MONTEREY COUNTY WATER RESOURCES AGENCY
BOARD OF DIRECTORS

BOARD MEMBERS:
Richard Ortiz, Chair
Claude Hoover, Vice Chair
Silvio Bernardi
Ken Ekelund
Mark Gonzalez
David Hart
John Huerta
Mike Scattini
Deidre Sullivan

STAFF:
David Chardavoyne, General Manager
Robert Johnson, Assistant General Manager
Brent Buche, Assistant General Manager
Cathy Paladini, Finance Manager
Wini Chambliss, Clerk to the Board
Jesse Avila, Deputy County Counsel

July 28, 2014

MINUTES
(Double-underscored and emboldened corrections were made to the Agenda during the meeting.)

1. CALL TO ORDER/ESTABLISH QUORUM

The meeting was Called to Order at 12:03 PM.

Directors Present: Directors Richard Ortiz, Claude Hoover, Silvio Bernardi, Ken Ekelund,
Mark Gonzalez, David Hart, John Huerta (@ 1:37 pm) and Mike Scattini (@ 12:11 PM)

Directors Absent: Director Deidre Sullivan

A quorum was established.

2. PUBLIC COMMENTS ON CLOSED SESSION ITEMS – None.

3. ADJOURN TO CLOSED SESSION @ 12:05 PM.

4. RECONVENE MEETING/REPORT FROM CLOSED SESSION

Chair Richard Ortiz reconvened the meeting after lunch and Closed Session @ 1: 12 PM

A quorum was again established.

Deputy County Counsel Jesse stated there were no reportable actions taken in Closed Session.

5. PLEDGE OF ALLEGIANCE (led by Director Silvio Bernardi).
6. PUBLIC COMMENTS

David Armanasco, who worked with the Leadership Group LLC in preparing the $20 million grant application for the Interlake Tunnel Project, apologized for utilizing Salinas Valley Water Coalition and Monterey County Farm Bureau logos on the grant application without their expressed permission. Mr. Armanasco stated he received verbal support from each of the entities; but, should have followed through to secure written permission. Mr. Armanasco reported by the end of the day the Agency would be notified whether it passed prequalification screening. If so, the formal application would be due in September.

Norm Groot, Monterey County Farm Bureau, thanked Mr. Armanasco for his apology; but, noted there was a gap in procedure. Mr. Groot voiced the Farm Bureau’s support for the project and grant application. He also requested the revitalization of the Regional Advisory Committee (RAC) with a broadened scope.

Nancy Isakson, Salinas Valley Water Coalition, also thanked Mr. Armanasco for stepping forward with his apology. She stated this to be another misstep on the part of the Agency, especially since the grant application is in the Agency’s name. Ms. Isakson emphasized the need to involve the public in garnering support for projects. Further, Ms. Isakson requested the reinstitution of the RAC, and solicited its involvement with the Interlake Tunnel and other Agency water projects.

7. PRESENTATION

Prior to General Manager David Chardavoyne’s update on the Meet and Confer process, Director Claude Hoover provided historical information clarifying the process leading up to “meet and confer” related to Amendment No. 3 with the Monterey Regional Water Pollution Control Agency (PCA).

Mr. Chardavoyne discussed the proposed project where parties work jointly to develop multiple sources of water to expand CSIP and create a supply of water for the Groundwater Replenishment Project. The Project is divided into two phases:

- Phase 1: 2,200 acre-feet per year to the Growers; 4,300 acre-feet per year to the Peninsula by 2017
- Phase 2: 4,700 acre-feet per year to the Growers; Commitment to work on Phase 2 by 2022

He then provided historical information leading to the meet and confer process at hand. In early 2012, the Agency received a request from PCA to allow it to utilize contractual wastewater entitlement of the Agency. The Agency Board of Directors appointed an ad hoc committee consisting of Staff, Directors and members of the Public. In August 2013, PCA announced it was pursuing Meet and Confer as called for in Amendment No. 3 between PCA and WRA. In May 2014, PCA agreed to include representatives of the Growers and the Monterey Regional Water Management District. Discussions also included the possibility of including MCWD. Directors received drafts of the MOU from the Agency, PCA and a document comparing the two documents.

The next step is negotiating a MOU agreed upon by all Parties, followed by the negotiation of a Definitive Agreement acceptable to all Parties.
Public Comments:

Norm Groot, Monterey County Farm Bureau, had questions about Consent Calendar Item G—specifically a definition of “acting” status as well as a definition of the term “Manifest Injustice” associated with this item.

Consent Calendar Items F & G were pulled for separate consideration.

ACTION:

Motion and Second by Directors Claude Hoover and John Huerta to approve Consent Calendar items A through E with necessary corrections.

Motion carried unanimously by those present.

Chair Richard Ortiz then entertained comments on Consent Calendar Item F.

Public Comments:

Ron Chesshire, Monterey/Santa Cruz Building Construction Trades Council, stated there will be a joint meeting with the Board of Supervisors on Tuesday, July 29, 2014 that will include a status report on the Interlake Tunnel Project. He questioned the awareness of the Board of Directors (BOD) with regard to the process followed with the Interlake Tunnel Project (ITP). The Project needs to be done; but, not at all costs. His questions included the following:

- Did the BOD make a decision to move forward with the ITP?
- Has the BOD hired staff to work on the ITP?
- Has the BOD hired an engineering firm to work on the ITP?

At the most recent BMP Committee meeting, it was stated an engineering firm had been hired. At the last Board of Supervisors meeting, it was stated an engineering firm had been hired to do program management. However, the BOD was unaware of these issues and never acted on them. He questioned whether the firms were sole-sourced or whether Requests for Qualifications were issued. Mr. Chesshire stated Agency and Monterey County policies were not adhered to, in violation of the Little Brooks Act. The status report will be provided to the Board of Supervisors, not the Board of Directors.

General Manager Chardavoyne responded to Mr. Chesshire, stating on June 3, 2014 at a joint Board meeting, the Funding Agreement between Monterey County and the Water Resources Agency was authorized. Once the Funding Agreement was approved, the Agency was authorized to engage a program manager to do preliminary engineering. The program manager is not an engineer. The preliminary engineering is actually hydrologic and hydrogeologic modeling analysis, which has not yet been completed. The modeler was contracted on July 11, 2014 and has had only a couple of weeks to complete their process. The meeting on Tuesday, July 29, 2014 is a joint Board meeting. There will be a public workshop that will include the modeling, followed by a report back to the Board of Supervisors on August 26, 2014. County Counsel does not believe any rules have been violated in this process.

Board Questions/Comments (Staff responses are emboldened and italicized):

1. Was the BOD involved in the hiring of the program manager? Yes, at the June 3, 2014 joint Board meeting. There is a Board Order to confirm this.
2. Directors recalled the joint meeting wherein the two Boards authorized these actions.

3. Was the actual funding approved July 1? No, the County approved funding on June 3 and authorized the General Manager to sign the Funding Agreement. County Staff wanted to examine whether the Agency could fund the ITP, which took about one month. Options were then considered by the Board of Supervisors, and on July 1 the Board of Supervisors revalidated their decision and approved the Funding Agreement and its execution. We received approval on two different dates for the same thing.

4. The Board of Directors did not see the EPC Agreement and/or scope of Work. General Manager Chardavoyne responded that in order to expedite the process, approval was secured to move forward with executing the necessary agreements to determine the amount of water available, project benefits, and whether or not water rights are available.

5. What then is EPC’s scope of work? To provide program management services in an amount not to exceed $400,000. This is not an engineering contract. EPC subcontracted for the hydrogeologic modeling.

6. Will EPC be involved in creating contracts that are let for construction? We will hire a design engineer to design the project and they will develop the contract documents.

7. Will they develop the RFPs? The program manager will get involved; but, the Agency will put out the RFPs.

8. Were other firms interviewed before hiring EPC? Yes. A total of four companies were considered.

9. What area of the United States do they represent? Three of the four are based in California; one in Denver.

10. This seems like a project in search of a process. The public should have input into processes such as this. It is recognized there is urgency surrounding this project; but, we should not forego established processes. In a sense, we have abrogated some of our responsibilities regarding the public process. We should make sure there is appropriate input, notify the public when meetings are being held and ensure appropriate public input is included early in the process.

11. The RAC was convened during the 11043 process. At that time, the BMP Committee was dormant. As Directors we must remember that an ad hoc committee cannot assume the function of a standing committee. We are experiencing problems with approval of this project because of the nature of the two-Board governance structure.

Public Comments:

Nancy Isakson, Salinas Valley Water Coalition, stated her recollection that funding was not approved in June. She remembered some change being requested with the matter being brought back for final approval in July.

General Manager Chardavoyne stated an informational Interlake Tunnel Project workshop is scheduled for August 13, 2014.

Chair Ortiz asked the General Manager not to hesitate in calling a special meeting when special issues arise.
Steve Shimek, Monterey Otter Project, encouraged Agency to move forward with the goal of receiving a completed Coastal Commission permit. Mr. Shimek stated the conflicting regulatory agencies work together all the time, and believes this is doable. The Coastal Commission has no part in the planning; but, merely provides review. He encouraged moving forward.

Finance Manager Paladini requested the Board to also determine what would not be done if this is added to the Budget.

**ACTION:**

Motion and Second by Directors Ken Ekelund and Silvio Bernardi to receive an update on the Salinas River Lagoon Management and Enhancement Plan; and, direct staff to return in 90 days to: flesh out the multi-stakeholder process; identify funding options for the 2015-16 Budget; determine risks; determine what funded tasks will not be performed; and, determine what is necessary to complete the Coastal Commission (and/or other commissions) permit along with associated costs.

Motion carried unanimously by those Directors present.

**B. Consider:** 1) Receiving a report on the status of AB 155: 2) The recommendation of the Basin Management Plan Committee that AB 155 be pulled, and that the design-bid-build method of procurement be utilized for the Interlake Tunnel Project; and, 3) Providing direction to Staff.

David Chardavoyne, General Manager, discussed the original draft legislation associated with AB 155. He then discussed the legislation as revised and approved by the Senate Finance Committee on June 17, 2014, which included some cumbersome procedures and requirements associated with bidding and awarding the design-build project. The project management consultant for the Interlake Tunnel Project concluded the design-build method of procurement with a project labor agreement and P.L. 20133 requirements lost any advantage over the traditional design-bid-build method of procurement for this Project. The BMP Committee recommended that the full Board approve pulling AB 155 and utilizing the design-bid-build method of procurement for the Interlake Tunnel Project.

Board Questions/Comments *(Staff responses are emboldened and italicized):*

1. Does wording in the legislation say that the Agency may use AB 155 or will? *It says may.*
2. Is the Board of Supervisors considering this issue tomorrow? *It is not on tomorrow’s agenda with the Board of Supervisors.*
3. Politicians seem to be adding things to our request and we have no control.
4. Who originally asked for the design-build legislation to be approved? *The County.*
5. Why would the County initiate this request? *The original idea was a good one; but, Agency Staff then stated if P.L. 20133 language was included, it was not attractive.*
6. Sometimes Design-Build is questionable. Maybe we should do nothing.
7. When do we need to know what method of procurement will be utilized for the project? *If it is decided to proceed with the project, we will apply for the permits and that process should begin in September.*
8. If we take no action, does that mean we will receive no money from the State? *No, there are no monies associated with AB 155.*
9. Taking no action may not be the best action since legislators have done much to assist in securing the legislation.

10. If we approve this action today, we might be precluded from receiving future grant funding.

11. This Board did not make the decision to pursue AB 155, and we should let the bill proceed through the legislature.

General Manager Chardavoyne stated the Agency is being criticized for not having an open process; but, Staff at this Agency did not originate this process. He also stated if the project is designed but delayed because of heavy rain, there is more flexibility by utilizing design-bid-build than design-build.

Public Comments:

**Ron Chesshire**, Monterey/Santa Cruz Construction Building Trades Council, stated he was called into a meeting on May 22, 2014 regarding Design-Build legislation. At that meeting, he noted an EPC brochure on the table. Mr. Chesshire noted it is important the Agency follow public processes. He added that established processes were not being followed and decisions were being made without the Board’s knowledge.

**Nicole Goehring** submitted two public records requests, and stated she has not received any information regarding the Project Labor Agreement attached to this bill. Ms. Goehring asked the Board to follow the BMP Committee’s recommendation. She also submitted a letter from Don Chapin advising the Agency to pull AB 155.

**Kevin Dayton**, Labor Solutions LLC, stated this bill includes the mandate that project labor agreements be included in the legislation and added this would be a tremendous coup d’état for labor unions.

**Bob Perkins**, Salinas resident and agricultural land consultant, stated the public was excluded from these discussions. He added this is a gut and amend bill, and the Agency cannot remain neutral.

**Nancy Isakson** voiced her appreciation for Mr. Perkins’ comments; but, stated the legislation considered at the June 2 Board of Directors meeting included the project labor agreement language. She stated the Board should weigh in on this legislation. Ms. Isakson asked several questions: 1) If the Agency asks to have AB 155 pulled, what is the guarantee that it will be pulled. 2) Who is paying for the legislative advocate? Ms. Isakson added the original language would have allowed the transfer of water from the Valley to the Peninsula.

**Jose Mendez**, Salinas resident, discussed “low and responsible” bidders and the importance of considering the “responsible” side of bidding.

**John Huerta left the dais at 3:37 PM and returned at 3:40 PM.**

**Dick Johnson**, San Luis Obispo County Builders Exchange, stated the design-bid-build method of procurement gives the Agency control over the process.

Board Questions/Comments (*Staff responses are emboldened and italicized*):

1. Contracts should be awarded fairly with local preference. It is the Agency’s duty to make a decision; even though it would be ideal if the BOS would make the ultimate call.
2. The Agency should follow the recommendation of the BMP Committee. In addition, there should be serious discussion about what actually took place along with the underlying issues.

3. We should pass on the responsibility for this problem to its origin.

4. The Bill is wrong in many ways, and the Board should recommend pulling it.

5. We need to make sure local people are on the job: local workers and providers. We should continue working with AB 155.

6. All the Agency needed was a pipe to connect the reservoirs; but, we ended up with a pipe bomb.

7. There is great concern over the Agency being associated with this Bill.

8. We need a workshop to discuss these issues.

9. The Agency’s name should not be associated with this Bill.

10. We need to make policy recommendations to staff regarding legislation, lobbying and budgetary issues.

11. The process has not been good.

ACTION:

Motion and Second by Directors Claude Hoover and David Hart to: 1) Receive a report on the status of AB 155; and, 2) Approve the recommendation of the Basin Management Plan Committee that AB 155 be pulled.

Ayes: Directors Silvio Bernardi, Ken Ekelund, David Hart, Claude Hoover and Mike Scattini
Noes: Directors Richard Ortiz, Mark Gonzalez and John Huerta
Absent: Director Deidre Sullivan
Motion carried.

ACTION:

Motion and Second by Directors David Hart and Claude Hoover to reconsider the previous Action.

Ayes: Directors Richard Ortiz, Claude Hoover, Silvio Bernardi, Ken Ekelund, David Hart, John Huerta and Mike Scattini
Noes: Director Mark Gonzalez
Absent: Director Deidre Sullivan
Motion carried.
ACTION:

Motion and Second Directors Claude Hoover and David Hart to request the Monterey County Water Resources Agency Board of Supervisors to request that AB 155 be pulled without any recommendation regarding the method of procurement.

Ayes: Directors Silvio Bernardi, Ken Ekelund, David Hart, Claude Hoover and Mike Scattini
Noes: Directors Richard Ortiz, Mark Gonzalez and John Huerta
Absent: Director Deidre Sullivan

Motion carried.

9. KEY INFORMATION AND CALENDAR OF EVENTS – The Reservoir Operations Committee will not meet in August.

10. GENERAL MANAGER’S REPORT – General Manager David Chardavoyne reported on the following:

   a) Two meetings among the Growers, Pollution Control Agency, Water Management District and the Agency were held during the month.

   b) Interlake Tunnel Project update – will be provided on Tuesday, July 29, 2014.

   c) Water Rights Permit #11043 EIR – Two public meetings were held regarding the Notice to Proceed: one at the Agency and the other in the City of Soledad. The comment period on the NOP ends August 11, 2014 @ 4 PM.

   d) Agency Staff met with lobbyists and Assembly member Mark Stone to discuss the Salinas River Stream Maintenance Program, Salinas River Management Program, Interlake Tunnel Project; ongoing discussions with the Pollution Control Agency and the Water Management District and Water Rights Permit #11043.

   e) Efforts to investigate Blanco Drain Water (eight cfs which is equivalent to not running one well) being place upstream of Rubber Dam and pumping into treatment plant at the Pollution Control Agency.


   g) All Hands Staff meeting held.

Board Questions/Comments (Staff responses are emboldened and italicized):

1. Could the Agency get verification that the Agency is not liable? County Counsel will investigate this matter.

2. The Agency should go on record in support of pervious concrete which would eliminate runoff. We could recommend this to developers for implementation.

3. The Agency should support local hiring, local suppliers and local vendors with regard to contracts and agreements.

Public Comments:

Margie Kay, North County resident, asked whether the Agency had responded to communications received from the Elkhorn Slough Foundation. Rob Johnson, Acting Asst. General Manager,
BOARD OF DIRECTORS:
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Wini Chambliss, Clerk to the Board
Jesse Avila, Deputy County Counsel

REGULAR BOARD OF DIRECTORS MEETING

DATE: Monday, July 28, 2014
TIME: 12:00 P.M. – CLOSED SESSION under Government Code section 54950, relating to the following items:

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
   Pursuant to Government Code section 54956.9(d)(1), the Board of Directors will confer with legal counsel regarding pending litigation: Monterey County Water Resources Agency, et al. v. Boyle Engineering Corporation, et al. (Santa Clara County Superior Court case no. 113-CV-250447); and, Monterey County Water Resources Agency v. Greg L. Dietel, et al. (San Luis Obispo Superior Court case no. CV 070316).

2. CONFERENCE WITH LEGAL COUNSEL – SIGNIFICANT EXPOSURE TO LITIGATION
   Pursuant to Government Code section 54956.9(d)(2), the Board of Directors will confer with legal counsel regarding three matters of significant exposure to litigation.

1:00 P.M. – REGULAR BOARD OF DIRECTORS MEETING

PLACE: Monterey County Water Resources Agency – Board Room
893 Blanco Circle
Salinas, CA 93901
(831) 755-4896
1. CALL TO ORDER/ESTABLISH QUORUM

2. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

3. ADJOURN TO CLOSED SESSION

4. RECONVENE MEETING/RE-ESTABLISH QUORUM

5. PLEDGE OF ALLEGIANCE

6. PUBLIC COMMENTS
   (Limited to three minutes per speaker within Monterey County Water Resources Agency jurisdiction and not listed on the agenda. Members of the Public will have the opportunity to ask questions or make statements on agenda items as they are considered by the Board.)

7. PRESENTATIONS .......................................................... 7
   A. Meet & Confer Update – David E. Chardavoyne, General Manager

8. CONSENT CALENDAR .................................................... 29
   A. Approve purchase orders/contracts in excess of $500 and credit card purchases over $500 in May/June 2014. ................................................................. 31
   B. Receive Report on Salinas Valley Water Conditions for the Third Quarter of Water Year 2013-2014. ................................................................. 33
   C. Receive the sixth Five-year Part 12D Independent Consultant Report for Nacimiento Dam; and direct the General Manager to transmit the report to the Federal Energy Regulatory Commission (FERC) as part of their Inspection and Evaluation Guidelines. ...................... 47
   D. Approve a resolution authorizing the General Manager, or designee, to apply for Mussel Fee grant funds from the California Department of Boating and Waterways and to negotiate and execute a grant agreement with the Department to receive and expend said funds to implement the mussel prevention program at Lakes Nacimiento and San Antonio. ..................... 61
E. Recommend that the Monterey County Water Resources Agency Board of Supervisors direct: 1) County Counsel to certify that the Monterey County Water Resources Agency Board of Supervisors has the full authority and legal capability to perform the terms of a Federal Cost-Share Agreement between the Department of the Army and the Monterey County Water Resources Agency Board of Supervisors in connection with the General Re-Evaluation Report (GRR)/Environmental Impact Statement (EIS) for the Pajaro River; and, 2) the Chairperson of the Monterey County Water Resources Agency Board of Directors to certify against lobbying in connection with the awarding of any Federal contracts.

F. Approve and recommend that the Monterey County Water Resources Agency Board of Supervisors approve a Budget Amendment authorizing the Auditor-Controller to amend the Monterey County Water Resources Agency’s Fiscal Year 2014-2015 Budget for the reimbursement and funding Agreement between the County of Monterey and the Agency up to the sum of $500,000 to fund preliminary engineering and design, water right analysis, and initial program management for the Inter-Lake Tunnel Project.

i. Increase appropriation in Fund 111 (Administration), Dept. 9300, Unit 8267, Appropriation Unit WRA001, Account 6613, (Other Professional Fees and Services) by $500,000 financed by a decrease in Appropriations in the County of Monterey Fund 001 (General Contingency Fund), Dept. 1050, Unit 8034, (4/5th vote required); and,

ii. Authorize the Auditor-Controller’s Office to incorporate approved appropriation and estimated revenue modifications to the FY 2014-15 Budget, and the County Administrative Office to reflect these approved changes in the FY 2014-15 Adopted Budget (4/5th vote required).

G. Recommend that the Monterey County Water Resources Agency Board of Supervisors direct the Monterey County Administrative Officer to reinstate the Water Resources Agency Deputy General Manager position in order to reclassify the Acting Assistant General Manager/Chief of Water Resources Planning & Management and Assistant General Manager/Chief of Operations & Maintenance positions as Deputy General Managers to rectify “Manifest Injustice” condition relating to their “Acting” status.

9. ACTION ITEMS

A. Consider receiving an update on the Salinas River Lagoon Management and Enhancement Plan; and, provide direction to Staff on how to move forward with updating the Plan...

B. Consider: 1) Receiving a report on the status of AB 155: 2) The recommendation of the Basin Management Plan Committee that A 155 be pulled, and that the design-bid-build method of procurement be utilized for the Interlake Tunnel Project; and, 3) Providing direction to Staff.

10. KEY INFORMATION AND CALENDAR OF EVENTS

11. GENERAL MANAGER’S REPORT

12. COMMITTEE REPORTS

A. Basin Management Plan Committee: Richard Ortiz, Chair

B. Finance Committee: Claude Hoover, Chair
MONTEREY COUNTY WATER RESOURCES AGENCY
BOARD OF DIRECTORS

MEETING DATE: July 28, 2014

AGENDA ITEM:
Consider: 1) Receiving a report on the status of AB 155; 2) The recommendation of the Basin Management Plan Committee that AB 155 be pulled, and that the design-bid-build method of procurement be utilized for the Interlake Tunnel Project; and, 3) Providing direction to Staff.

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SUBMITTED BY: David Chardavoyne
PHONE: (831) 755-4860

PREPARED BY: David Chardavoyne
PHONE: (831) 755-4860

DEADLINE FOR BOARD ACTION: July 28, 2014

RECOMMENDED BOARD ACTION:
Receive a report on the status of AB 155; consider the recommendation of the Basin Management Plan Committee that AB 155 be pulled and that the design-bid-build method of procurement be utilized for the Interlake Tunnel Project; and, provide direction to Staff.

SUMMARY:
On or about June 2, 2014, the Legislative Counsel’s Digest published a draft legislation authorizing the Agency to utilize the design-build method of procurement for the Interlake Tunnel Project. This draft legislation did not contain a requirement that the Agency utilize the P.L. 20133 procurement process steps to have a project labor agreement.

On June 2, 2014, at the joint Board of Directors/Board of Supervisors of the Agency meeting, in Board Order WRAG 14-023, Staff was asked to “...continue working with our legislative delegation to get design build legislation approved.” Assemblymember Alejo was joined by Senator Cannella and Assemblymembers Stone and Monning in sponsoring AB 155. Subsequently, the draft legislation, now known as AB 155, was amended by the Senate Finance Committee. The amended draft legislation released on June 17, 2014 was significantly different than that originally envisioned. It now contains P.L. 20133 procedures and requirements in bidding and awarding the design-build contract, and requires that the selected contractor enter into a project labor agreement binding all contractors performing work.

At the July 9, 2014 meeting of the Basin Management Plan Committee, design-build under AB 155 and design-bid-build methods of procurement were discussed, with considerable input from the public. The Basin Management Plan Committee concluded the item by recommending “that the full Board consider pulling AB 155, and utilize the design-bid-build method of procurement for the Interlake Tunnel Project.”

Assemblymember Alejo met with County and Agency Staff and a union representative on July 9, 2014, wherein the Basin Management Plan Committee’s recommendation was discussed. The outcome of that meeting is that the Assemblymember will allow the Bill to proceed in the
legislature so the Agency has a procurement option to design-build.

DISCUSSION:

The design-build method of procurement has been shown to reduce project costs and provide a shorter time period for project completion. However, the Agency’s Project Management Consultant has concluded that with the project labor agreement requirement and the proposed P.L. 20133 restrictions, design-build would lose any advantage over the traditional method of procurement (design-bid-build).

The Board has at least two options regarding AB 155, as follows:

1) Adopt the Basin Management Plan Committee’s recommendation and authorize the General Manager to request Assemblymember Alejo to withdraw the legislation; or

2) Take no action.

OTHER AGENCY INVOLVEMENT:

The CAO office and County Counsel have taken the lead on securing design-build legislation for the Agency.

FINANCING:

None.

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<td>COMMITTEE REVIEW AND RECOMMENDATION:</td>
<td>On July 9, 2014, the BMP Committee recommended consideration of this item by the full Board of Directors.</td>
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General Manager
TODAY’S ACTION

Consider:

1) Receiving a Report on the Status of AB 155;
2) The Recommendation of the Basin Management Plan Committee that AB 155 Be Pulled, and that the Design-Bid-Build Method of Procurement Be Utilized for the Interlake Tunnel Project; and,
3) Providing Direction to Staff
DESIGN-BUILD ORIGINAL DRAFT LEGISLATION FROM LEGISLATIVE COUNSEL’S DIGEST

- Amends Agency Act
- Authorizes Agency to construct Interlake Tunnel Project using Design-Build method of procurement
- Award of Project using competitive negotiation
  - Agency to establish procedure for selection of design-build entity
  - Contract award to be made to most responsible bidder
- Interlake Tunnel Project classified as an emergency project
AB 155 APPROVED BY SENATE FINANCE COMMITTEE ON JUNE 17, 2014

- Amends Agency Act
- Authorizes Agency to construct Interlake Tunnel Project using Design-Build method of procurement
- Agency is tasked to require selected contractor to enter into a Project Labor Agreement binding all contractors performing work on the project
- Agency required to utilize cumbersome P.L. 20133 procedures and requirements in bidding and awarding the Design-Build project
CONCLUSION OF PROJECT MANAGEMENT CONSULTANT

Design-Build with a project labor agreement and P.L. 20133 requirements loses any advantage over the traditional design-bid-build method of procurement for this Project.
BASIN MANAGEMENT PLAN COMMITTEE RECOMMENDATION

- Full Board consider pulling AB 155

- Utilize the design-bid-build method of procurement for the Interlake Tunnel Project
OPTIONS AVAILABLE TO THE BOARD OF DIRECTORS

- Adopt the Basin Management Plan Committee’s recommendation and authorize the General Manager to request Assemblymember Alejo to withdraw the legislation.

- Take no action, in which case the Bill will proceed in the Legislature.

- Take no action on AB 155, but authorize Staff to utilize the design-bid-build method of procurement for the Interlake Tunnel Project.
TODAY'S ACTION

1) Receive a Report on the Status of AB 155;
2) Act on the Recommendation of the Basin Management Plan Committee that AB 155 be pulled, and that the Design-Bid-Build Method of Procurement Be Utilized for the Interlake Tunnel Project; and,
3) Provide Direction to Staff.
CORRESPONDENCE
Winnie, please distribute the attached to all the Board members and appropriate staff for the upcoming Meetings July 28-29. Thank you, Ron Chesshire M/SC BCTC
June 26, 2014

David E. Chardavoyne, General Manager
Monterey County Water Resources Agency
893 Blanco Circle
Salinas, CA 93901-4455

VIA FAX AND EMAIL

Re: Public Records Act Request

Dear Administrator Bauman:

This is a request under the California Public Records Act, Government Code Sections 6250-6270, for the following information:

All documents, reports, communications and correspondence including emails and references to private meetings from Monterey County Board of Supervisors, Monterey County Staff, Monterey County Council, Monterey County Water Resources Agency Board of Directors, Monterey County Water Resources Agency Staff, Monterey County Water Resources Agency Counsel, the Monterey/Santa Cruz Building and Construction Trades Council, Assemblymember Alejo, Senator Cannella, and Senator Monning regarding AB 155 and a Project Labor Agreement for the Interlake Pipeline Project.

A copy of the negotiated Project Labor Agreement between the Monterey County Water Resources Agency and the Monterey/Santa Cruz and Building and Construction Trades Council.

I would prefer to have the documents e-mailed to me at Nicole@abcnorcal.org, or I can come in to review. Please contact me at (925) 960-8513 with any questions or comments.

Sincerely,

Nicole Goehring
Govt. Affairs Director

Section 6253(c) of the California Government Code states that "Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days."
Monday, July 28, 2014 @ 1:00 P.M.

REGULAR BOARD OF DIRECTORS MEETING

AGENDA

Staff reports relative to the agenda items listed below will be available for public review on the Agency's website by 12:00 PM on Friday, July 25, 2014 and at the Monterey County Water Resources Agency (Agency), 893 Blanco Circle, Salinas. If additional documents are produced by the Agency and provided to a majority of the Board regarding any item on the agenda after staff reports have been distributed, they will be available at the Agency during normal business hours and posted on the Agency website at http://www.mcwra.co.monterey.ca.us/BOD/BOD/AgendaCurrent_n.htm. For additional information, please contact Wini Chambliss, Clerk to the Board, at (831) 755-4896.

1. CALL TO ORDER/ESTABLISH QUORUM

2. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

3. ADJOURN TO CLOSED SESSION

4. RECONVENE MEETING/RE-ESTABLISH QUORUM

5. PLEDGE OF ALLEGIANCE

6. PUBLIC COMMENTS
   (Limited to three minutes per speaker within Monterey County Water Resources Agency jurisdiction and not listed on the agenda. Members of the Public will have the opportunity to ask questions or make statements on agenda items as they are considered by the Board.)

7. PRESENTATIONS .......................................................... 7
   A. Meet & Confer Update – David E. Chardavoyne, General Manager

8. CONSENT CALENDAR ......................................................... 29
   A. Approve purchase orders/contracts in excess of $500 and credit card purchases over $500 in May/June 2014. ........................................ 31
   B. Receive Report on Salinas Valley Water Conditions for the Third Quarter of Water Year 2013-2014. ........................................ 33
   C. Receive the sixth Five-year Part 12D Independent Consultant Report for Nacimiento Dam; and direct the General Manager to transmit the report to the Federal Energy Regulatory Commission (FERC) as part of their Inspection and Evaluation Guidelines. .............. 47
   D. Approve a resolution authorizing the General Manager, or designee, to apply for Mussel Fee grant funds from the California Department of Boating and Waterways and to negotiate and execute a grant agreement with the Department to receive and expend said funds to implement the mussel prevention program at Lakes Nacimiento and San Antonio. .............. 61
E. Recommend that the Monterey County Water Resources Agency Board of Supervisors direct:
1) County Counsel to certify that the Monterey County Water Resources Agency Board of Supervisors has the full authority and legal capability to perform the terms of a Federal Cost-Share Agreement between the Department of the Army and the Monterey County Water Resources Agency Board of Supervisors in connection with the General Re-Evaluation Report (GRR)/Environmental Impact Statement (EIS) for the Pajaro River; and, 2) the Chairperson of the Monterey County Water Resources Agency Board of Directors to certify against lobbying in connection with the awarding of any Federal contracts. ................................. 67

F. Approve and recommend that the Monterey County Water Resources Agency Board of Supervisors approve a Budget Amendment authorizing the Auditor-Controller to amend the Monterey County Water Resources Agency’s Fiscal Year 2014-2015 Budget for the reimbursement and funding Agreement between the County of Monterey and the Agency up to the sum of $500,000 to fund preliminary engineering and design, water right analysis, and initial program management for the Inter-Lake Tunnel Project.

i. Increase appropriation in Fund 111 (Administration), Dept. 9300, Unit 8267, Appropriation Unit WRA001, Account 6613, (Other Professional Fees and Services) by $500,000 financed by a decrease in Appropriations in the County of Monterey Fund 001 (General Contingency Fund), Dept. 1050, Unit 8034, (4/5th vote required); and,

ii. Authorize the Auditor-Controller’s Office to incorporate approved appropriation and estimated revenue modifications to the FY 2014-15 Budget, and the County Administrative Office to reflect these approved changes in the FY 2014-15 Adopted Budget (4/5th vote required). ................................. 95

G. Recommend that the Monterey County Water Resources Agency Board of Supervisors direct the Monterey County Administrative Officer to reinstate the Water Resources Agency Deputy General Manager position in order to reclassify the Acting Assistant General Manager/Chief of Water Resources Planning & Management and Assistant General Manager/Chief of Operations & Maintenance positions as Deputy General Managers to rectify “Manifest Injustice” condition relating to their “Acting” status. ............................................. 101

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B. Consider: 1) Receiving a report on the status of AB 155; 2) The recommendation of the Basin Management Plan Committee that A 155 be pulled, and that the design-bid-build method of procurement be utilized for the Interlake Tunnel Project; and, 3) Providing direction to Staff. ............................................. 111

10. KEY INFORMATION AND CALENDAR OF EVENTS
11. GENERAL MANAGER’S REPORT
12. COMMITTEE REPORTS
   A. Basin Management Plan Committee: Richard Ortiz, Chair
   B. Finance Committee: Claude Hoover, Chair
C. Personnel/Administration Committee: Mark Gonzalez, Chair
D. Planning Committee: Deidre Sullivan, Chair
E. Reservoir Operations Committee: David Hart, Chair

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   E. Update on CASGEM ................................................................. 135
   F. Update on Floodplain Management Plan Update .............................. 139

14. CORRESPONDENCE ...................................................................... 141
   A. Email dated July 23, 2014 received from Ron Chesshire (This 91-page document can be accessed at: http://www.mcwra.co.monterey.ca.us/BOD/BOD/agenda/SRB-ABC_Rebuttal.pdf)
      Re: Statement of Position in Support of Construction Project Labor Agreements and In Rebuttal to the Opposition of the Coalition for Fair Employment in Construction & The Associated Builders & Contractors ................................. 143
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      Re: Salinas River Basin Clearing ..................................................... 145
   C. Media Release dated July 15, 2014 from State Water Resources Control Board
      Re: Approval of Emergency Regulation to Ensure Increased Water Conservation ...... 147
   D. Letter dated June 30, 2014 from Paul Robins, Executive Director – Resource Conservation District of Monterey County
      Re: Final EIR for the Salinas River Stream Maintenance Program .................. 149
      Re: Public Records Act Request ........................................................ 151
   F. Innovative Interlake Connection and Regional Water Conservation Project Application .............................................................................. 153

15. BOARD OF DIRECTORS’ COMMENTS

16. ADJOURNMENT
Innovative Interlake Connection and Regional Water Conservation Project

A creative solution to increase water quantity, improve water quality, and provide environmental benefits to farmers, ranchers, and the local economies and communities throughout the Salinas River watershed.

Contact Information
Robert Johnson
Assistant General Manager
Monterey County Water Resources Agency
P.O. Box 930, Salinas CA 93902
831.755.4860
johnsonr@co.monterey.ca.us
Application Cover

California is facing one of the most severe droughts on record. The proposed Innovative Interlake Connection and Regional Water Conservation Project ("Project") will provide an essential solution to increase water quantity for drought protection and seawater intrusion abatement, provide additional flood control for the surrounding farming communities, and help improve water quality to benefit the ecosystems in the reservoirs and the Salinas, Nacimiento and San Antonio Rivers. The Monterey County Water Resources Agency ("Agency") is the lead partner, and the collaborating partners include the Nacimiento Regional Water Management Advisory Committee and the County of Monterey. The Agency has also received support for the Project from the Grower-Shipper Association of Central California, Monterey County Farm Bureau, Salinas River Channel Coalition, Salinas Valley Water Coalition and many Monterey County farm and civic organizations. The Agency is applying under the State Funding Pool, as the Project helps address the national and California state priorities of increasing water quantity and improving water quality.

Short Summary

California’s recent drought has severely impacted farming communities throughout the state, specifically the agricultural communities in the Monterey and San Luis Obispo counties – one the most productive farming regions in the world. The proposed Innovative Interlake Connection and Regional Water Conservation Project will connect the Nacimiento reservoir and the nearby San Antonio reservoir in order to increase water quantity and improve water quality. The Nacimiento reservoir is located in a relatively wetter watershed and can receive significantly more rainfall on average than its capacity, whereas the adjacent San Antonio reservoir tends to remain under capacity each year. The Project will provide an efficient means of conveyance and storage of approximately 60,000 acre-feet of water from the Nacimiento Reservoir, at storage capacity, to the adjacent San Antonio reservoir, with more than 60,000 acre feet of available storage capacity. The 11,000-foot tunnel between the Nacimiento and San Antonio reservoirs will conserve water that otherwise spills from the existing reservoir and discharges into the Pacific Ocean, which provides regional drought protection, helps protect against seawater intrusion, and improves flood control, water quality, and wildlife habitat protection.

The Agency will be responsible for conducting field assessments to monitor and report the Project’s performance in order to achieve the outlined Project objectives within the Project timeline. Following the construction of the interlake connection, the Agency will continue to actively monitor the Project and issue annual reports, as requested. Post-construction monitoring will include: reservoir elevations, acre-feet of water transferred annually, and acre-feet of flood control releases in order to help ensure an increase in water supply, additional flood control, and improvement in the health of the Salinas, Nacimiento and San Antonio Rivers.

Geographic Focus

The Project is located in California in the Monterey and San Luis Obispo counties. The Nacimiento and San Antonio reservoirs and surrounding communities are located in the Salinas Watershed HUC 1806005. Federally, the region is represented by Senator Barbara Boxer (D-CA) and Senator Dianne
Feinstein (D-CA), as well as Congressman Sam Farr (D-17th District) and Congresswoman Lois Capps (D-24th District). California State Senators Anthony Cannella (R-12th District) and Bill Monning (D-17th District) and California State Assembly member Luis Alejo (D-30th District) and Mark Stone (D-29th District) represent the Monterey County. California State Senator Bill Monning (D-17th District) and State Assembly member K.H. Achadjian (R-35th District) represent San Luis Obispo County. See attached Project Site Map.

Project Timeline and Funding

The proposed Project timeline is eighteen (18) months and will be completed in six phases – Preliminary Engineering (Phase 1), Permit Applications (Phase 2), Geotechnical and Final Design (Phase 3), Right of Way (ROW) Acquisition and Water Rights Diversion Application (Phase 4), Financing (Phase 5), and Construction (Phase 6). As the lead partner, the Agency is committed to supporting the Project by providing funding for Phases 1-5, beginning with Phase 1, Preliminary Engineering, in July 2014. Pending Regional Conservation Partnership Program (“RCPP”) funding, the Project will begin construction in early 2015 and will be completed no later than December 31, 2016. The Budget Timeline & Total Project Cost table illustrates the costs and time frame for each phase of the project and is based on expenditure quotes and the Agency’s experience with similar reservoir construction projects.

<table>
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Federal funding, along with investments from the collaborating partners, is the critical link needed to construct the Project in order to realize the benefits of increased water supply, improved water quality, drought protection, seawater intrusion protection and flood control for the farmers, ranchers and local communities throughout the watershed. The total Project budget of $30,127,890 includes a $20,000,000 investment from Regional Conservation Partnership Program (RCPP) and $10,127,890 in financial, technical and in-kind support from the Agency and agriculture landowners in Monterey County.

As the lead partner, the Agency will incur the costs for the Preliminary Engineering (Phase 1), Permit Applications (Phase 2), Geotechnical and Final Design (Phase 3), ROW Acquisition and Water Rights Diversion Application (Phase 4), and Financing (Phase 5) totaling to $3,103,821 during 2014 and the first Quarter of 2015. As a collaborating partner, Monterey County agriculture landowners will provide support and match funding for the project by implementing a Proposition 218 measure that will establish an assessment per acre to fund a bond for at least $7,000,000. Pending RCPP funding, the Project will
begin construction in early 2015 and construction will be complete in early 2016. The Match Funding table illustrates both the financial and technical assistance from the Project’s partners.

**Match Funding**

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**Project Summary**

*Project Objectives and Natural Resource Concerns Addressed*

The severe drought in California is negatively impacting the farming and agriculture communities throughout the state and it is imperative that partnerships are formed in order to provide solutions to improve water quantity and quality, as well as provide regional flood control. The proposed Project creates that partnership, which will provide an essential solution to improve water quantity and quality for the Salinas Valley – one of the most productive farming regions in the world. The Project will connect Nacimiento reservoir and the nearby San Antonio reservoir to more effectively utilize existing storage capacity in the system to increase water quantity for drought protection, and seawater intrusion abatement, as well as stabilize releases, providing additional flood control for the surrounding farming communities. The Nacimiento reservoir is located in a watershed that can receive significantly more rainfall than its existing capacity. The excess water is spilled from the reservoir irregularly, which can cause flooding and stress on wildlife within the Salinas and Nacimiento rivers, as well as loss of critical fresh water resources into the Pacific Ocean.

Over the years, tens of thousands of acre feet of water were released due to capacity limits, ultimately flowing into the ocean instead of being stored and utilized for agriculture uses and environmental releases for fish flows. The Project will provide an innovative solution to the problem utilizing existing storage infrastructure by designing and constructing an 11,000 foot tunnel between the Nacimiento reservoir and the nearby San Antonio reservoir to transfer water and thereby increase water storage capacity by at least 60,000 acre-feet. The water from these two lakes would then be used downstream for groundwater recharge, seawater intrusion abatement, and the promotion of fish habitats - increasing the total available supply and quality of water will benefit the surrounding communities and ecosystems.

The health of the Salinas Valley ecosystem is vital to the surrounding communities that depend on its natural resources. In addition to negatively impacting the agricultural communities, California’s drought
is harming the wildlife and their habitat. This Project provides a workable solution for agricultural production and resource management challenges, as it helps increase water quantity and improves water quality for all users of the Salinas Valley system. The Project will allow for a stable, constant release of water through the Salinas and Nacimiento Rivers that will help improve the health of the wildlife throughout the ecosystem and improve flood control. In addition, the Project will help reduce the need to pump groundwater – allowing the groundwater basin to recharge, which helps reduce seawater intrusion, and improves water quality.

Acquiring additional water yield by constructing an interlake tunnel is a top regional priority and the natural resource concerns were originally identified in a July 1991 report by Boyle Engineering titled: Monterey County Water Resources Agency “Water Capital Facilities Plan.” The report demonstrates scientific findings and lessons learned in identifying conservation and drought protection practices that will help lead to improved environmental outcomes. Increasing the quantity of water available for beneficial use in the Salinas Valley is a top priority, as it is one of the most productive farming regions in the world. In addition to increasing water quantity for drought protection in the region, the Project will also provide ecosystem and recreational benefits. Maintaining a higher, longer-term lake level for recreational use on both reservoirs will provide social and economic benefits for the region.

Project Monitoring and Reporting

The Agency will be responsible for conducting field assessments to monitor and report the Project’s performance in order to achieve the outlined Project objectives within the Project timeline. In collaboration with project partners and supporters, the Agency will complete a Reporting Items Table annually to provide updates on all activities conducted to date; the status of goals established in the application, including whether and why goals have been adjusted; any proposed adjustments to funding requested from NRCS; and any other items as required in the partnership agreement.

The final design of the Project will evaluate the amount of water available, when it is typically available, and the most effective tunnel configuration. Once construction is initiated, goals for timely completion will be established and monitored by a construction manager to ensure effective and efficient completion of the Project.

Following the construction of the interlake connection, the Agency will continue to monitor the Project and issue annual reports, as requested. Post-construction monitoring will include: reservoir elevations, acre-feet of water transferred annually, and acre-feet of flood control releases in order to help ensure an increase in water supply, additional flood control, and improvement in the health of the Salinas, Nacimiento and San Antonio Rivers.

Project Implementation

The Project will optimize the current reservoirs’ storage capacities to help increase water quantity, improve water quality and minimize adverse environmental impacts of downstream flooding. The Agency will continue to work with the local farming and agriculture communities to apply an ecosystem approach to sustainable agriculture production to help ensure that this Project continues to provide a long-
term, more reliable water source for all water users in the Salinas Valley. In addition, the Agency will help ensure that there are environmental impact mitigation measures relative to the construction and operation of the Project. The Project has assessed various options for tunnel configurations, including input and exit structures of the tunnel to help ensure that the Project provides multiple benefits to both the environment and the local agricultural community.

The Project will be implemented over an eighteen-month time period, beginning with Project design from July 2014 – July 2015 and Project permitting and environmental review during September 2014 – July 2015. During the design and permitting phases, research and outreach will be performed in relation to the tunnel alignment. Easements with existing property owners will be acquired allowing the Project to reside under respective properties. The Project’s construction will take place from September 2015 to June 2016.

Section 1271B(d)(4)(A) of the 1985 Act

As part of the Project, outreach to local, State and Federal regulators will occur to provide a communications pathway between the regulators and the Agency. Utilizing this approach will provide regulatory feedback at a time when adjustments to the Project can be made to accommodate all parties.

Requested Adjustment in Terms

The Agency does not request any adjustment in terms.

Alternative Funding Arrangements

The funding arrangements for the Project are included in the Budget section of the proposal. The Agency does not have any alternative funding arrangements.
The scale and configuration of all project boundaries and information shown herein are not intended as a guide for design or survey work.

Image Source: ESRI (2014)
Map Date: 7/7/2014
RE: USDA Regional Conservation Partnership Program Funding Opportunity

Dear USDA Regional Conservation Partnership Program Staff,

I am writing today to urge you to fund the “Innovative Interlake Connection and Regional Water Conservation Project” in California’s San Luis Obispo and Monterey Counties under the USDA Regional Conservation Partnership Program, as this project could bring significant benefits to the Counties, and serve as a model for conserving water and increasing water supply in the drought-stricken West.

The two major reservoirs in the Counties – Lake Nacimiento and Lake San Antonio – play vital roles in water storage and flood control. However, on average, water flows in the Nacimiento River watershed are three times that of the San Antonio River watershed. This imbalance makes it necessary to release high volumes of water into the Salinas River for flood-control purposes.

The Monterey County Water Resource Agency, along with partners including Nacimiento Regional Water Management Advisory Committee and the County of Monterey, have developed a solution to ensure that more water could be stored in both reservoirs, while improving drought protection and environmental benefits for farmers, ranchers, and local communities throughout the watershed.
The project proposes a pipeline to allow water transfers between the two reservoirs. If water could be moved from one reservoir to another during periods of high precipitation, more water could be conserved for irrigation, drinking, and wildlife habitat restoration rather than discharged to the ocean, and the watersheds will also see fewer high-volume flood releases.

Federal funding, along with investments from the partners, is the critical link needed to construct the Innovative Interlake Connection and Regional Water Conservation Project to realize these environmental and economic benefits for the region.

I urge USDA Regional Conservation Partnership Program to grant funding for the Innovative Interlake Connection and Regional Water Conservation Project.

Sincerely,

Dianne Feinstein
United States Senator
Jason Weller, Chief  
Natural Resources Conservation Service  
U.S. Department of Agriculture  
1400 Independence Ave SW  
Washington, DC 20250

RE: USDA Regional Conservation Partnership Program Funding Opportunity

Dear Chief Weller:

I am writing to draw your attention to the application by the Monterey County Water Resource Agency for support from the Regional Conservation Partnership Program for the Innovative Interlake Connection project. This Project will help address the national and state priorities of water conservation and supply.

The Monterey County Water Resource Agency, along with collaborating partners including Nacimiento Regional Water Management Advisory Committee and the County of Monterey, have developed a plan to link two adjacent reservoirs by tunnel. Project will provide a means of conveyance and storage of approximately 60,000 acre feet of water from a reservoir at storage capacity to an adjacent reservoir with more than 60,000 acre feet of available capacity. The Project will help conserve water that is otherwise spilled from existing reservoirs and discharged to the Pacific Ocean, which will help with regional drought protection, flood control, and wildlife habitat restoration. This creative solution will help provide regional drought protection and environmental benefits to farmers, ranchers, and the local economies and communities throughout the watershed.

Federal funding, along with investments from the collaborating partners, would provide the critical link needed to construct the Innovative Interlake Connection and Regional Water Conservation Project to realize these environmental and economic benefits for this region in California. I accordingly urge the USDA’s Regional Conservation Partnership Program to give this project its highest consideration.

Sincerely,

Sam Farr  
Member of Congress

SF/aa