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REVISED FINDINGS – CONSOLIDATED STAFF REPORT DE NOVO HEARING FOR APPEAL AND COASTAL DEVELOPMENT PERMIT APPLICATION

COMMISSION APPEAL NO.:	A-3-MCO-06-384
APPLICATION FILE NO.:	E-05-005
LOCAL GOVERNMENT:	County of Monterey
LOCAL DECISION:	Approval with Conditions, August 29, 2006
COMMISSION DECISION:	Approval with Conditions, December 14, 2006
COMMISSIONERS ON PREVAILING SIDE:	Achadjian, Clark, Secord, Kruer, Neely, Padilla, Potter, and Shallenberger.
APPLICANT/ SITE OWNER:	California-American Water Company / LS Power
SUBSTANTIAL ISSUE:	On October 12, 2006, the Commission found that the appeals of the local government action on this project raised substantial issue.
PROJECT DESCRIPTION:	Construction and operation of a test desalination facility.
PROJECT LOCATION:	Highway 1 and Dolan Road, Moss Landing (Monterey County), on the site of the Moss Landing Power Plant.
APPELLANTS:	Commissioners Patrick Kruer and Mary Shallenberger
SUBSTANTIVE FILE DOCUMENTS:	See Appendix A

EXHIBIT 1: Location Map

EXHIBIT 2: Site Layout

STAFF RECOMMENDATION: Adoption of Revised Findings for De Novo Permit
Adoption of Revised Findings for Regular Permit

SUMMARY

Project Description: The proposed project is a test desalination facility to be constructed and operated at the Moss Landing Power Plant (MLPP) in Moss Landing. It would be owned and operated by California-American Water Company, and is proposed to operate for up to one year to determine the feasibility of this site and water source for a full-scale desalination facility. The test facility would withdraw up to 288,000 gallons per day of seawater from the power plant's cooling system and would separate, treat, and recombine the water before discharging it back into the power plant's outfall in Monterey Bay.

Prior Commission Action: On October 12, 2006, the Commission found that the appeals of the County's issuance of a coastal development permit for the proposed project raised substantial issue regarding conformity to the County Local Coastal Program (LCP). On December 14, 2006, the Commission approved with conditions Coastal Development Permits #A-3-MCO-06-384 and E-05-005 for the proposed project.

Key Issues: Recommended findings herein evaluate the proposed project's conformity to Coastal Act and LCP provisions related to public health and welfare, protection of water quality, and protection of marine biological resources.

Staff Recommendation: Staff recommends the Commission adopt the following revised findings in support of the Commission's action on December 14, 2006. In that action, the Commission approved Coastal Development Permits A-3-MCO-06-384 and E-05-005 subject to standard conditions.

1.0 RECOMMENDED MOTIONS AND RESOLUTIONS

1.1 MOTION AND RESOLUTION FOR COASTAL DEVELOPMENT PERMIT NO. A-3-MCO-06-384

Staff recommends the Commission adopt findings set forth herein for Coastal Development Permit No. A-3-MCO-06-384.

Motion

> *I move that the Commission adopt the conditions and revised findings in support of the Commission's action on December 14, 2006 concerning approval of Coastal Development Permit No. A-3-MCO-06-384.*

Staff recommends a **YES** vote. Passage of this motion will result in the adoption of conditions and revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the revised findings hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings. The Commissioners eligible to vote are Commissioners Achadjian, Clark, Secord, Kruer, Neely, Padilla, Potter, and Shallenberger.

Resolution

> *The Commission hereby adopts the conditions and findings set forth below for Coastal Development Permit No. A-3-MCO-06-384 on the ground that the findings support the Commission's decision made on December 14, 2006 and accurately reflect the reasons for it.*

1.2 MOTION AND RESOLUTION FOR COASTAL DEVELOPMENT PERMIT NO. E-05-005

Staff recommends the Commission adopt findings set forth herein for Coastal Development Permit No. E-05-005.

Motion

> *I move that the Commission adopt the conditions and revised findings in support of the Commission's action on December 14, 2006 concerning approval of Coastal Development Permit No. E-05-005.*

Staff recommends a **YES** vote. Passage of this motion will result in the adoption of conditions and revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the revised findings hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the

Commission's action are eligible to vote on the revised findings. The Commissioners eligible to vote are Commissioners Achadjian, Clark, Secord, Kruer, Neely, Padilla, Potter, and Shallenberger.

Resolution

> *The Commission hereby adopts the conditions and findings set forth below for Coastal Development Permit No. E-05-005 on the ground that the findings support the Commission's decision made on December 14, 2006 and accurately reflect the reasons for it.*

2.0 STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment**: This permit is not valid until a copy of the permit is signed by the Permittee or authorized agent, acknowledging receipt of the permit and the acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration**: Construction activities for the proposed project must be initiated within two years of issuance of this permit. This permit will expire two years from the date on which the Commission approved the proposed project if development has not begun. Construction of the development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made at least six months prior to the expiration date.

3. **Interpretation**: Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Commission (hereinafter, "Executive Director") or the Commission.

4. **Assignment**: The permit may be assigned to any qualified person, provided the assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land**: These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

3.0 RECOMMENDED FINDINGS AND DECLARATIONS

3.1 PROJECT PURPOSE AND DESCRIPTION

Project Description: The proposed project is a test desalination facility to be constructed and operated on the site of the Moss Landing Power Plant (MLPP) in Moss Landing (see Exhibit 1 – Location Map). The facility would be owned and operated by the California-American Water Company (Cal-Am) and would be used to test the effectiveness of various desalination methods and equipment and to assess whether it would be feasible to construct and operate a full-scale seawater desalination facility at the site. Cal-Am has prepared a Proponent's Environmental Assessment (PEA) as part of its submittal to the California Public Utilities Commission (PUC), which is the CEQA lead agency for the upcoming review of the proposed full-scale facility. The PEA is intended to provide information about the full-scale proposal for the PUC's use in preparing an Environmental Impact Report.

The facility would consist largely of prefabricated modules covering an approximately 65' by 100' area within the developed part of the power plant site (see Exhibit 2 – Site Layout). The proposed test facility would use up to 288,000 gallons per day of seawater pumped from the MLPP once-through seawater cooling system. The power plant generally uses from about 180 million gallons per day up to over a billion gallons per day of seawater to cool its generating units. The proposed test facility would be managed so that it would not operate if the power plant cooling system was not operating.

The facility includes intake pumps with a total capacity of about 200 gallons per minute, pretreatment equipment, various storage tanks, piping and instrumentation systems, cleaning systems, and related equipment. It would process seawater through two parallel pre-treatment trains and reverse osmosis systems. The project includes treatment of the water and equipment with various chemicals, including chlorine, acids, coagulants, polymers, and various cleaning agents. The cleaning agents would be applied to the equipment at different times over the course of operations, with an average of less than 100 gallons per day being discharged to the power plant outfall. The discharge would also include about 100 pounds per day of residual solids from the testing process. Upon completion of the testing processes, the various streams of potable water, brine, and other constituents would be recombined and discharged back into Monterey Bay through the power plant outfall. A part of the waste water containing higher concentrations of cleaning compounds would be disposed of off-site. None of the water would be used for public consumption. The facility is proposed to operate 24 hours a day for up to one year.

3.2 COASTAL COMMISSION JURISDICTION

Permit and Appeal Jurisdiction: Portions of the project are within the jurisdiction of the County of Monterey's certified Local Coastal Program (LCP) and are subject to a County Coastal Development Permit (CDP). Pursuant to Coastal Act Section 30603(a), portions of the proposed development are also within the Coastal Commission's appeal jurisdiction, as they are within 300' of coastal waters and within a sensitive coastal resource area. Part of the proposed project is also within the Commission's retained jurisdiction and requires a CDP from the Commission.

On August 29, 2006, the County of Monterey Board of Supervisors conditionally approved CDP #PLN040520 for construction and operation of the proposed test desalination facility. On August 31, 2006, the Coastal Commission received the County's Notice of Final Action and associated records to start the 10-working-day appeal period, which ended September 15, 2006. Appeals were filed on September 15, 2006 by Commissioners Kruer and Shallenberger.

De Novo Appeal Procedures and Standard of Review: On October 12, 2006, the Coastal Commission determined that appeals of the CDP issued by Monterey County for this proposed development raised substantial issue regarding conformance with the County's certified LCP. As set forth in Section 13115(b) of the California Code of Regulations, the Commission is to then consider the merits of the proposed development in a *de novo* hearing.

The general procedures for Commission action at the *de novo* hearing stage are typically the same as if the coastal development permit application had been submitted directly to the Commission. However, pursuant to Coastal Act Section 30604(b), the standard of review is the certified LCP rather than Chapter 3 of the Coastal Act. Additionally, pursuant to Coastal Act Section 30604(c), the standard of review for development such as is included in this project, proposed to be located between the nearest public road and the sea, also includes the public access and recreation policies of Chapter 3 of the Coastal Act (Sections 30210-30224).

Commission Decisions: On December 14, 2006, the Commission, after public hearing, approved CDPs #E-05-005 and A-3-MCO-06-384. The Revised Findings herein support and accurately reflect the Commission's reasons for approval.

Appellants' Contentions: In their appeals, the appellants contended that the project as approved by the County does not conform to LCP provisions related to water quality, marine biological resources, and public and environmental health. These issues are addressed in the findings below.

3.3 CONFORMITY TO APPLICABLE COASTAL ACT AND CERTIFIED LOCAL COASTAL PROGRAM POLICIES

3.3.1 Marine Biology and Water Quality

3.3.1.1 Applicable Coastal Act and LCP Provisions

Coastal Act Section 30230 states:

> *Marine resources shall be maintained, enhanced, and, where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Coastal Act Section 30231 states:

> *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Coastal Act Section 30250(a) states:

> *New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

Text of the following applicable LCP Provisions is provided in Appendix B:

- LCP Section 20.96 (which incorporates by reference County Ordinance Section 15.22, Discharge of Contaminants Into Waters of the County)
- Section 2.3.3.D of the LCP's <u>North County Land Use Plan</u>

- Section 20.144.070 from the LCP's Coastal Implementation Plan – Regulations for Development in the North County Land Use Plan Area, Water Resource Development
- Section 2.3 of the LCP's North County Land Use Plan
- Section 20.144.040 from the LCP's Coastal Implementation Plan (Regulations for Development in the North County Land Use Plan Area, (Chapter 20.144)
- Section 5.5.2.3 of the LCP's Moss Landing Community Plan

3.3.1.2 Potential Environmental Effects

The proposed project would use the existing seawater cooling system at the Moss Landing Power Plant. The power plant currently withdraws and discharges from about 180 million to over a billion gallons per day of seawater and estuarine waters from coastal waters, including Moss Landing Harbor, Elkhorn Slough, and Monterey Bay. These waters provide habitat for a number of marine organisms, including several sensitive species.

The proposed project would redirect up to 288,000 gallons per day of the power plant's cooling water flow through its test desalination equipment. That water would be processed, treated, tested, and then recombined and discharged back into the power plant discharge. Because the proposed project would operate only when the power plant's cooling system operates, it would not result in any additional seawater being drawn into the cooling system; however, it would create an additional discharge in the form of various treatment and cleaning chemicals, polymers, coagulants, and other similar water treatment chemicals. Most of these contaminants would be routed to a sanitary sewer system, although some would be discharged through the power plant outfall into the nearby coastal waters.

The proposed project would also result in the intensification of water use in that it would increase the number of uses of the power plant's cooling water. Instead of being used just for electricity generation, the water would additionally be used for desalination and drinking water research and to determine the feasibility of a proposed larger desalination facility at the power plant site.

3.3.1.3 Analysis of Conformity to Applicable Coastal Act and LCP Provisions

The proposed project is subject to a number of Coastal Act and LCP provisions related to the protection of water quality and marine life. The Coastal Act provisions cited above and applicable to the proposed project require that marine resources be maintained, enhanced, and where feasible, restored. They also require that the marine environment be used in a manner that sustains biological productivity and that the adverse effects of discharges be minimized. The LCP provisions include specific requirements that the project proponent identify potential resource impacts along with mitigation measures to address those impacts.

Effects of Contaminant Discharge: The LCP includes requirements meant to limit the discharge of contaminants into coastal waters and to prevent adverse effects to marine life. LCP Section 20.96 incorporates by reference County Ordinance Section 15.22, which prohibits the

discharge of contaminants and pollution into County waters[1]. To determine whether a proposed discharge includes contamination or pollution as defined above, the LCP (at North County Land Use Plan Section 2.3.3.D) requires submittal of a detailed and comprehensive report about the discharge, including its constituents, its likely environmental effects, an assessment of the most suitable discharge method, and other measures. Additionally, LCP Section 20.144.070, which is meant to protect water quality that may be adversely affected by projects such as this involving "intensification of water use", requires submittal of a hydrologic report prior to County approval. That report is to include descriptions and analyses of local water resource characteristics, possible project alternatives, water conservation measures, and other related issues. The proposed project is also subject to LCP Section 20.144.070.E.16, which requires any applicant for a development that would generate an industrial or commercial discharge submit a monitoring program and an assessment of water quality impacts to public health that may result from the discharge. The submittal is to also include hydrologic reports and biological surveys describing the predicted effects of the discharge on nearby waterbodies and biological resources. These documents are meant to identify potential impacts and possible mitigation measures that may be needed to address those impacts and are to be considered by the County as part of its review and approval of the proposed project. These LCP provisions, therefore, require a determination of whether a discharge would be detrimental to beneficial uses or whether it would unreasonably affect beneficial uses.

The project as approved by the County referred to the information and conclusions of the Proponent's Environmental Assessment (PEA), which Cal-Am prepared as part of its application to the California PUC to assist in the PUC's preparation of an Environmental Impact Report. The PEA did not describe the likely effects of the proposed pilot facility, but did evaluate the potential effects of the anticipated and much larger discharges from the full-scale facility. The PEA concluded that the effects caused by the combined discharges of the power plant and the proposed full-scale desalination facility would be minimal. Information provided in the PEA is sufficient to conclude that discharges from the proposed test facility would be much smaller (about 1/50th the volume) than those of the proposed full-scale facility, would have very low contaminant concentrations when combined with the power plant discharge, and would likely result in few adverse effects. Additionally, because one of the purposes of the pilot project is to obtain the type of discharge-related information required by the County Health Department, and because of the proposed project's expected minimal impacts, the Health Department waived the permit requirement of the Land Use Plan's Section 2.3.3.D. Further, the proposed project will be subject to the monitoring requirements of an NPDES permit issued by the Regional Board. This ongoing monitoring is meant to detect potential impacts and will allow mitigation to be imposed if shown to be necessary.

[1] Section 15.22 defines "contaminants" as "any physical, chemical, biological, or radiological substance or matter in water, including but not limited to toxic and hazardous chemicals, selenium, pesticides, nutrients, sediments, heavy metals, and trace elements from agricultural drainage water, sewage, and any other waste water in sufficient quantities that will be detrimental to the present and future beneficial users." It defines "pollution" as "any alteration of the quality of the waters of the County to a degree which unreasonably affects such waters for beneficial uses, or facilities which serve such beneficial uses. Pollution may include contamination."

Because of the proposed project's design and operational limits, the above-referenced information in the PEA and the NPDES permit monitoring requirements are adequate for conformity to the information required pursuant to LCP Sections 20.96 and 20.144.070.E.16 and Land Use Plan Section 2.3.3.D. Therefore, the project will conform to these sections of the LCP. Further, and based on the above, the proposed project will be designed and operated so that the potential impacts of its discharge will be insignificant and will not require additional mitigation. Therefore, the proposed project includes necessary mitigation measures to reduce potential effects of the discharge, and is consistent with Coastal Act Section 30231 and LCP Section 2.3.3.D.

Effects on Sensitive Habitat: The LCP describes the coastal waters that would be affected by the proposed project as sensitive habitat areas. Section 20.144.040 of the LCP's Coastal Implementation Plan requires proposed developments that would be located in or affect these waters to provide, prior to permit approval, a biological survey that describes the potentially affected organisms and habitats, the anticipated impacts of the proposed development, and the recommended measures to mitigate those impacts. Section 5.5.2.3 of the LCP's Moss Landing Community Plan additionally requires that development be the least environmentally damaging alternative and that adverse environmental effects be mitigated to the maximum extent.

As noted previously, the applicant has clarified that the proposed project would not operate when the power plant cooling system was not operating; therefore, it would not cause any additional entrainment beyond what is already caused by the power plant. The pilot project would, however, result in development in the form of a discharge into sensitive habitat. As noted above, the biological assessment in the PEA describes the anticipated effects of the full-scale facility and concludes that the impacts of its discharge would be minimal. The pilot facility would result in discharges of about 1/50th of the full-scale facility's discharges and would be expected to cause even fewer, if any, impacts. The PEA's assessment is sufficient to meet the biological survey requirement of LCP Section 20.144.040. Further, because of its design and operational limits and the resulting minimal impacts, the proposed project is also the least environmentally damaging alternative, and therefore complies with Section 5.5.2.3 of the Moss Landing Community Plan.

Long-Term Effects: Section 2.3 of the North County Land Use Plan requires that development not establish a precedent for continued development that could cumulatively degrade the sensitive habitat resources of these coastal waters. That section further requires that development adjacent to environmentally sensitive habitats be compatible with the long-term maintenance of these habitats, and that it incorporate all site planning and design features needed to prevent habitat impacts. Section 2.3 additionally requires that development not establish a precedent for continued development that could cumulatively degrade the resource. Coastal Act Section 30250(a) additionally requires that new development be sited where it will not result in significant individual or cumulative impacts on coastal resources.

The proposed facility will operate for only one year, so it will not itself cause long-term adverse effects. The primary purpose of the proposed test facility is to determine whether the power plant site and water source is feasible for use by a full-scale desalination facility. Any proposal to co-locate a desalination facility with a coastal power plant seawater cooling system raises concerns about the effects that would occur when the power plant shuts down its cooling system,

either short-term periods – for maintenance or in response to market conditions – or long-term – to meet regulatory requirements or to modernize the facility. When that occurs, a co-located desalination facility would cause adverse effects on its own. In most cases, its entrainment impacts would be less than those caused by the power plant; however, they may still be significant and may have also been avoidable if another water source had been selected in recognition of this concern about co-location. In this case, however, the California PUC is evaluating through its CEQA review alternative locations and water sources for a full-scale facility. Additionally, various water districts and water interests in the County have convened to evaluate alternatives to siting the proposed full-scale facility at the power plant. It is therefore not necessarily likely that pilot facility will lead to a full-scale facility at this site. Further, any proposal for a full-scale facility within the coastal zone would require separate review to ensure the development is compatible with Coastal Acct and LCP provisions intended to protect habitat and prevent cumulative adverse impacts to coastal resources. Because the pilot facility is not expected to cause more than minimal impacts, because its approval does not in any way commit the Commission to approving a permanent desalination facility at this location, and because it does not necessarily lead to cumulative impacts due to construction and operation of a full-scale facility, it conforms to Coastal Act Section 30250(a) and to the LCP's North Coast Land Use Plan Section 2.3

3.3.1.4 Conclusion

Based on the County's record, the information provided by the appellants, and the above, the Commission finds that the project conforms to the above-referenced Coastal Act and LCP provisions.

3.3.2 Public Health and Welfare

3.3.2.1 Applicable LCP Provision

- County Ordinance Section 10.72
  [See text in Appendix B.]

3.3.2.2 Analysis of Conformity to Applicable LCP Provisions

The proposed project would be constructed and operated by California-American Water Company. Cal-Am is a subsidiary of American Water, which is in turn a subsidiary of RWE, a German company. The proposed project would be built on a site leased from LS Power, owner of the Moss Landing Power Plant. LS Power is a privately-held company[2].

Section 10.72 of the County's Environmental Health Ordinance requires that all desalination facilities in the County be publicly owned and operated and that they receive permits from the County Environmental Health Department for both construction and operation of the facility.

[2] In September 2006, LS Power announced that it would be purchased by Dynegy, Incorporated; however, that purchase has not yet been completed. Dynegy is a large company (S&P 500) that owns or leases about twenty power plants throughout the U.S.

The applications for these permits require the project proponent to identify site conditions and to describe the anticipated impacts of the facility. The specific requirements include providing a complete chemical analysis of the seawater to be used, submitting feasibility studies and detailed plans for disposing of brine and other by-products, and other similar submittals to allow identification of necessary mitigation measures. As determined by the Commission at its October 12, 2006 substantial issue hearing for this proposed project, this Ordinance is a component of the County's LCP[3].

The proposed project would be owned and operated by a non-public entity. However, the proposed facility is not required to comply with this Ordinance because it would be for testing only and would not produce water for human consumption or irrigation purposes. The facility is a pilot project, which will process water for the purpose of determining whether drinking water can be created. Water processed through the facility would be treated, separated, tested, recombined, and discharged, with none being used as drinking water. As noted in the August 19, 2004 letter from the County Health Department and the December 13, 2006 letter from the County Administrative Officer, the County did not require the pilot project to conform to the permit requirements of Section 10.72 because the facility would not produce potable water.

3.3.2.3 Conclusion

Based on the above, the Commission finds that the project as proposed conforms to County Ordinance 10.72.

5.0 CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

On July 14, 2006, the County of Monterey determined that the proposed project is categorically exempt pursuant to CEQA Guidelines Section 15306 as a data collection, research, and resource evaluation activity. In addition, Section 13096 of the Commission's administrative regulations requires Commission approval of CDP applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of the CEQA prohibits approval of a proposed development if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant impacts that the activity may have on the environment.

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[3] Briefly, the Commission found that this Ordinance was part of the County's Zoning Ordinance, which is one of the primary tools identified in the LCP's North County Land Use Plan for implementing that Plan. More specifically, Section 20.96.010 of the LCP's Coastal Zoning Ordinance incorporates by reference several other County ordinances, including portions of the Public Services ordinance at Title 15. Section 15.04.006 of that ordinance establishes several requirements applicable to water-related development, including the improvement of drinking water quality regulations, preventing the proliferation of water systems, and establishing the County's Environmental Health Department drinking water regulatory program. That regulatory program includes, in part, the County requirement at Section 10.72 that desalination facilities be publicly owned and operated. The Commission therefore found that this Ordinance is enforceable under the LCP, both as a general provision of the coordinating function of the Land Use Plan and the General Plan and as a specific provision of the Land Use Plan.

As discussed above, the proposed project is consistent with the policies of the Coastal Act. As proposed, the project will avoid all significant adverse environmental impacts. There are no feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impact that the activity would have on the environment. Therefore, the Commission finds that the proposed project is consistent with the requirements of CEQA.

APPENDIX A: SUBSTANTIVE FILE DOCUMENTS

- Certified County of Monterey Local Coastal Program
- County of Monterey File No. PLN040520
- Coastal Commission Appeal File No. A-3-MCO-06-384
- Appeal Applications from Commissioners Kruer and Shallenberger
- California-American Water Company, Proponent's Environmental Assessment For the Coastal Water Project (California Public Utilities Proceeding A.04-09-019), July 14, 2005
- Comments from RBF Consulting (Applicant's Agent), September 18, 2006
- August 19, 2004 letter from Monterey County Department of Health
- Addendum to Item Th6c-d for Energy and Ocean Resources Unit, December 14, 2006
- Comments from California-American Water Company:
    - Briefing packages for December 14th hearing
    - Presentation to California Coastal Commission, December 14, 2006
    - Letter of December 11, 2006
- December 13, 2006 letter from Monterey County Administrative Officer
- Coastal Commission hearing transcript from December 14, 2006
- Comment letters received, including:
    - State Water Resources Control Board, December 13, 2006
    - Congressman Sam Farr, December 13, 2006
    - Castroville Water District, December 12, 2006
    - City of Monterey, December 8, 2006
    - Assemblymember John Laird, December 12, 2006
    - Carmel River Watershed Conservancy, December 10, 2006
    - U.S. Desalination Coalition, December 13, 2006
    - City of Seaside, December 12, 2006
    - Monterey County Business Council, December 11, 2006
    - Monterey Peninsula Water Management District, December 14, 2006

APPENDIX B: APPLICABLE COASTAL ACT AND LCP PROVISIONS

Listed in the order cited in the findings above:

- County Ordinance 15.22, as incorporated by reference by LCP Section 20.96
- Section 2.3.3.D from the LCP's North County Land Use Plan, Marine Resources
- Section 20.144.070 of the LCP's Coastal Implementation Plan – Regulations for Development in the North County Land Use Plan Area, Chapter 20.144
- Section 2.3 of the LCP's North County Land Use Plan
- Section 20.144.040 of the Coastal Implementation Plan – Regulations for Development in the North County Land Use Plan Area, Chapter 20.144
- Section 5.5.2.3 of the LCP's Moss Landing Community Plan
- Section 20.96.010 of the County Zoning Ordinance applicable to coastal areas
- Title 15.04.006 – Public Services
- County Ordinance Section 10.72.10-30

County Ordinance 15.22, as incorporated by reference in LCP Section 20.96, states in relevant part:

> *15.22.020 Definitions.*
> *For the purpose of this Chapter, the following words and phrases shall have the meanings respectfully ascribed to them by this Section:*
> *A. Waters of the County. Any waters, surface or underground, including saline waters, within the boundaries of or abutting the County of Monterey.*
> *B. Contaminant. Any physical, chemical, biological, or radiological substance or matter in water, including but not limited to toxic and hazardous chemicals, selenium, pesticides, nutrients, sediments, heavy metals, and trace elements from agricultural drainage water, sewage, and any other waste water in sufficient quantities that will be detrimental to the present and future beneficial users.*
> *C. Contamination. Any impairment of the quality of the waters of the County by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. "Contamination" shall include any equivalent effect resulting from the disposal of waster, whether or not waters of the County are affected.*
> *D. Pollution. Any alteration of the quality of the waters of the County to a degree which unreasonably affects such waters for beneficial uses, or facilities which serve such beneficial uses. Pollution may include contamination.*
> *E. Person. Includes an individual, firm, association, partnership, corporation, and public entity.*
> *15.22.30.A. It shall be unlawful for any new pipes or conduits to carry discharges into the waters of the County which contain any contaminant or cause any contamination or pollution.*
> *B. It shall be unlawful to discharge into the waters of the County any contaminant or cause any contamination or pollution.*
> *C. It shall be unlawful to place or cause to be placed any pipes or conduits that are to carry contaminants into the waters of the County.*

The LCP's North County Land Use Plan, Policy 2.3.3.D – Marine Resources, states:

> *All new and/or expanding wastewater discharges into the coastal waters of Monterey County shall require a permit from the Health Department. Applicants for such permits shall be required to submit, at a minimum, the following information and studies:*
> *1. Three years monitoring records identifying the existing characteristics of the proposed wastewater discharge. Particular areas of concern include toxic chemicals, inorganic heavy metals, bacteria, and other indicators prescribed as threats to the health and safety of coastal waters, or*
> *2. Provide comprehensive projections of the proposed wastewater discharges; both quantitative and qualitative characteristics must be specifically identified. Specific figures for the indicators identified in (1) must be included in the projections.*
> *3. Provide complete information on levels of treatment proposed at the treatment facility to remove those indicators mentioned in (1). This information shall also include reliability and efficiency data of the proposed treatment.*
> *4. Provide a comprehensive monitoring plan for testing of wastewater for indicators identified in (1).*
> *5. Perform oceanographic studies to determine the most suitable location and methods for discharge into the ocean.*
> *6. Perform tests of ocean waters at the proposed discharge site and surrounding waters to establish baseline or background levels of toxic chemicals, heavy metals, bacteria and other water quality indicators. These tests must be performed no more than one year prior to submittal of the proposal. Historical data may not be substituted for this requirement.*
> *7. Perform toxicity studies to determine the impacts of the proposed wastewater discharges on marine life, as well as on recreational uses of the coastal waters.*
> *8. Identify and analyze alternative methods of wastewater disposal. This shall include hydrogeologic studies of the applicant's groundwater basin to determine the water quality problems in that area and if onsite disposal will have an adverse impact on groundwater quality. The data and results of requirements (1) through (8) must be submitted to the County's Chief of Environmental Health for evaluation and approval. A wastewater discharge permit shall be issued only if the above information demonstrates that the proposed wastewater discharge will not degrade marine habitats; will not create hazardous or dangerous conditions; and will not produce levels of pollutants that exceed any applicable state or federal water quality standards.*

Section 20.144.070 of the Coastal Implementation Plan (Regulations for Development in the North County Land Use Plan Area, Chapter 20.144 states, in relevant part:

> *Intent of Section: The intent of this Section is to provide development standards which will protect the water quality of the North County surface water resources aquifers, and groundwater control new development to a level that can be served by identifiable, available, and long-term water supplies, and protect North County streams, estuaries, and wetlands from excessive sedimentation resulting from land use and development practices in the watershed areas.*
> …

D. Hydrologic Report Requirement
1. A hydrologic report shall be required for any development which involves intensification of water use. As an exemption to this requirement, a hydrologic report will not be required for the following: a) development of a single residence on a vacant, undeveloped parcel; and, b) development of an accessory structure, including a guesthouse. Uses where the water will be used for agricultural operations shall not be exempted from the hydrologic report.
2. The report shall be required, submitted, and approved by the Director Environmental Health prior to the application being determined complete.
3. The hydrologic report shall be prepared by a registered engineer or hydrologist, at the applicant's expense. A minimum of 4 copies shall be submitted.
4. The report shall be reviewed by the Health Department, Flood Control District and other departments or agencies appropriate for the specific project. A copy of the submitted report shall be sent to each reviewing agency by the Health Department, with comments requested by a specified date. After comments have been received, the Health Department may require that the report be revised to include additional information or assessment as deemed necessary by the reviewing agencies. A third party review, by a civil engineer or hydrologist at the applicant's expense, may also be required. All departmental review, report revisions, and third party review must be complete before the report may be approved by the Director of Planning and accepted by the Director of Planning.
5. The hydrologic report shall contain, at a minimum, the following elements:

a. location map;
b. to-scale site plan showing the entire parcel and proposed and existing structures, roads, land use, landscaping, wells, and water lines, and hydrologic and drainage features;
c. description of how water is currently supplied and how it will be supplied to the proposed development;
d. assessment of existing and proposed water usage, including water usage for landscaped and other vegetated areas;
e. description of hydrologic setting and features on the parcel and in the area, and for areas presently cultivated or proposed for cultivation;
f. description of investigation methods, including review of well logs, (subject to owner's permission) on-site and off-site testing, and contacts with Health Department and Flood Control District staff;
g. description of other development activity in the area, both proposed and under construction;
h. assessment of the individual and cumulative impacts of the proposed development on the quantity and quality of the groundwater table and local aquifer, specifically addressing nitrates, TDS, and toxic chemicals;
i. assessment of the proposed development's individual and cumulative impact on the aquifer's safe long-term yield level, saltwater intrusion, and long-term maintenance of local coastal priority agricultural water supplies;

j. *description and assessment of project alternatives, including reduced density, if needed to mitigate the proposed development's adverse impacts as identified above; and, recommendations for water conservation measures, addressing siting, construction, and landscaping and including retention of water on site to maximize groundwater recharge and reclamation of water.*

Section 2.3 of the LCP's North County Land Use Plan states, in relevant part:

> *…Environmentally sensitive habitats are areas in which plant or animal life or their habitats are rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. These include Areas of Special Biological Significance as identified by the State Water Resources Control Board; rare and endangered species habitat, all coastal wetlands and lagoons, all marine wildlife, and kelp beds; and indigenous dune plant habitats.*
>
> *The Coastal Act emphasizes the importance of maintaining environmentally sensitive habitats and further stresses that future development within or adjacent to sensitive areas must be appropriate with respect to type of use, siting, and design to ensure that the sensitive areas are not degraded or threatened. Only coastal-dependent uses are permitted within sensitive habitat areas including nature education and research, hunting, fishing, and aquaculture. Among the sensitive habitat areas found nearest the coast are the Monterey Bay itself, the delicate dunes and beaches, and the large sloughs and saltwater marshes--each with a different and changing degree of salinity. A unique community of vegetation and wildlife is supported in each area.*
>
> …
>
> *Perhaps most unique among all of these habitats are the sloughs, the estuarine waters resulting from the mixing of seawater with freshwater. They are also some of the most sensitive. The sloughs provide a sanctuary for harbor seals, sea otters, and a great variety of fish and birds. Factors with the potential to severely affect the stability and viability of the estuarine habitat are alterations in the drainage systems, sedimentation, and obstacles to water circulation (i.e., tidegates or undersized culverts). Oil spills are a particularly devastating possibility.*
>
> …
>
> *The quality of North County's coastal waters could be jeopardized by increased discharges of wastewater, with predictable negative impacts on the health and welfare of the County's citizens. The potential sources for this wastewater originate from both within and outside of Monterey County. It is therefore imperative that the County have strict guidelines and controls for all wastewater discharges into Monterey Bay and the County's coastal waters.*
>
> *2.3.1 Key Policy: The environmentally sensitive habitats of North County are unique, limited, and fragile resources of statewide significance, important to the enrichment of present and future generations of county residents and visitors; accordingly, they shall be protected, maintained, and, where possible, enhanced and restored.*

2.3.2 General Policies:
1. With the exception of resource dependent uses, all development, including vegetation removal, excavation, grading, filling, and the construction of roads and structures, shall be prohibited in the following environmentally sensitive habitat areas: riparian corridors, wetlands, dunes, sites of known rare and endangered species of plants and animals, rookeries, major roosting and haulout sites, and other wildlife breeding or nursery areas identified as environmentally sensitive. Resource dependent uses, including nature education and research hunting, fishing and aquaculture, where allowed by the plan, shall be allowed within environmentally sensitive habitats only if such uses will not cause significant disruption of habitat values.
2. Land uses adjacent to locations of environmentally sensitive habitats shall be compatible with the long-term maintenance of the resource. New land uses shall be considered compatible only where they incorporate all site planning and design features needed to prevent habitat impacts, upon habitat values and where they do not establish a precedent for continued land development which, on a cumulative basis, could degrade the resource.
3. New development adjacent to locations of environmentally sensitive habitats shall be compatible with the long-term maintenance of the resource. New subdivisions shall be approved only where significant impacts to environmentally sensitive habitats from development of proposed parcels will not occur.
4. To protect environmentally sensitive habitats and the high wildlife values associated with large areas of undisturbed habitat, the County shall maintain significant and, where possible, contiguous areas of undisturbed land for low intensity recreation, education, or resource conservation use. To this end, parcels of land totally within sensitive habitat areas shall not be further subdivided. On parcels adjacent to sensitive habitats, or containing sensitive habitats as part of their acreage, development shall be clustered to prevent habitat impacts.
5. Where private or public development is proposed in documented or potential locations of environmentally sensitive habitats – particularly those habitats identified in General Policy No.1 – field surveys by qualified individuals or agencies shall be required in order to determine precise locations and to recommend mitigating measures to ensure protection of any sensitive habitat present. The required survey shall document that the proposed development complies with all applicable environmentally sensitive habitat policies.

Section 20.144.040 of the Coastal Implementation Plan (Regulations for Development in the North County Land Use Plan Area, Chapter 20.144) states, in relevant part:

Intent of Section: The intent of this Section is to provide development standards which will allow for the protection, maintenance, and, where possible, enhancement and restoration of North County environmentally sensitive habitats. The environmentally sensitive habitats of North County are unique, limited, and fragile resources of Statewide significance, important to the enrichment of present and future generations of County residents and visitors.

A. Biological Survey Requirement

1. A biological survey shall be required for all proposed development meeting one or more of the following criteria:

a. the development is located within an environmentally sensitive habitat, as shown on current North County Environmentally Sensitive Habitat resource map or other available resource information, or through the planner's on-site investigation;

b. the development is potentially located within an environmentally sensitive habitat, according to available resource information or on-site investigation;

c. the development is or may potentially be located within 100 feet of an environmentally sensitive habitat, and/or has potential to negatively impact the long-term maintenance of the habitat, as determined through staff's project review; or,

d. there is disagreement between staff and the applicant as to whether the proposed development meets one of the above criteria.

2. The survey shall be required, submitted, and meet approval of the Planning Department prior to the project application being determined complete. 2 copies of the survey report shall be submitted.

3. The survey shall be prepared by a qualified biologist, as selected from the County's list of Consulting Biologists. Report preparation shall be at the applicant's expense.

4. The biological survey shall contain the following elements:

a. identify the property surveyed, with accompanying location map and site plan showing topography and all existing and proposed structures and roads, and the proposed project site(s);

b. describe the method of survey;

c. identify the type(s) of plant and animal habitats found on the site (and/or on adjacent properties where development is adjacent to the habitat), with an accompanying map delineating habitat location(s);

d. identify the plant and animal species, including rare and endangered species, found on the site (or on adjacent properties, where development is adjacent to the habitat) with a map showing their habitat locations

e. in areas of potential public access, determine the maximum amount and type(s) of public use which will allow for the long-term maintenance of the habitat;

f. describe and assess potential impacts of the development on the environmentally sensitive habitat(s) found on the site and/or on neighboring properties;

g. recommend mitigation measures, such as setbacks from the habitat, building envelopes, and modifications to proposed siting, location, size, design, vegetation removal, and grading, which will reduce impacts to on-site or neighboring habitats and allow for the habitat's long-term maintenance;

h. assess whether the mitigation measures will reduce the development's impact to an insignificant level, which is the level at which the longterm maintenance of the habitat is assured; and,

i. other information or assessment as necessary to determine or assure compliance with resource protection standards of the North County Land Use Plan and of this ordinance.

The biological survey may be waived by the Director of Planning for development of a single family dwelling on a vacant lot of record created through subdivision or lot line adjustment, for which a biological survey was prepared according to the requirements of this section.

B. General Development Standards
1. All development, including vegetation removal, excavation, grading, filling, and construction of roads and structures, shall be prohibited in the following environmentally sensitive habitat areas: riparian corridors, wetlands, dunes, Sites of known rare and endangered species of plants and animals, rookeries, major roosting and haul-out sites, and other wildlife breeding or nursery areas identified as environmentally sensitive. As an exception, resource dependent uses, including nature education and research hunting, fishing and aquaculture, where allowed by the North County Land Use Plan, or activities for maintenance of existing structures and roads, or activities for watershed restoration may be allowed within environmentally sensitive habitats if it has been determined through the biological survey that impacts of development will not harm the habitat's long-term maintenance.
2. Development on parcels containing or within 100 feet of environmentally sensitive habitats, as identified on the current North County Environmentally Sensitive Habitat resource map, other resource information, or planner's on-site investigation, shall not be permitted to adversely impact the habitat's long-term maintenance, as determined through the biological survey prepared for the project. Proposals shall be modified for siting, location, bulk, size, design, grading vegetation removal, and/or other methods where such modifications will reduce impacts to an insignificant level and assure the habitat's long-term maintenance. Also, the recommended mitigation measures of the biological survey will be considered by the decision-making body and incorporated into the conditions of approval as found necessary by the decision-making body to implement land use plan policies and this ordinance and made conditions of project approval…
C. Specific Development Standards
2. Riparian, Wetland, and Aquatic Habitats

d. All development shall be set a minimum of 100 feet back from the landward edge of vegetation associated with coastal wetlands, including but not limited to McClusky Slough, Pajaro River, Salinas River, Salinas River lagoon, Elkhorn Slough, Bennett Slough, and Moro Cojo Slough. As an exception, permanent structures necessary for recreational, scientific, or educational use of the habitat may be permitted within the setback area where it is demonstrated that: 1) the structure cannot be located elsewhere: and, 2) the development does not significantly disrupt or adversely impact the habitat as determined in the biological survey prepared for the project. As a further exception, the permanent structures along Moss Landing Road on the west side of Moro Cojo Slough which are located within the 100 foot setback, as shown in Attachment 4, may be replaced, provided that: 1) the replaced be sited in the same location on the affected property as the structure to be replaced; 2) the replacement shall conform to the requirements of the applicable zoning district: 3) the replacement structure shall be for the same use as the structure to be replaced: 4) the replacement structure shall not exceed either the floor area, height or bulk of the structure to be replaced by more than 10%; and 5) the replacement does not adversely impact the habitat as determined in the biological survey prepared for the project. Where development is proposed on any portion of a parcel containing area within a 100 foot setback of the landward edge of coastal wetland vegetation, the setback area shall be placed in an open space easement as a condition of project approval. The easement shall be in accordance with the requirements of Section 20.142.130.

e. *Development which includes dredging or other major construction activities which are considered to be those with potential to adversely impact riparian, wetland, or aquatic habitats shall be conducted so as to avoid breeding seasons and other critical phases in the life cycles of commercial species of fish and shellfish and other rare, endangered, and threatened indigenous species. Recommended mitigation measures to avoid disruption of plant and animal lifecycles, as contained in the biological survey required in accordance with Section 20.144.040.A, shall be made conditions of project approval.*
f. *Development and recreational activities near the harbor seal haul-out areas, as shown on current North County Environmentally Sensitive Habitat resource map, or through a biologic report, the planner's on-site investigation, or other resource information, shall not adversely impact the continued viability and long-term maintenance of this habitat. As such, conditions of project approval and project modifications, as recommended in the biological survey, shall be required where necessary to mitigate adverse habitat impacts.*
g. *New development shall not be permitted adjacent to estuarine areas where such development may result in: 1) drainage or discharge of oil or other toxic substances into the estuary: or, 2) increase in the hazard of oil spill or toxic substance discharge into the estuary. As such, development on parcels containing, adjacent to, or with drainage into estuarine areas must comply with all Monterey County Code regulations of toxics and hazardous substances, as administered by the County Health Department. As such, the applicant for development on such parcels shall be required to contact the County Health Department for a review of the development's conformance with Titles 22 and 23 of the Public Resources Code and with applicable sections of the Monterey County Code pertaining to toxics and hazardous substances, prior to the application being determined complete. The applicant shall be required to provide written verification from the Health Department that: 1) the project complies with Code requirements; or, conditions of project approval, 2) with the proposed development will comply with Code requirements and will not result in or increase the hazard of drainage or discharge of oil or other toxic substances into the estuary; or, 3) additional studies must be completed prior to the Health Department's verification. Such studies shall be completed prior to the application being considered complete, and shall include such information and testing as determined necessary by the Health Department. Conditions of project approval shall be applied as necessary to assure no impacts to the estuary related to hazardous or toxic substances.*

Section 5.5.2.3 of the LCP's Moss Landing Community Plan states, in relevant part:

> *The least environmentally damaging alternative should be selected for on-site modernization and upgrading of existing facilities. When selection of the least environmentally damaging alternative is not possible for technical reasons, adverse environmental effects of the preferred alternative shall be mitigated to the maximum extent.*

Section 20.96.010 of the County Zoning Ordinance states, in relevant part:

> *The provisions of the following Titles and Chapters of the Monterey County Code as may be amended from time to time, copies of which are on file as required by law, are adopted and incorporated into this title by reference:…*
> *…C. The following Chapters of Title 15 (Public Services):*
> *1. Chapter 15.04 (Small Water Systems)*
> *2. Chapter 15.08 (Water Wells)*
> *3. Chapter 15.21 (Prohibited Discharge of Sewage into Streams)*
> *4. Chapter 15.22 (Discharge of Contaminants into Waters of the County)*
> *5. Chapter 15.23 (Sewage Treatment and Reclamation Facilities)*

Title 15.04.006 of the County's Public Services Ordinance states, in relevant part:

> *a. Every citizen of Monterey County has the right to pure and safe drinking water.*
> *b. This Chapter is intended to ensure that the water delivered by domestic public water systems of Monterey County shall be pure, wholesome, and potable at all times. The provisions of this Chapter provide the means to accomplish this objective.*
> *c. It is the intent of Monterey County to improve laws governing drinking water quality and to establish drinking water standards which are at least as stringent as those established under Chapter 15 of Title 22 of California Code of Regulations.*
> *d. It is the further intent of Monterey County to establish drinking water regulatory program within the Monterey County Health Department in order to provide for the orderly and efficient delivery of safe drinking water within the County.*
> *e. It is the policy of Monterey County to reduce the proliferation of water systems. The provisions of this Chapter provide the means to accomplish this objective by requiring consolidation and incorporation of proposed and existing water systems when feasible.*
> *f. Proliferation of water systems results from fragmentation of existing water systems. It is the intent of Monterey County to prevent construction of new systems within the service boundaries of existing water systems, analogous to the anti-paralleling rules of the Public Utilities Commission.*
> *g. It is the intent of Monterey County to implement the goal of the County General Plan Policy which is to promote adequate water service for all County needs and to achieve a sustained level of adequate water services. The provisions of this Chapter provide the means to accomplish this objective by implementing Sections 53.1.1 through 53.1.5, inclusive, of said Policy which state in part as follows:*
> *1. The County shall encourage coordination between those public water service providers drawing from a common water table to assure that the water table is not overdrawn.*
> *2. The County shall not allow water consuming development in areas which do not have proven adequate water supplies.*
> *3. New development shall be required to connect to existing water service providers which are public utilities, where feasible.*
> *4. Proliferation of wells, serving residential, commercial, and industrial uses, into common water tables shall be discouraged.*

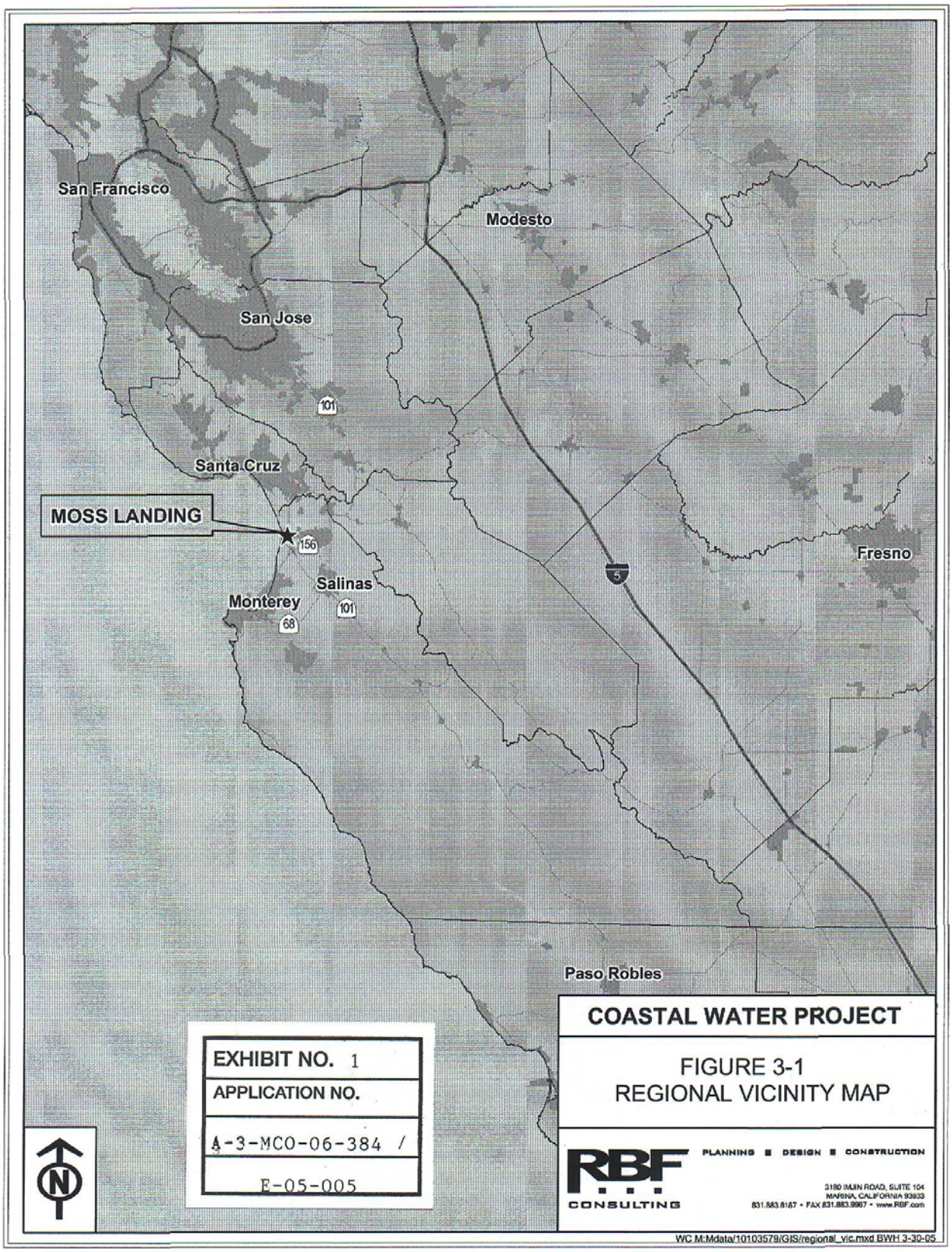
County Ordinance Section 10.72 states, in relevant part:

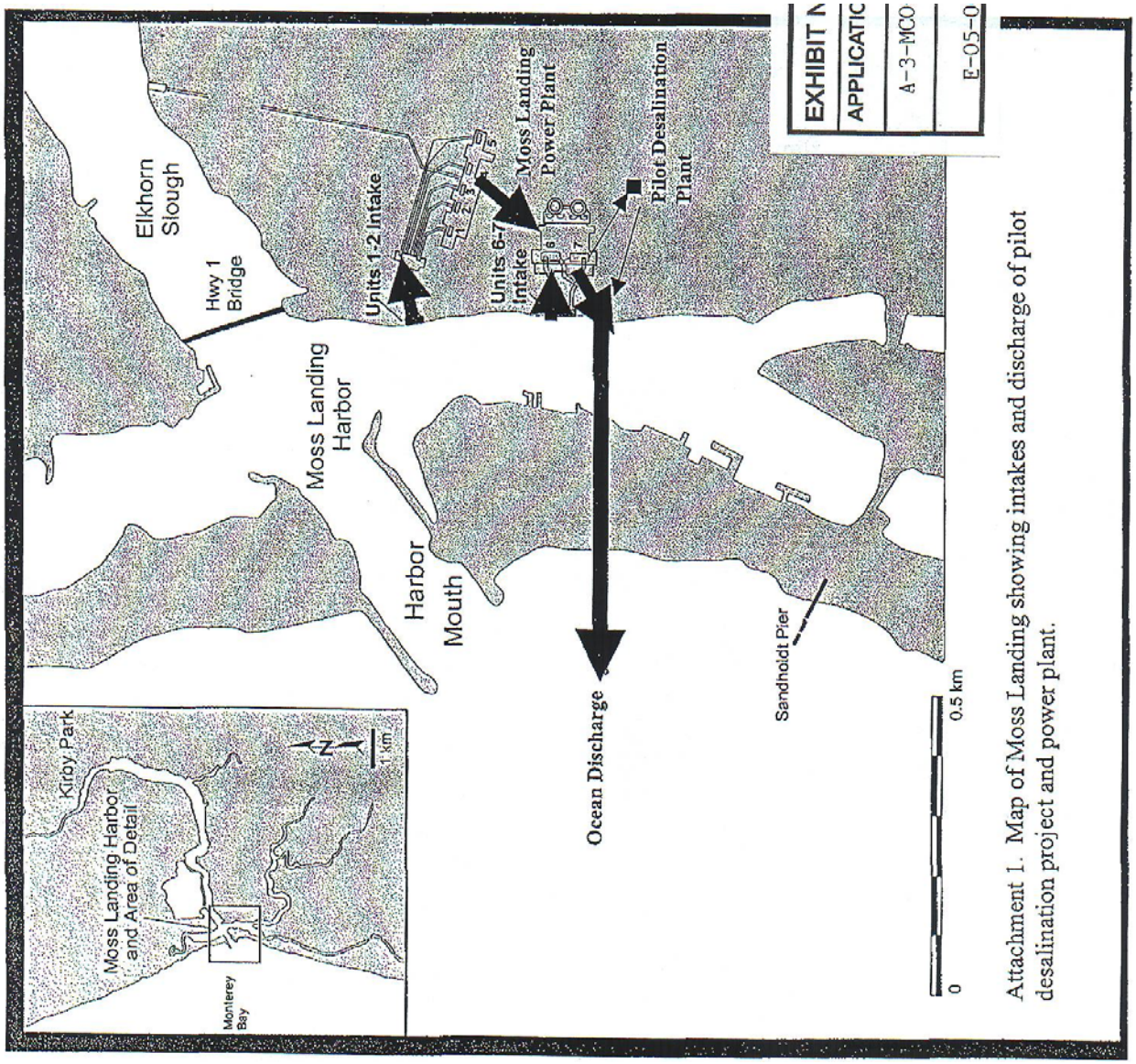
> *10.72.010 Permits required: No person, firm, water utility, association, corporation, organization, or partnership, or any city, county, district, or any department or agency of the State shall commence construction of or operate any Desalinization Treatment Facility (which is defined as a facility which removes or reduces salts from water to a level that meets drinking water standards and/or irrigation purposes) without first securing a permit to construct and a permit to operate said facility. Such permits shall be obtained from the Director of Environmental Health of the County of Monterey, or his or her designee, prior to securing any building permit.*
>
> *10.72.020 Construction permit application process. All applicants for construction permits required by Section 10.72.010 shall:*
> *A. Notify in writing the Director of Environmental Health or his or her designee, of intent to construct a desalinization treatment facility.*
> *B. Submit in a form and manner as prescribed by the Director of Environmental Health, preliminary feasibility studies, evidence that the proposed facility is to be located within the appropriate land use designation as determined by the affected local jurisdiction, and specific detail engineering, construction plans and specifications of the proposed facility.*
> *C. Submit a complete chemical analysis of the sea water at the site of proposed intake. Such chemical analysis shall meet the standards as set forth in the current ocean plan as administered by the California State Water Resources Control Board and the United States Environmental Protection Agency. In the event the proposed intake is groundwater (wells), a chemical analysis of the groundwater at the proposed intake site shall be submitted as prescribed by the Director of Environmental Health.*
> *D. Submit to the Director of Environmental Health and Monterey County Flood Control and Water Conservation District a study on potential site impacts which could be caused by groundwater extraction.*
> *E. Submit preliminary feasibility studies and detailed plans for disposal of brine and other by-products resultant from operation of the proposed facility.*
> *F. Submit a contingency plan for alternative water supply which provides a reliable source of water assuming normal operations, and emergency shut down operations. Said contingency plan shall also set forth a cross connection control program. Applications which propose development of facilities to provide regional drought reserve shall be exempt from this contingency plan requirement, but shall set forth a cross connection control program.*
> *G. Prior to issuance of any construction permit, the Director of Environmental Health shall obtain evidence from the Monterey County Flood Control and Water Conservation District that the proposed desalinization treatment facility will not have a detrimental impact upon the water quantity or quality of existing groundwater resources.*
>
> *10.72.030 Operation permit process. All applicants for an operation permit as required by Section 10.72.010 shall:*
> *A. Provide proof of financial capability and commitment to the operation, continuing maintenance replacement, repairs, periodic noise studies and sound analyses, and emergency contingencies of said facility. Such proof shall be in the form approved by County Counsel, such as a bond, a letter of credit, or other suitable security including*

stream of income. For regional desalinization projects undertaken by any public agency, such proof shall be consistent with financial market requirements for similar capital projects.
B. Provide assurances that each facility will be owned and operated by a public entity.
C. Provide a detailed monitoring and testing program in a manner and form as prescribed by the Director of Environmental Health.
D. Submit a maintenance and operating plan in a form and matter prescribed by the Director of Environmental Health.
E. All operators of a desalinization treatment plant shall notify the Director of Environmental Health of any change in capacity, number of connections, type or purpose of use, change in technology, change in reliance upon existing potable water systems or sources, or change in ownership or transfer of control of the facility not less than ten (10) days prior to said transfer.

LCP Section 20.144.070.E.16 states:

Development of new or expansion of existing uses which generate a point source of pollution, such as community wastewater treatment systems or industrial or commercial discharge, shall only be allowed if pollution levels remain at levels which will assure the protection of public maintenance health and the long-term of wildlife and plant habitats. A condition of approval of all such development shall be the submittal and approval of a monitoring plan and implementation of a monitoring program subject to the approval of the Director of Planning and Director of Environmental Health. The monitoring program shall include monitoring and assessment of the water quality impacts to public health and plant and wildlife habitats, and shall include appropriate testing and studies, such as hydrologic reports and biological surveys. Non-point sources of pollution shall be subject to the standards of the 2081 Water Quality Management Plan, as set forth in the Erosion Control Ordinance, Grading Ordinance, Floodplain Ordinance, Sewage Disposal Ordinance, and Development Standards of the Coastal Implementation Plan.


San Francisco
Modesto
San Jose
101
Santa Cruz
MOSS LANDING
156
Salinas
Monterey
68
101
5
Fresno
Paso Robles
EXHIBIT NO. 1
APPLICATION NO.
A-3-MCO-06-384 /
E-05-005
COASTAL WATER PROJECT
FIGURE 3-1
REGIONAL VICINITY MAP
RBF CONSULTING
PLANNING ■ DESIGN ■ CONSTRUCTION
3180 IMJIN ROAD, SUITE 104
MARINA, CALIFORNIA 93933
831.883.8187 • FAX 831.883.9967 • www.RBF.com
WC M:Mdata/10103579/GIS/regional_vic.mxd BWH 3-30-05



Attachment 1. Map of Moss Landing showing intakes and discharge of pilot desalination project and power plant.