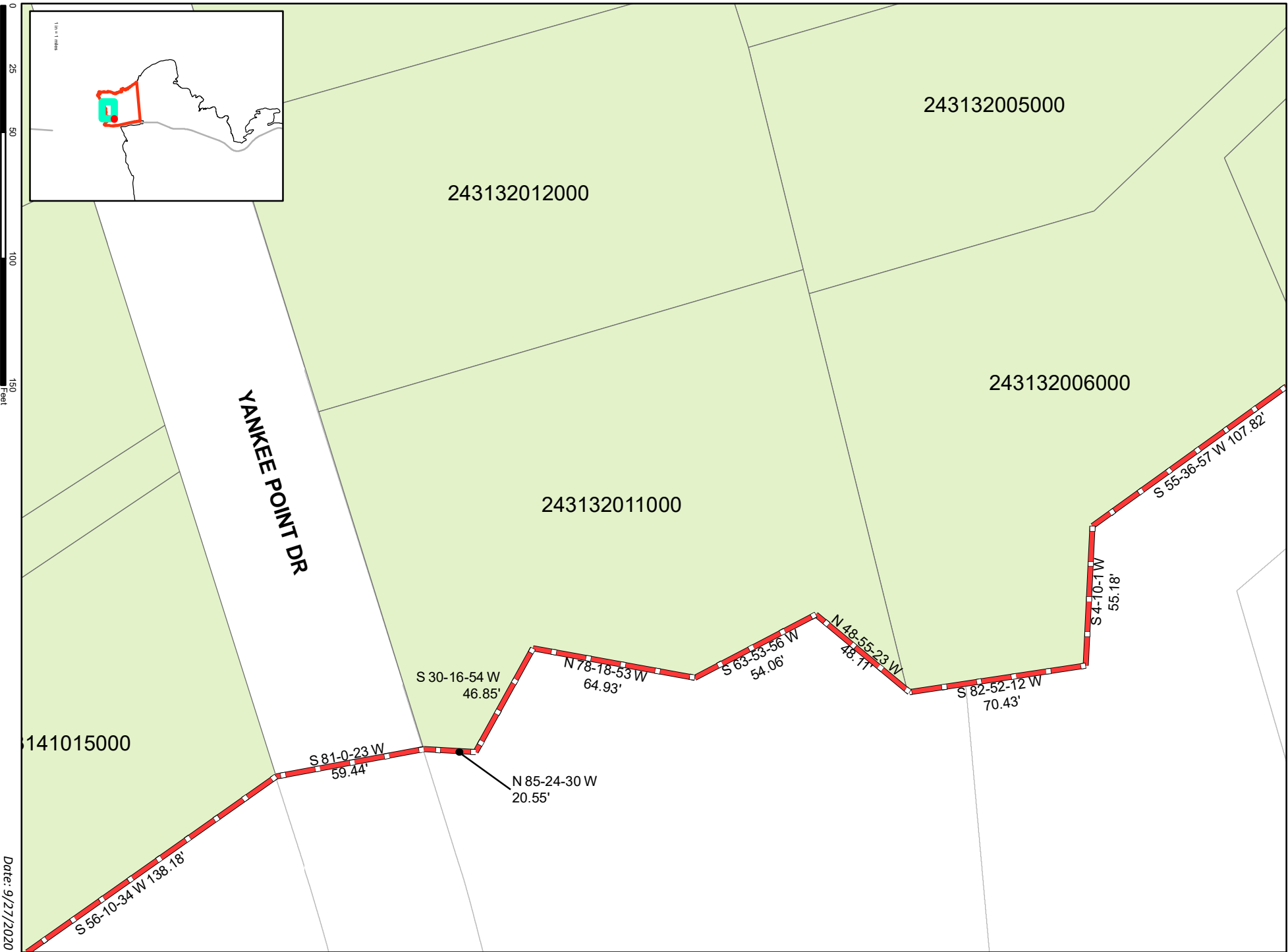
By: 
Kate McKenna, AICP,
Executive Officer

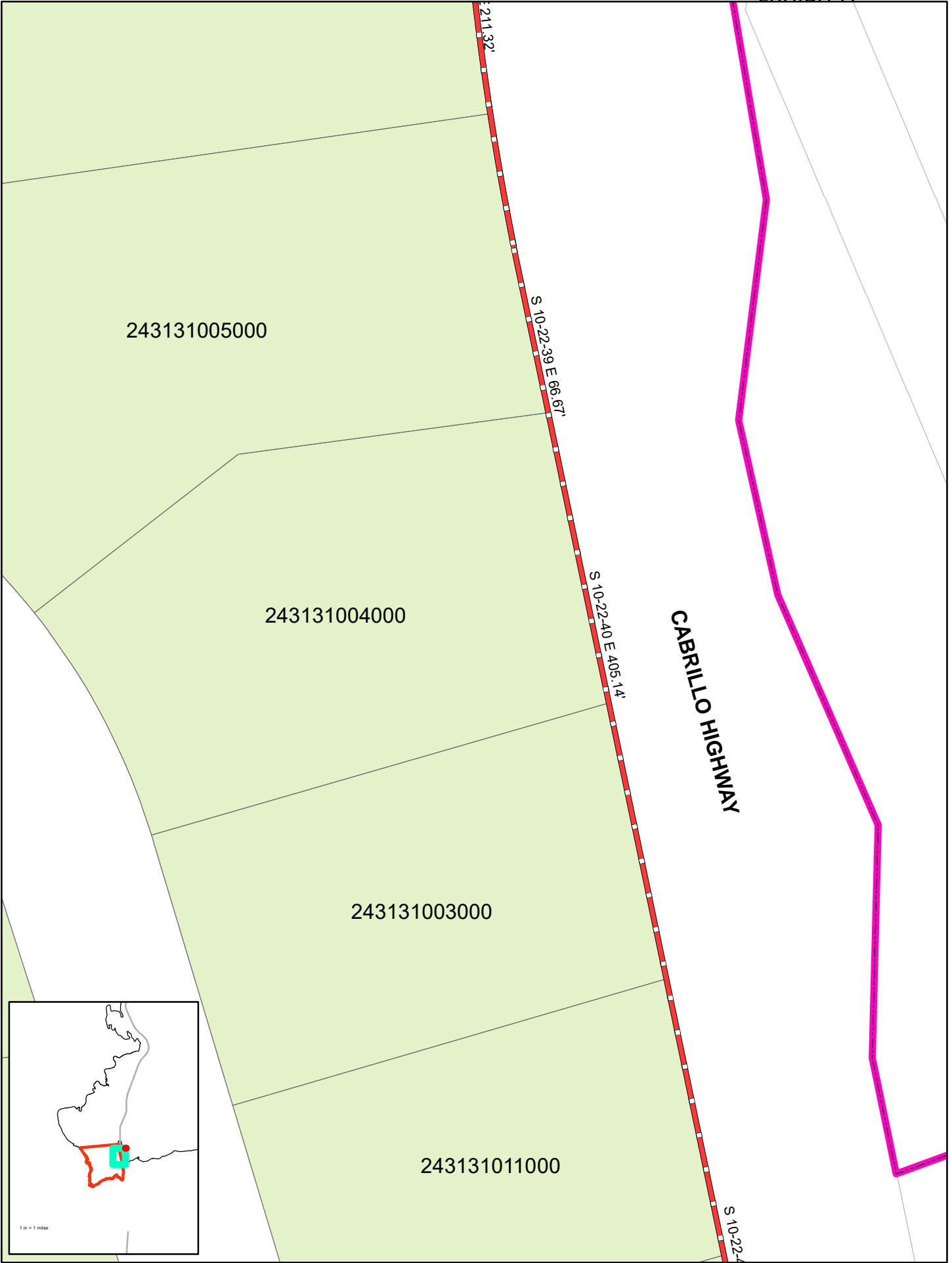
Exhibit A

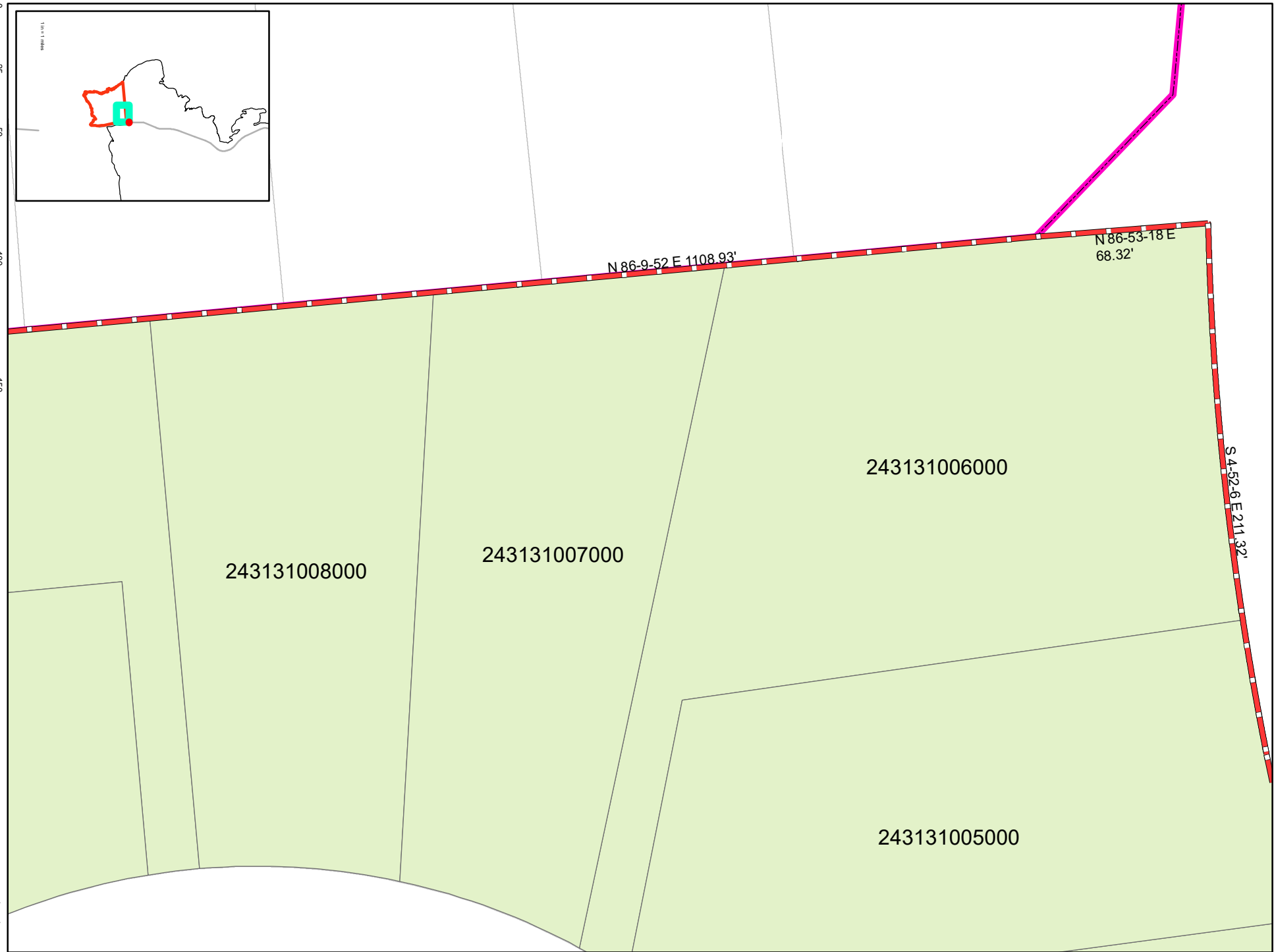
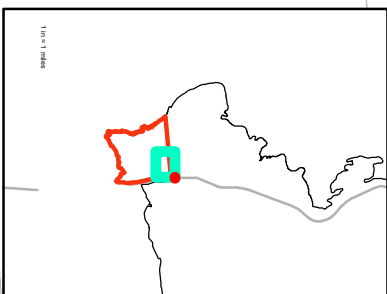
Yankee Point Annexation Parcel Maps and Description





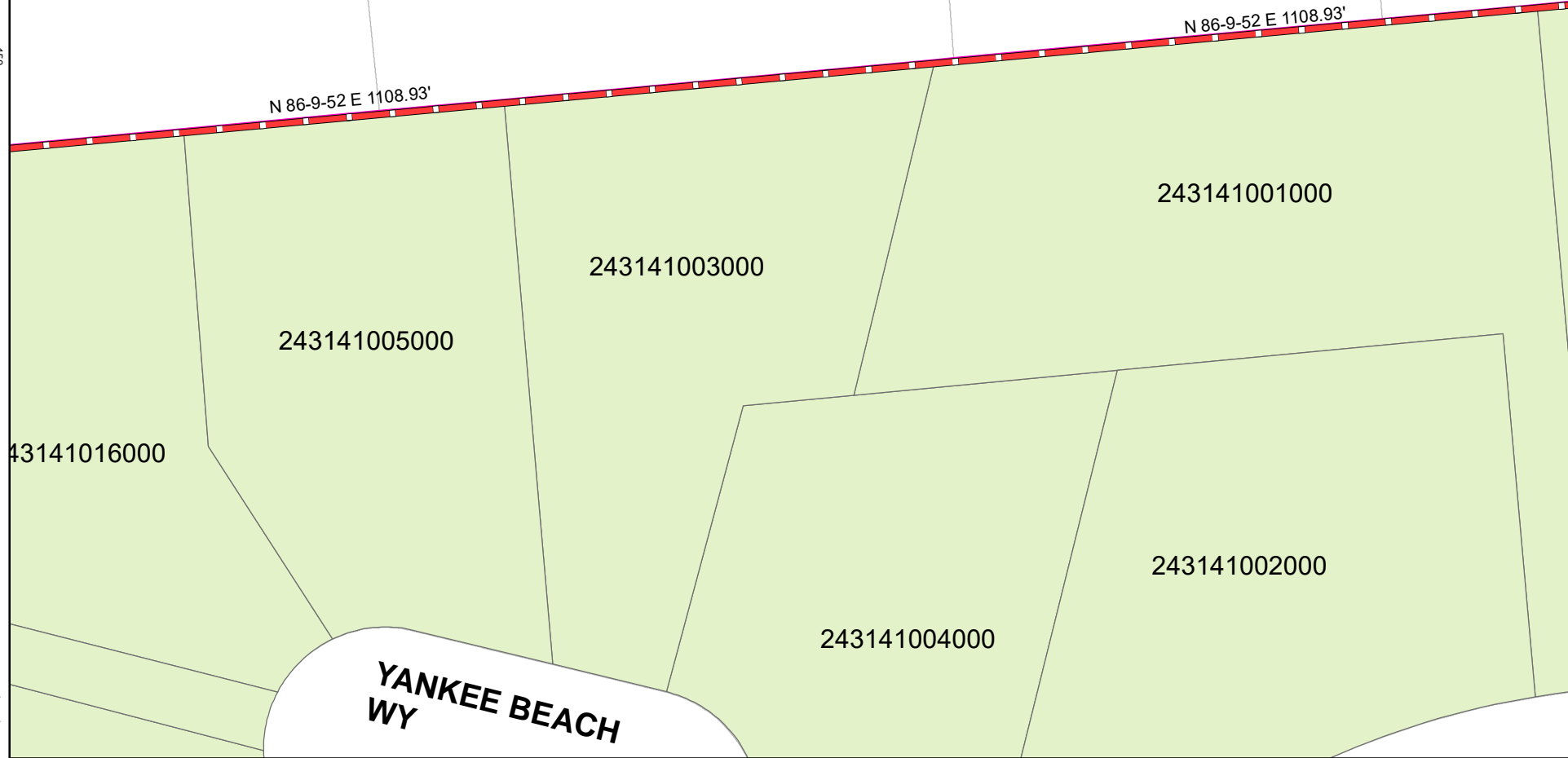
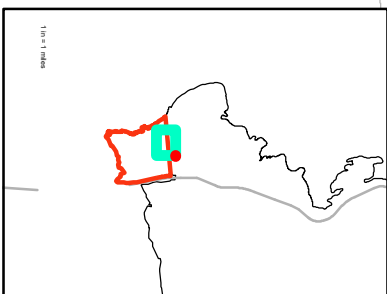








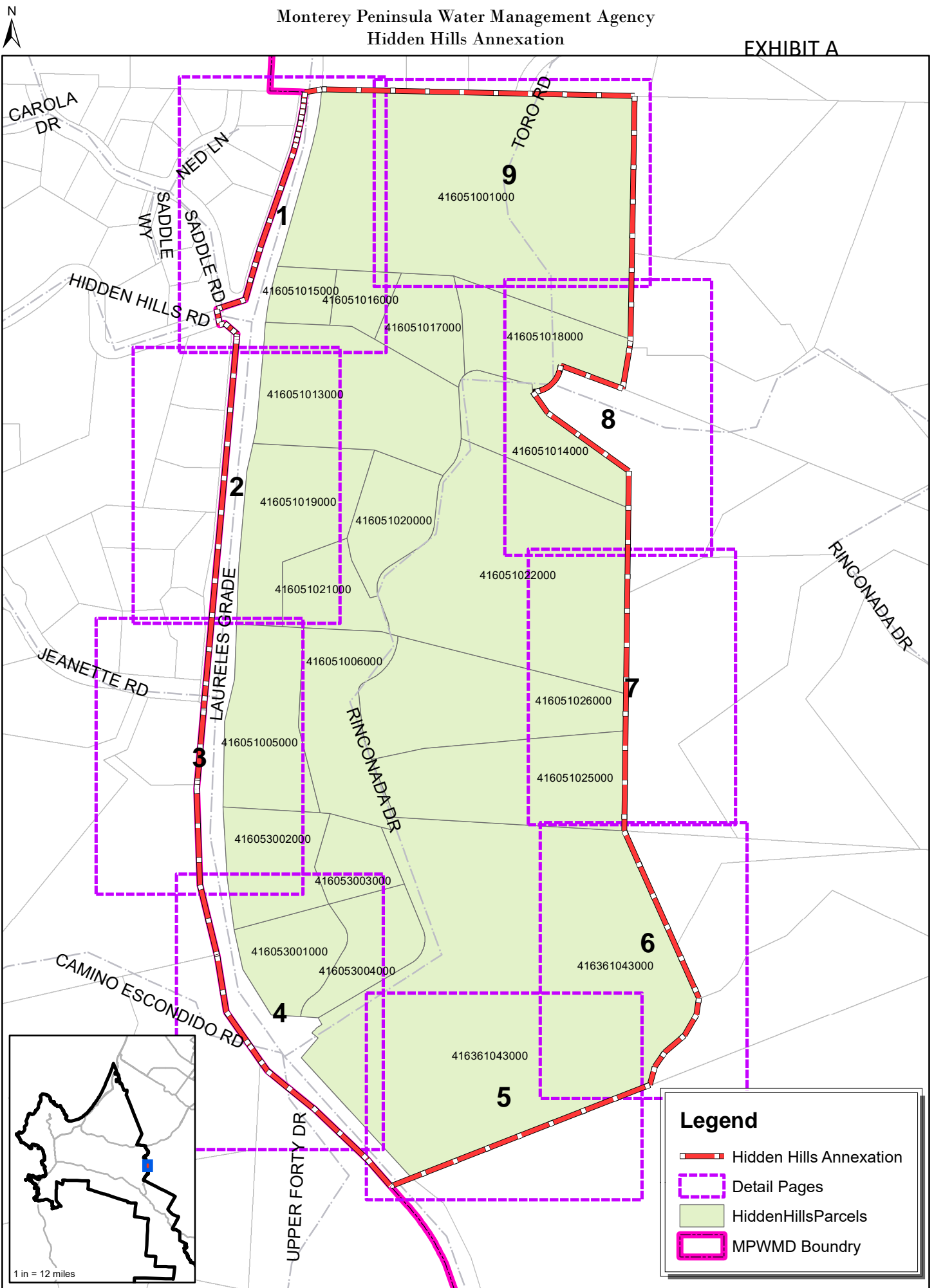
0
25
50
100
150
Feet



Date: 9/27/2020

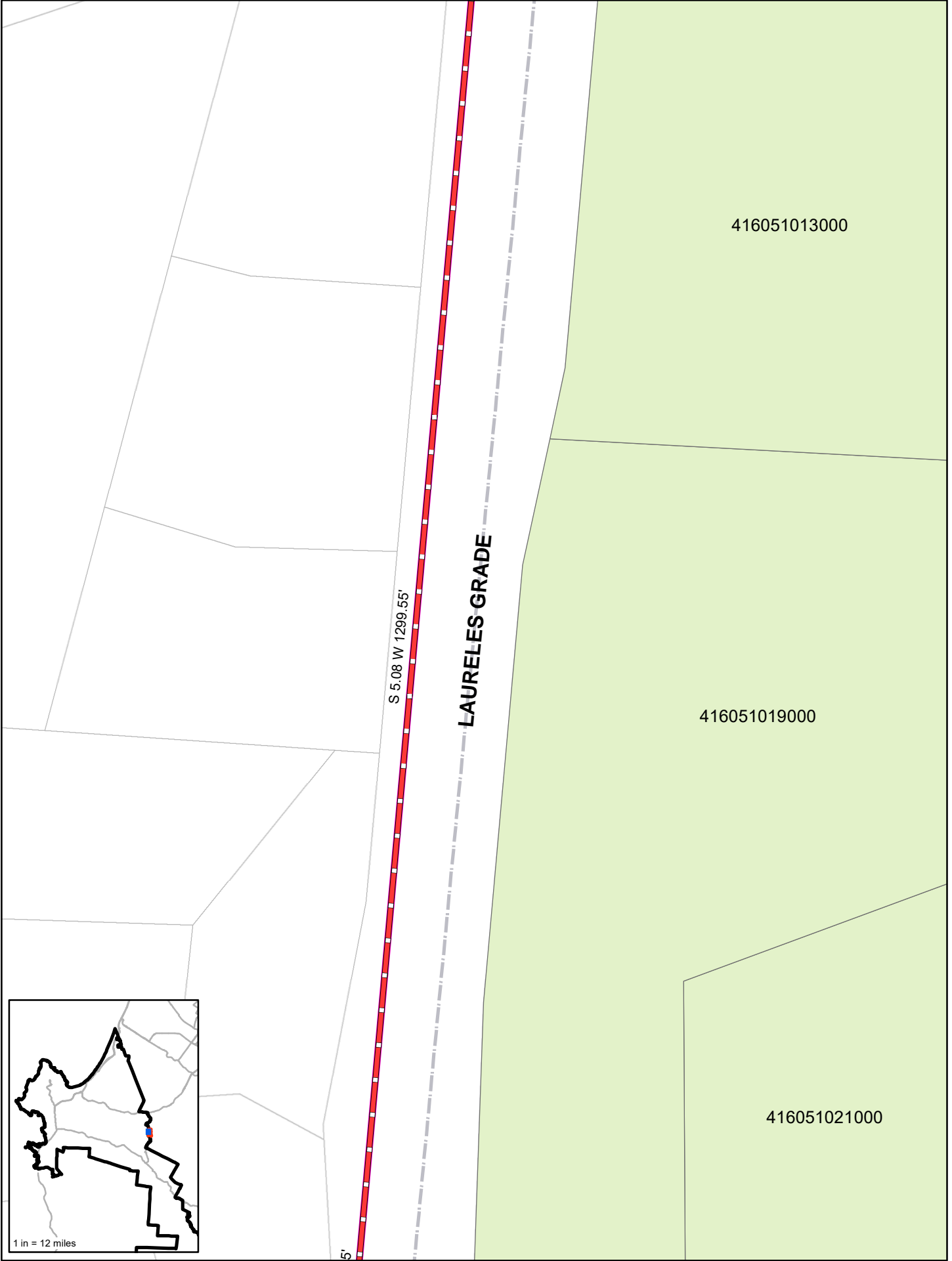
Exhibit A

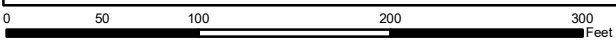
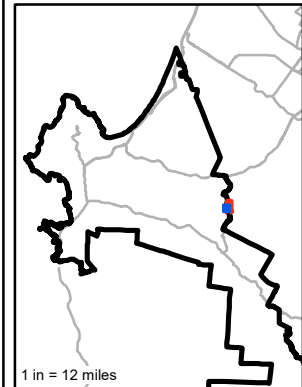
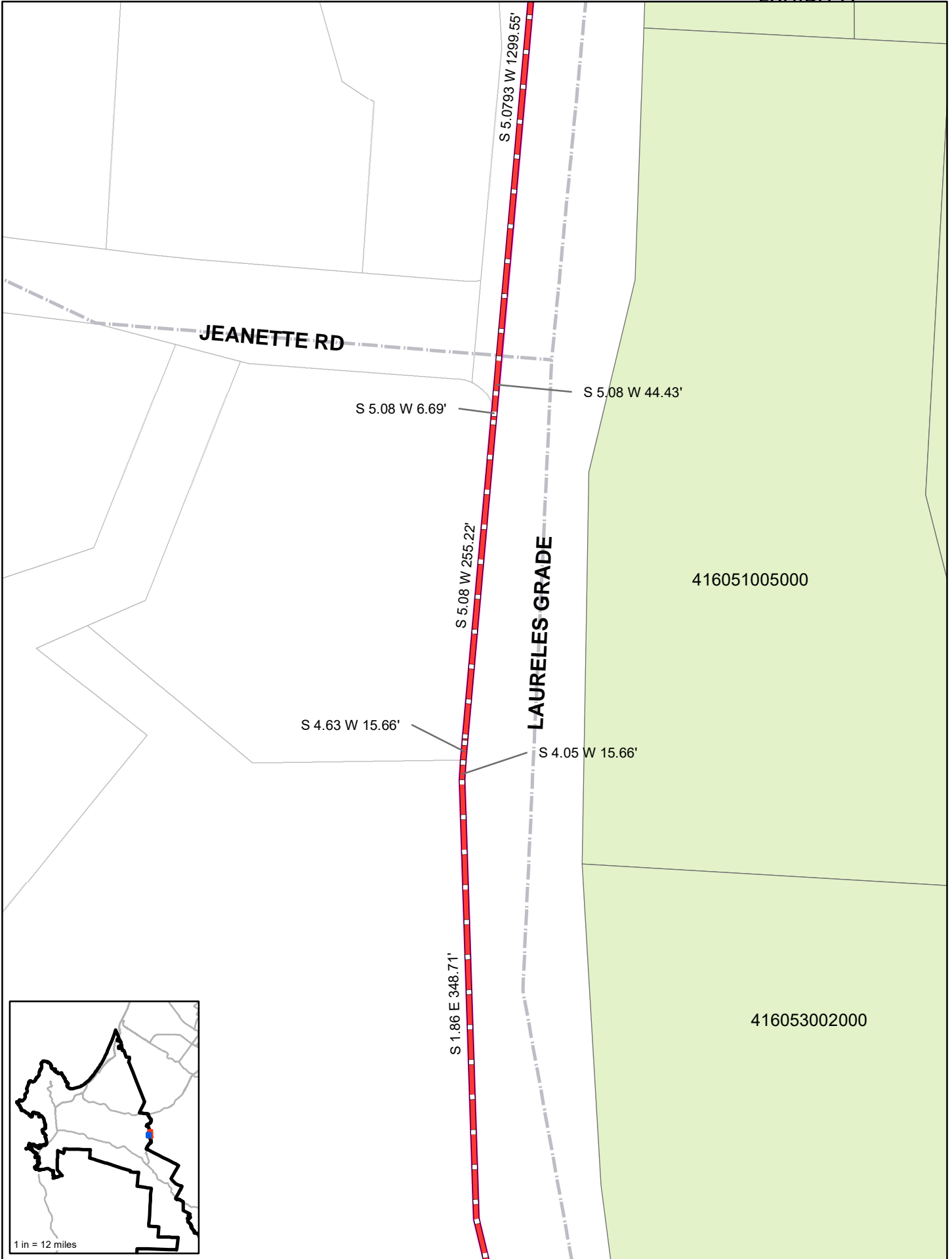
Hidden Hills Annexation Parcel Maps and Description

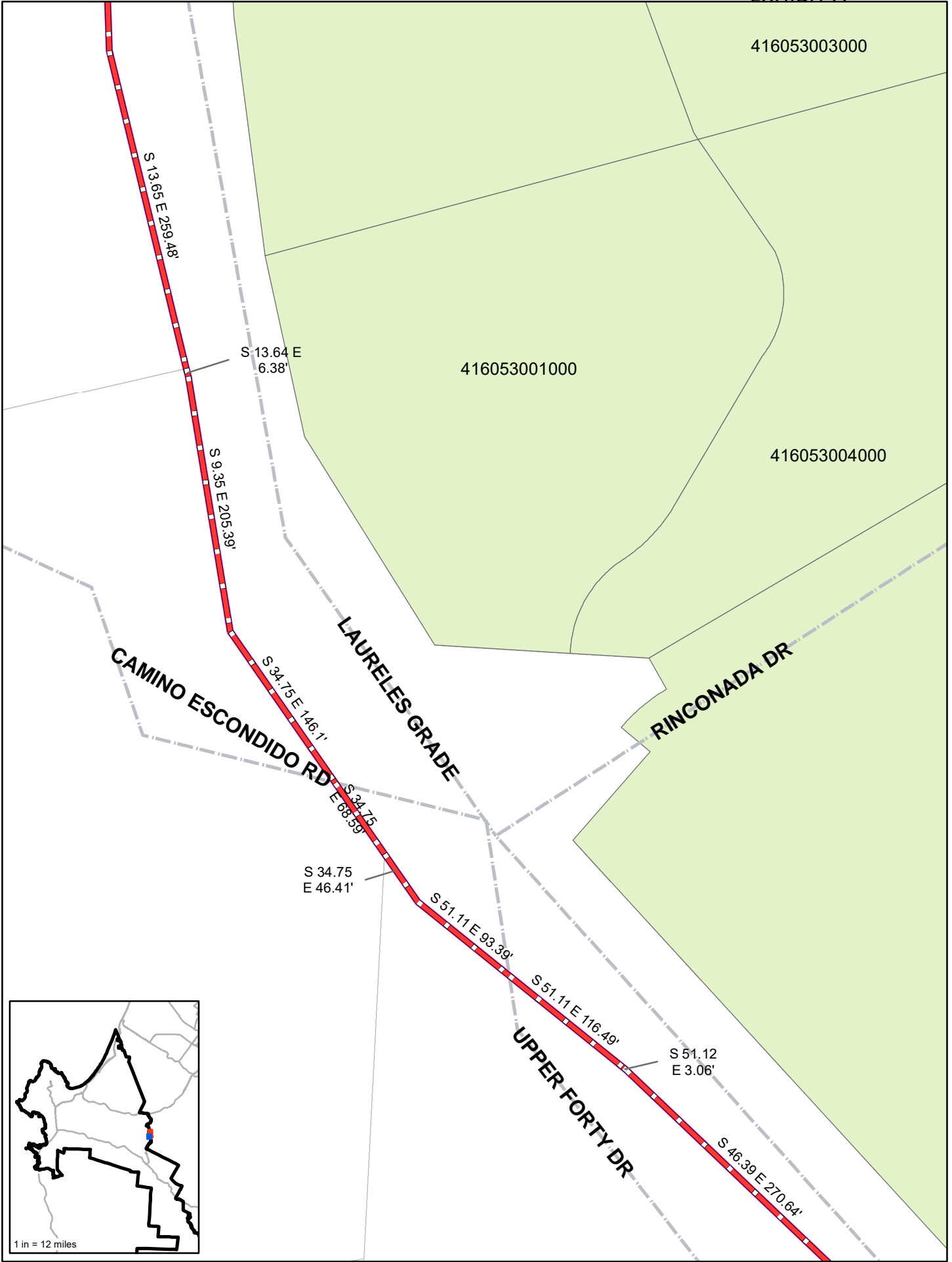


Legend

- Hidden Hills Annexation
- Detail Pages
- HiddenHillsParcels
- MPWMD Boundry





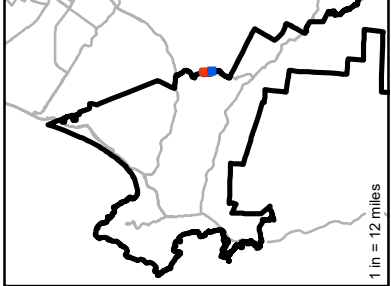


416361043000

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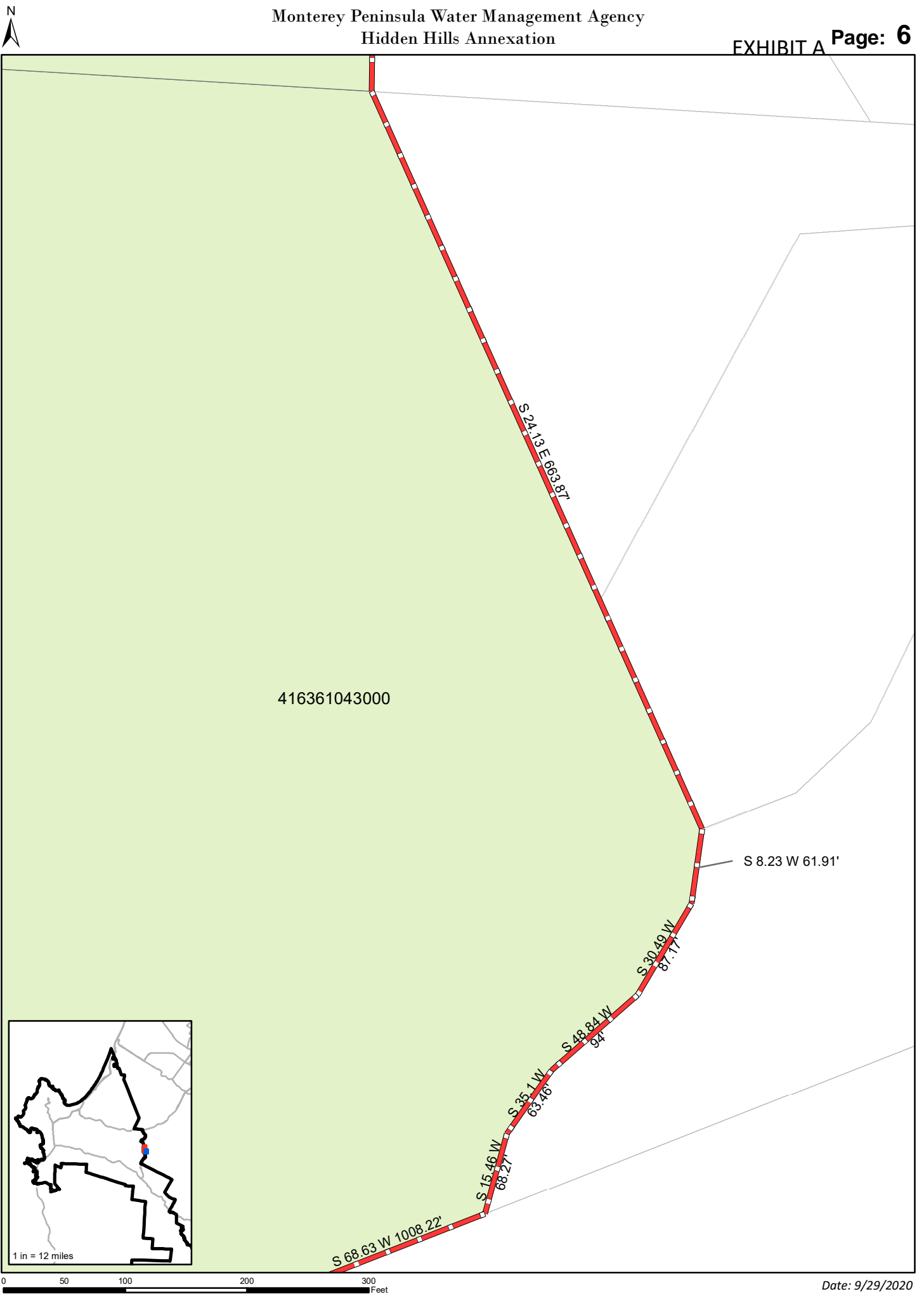
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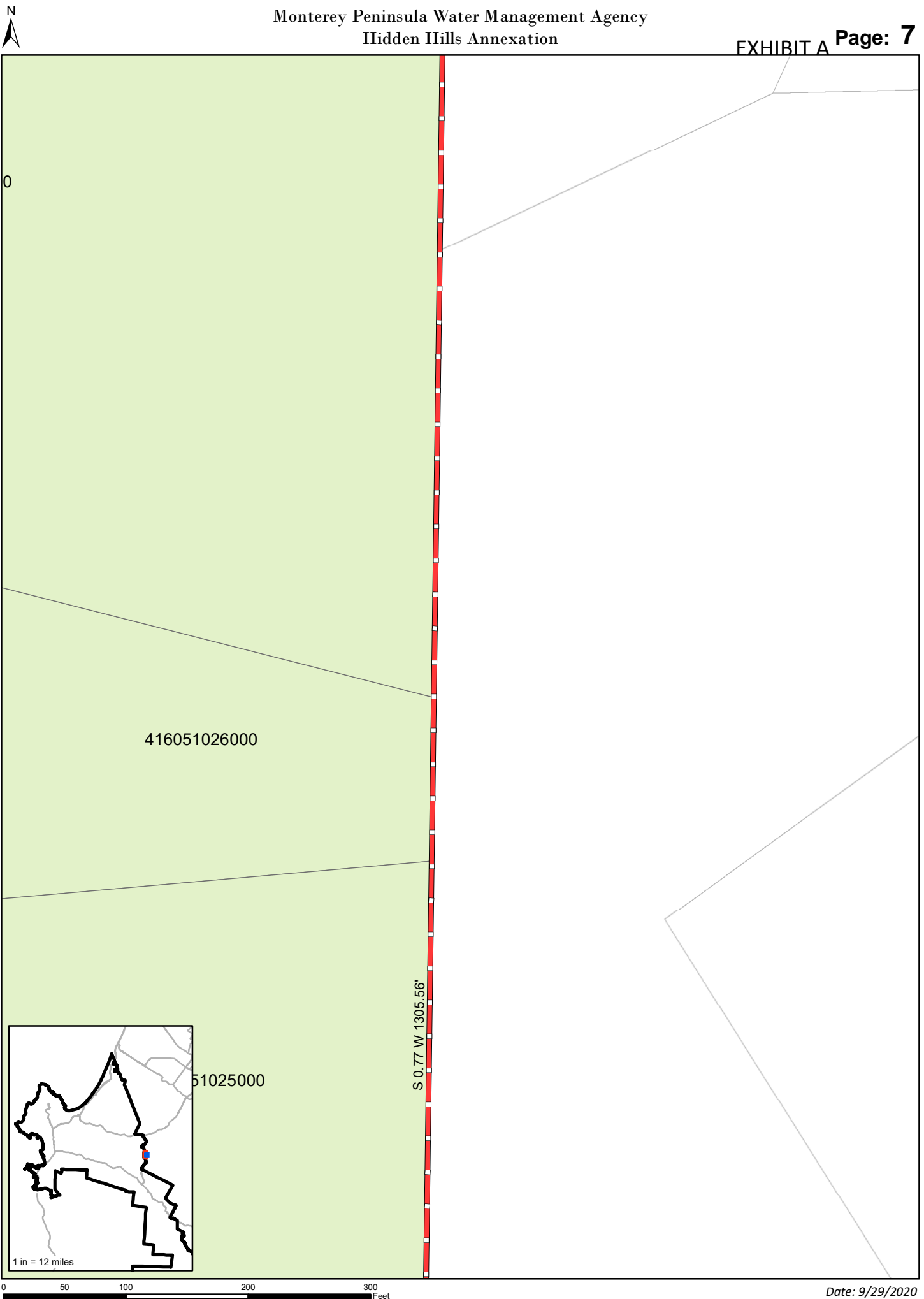
LAURELES GRADE
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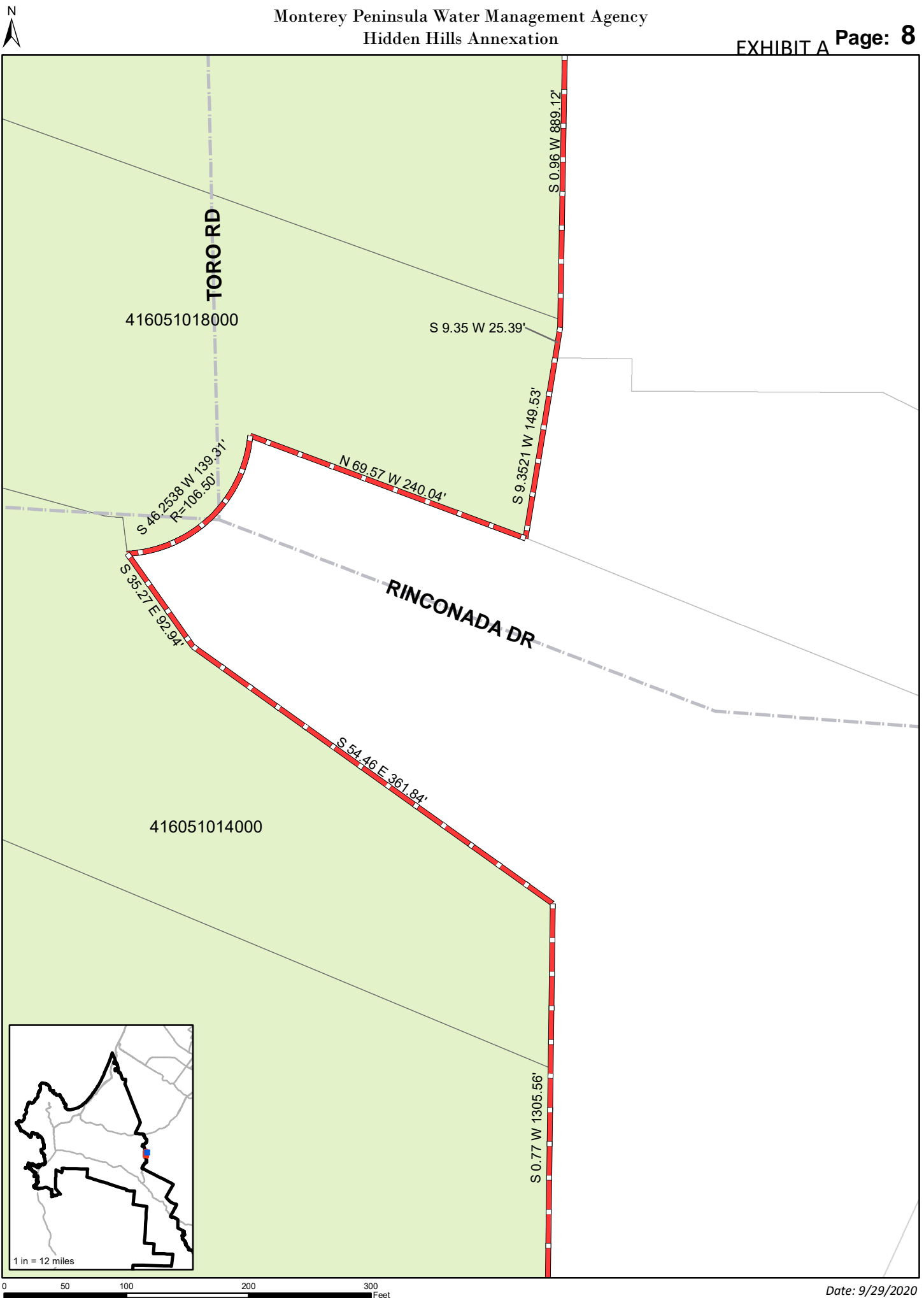


1 in = 12 miles







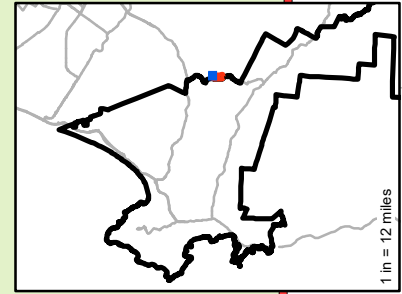


S 88.7568 E 1134.69'

416051001000

TORO RD

S 0.9689 W 889.12'



1 in = 12 miles

