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Item No. F6a
E-11-019
Monterey County Water Resources Agency
Marina Coast Water District
California-American Water Company

CORRESPONDENCE

LandWatch
monterey county

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July 27, 2011

RECEIVED
AUG 01 2011
CALIFORNIA
COASTAL COMMISSION

Mary Shallenberger, Chair
Members of the Commission
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

SUBJECT: August 12, 2011 - AGENDA ITEM 6 - REGIONAL DESALINATION PROJECT

Dear Chair Shallenberger and Members of the Commission:

LandWatch Monterey County is a membership 501c3 non-profit founded in 1997 with the mission to promote and inspire sound land-use legislation through grassroots community action. LandWatch's involvement in the Regional Project dates back to April 15, 2009 when we commented on the DEIR for the project. We urge the Commission to delay a decision on the test well application for the project. Until the following issues are resolved, there can be no assurance that the project is – or was ever - viable:

- Description of the project is uncertain.
- The conflict of interest issue involving Monterey County Water Resources Agency director Steve Collins.
- Financing options.
- Litigation challenging the Regional Desalination project regarding violations of the California Environmental Quality Act, groundwater rights to the pumping of feedwater for the desalination plant, and violation of the prohibition on groundwater export from the Salinas Valley Groundwater Basin.

Project Uncertainty. The agencies have not approved the proposed slant test well. The Marina Coast Water District, Monterey County Water Resources Agency and the California Public Utilities Commission approved a project that had vertical wells not slant wells. Until approval of slant wells occurs, the Commission should not consider the slant test application.

In addition, the Commission should review the changing location of the project as a whole, instead of just a single test well, because the project applicants keep changing well locations, location of the pipeline, and types of facilities (vertical wells v. slant wells). The whole, fixed project should be reviewed in its entirety and not in a piecemeal fashion. The Commission and the public deserve to know exactly what is being proposed, without constant changes to key aspects of this huge and expensive project.

Conflict of Interest. Steve Collins was on the Board of Directors of the Monterey County Water Resource Agency (MCWRA) until his resignation in early 2011. During 2010 Mr. Collins was employed by RMC Water and Environment which paid him $160,000 to work behind the scenes on the Regional

Project while still acting on the Board of Directors of the MCWRA. The public became aware of the alleged conflict in June 2011. Reports prepared by legal firms hired by Marina Coast Water District (MCWD) and Monterey County to investigate the matter present conflicting information about Mr. Collins' role and whether other elected and appointed public officials were aware of the alleged conflict. The matter is currently being investigated by the Monterey County District Attorney and the California Political Practices Commission. Future litigation may result from this situation.

Financial Options. Financing of the Regional Desalination Project remains uncertain due to numerous unresolved issues. Preliminary reports on financing the project prepared for Marina Coast Water District and Monterey County Water Resources Agency have identified serious stumbling blocks to obtaining funding at reasonable rates. Impediments to funding include but are not limited to pending litigation, lack of water rights, and the unwieldy governance structure for the project. Because of the timing of these preliminary reports, they did not address potential impacts that the conflict of interest matter would have on funding options.

The water purchase agreement and settlement agreement for the Regional Project approved by the California Public Utilities Commission address the roles and responsibilities of the various parties to these agreements as well as the governance structure. The key signatories to the agreement are the Monterey County Water Resources Agency, the Marina Coast Water District, and Cal Am Water Company. In a recent editorial in The Herald (July 13, 2011), Supervisor Lou Calcagno stated, "The Board of Supervisors needs to take a step back and re-examine the three-party agreements and all agreements subsequent, including the contract for management services with RMC and any financing plans." Revisiting these agreements would result in substantial delays.

Litigation. The Ag Land Trust has challenged the Regional Desalination Project on several grounds. The lawsuits filed against Marina Coast Water District and the Monterey County Water Resources Agency include three causes of action related to violations of the California Environmental Quality Act, lack of water rights and violation of the prohibition on exporting groundwater from the Salinas Valley Groundwater Basin. The first of these lawsuits is set for trial on September 29, 2011.

LandWatch Monterey County thinks these are compelling reasons supporting our recommendation that approval of any part of the Regional Desalination Project be delayed until the issues are resolved. We urge the Commission to continue the hearing until these issues have been resolved or to deny the application outright.

Sincerely,

Amy L. White
Executive Director

LAW OFFICES OF
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July 29, 2011

Via Email
Mary K. Shallenberger, Chair and
Members of the California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

August 12, 2011
Item 6a

RECEIVED
AUG 01 2011
CALIFORNIA
COASTAL COMMISSION

Re: Regional Desalination Project – Slant Well application

Dear Chair Shallenberger and Members of the Coastal Commission:

This Office represents Ag Land Trust, which urges you to deny the application for a slant well for the Regional Desalination project. On July 26, 2011, we submitted a letter rebutting the applicant's water rights claims made by Downey Brand. Today we address other serious problems of the Regional Project.

Ag Land Trust urges you to continue consideration of the slant well application for the following reasons:

1. Slant wells were not part of the project approvals by the Public Utilities Commission, or the Monterey County Water Resources Agency, or the Marina Coast Water District.
2. The proposed slant well would pump water from the 180-foot aquifer of the Salinas Valley Groundwater Basin. Any removal of groundwater from the overdrafted groundwater basin must have valid groundwater rights. The project applicants have no rights to pump groundwater. Pumping groundwater would harm the water rights of others. If existing water rights or water supplies are harmed, it could lead to liability.
3. The Commission should review the Regional Project as a whole, instead of reviewing project parts in a piecemeal fashion. The Commission deserves a comprehensive presentation and analysis of the entire project and its impacts before acting on any part of the project, such as the proposed slant well.

The application should be continued until (1) the PUC, Monterey County and Marina Coast Water District have approved the slant well, (2) the applicants provide proof of groundwater rights, and (3) Commission staff has provided a comprehensive analysis of the desalination project application.

There are additional serious reasons why the application should be rejected:

4. The proposed well is likely to cause irreparable damage, contamination, and harm to Ag Land Trust's existing groundwater supplies and groundwater

rights, and would constitute a taking of Ag Land Trust's rights by the Commission and a denial of due process. The Commission has no right or authority to approve test wells that would take or contaminate the groundwater supplies under Ag Land Trust farmlands.

5. The environmental documents are inadequate and do not adequately disclose or mitigate environmental impacts of the desalination project or of the proposed slant well.
6. "Slant wells are relatively new technology with few known successful uses for desalination feed water." (FEIR, p. 7-28.) Slant wells would not meet the objectives of the Regional Project. (FEIR, p. 7-29.)
7. The proposed groundwater pumping by the approved vertical wells would violate the North County Land Use Plan policies.
8. Pending litigation challenges to the actions of the Marina Coast Water District and Monterey County Water Resources Agency.
9. Allegations of misconduct and conflicts of interest with regard to public officials and Regional Project contracts. (See Exhibit A.)

Ag Land Trust Is a Landowner in the Salinas Valley.

Ag Land Trust is a nonprofit corporation whose mission is to preserve the prime agricultural lands of the Salinas Valley. The Trust owns 320 acres in fee and holds 64 easements on 20,622 acres in Monterey, San Mateo, and San Benito counties. The Trust's former name was the Monterey County Agricultural and Historical Land Conservancy. The Trust owns property in active agricultural use located to the west and east of Highway One north of the city of Marina. That property has a water well.

Ag Land Trust property is the site of the proposed vertical wells for the Regional Project, according to the EIR relied upon by the Public Utilities Commission, Monterey County Water Resources Agency, and Marina Coast Water District for their approvals. Ag Land Trust has not given permission for the wells to be drilled on its property.

Neither the Public Utilities Commission, nor the Monterey County Water Resources Agency, nor Marina Coast Water District Has Approved Slant Wells.

The environmental impact report looked at three desalination projects:

- Regional Project north of Marina with six 200' vertical wells located inland, pumping brackish water from the 180' aquifer. (FEIR, pp. 5-21, 7-25, 7-28 [wells "drilled into a clearly-defined aquifer"].)

- North Marina project with six 750' slant wells located on the Marina dunes, pumping subsurface seawater. (FEIR, pp. 5-2, 7-22, 7-24.)
- Moss Landing project with seawater intake. (FEIR, p. 3-8.)

Based on the EIR relied upon by the applicants here, the PUC, Marina Coast Water District, and Monterey County approved a project that included six vertical wells clustered 500 feet apart in the area of the Ag Land Trust property north of Marina.[1] These vertical wells were to provide the brackish source water for the desalination plant. According to the EIR,

- "Vertical wells are proven and tested technology with little risk." (FEIR, p. 7-28.)
- Vertical wells "would have less severe environmental impacts than slant wells due to the shorter pipeline length and drilling required (100 feet instead of 750 feet)." (FEIR, p. 7-29.)
- Vertical wells have advantages over subsurface intake wells due to independent environmental, feasibility and policy reasons. (FEIR, p. 7-28.)
- "In summary, . . . vertical wells appear to be the environmentally-superior alternative." (FEIR, p. 7-29)

In contrast, slant wells, such as the proposed subsurface well, have problems.

- While vertical wells would meet the Regional Project objectives, slant wells would not meet the project objectives. (FEIR, p. 7-29.)
- "Slant wells are relatively new technology with few known successful uses for desalination feed water." (FEIR, pp. 7-28.)
- No operating desalination plant uses slant wells. (FEIR, p. 3-27.)

No agency has approved wells located at the Marina Coast Water District site. No agency has approved a slant well. And slant wells would not meet project objectives. But that is the current application to the Coastal Commission: a slant well at the Marina Coast site. The Commission should deny or continue the application.

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[1] The vertical well location was identified by a blue swath in FEIR Revised Figure 5-3. The vague blue swath was controversial. The EIR preparer refused to provide more detailed location information. The proposed Marina Coast WD site is not in the well location delineated by the blue swath, and was not approved by the previous agencies.

No Water Rights to Pump Groundwater. Harm to Existing Groundwater Rights. Possible Takings and Due Process Violations.

The Regional Project proponents do not have groundwater rights to pump the slant well. The Ag Land Trust position with regard to water rights is described more fully in this Office's July 26, 2011 letter to the Coastal Commission. That letter rebuts the claims made in a May 20, 2011 letter from MCWRA legal counsel Downey Brand to Lyndel Melton of RMC, the project applicants' agent.

The approval by the Commission of the proposed well is likely to cause irreparable damage, contamination, and harm to Ag Land Trust's existing groundwater supplies and groundwater rights, and would constitute a taking of Ag Land Trust's rights by the Commission and a denial of due process. The Commission has no authority to issue a permit for test wells that are intended to take, contaminate, or permanently compromise the groundwater supplies under Ag Land Trust farmlands.

Ag Land Trust's groundwater supplies are identified in the Central Coast RWQCB Basin Plan and are absolutely protected by the State of California's SWRCB Non-Degradation Policy that was adopted in 1968 and remains in full force and effect.

The Groundwater Pumping Would Violate North County LUP Policies.

The 1982 North County Land Use Plan identified problems which remain today:

> "In past years, some development and land use practices have been insensitive to the resources of this area. . . . Saltwater intrusion from Monterey Bay into the groundwater due to overdrafting the aquifers has become a major concern." (LUP, at p. 22.)
>
> "Virtually all of the population and commercial businesses of North County are served by water pumped from local wells. Agriculture, the major water user, is also presently dependent upon groundwater. The groundwater of the area is currently being overdrafted, leading to saltwater intrusion along the coast and falling groundwater table levels in some inland areas. . . . . It is evident that continued overdraft in the North County will lead to increasing saltwater intrusion and lower water tables." (LUP, at p. 34.)
>
> "North County is also facing water quality problems from groundwater overdraft and saltwater intrusion. In the

> Castroville area seawater has been intruding progressively further inland in the two major aquifers." (LUP, p. 46.)
>
> "The availability and quality of groundwater related to overdraft, nitrate contamination, and saltwater intrusion problems is also a major issue." (LUP, p. 64.)

The North County LUP contains important policies on water supply. The Regional Project's pumping of groundwater would violate those policies listed below.

Key Policy 2.5.1	The water quality of the North County groundwater aquifers shall be protected, and new development shall be controlled to a level that can be served by identifiable, available, long term-water supplies.
General Policy 2.5.2.3	New development shall be phased so that the existing water supplies are not committed beyond their safe long term yields. Development levels that generate water demand exceeding safe yield of local aquifers shall only be allowed once additional water supplies are secured.
Specific Policy 2.5.3.A.1	The County's Policy shall be to protect groundwater supplies for coastal priority agricultural uses with emphasis on agricultural lands located in areas designated in the plan for exclusive agricultural use.
Specific Policy 2.5.3.A.2	The County's long-term policy shall be to limit ground water use to the safe-yield level. . . . .
Specific Policy 2.5.3.A.3	The County shall regulate construction of new wells or intensification of use of existing water supplies by permit. Applications shall be regulated to prevent adverse individual and cumulative impacts upon groundwater resources.

Because the Salinas Valley Groundwater Basin is being overdrafted and seawater intrusion is continuing, the pumping is exceeding the safe yield. There is no surplus groundwater available to supply new uses such as the Regional Project.

The PUC, MCWRA, and Marina Coast WD all approved Regional Project vertical wells in the area protected by the North County LUP. The wells would pump groundwater for non-agricultural purposes, and would exacerbate the seawater

intrusion into the area protected by the North County LUP policies. According to the EIR, the proposed project wells would create a cone of depression around the wells which would cause further seawater intrusion and would cause the groundwater in the area to become saltier, thereby harming overlying property owners' water rights.

Violations of State Anti-Degradation Policy and Basin Plan.

The environmental documents relied upon by the applicants fail to adequately investigate and disclose the extent of the violation of the State Water Resources Control Board's Anti-Degradation Policy. This policy, formally known as the Statement of Policy with Respect to Maintaining High Quality Waters in California (SWRCB Resolution No. 68-16), restricts degradation of surface and ground waters. Under the Anti-Degradation Policy, actions that can adversely affect water quality in surface and ground waters must (1) be consistent with maximum benefit to the people of the State, (2) not unreasonably affect present and anticipated beneficial use of the water, and (3) not result in water quality less than that prescribed in water quality plans and policies. Actions that can adversely affect surface waters are also subject to the Federal Anti-Degradation Policy (40 C.F.R., § 131.12) developed under the Clean Water Act. The Central Regional Water Quality Control Board's Basin Plan implements the Anti-Degradation Policy.

The Regional Project and its source wells will deliberately increase the salinity in the groundwater in the area of the wells. That increased salinity will adversely affect both the well site and also wells within a large radius of the wells. The environmental documents relied upon by the applicants did not adequately investigate or discuss the Regional Project's impacts on the groundwater supply or on overlying or adjacent properties. The project's six intake wells will cause up to a 30-foot drawdown (FEIR, p. 13.6-6) and increased saltwater intrusion under the well field and adjacent properties (FEIR, p. 6.2-4). The vertical well field is proposed to be located on private property. (FEIR Revised Figure 5-3.) Private property would be harmed by the increased salinity of the underlying groundwater, which would render it unfit for use, or require more treatment than currently required in order to be usable. The predicted deliberate increase in groundwater salinity – caused by the Project and also by a test well – is inconsistent with the Anti-Degradation Policy. The 30-foot groundwater drawdown would affect nearby wells, including those of the Ag Land Trust. The environmental documents fail to adequately analyze the policy's constraint on the Regional Project and on its wells.

Significant Unanalyzed Impacts of Brine on Replacement of Sewer Outfall.

The brine that is a byproduct of the desalination process would be disposed of through the existing sewer outfall owned by the Monterey Regional Water Pollution Control Agency. The four-mile long outfall pipeline includes approximately two miles in

the Monterey Bay and two miles on land. The estimated replacement cost is over $60 million.

Eight months after the EIR was certified, CH2M Hill released an analysis of the impacts of the Regional Project's brine on the outfall pipeline. The analysis stated that the addition of the brine to the outfall will reduce the time to corrosion by over 85%. The actual impacts may be greater than 85%, because the 85% estimate assumed new concrete, and MRWPCA outfall has been operating for over 25 years. (CH2M Hill Outfall Evaluation, August 2010, p. 6 and Table 3.)

As a foreseeable result of the corrosive brine impacts, the four-mile long outfall will have to be replaced. The environmental documents do not analyze those impacts.

Slant Wells Result in Brine with Higher Total Dissolved Solids (TDS).

The approved Regional Project includes vertical wells pumping brackish water, and contemplated disposal of brine resulting therefrom. The PUC, MCWRA and Marina Coast WD approved vertical wells pumping source water that was assumed to be 85% seawater and 15% groundwater for the first ten years only.[2] (FEIR, pp. 6.2-5, 13.6-7, Q-7.) However, the technical data reveals that the source water will be up to 40% groundwater over time (FEIR, p. Q-23).

The proposed slant well is assumed to pump 95% seawater and 5% fresh groundwater, according to the applicants' revised (June 2011) addendum to the EIR. (That addendum has not been approved by any agency.) The new estimated percentages to 95% and 5% could have significant unanalyzed impacts. We urge the Coastal Commission not to proceed without getting an opinion from the Central Coast RWQCB with regard to disposal of brine from the proposed slant well.

The higher-TDS brine resulting from seawater also may worsen the issues first revealed in the August 2010 sewer outfall evaluation which estimated that the disposal of the brine will reduce the time to corrosion (the lifetime) of the existing concrete outfall by over 85 percent (CH2M Hill Outfall Evaluation, August 2010, p. 6).

Pumping Groundwater Along the Coastline Exacerbates Seawater Intrusion.

The Regional Project was approved based on a scenario of six closely clustered vertical wells pumping brackish water of 85% seawater and 15% groundwater. (FEIR,

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[2] The environmental documents confuse the issue by referring to the vertical wells as "seawater" wells (e.g., FEIR p. 5-21), when in fact they would pump seawater-intruded groundwater (e.g., FEIR, p. 5-22 ["conventional well drilled . . . into the 180 Ft. Aquifer"]

p. 13.6-7, and App. Q [p. Q-7].) These six wells are proposed to be clustered at or near Ag Land Trust property north of Marina (FEIR, Revised Figure 5-3; see p. 13.6-5). This scenario of closely clustered vertical wells, pumping continuously without interruption, is what the EIR/project proponents claimed would create a "trough" that would slow seawater intrusion. That EIR conclusion is based on the remarkable assumption that the six wells would be continuously pumping for 56 years, without ceasing. (FEIR, pp. 6.2-14, 13.6-6.) That is not a reasonable assumption. Cessation of pumping is reasonably likely to lead to a potentially serious exacerbation of seawater intrusion, causing or increasing the permanent changes to the physical environment. Given the subsurface seawater location of the slant well and the coastal location of the vertical wells, seawater is a far greater influence on the 180-foot aquifer than groundwater. The EIR did not analyze these issues.

Pumping groundwater along the coast causes the adjacent seawater to flow in to replace it. (Salinas Valley Water Project Responses to Comments on the EIR/EIS, pp. 2-105, 2-288.) For its Salinas Valley Water Project (SVWP) and its Castroville Seawater Intrusion Program (CSIP), Monterey County's stated goal is to reduce pumping by coastal agricultural users because coastal pumping removes the groundwater that provides a barrier to seawater. The theory behind the County's two capital projects (SVWP and CSIP) is that by eliminating coastal pumping, seawater intrusion will be slowed or halted. (*Ibid.*) The Monterey County claims for those two projects are opposite and repugnant to the current claims with regard to the Regional Project, which is that increased coastal pumping will halt seawater intrusion.

Both theories cannot be correct: increased coastal pumping cannot both cause seawater intrusion and halt seawater intrusion. If Monterey County's longstanding assumptions – applicable to SVWP and CSIP – are correct, then the pumping for the Regional Project will make seawater intrusion worse, not better. The permanent harms of increasing seawater intrusion are too important to risk without an adequate investigation and more complete analysis. No answers have been provided to the public's questions on this issue. (E.g., FEIR, p. 12.5-79.)

The claims that the pumping will stop seawater intrusion are not supported by the EIR's conclusion that, under the Regional Project, the rate of seawater intrusion is similar to baseline conditions (FEIR, pp. 6.2-4, 6.2-5). In fact, the EIR admits that the area in the vicinity of the intake wells and the area south of Salinas River mouth would remain intruded with seawater even longer under Regional Project conditions than under baseline conditions. (*Ibid.*) In other words, there is no environmental benefit to the purported trough, and the changes to the immediate environment are reasonably likely to worsen the impacts and increase the degree of physical change. Harm would result, because the groundwater under fertile agricultural land would be more contaminated with more seawater for a longer period, which would harm the overlying groundwater rights and cause adverse environmental impacts. The modeling should be

done for scenarios of non-constant pumping, which would likely disclose further potential environmental impacts.

The EIR also did not analyze the impacts that would be caused by a combination of slant and vertical wells, or claim that a trough would result from slant wells pumping subsurface seawater. EIR Scenario 4f does not apply to a scenario that involves slant wells, or geographically separated (not clustered) wells, or a combination of vertical and slant wells.

The Project Would Export Groundwater from the Salinas Valley Groundwater Basin, Which Is Prohibited by Law.

California law prohibits groundwater exportation from the Salinas Valley Groundwater Basin due to concern about the "balance between extraction and recharge" within the basin. (Water Code App., § 52-21 [MCWRA Act].) The environmental documents relied upon by the applicants do not dispute that the Salinas Valley Groundwater Basin is in overdraft and has been increasingly in overdraft for six decades, as shown by the steady inland progression of seawater intrusion. (FEIR, p. 14.5-24.) The Regional Project would pump groundwater directly from the overdrafted Salinas Valley Groundwater Basin.

There is no dispute that the Regional Project would export Salinas Valley groundwater to the Monterey Peninsula, outside of the Salinas Valley Groundwater Basin. The desalination process would result in brine and product (potable) water. Therefore, the product water would have its origin in both groundwater and seawater. Most of the product water is intended to be exported to the Peninsula. (FEIR, p. Q-4.) The EIR asserts that on an annual average basis, the project would deliver product water to the Marina Coast service area in an amount equal to the amount of groundwater pumped. (FEIR, p. 6.2-16.)

Using the EIR data, expert water engineer Roger Dolan calculated that the Regional Project would violate the Agency Act "most of the time." (Dolan comments to MCWRA, February 27, 2010, 12 pp.) Mr. Dolan pointed out that the calculations simply did not support the EIR's conclusions. (*Id.*.) calculations exposed the inadequacy of the analysis, and showed that the illegal export of groundwater "will occur when the fraction of groundwater in the well water for the desalination plant exceeds 16.2%." (*Id.*, p. 2 of 2.) His calculations (*id.*, pp. 2 of 10, 3 of 10) show that "balancing export by desalinating more brackish well water is virtually impossible under" Scenario 4f, the model scenario proposed by the Regional Project proponents (*id.*, p. 2 of 2). He emphasized that "producing enough product water from seawater that is surplus to the demands to balance the exported flows . . . is not covered in the EIR." (*Id.*, p. 2 of 2.) He pointed out that when the source water included 40% groundwater, the Regional Project would be required to keep that amount within the Salinas Valley Groundwater

Basin, and could deliver only 2,550 AFY to Cal Am (*id.*, p. 3 of 10 [Case A.3]), which is far below the 8,800 AFY in the project description, and far below the amount needed to satisfy State Board Order 95-10 against Cal Am. In other words, under the EIR's own calculations it is foreseeable that the Project would fail to meet the fundamental Regional Project goals.

The Regional Project Does Not Include a Contingency Plan as Required.

The Monterey County Code (§ 10.72.020.F) requires that a desalination facility include a contingency plan in the event the facility fails for any period of time:

> [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.

The purpose of the County's requirement is clear – if the desalination plant fails or for any reason does not provide the full amount of projected water supply, human health and safety are at risk unless a reliable back-up supply is in place. As proposed, much of the population of the Monterey Peninsula plus others in the City of Marina would rely on the Regional Project for their primary water supply. If the desalinated supply fails, those customers would not have a water supply. Large desalination plants are not reliable, and the Regional Project does not include a "contingency plan for alternative water supply," as the County requires.

To make matters worse, the only "emergency backup" plan proposed by the Regional Project proponents has been to take water from the Carmel River and the Seaside Basin – the same overpumped, illegal, and unsustainable water supplies that triggered the need for new water supply. Both the Carmel River and the Seaside Basin are governed by legal rulings that severely limit Cal Am's legal right to take water from them. The impacts of pumping Carmel River Water and Seaside Basin water were not analyzed in the environmental documents.

Pending Litigation over CEQA, Water Rights, and Exportation of Groundwater.

In 2010, Ag Land Trust sued the Marina Coast Water District and, in 2011, Ag Land Trust sued the Monterey County Water Resources Agency over their respective approvals of the Regional Project. (Copies of the petitions have been lodged with Coastal Commission staff.) The lawsuits allege violations of the California Environmental Quality Act, lack of water rights for the project's groundwater pumping, and violation of the Monterey County Water Resources Agency Act's prohibition on exportation of groundwater from the Salinas Valley basin. In 2010 the superior court

overruled Marina Coast's demurrer. The trial court's action was supported unanimously by the Court of Appeal, and the Supreme Court unanimously refused to grant Marina Coast's petition for review.

The CEQA case against Marina Coast Water District is fully briefed. Ag Land Trust has pointed out significant problems with the environmental review to date. The CEQA case is set for oral argument in superior court on September 29, 2011.

Allegations of Misconduct and Conflicts of Interest Jeopardize Project Contracts.

The Regional Project would be the largest, most expensive capital project ever in the history of Monterey County. The Regional Project was added at the end of the process of a years-long environmental review of two other desalination projects (Moss Landing and North Marina).

The project is highly controversial. The project has made headlines due to the conflict of interest of Monterey County Water Resources Agency director Steve Collins, who, during the year when the key project approvals were obtained, was paid $160,000 by RMC Water & Environment, the applicants' agent, to work on the project. The Fair Political Practices Commission and the Monterey County District Attorney have opened formal investigations, and Monterey County Water Resources Agency and Marina Coast are independently investigating. Some of the media coverage is attached to this letter as Exhibit A. Under Government Code section 1090, Mr. Collins' conflict of interest voids some or all of the contracts involved in the Regional Project. If the contracts are voided, the project may be renegotiated or redesigned, and may require new approvals by the PUC, Monterey County, and Marina Coast.

Before The Coastal Commission Reviews Any Aspect of the Project,
A Public Hearing Is Needed on Current Project Status and Components.

The public is having to guess what is happening with the Regional Project. The Monterey County *Herald* reported in June that the project applicants had agreed to a 90-day non-disclosure agreement. Just yesterday it was revealed that Cal Am and the Monterey Peninsula cities' mayors signed an agreement that they would hide information from the public with regard to the Regional Project. The agreement covers the period of June 17 to September 17, 2011. Cal Am is excluding the public from the process, and preventing the sharing of and access to information.

The applicants' scheduled June 2011 public information session on the Regional Project was cancelled. The next information session is not scheduled until August 23, 2011, 11 days *after* the August 12 Coastal Commission hearing.

In the materials submitted on July 18, the project applicants stated as follows:

> [T]he Partners agree to hold a public hearing on behalf of the Commission on the Monterey Bay Regional Desalination Project Coastal Development Permit application and the Test Well Program specific Coastal Development Permit applications, if so requested by the Coastal Commission.
>
> (4.1.B Response to CCC Slant Well CDP comment letter.docx, Page 6 of 21.)

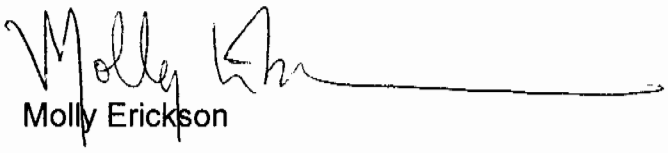
The Commission should request that the project applicants hold the offered public hearing to provide information to the public about the current status of the project and the test wells. The Commission should defer consideration of the test well application until after the applicants' next public information session.

Request

For each and all of the above reasons, the Ag Land Trust urges the Commission not to approve the application for a slant test well for the Regional Desalination Project. Thank you for your commitment to protecting California coastal resources.

Very truly yours,

LAW OFFICES OF MICHAEL W. STAMP



Molly Erickson

Attachment:

Exhibit A: Selected newspaper articles on conflicts of interest, April 2011 to present.

EXHIBIT A

SERVING THE MONTEREY PENINSULA AND SALINAS VALLEY $1.50

Monterey County The Herald

A MediaNews Group NEWSPAPER

Sunday, February 27, 2011

www.montereyherald.com

Sports

North Salinas girls beat Oak Grove on buzzer shot, C1

Seawater: Lawsuit delay could increase costs on $400 million project

Desal legal issues halt well work

"They've raised a number of issues that we need to resolve before we proceed. We can't move forward until those issues are resolved."

— Curtis Weeks, County Water Resources Agency general manager

By JIM JOHNSON
Herald Staff Writer

Work on test wells for the proposed seawater desalination project has been stopped until key issues raised by a lawsuit against Monterey County are resolved.

The suit could drive up the costs for the estimated $400 million project, including the cost of litigation, and raise questions about the project's viability.

Filed in Superior Court last week by the Ag Land Trust, the suit challenges the county's ability to secure water rights for the project's brackish-water feeder wells because of the potential for violating a ban on exporting water from the Salinas Valley groundwater basin.

It names the county Water Resources Agency and Board of Supervisors as the primary defendants and asks the court to resolve the dispute.

Please see **Desal page A9**

Desal

From **page A1**

The Ag Land Trust, a nonprofit organization that seeks to preserve farmland and owns land north of Marina where the wells would be located, sued the Marina Coast Water District over the project last year. That suit could go to a pretrial hearing in the next three months.

County Water Resources Agency general manager Curtis Weeks said the county decided to stop work on the test wells until the litigation is addressed.

"They've raised a number of issues that we need to resolve before we proceed," Weeks said. "We can't move forward until those issues are resolved."

Attorney Michael Stamp, who represents the Ag Land Trust, indicated his client was open to talks with the county.

"The Ag Land Trust is hopeful that they can have meaningful discussions with the county and the Water Resources Agency, and we have made some proposals for how to do that," he said. "We'd like to have meaningful discussions as soon as possible."

Supervisor Lou Calcagno said he expects to resolve the suit "very rapidly."

Negotiations unfinished

Weeks said preliminary design work has been completed on the test wells, but the county still needs to finish negotiating on potential sites. Those would be on property owned by the Armstrong family, Cemex and the Ag Land Trust.

Any delay, Weeks said, would drive up costs on the project. He noted it already was delayed two years while the three partners negotiated project agreements and the project went through an extended approval process before the state Public Utilities Commission, or PUC.

According to a project schedule, test wells were supposed to be completed by the end of this year.

Under the proposal, brackish-water wells along the beach north of Marina, which would be owned and operated by the county, would supply a desalination plant owned by the Marina Coast Water District.

The plant would produce up to 10,500 acre-feet of potable water per year. Most of that water would go to California American Water's Peninsula customers as a replacement for a state-ordered cutback of pumping from the Carmel River.

Some of the water — the percentage of fresh water in the supply pumped from the county wells — would be kept by Marina Coast in an attempt to comply with the county Water Resources Agency Act, which prohibits pumping water to customers out of the Salinas Valley basin.

Most of the project would be paid for by Cal Am Peninsula customers through rates that are expected to double. Marina Coast customers would pay the usual rate for their share.

Addressing water rights

Weeks declined to say whether the county sought a resolution on water rights before the suit was filed, citing the litigation. Last year, he said the water rights would need to be acquired.

Calcagno said he believes water rights is not an issue in the area because the water is unusable due to seawater contamination.

"The underground water in that vicinity and under the Ag Land Trust land is basically saline water, so I can't understand why anyone would be upset about pumping brackish water out of there," he said.

Calcagno said property owners agreed not to draw water from wells in the area in exchange for access to recycled water. "I don't know what water rights the Ag Land Trust believes it has," he said.

Cal Am spokeswoman Catherine Bowie said the company is convinced the issues have already been addressed.

"The county has existing water rights as well as the ability to acquire additional rights," Bowie said in a statement. "We are confident these provisions are adequate and will withstand legal challenge."

In its suit, the Ag Land Trust alleges the county can't secure water rights for the desalination project because no rights are available to be appropriated in an overdrafted aquifer such as the Salinas Valley basin.

The suit also contends:

- the Salinas Valley Water Project, which is designed to restore the aquifer's balance, is not fully operational and not meeting terms of its approvals;
- the county, Marina Coast and Cal Am have collaborated to take the Ag Land Trust's groundwater rights, and the county has refused to identify or obtain those rights; and
- the desalination project would extract groundwater from the Salinas Valley basin without recharging an equal amount, in violation of the county Water Resources Agency Act.

Questions about costs

During the PUC's review of the desalination project, the Division of Ratepayer Advocates raised questions about the potential costs of securing water rights.

DRA analyst Max Gomberg said the group was told the PUC doesn't have jurisdiction over water rights, and county and Marina Coast representatives said not to worry about them.

"I didn't feel like we ever got a good answer on that," Gomberg said. "It's troublesome that a lot of work was done on CEQA and the issue was never resolved, and now there's a group out there claiming in court there are no water rights."

CEQA is the California Environmental Quality Act. The PUC approved the desalination proposal late last year.

The project also has been approved by the supervisors and Marina Coast's board, but it still needs a number of approvals, including a coastal development permit from the state Coastal Commission.

According to Weeks, the county is proceeding on other project-related work, including hiring a bond counsel — San Francisco-based Jones Hall — to assist efforts in seeking bond financing. The Water Resources Agency board is set to consider an agreement with RMC Water and Environment of Walnut Creek to manage the project next week.

Weeks said the project partners recognized that securing financing would be "a challenge," but he denied that the county had been told the bonding would be difficult or impossible.

A financing plan is due to the Board of Supervisors as soon as next month.

The county has spent about $2 million on the project, about half on legal costs.

Jim Johnson can be reached at jjohnson@montereyherald.com or 753-6753.

THE HERALD'S VIEW

Weighty water issue needs outside scrutiny

The importance of developing additional water for the Peninsula is beyond question. Without extremely rapid creation of an alternative supply, the looming state order greatly restricting the draw of water from the Carmel Valley would devastate the local economy.

It is just as obvious, however, that the alternative must be both effective and feasibly priced in order for the public to be reasonably comfortable about paying for it.

The agreement made public last week committing California American Water, Monterey County and the Marina Coast Water District to construct and operate a large desalination plant on the northern edge of Marina is the right approach — if the public receives a meaningful, eleventh-hour opportunity to understand the plan and help smooth the rough edges. Unfortunately, that looks to be a very big if.

The backroom nature of the agreement, and the absurdly short time period between its public release last Tuesday and today's deadline for local government approval, give rise to serious concerns.

While there are those who believe additional conservation is the answer, or that we should again consider a dam that the public rejected long ago, circumstances make desalination the only logical solution for this water-short Peninsula. After years of inertia and political gamesmanship, the agreement demonstrates that the agencies involved in local water governance have finally performed the hard work needed to address an economic issue every bit as pressing as the closure of Fort Ord more than a decade ago. Those who put the agreement together deserve commendation for much of their effort.

But the backroom nature of the agreement, and the absurdly short time period between its public release last Tuesday and today's deadline for local government approval, give rise to serious concerns.

Even in this condensed time frame — while many people were preoccupied by Easter breaks — knowledgeable people have managed to raise some of the critical questions that should be answered before irreversible decisions are made.

The timeline was set by the Public Utilities Commission, which is overseeing the process. We strongly suggest that the commission stop the clock and allow a reasonable amount of time, even if only a few weeks, to provide meaningful opportunity for the questions to be answered. With only a little more time, wise and creative people just might come up with other commentary that actually could strengthen the project.

Opponents of the desalination plan, many of them believing that additional water would lead to unwanted development, will make an issue of the abbreviated time period in order to try to stop the project. That could be averted simply by providing the public just a little time to review a complex agreement that resulted from months of closed-door negotiations. If the project is too fragile to withstand that little scrutiny, what does that say about its chances for success?

The agreement calls for "community involvement forums" starting in about 90 days. We have in mind much more than academic public meetings in which the principals control the format and decide which questions to answer. We have in mind an opportunity for the officials to provide clear and direct answers to questions — including important issues still being raised by trustees of the Monterey Peninsula Water Management District — even though the district participated in the negotiations. Those questions include the overall project costs, the ultimate costs to Cal Am's customers, the degree of continuing financial oversight by the PUC and many technical aspects of this $280 million-plus project.

Those involved in drafting the agreement say water bills for Cal Am's Peninsula customers would double, but a cursory examination suggests residential bills could at least triple — assuming the plant does not experience significant cost overruns. Costs for commercial customers? No one is saying.

The 74-page agreement provides significant detail but leaves much unexplained. Members of the water management board say the PUC, which usually regulates the rates charged by utility companies in California, will *not* be monitoring the reasonableness of costs stemming from this venture over the next century. With utility bills generally reflecting a percentage of the utility's infrastructure costs, there even could be incentive for Cal Am and Marina Coast to puff up the price of construction. Without the PUC ruling on the reasonability of expenses, customers could end up paying more than their fair share.

Providing some measure of protection, the PUC's Division of Ratepayer Advocates also is raising some of the same questions, but there is no guarantee that the politically appointed commissioners will adequately address those issues before construction contracts are awarded.

We have complained in the past that Cal Am customers will have almost no say in the plant's operations because it will be owned by the Marina Coast Water District, which provides water to a different group of customers.

What it boils down to, then, is that the only opportunity for the bill-paying public to weigh in before the ink dries on the key documents is today, unless someone wisely calls a timeout.

Monterey County
The Herald

Editorial: Steve Collins should resign from water agency

The Monterey County Herald

Posted: 04/10/2011 01:31:32 AM PDT

Updated: 04/11/2011 09:49:23 AM PDT

Agribusiness accountant Steve Collins has been one of the biggest boosters of the desalination plant proposed to be built in Marina. As a longtime board member at the Monterey County Water Resources Agency, he helped persuade the state Public Utilities Commission to approve the $400 million-plus plant.

Collins testified several times before the PUC, arguing on one occasion that half the Peninsula's restaurants and hotel rooms would be closed if the plant isn't built. He warned, too, about serious social justice implications because wealthy residents could afford to create their own water supplies while the poor went without.

Collins told the commissioners he was testifying on behalf of the community, the Water Resources Agency and the Board of Supervisors.

As it turns out, he was being paid handsomely at the time by RMC Environmental, the company that has since received a $28 million contract to manage construction of the desalination plant. Unfortunately, despite many opportunities, Collins didn't mention that, which means he may have accomplished the exact opposite of what he intended.

By keeping quiet about his conflict of interests for months and months, it is likely that he has undermined public support for the project, which has been shaky at best. Don't be surprised now if the PUC re-evaluates his testimony as it considers motions to reconsider the desalination package.

Collins also has managed to undermine the credibility of the Water Resources

Agency, which is both an extension of the Board of Supervisors and a key player in the desalination project.

The Herald's Jim Johnson reported last week that Collins was paid about $150,000 last year by RMC for consulting work on the desalination project, but that he didn't publicly report the payment until his filing of a required economic disclosure form last week.

Collins says he started his work for RMC in January 2010 and completed it in December, shortly before RMC was awarded a no-bid contract as project manager. It was at least the fourth no-bid contract RMC has been awarded by the Water Resource Agency while Collins sat on its board.

Throughout the year, while being paid by RMC, Collins cast repeated votes on various elements of the desalination proposal and on other projects RMC was spearheading. Last July, for instance, he seconded the successful motion to approve the environmental impact report for the desalination project, to approve the project itself and to approve other aspects of the desalination plan. Later he voted in favor of borrowing money to be paid to RMC as part of its management fee.

He failed to declare his conflict until an agency meeting last September, when the vote involved a new contract on a component of the desalination project directly involving RMC. He later excused himself from voting when the $28 million management contract was awarded early this year.

Collins still insists he sees no conflict, but that is not for him to judge. He should have declared it as soon as he started private talks with RMC and he should have played no role in the public process

The Herald

after that.

Collins' votes may not have been technically illegal. He may not have had any legal obligation to inform the PUC that he was a paid lobbyist rather than what he purported himself to be, a representative of the Monterey County public and the Board of Supervisors. But the ethical conflict could hardly be more clear.

Collins should resign from the water agency, and the Board of Supervisors should order a serious investigation into what happened. He says he had informed others, including attorneys for the county. By that, does he mean staff attorneys or the outside attorneys whose fees were paid on motions made by Collins? If the county wants to have any credibility as the desalination proposal continues, those who knew about his conflict need to be publicly identified and their roles examined.

If other insiders knew, why did Collins repeatedly appear at PUC hearings and meet with PUC officials as a representative of the county? Who decided to send him?

Exactly what role did Collins play for RMC? And why did RMC select him? Did he have unique skills or was RMC buying access to information and influence? RMC works mostly in the public arena, under contract with various government agencies. Does it make a habit of paying key people at those agencies?

Did Collins' work include helping RMC prepare the project management contract? Does that explain why it contains little language to protect the county's interests in case the project is a failure? Was he simultaneously advising both RMC and county officials on contract details?

Are there others in county government with similar conflicts? And what about at the Marina Coast Water District, one of the county's partners in the desal project?

After decades of indecision and inaction, outside political forces finally pushed the Monterey Peninsula toward a solution to its water problems in the form of a desalination plant intended to help prevent a state order to dramatically reduce our water consumption.

Public support for the desalination plan has been tenuous, however, because of concerns over environmental issues and costs. A common perception is that it is an expensive boondoggle being forced upon the public by those who stand to benefit.

Collins, by his actions, has heightened the perception that it is a boondoggle. To salvage the project, he needs to walk away and officials of the various agencies involved need to take whatever steps are necessary to prove that they are watching out for the public interest and not the interests of self-dealing insiders.

The Herald

Steve Collins resigns from Monterey County Water Resources Agency post

By JIM JOHNSON
Herald Staff Writer

Posted: 04/13/2011 01:28:19 AM PDT

Updated: 04/13/2011 08:30:22 AM PDT

Steve Collins, a director of the Monterey County Water Resources Agency, has resigned on the heels of questions about a potential conflict of interest involving the proposed regional seawater desalination project. The county will conduct an investigation into the agency's involvement with the proposed project.

Collins sent a letter of resignation dated April 11 to Board of Supervisors chairwoman Jane Parker, saying he decided to step down after discussing it with Grower-Shipper Association president Jim Bogart on Friday. Collins had served 16 years on the water board and was the Grower-Shipper representative.

In the letter, he "categorically" denied "all allegations" made against him, and said he had committed "no act that would discredit the Association." But he said he felt he had become "such a distraction" that continuing his service on the board would be detrimental to the agency's work and the desalination project.

On Tuesday, the supervisors directed County Counsel Charles McKee to hire outside counsel to investigate the water resources agency's work and analysis on the desalination project.

According to Parker, the board decided it needed to discover and review all the facts surrounding the r ole of the agency, including Collins, in the project, and wanted an independent investigation of the matter.

Parker said it would likely be at least "a month or two" before any report could be ready, and said she expects the board will try to make as much of it public as possible.

"The board and the public is very interested in the results of this investigation," she said. "This is potentially a very big deal."

Collins advocated for, and testified regularly in regard to, the proposed desalination project while it was under review by the state Public Utilities Commission last year. At the same time, he earned about $150,000, by his own reckoning, for work on behalf of the project for RMC Water and Environment, which later was hired as project manager for the proposal.

Collins recused himself from the vote on the project management contract earlier this year despite having stopped his work for RMC.

However, Collins voted on a number of other matters involving the firm or the proposed project last year.

Meanwhile, the PUC's Division of Ratepayer Advocates sent a request for information to California American Water regarding Collins' work for RMC, about how he was paid and whether his pay will be reimbursed by ratepayers as part of the project expense, and if anyone at the PUC was told about Collins' relationship with the firm. Cal Am is a partner in the proposed project.

In his resignation letter, Collins said an editorial in The Herald on Sunday played no part in his decision to step down, and suggested that an earlier news story contained inaccuracies regarding potential conflicts of interest. He vowed to remain engaged with water issues from the audience, and said he would like to help find and mentor his replacement.

Bogart confirmed that Collins resigned Monday, and said the Grower-Shipper Association would begin a search for a new water board member.

Jim Johnson can be reached at 753-6753 and jjohnson@montereyherald.com.

Water Torture

CPUC, Supes demand info on Steve Collins desal contract.

BY MARY DUAN

On the lexicon of great Monterey County-based financial scandals, what can be said about the Steve Collins desal consulting contract debacle is this: It's certainly the latest.

Lacking the outright public graft of the circa-2007 Tony Anchundo case (in which the former Registrar of Voters was convicted of embezzling public funds—and did almost no time for it) or the ick factor of tomato titan Scott Salyer's case (in which the ag businessman is currently under house arrest at his Pebble Beach mansion while prepping for his upcoming federal racketeering trial), Collins has been charged with precisely nothing. Yet.

The *Weekly*'s Squid first broke the news in March that Collins, a 16-year board member of the Monterey County Water Resources Agency appointed to the seat by the powerful Grower-Shipper Association, had recused himself from voting on a $28 million contract with Walnut Creek-based RMC Water and Environment, an engineering firm hired to consult on the nearly half-billion-dollar Regional Water Project.

The RMC contract was approved. At the time, Collins declined to state why he bowed out of the extremely important vote on an eight-figure expenditure that will be borne by county residents.

But public disclosure laws being what they are, the reason for his recusal became crystal-clear last week. On Collins' lastest Form 700—the "Statement of Economic Interest" that forces public officials to reveal sources of income—Collins fessed up and checked the "more than $100,000 box," acknowledging that RMC paid him more than six figures ($150,000; to be exact) for his services.

In other words, Collins was gaming the system. He advocated for a costly desal project while also advocating for a client nobody (or who knows, maybe somebody?) realized he had, and that client now is on the receiving end of $28 million in public funds.

Collins resigned from the board this week. Smartly.

It's one thing for the press to cry, "Off with his head," and another thing altogether for public officials to start asking hard questions.

The Monterey County Board of Supervisors decided to hire outside counsel to take a closer look at the water agency and the desal project.

And the Division of Ratepayer Advocates, the watchdog group that operates under the auspices of the California Public Utilities Commission, on Tuesday gave Cal Am Water 10 days to answer a slew of questions about Collins and his RMC contract.

Among the things the DRA wants to know: what exactly did Collins do for Cal Am subcontractor RMC in 2010, and how much money did RMC pay him? The DRA also wants to know if Cal Am plans to recover any of the costs associated with Collins work as "pre-construction expenditures," and if any of the costs associated with Collins' work will be paid for with bond funding—and if so, how much?

HOW DOES CAL AM INTEND TO IDENTIFY CONFLICTS OF INTEREST?

RMC principal and co-founders Lyndel Melton says he has yet to hear from Cal Am or the CPUC on the Collins matter. But, he adds, "we don't feel like we have done antyhing wrong:

Collins contract with RMC ended "because we accomplished what we set out to accomplish, which was to get approval from the PUC," Melton says.

Other DRA questions that remain include how Cal Am intends to identify conflicts of interest as the Regional Desalination Project moves forward.

And what did Cal Am know, and when?

I paraphrased that last part. But DRA project coordinator Max Gomberg wants Cal Am to answer the very interesting question of when Cal Am officials knew that RMC was paying Collins.

This is the second time in the past 30 days that the DRA has sent an information demand to Cal Am. In late March, the DRA wanted to probe the bond underwriting for the desal project because of reports, in the *Weekly* and elsewhere, that two investment banks being considered for the project found various reasons that the desal project as currently structured would not succeed.

Cal Am's figures, as reported in the *Weekly*, show that a combination of the desal project, removal of the San Clemente Dam and Cal Am's own ill-timed request for a ratepayer increase could send the monthly bills of every customer—from the most conserving homeowner to the largest hotels—soaring.

What Cal Am knew about Collins' work with RMA might be irrelevant at this point: the MCWRA board or the Supervisors should move to void that contract.

There's an old joke: a smart prosecutor could get a ham sandwich indicted. Between Collins, RMC and Cal Am, prosecutors might have an entire pig on their hands.

Mary Duan is the editor of the *Weekly*. Reach her at mary@mcweekly.com.

The Salinas Californian

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Board tackles water issues

An appellate court ruled against Marina Coast Water District

BY DENNIS L. TAYLOR
dtaylor@thecalifornian.com

Water will again be on the agenda for elected county leaders today when they are briefed on the status of the controversial water desalination project.

The Monterey County Board of Supervisors approved the project in January. In March it asked county staff to provide monthly updates that will include an updated timeline, financial details, pending decisions, well test results and minutes from an advisory board.

One development that will likely be on the list is a court ruling made earlier this month in a lawsuit filed against the Marina Coast Water District by the Ag Land Trust.

Ag Land Trust alleges the water project's mandated environmental study, which supervisors approved, failed to address water rights, in violation of the California Environmental Quality Act, as well as other significant environmental effects. The lawsuit also claims the project violates the Monterey County Water

See WATER, 4A

Water

Continued from page 1A

Resources Agency's prohibition on exporting ground water.

Ag Land Trust is a Salinas-based nonprofit with a goal of preserving farmland. Representatives were unavailable to comment on the lawsuit by presstime Monday.

The lawsuit was filed a year ago in Monterey County Superior Court. The Marina Coast Water District filed a petition with the California Court of Appeal arguing that the only agency with jurisdiction over the project was the California Public Utilities Commission.

On April 6 the appellate court denied the appeal, returning the lawsuit to Monterey County Superior Court. The case is set for trial at 9 a.m. on Sept. 29.

If built, the plant would clean brackish water from wells along the coast south of the Salinas River for use in Monterey Peninsula cities, where a shortage of surface water and limits on using Carmel River water are longtime problems.

Monterey County
The Herald

Editorial: Troubling responses about RMC deal

The Monterey County Herald

Posted: 05/01/2011 01:43:51 AM PDT

Updated: 05/02/2011 08:57:17 AM PDT

If your position on the proposed Marina desalination plant is that you're for it, no matter what, don't bother reading this. But if you support the idea, and want to see it done right, you might want to pay attention.

You may recall that it was belatedly revealed last month that Steve Collins, a veteran member of the Monterey County Water Resources Agency, had been paid some $150,000 for accounting and advocacy work for RMC Water and Engineering, the project manager for the desal plant.

The work was performed last year, before the Water Resources Agency and other project principals had awarded the management contract to RMC but after the agency had awarded several other no-bid contracts to RMC.

News of the payments to Collins raised several important questions about the desal project. Among them, did RMC receive the $28 million contract through merit or connections? Who else knew of Collins' dual role and why did they keep quiet about it? What other conflicts exist?

In the aftermath, Collins resigned from the agency board, but the matter didn't fade away. Monterey County officials are investigating, and the Division of Ratepayer Advocates, a branch of the Public Utilities Commission, sent a series of Collins-related questions to California American Water, the utility company that is a partner in the desalination project and is regulated by the commission.

Cal Am's answers — or, in many cases, non-answers — were not reassuring. They

add, in fact, to existing concerns about the openness of the process and whether Cal Am customers, who will be paying for the bulk of the $400 million-plus process, will have access to meaningful information about the construction process and subsequent operations.

Cal Am, while answering some questions, took the position that most need not be answered because they are irrelevant and do not technically apply to the formal cases pending before the Public Utilities Commission. Never mind that this is a Cal Am project, ordered by the PUC and proceeding under PUC regulation and that the Division of Ratepayer Advocates is the one agency designed to protect the interests of utility customers.

Cal Am also objected because some questions called for "confidential and privileged information" of other parties. Presumably that would be the public agencies involved, the Marina Coast Water District, Monterey County and the county's Water Resources Agency, and RMC, working under contract to those public agencies.

As tersely as possible, Cal Am went on to say that none of the work Collins performed for RMC had been paid for by Cal Am ratepayers. It did reveal, however, that the other project partner, Marina Coast Water District, had "mistakenly" sent four invoices to Cal Am for a total of $59,015 for work that Collins had performed for RMC — and that Cal Am had paid the bills. The written answer doesn't say Cal Am "mistakenly" paid the bill, but that's the inference. After the error was discovered, Cal Am recovered the money, the company reported.

Among the questions that come to mind are: A. How proficient are the financial folks at Marina Coast and Cal Am? B. Was it really a mistake?

Some of the subsequent answers were no more reassuring.

For instance, Cal Am said it had been unable to determine how many no-bid contracts were awarded to RMC while Collins was on the water agency board. (If Cal Am has trouble getting public information from its desalination partners, pity the poor private citizen.)

And though Cal Am should have been able to figure out the Collins-RMC relationship when it "mistakenly" began receiving the invoices in May 2010, it said that while it addresses conflicts "within its control," it doesn't feel a responsibility to assure that the other parties play it straight.

Reassuring? No. Correctable? Yes, if the public and the public's representatives insist on corrections.

Monterey County
The Herald

George Riley on desal plan: Better options may be emerging

By GEORGE RILEY
Guest commentary

Posted: 05/17/2011 01:36:43 AM PDT

Updated: 05/17/2011 08:53:27 AM PDT

Six months ago there was one, and only one, solution to our water supply problem. It was the Regional Desalination Project north of Marina, sponsored by Cal Am, Marina Coast Water District and the county Water Resources Agency.

Today, this one and only solution is under fire. It is very expensive, with inadequate cost controls, and is smoldering under heavy new baggage. It is also falling behind schedule. A lawsuit that challenges water rights and other findings is not scheduled for hearing until September.

The county Board of Supervisors is expected to take the lead for a financing plan, which is also behind schedule. So far, the bonding consultants are suggesting that unless serious modifications are made in the water purchase agreement, the financing will be rated BBB, junk bond status. This will vastly increase costs on an already massive expense on ratepayers. Correcting this will take time.

Then there is the investigation of the role played by Steve Collins. He was being paid by the prime contractor, RMC, while sitting on the governing board of the county Water Resources Agency and making decisions related to the desalination project.

As clouds form over last year's only solution, new options are emerging.

The Monterey Peninsula Water Management District is working on a collection of small supply projects, w hich look viable as a partial, and maybe complete, solution to the water supply issue. Plans include expanded use of winter runoff, reclaimed water, expanded storage at Los Padres Dam, and a small desalination plan, at a combined cost less than the Regional Project.

A "deep water" desal project being planned at Moss Landing for north Monterey County and south Santa Cruz County is on the way. Extending its reach to the Peninsula is possible, and at a cost projected to be less than the Regional Desal Project.

Most disturbing about the Regional Desal Project is the power and control exercised by Cal Am in the partnership with the two public agencies. It alone will decide when a better water supply comes available. The provision for Cal Am dominance is the key. By locking in a 34-year commitment, we will also lock into a monopoly corporate profit center that exports its gains from the community.

Which brings me back to the baggage now hanging on the Regional Desal Project. Could this be serendipity? Is it not too late to raise questions?

This is the time to rethink a few priorities. With increased baggage and reduced confidence, the Regional Desal Project looks less and less like the winner of six months ago. It is beginning to look like a fantastic profit opportunity for Cal Am, and a drain on the local economy. The very high and increasing cost of a quick supply could circumvent and undermine its advantages. A more reasonably priced, slower supply could be a better balance.

The other options deserve serious public evaluation. One thing they do not deserve is rejection based on past prejudice, ideology, fear or blindness.

Questions for the local political leadership are these: What evidence is needed to elevate this to public discourse? What price is too high? What is best for the entire community? Should the ratepayers finally get a chance to speak directly to its elected leadership?

Can the increasingly higher cost solution, and a tainted one at that, still be the preferred choice? When is open minded leadership going to show up?

George Riley, a former housing official in San Mateo County, is a co-founder of Citizens for Public Water, which has advocated a public takeover of California American Water. He was a signatory to and supporter of the agreement under which Cal Am and the public agencies are attempting to develop the Regional Desalination Project in Marina.

WEST END BEER
Post No Bills set to open in Sand City
Story on page C1

MONTEREY'S ESAKI RETIRES
Athletic director calls it quits after 20 years
Story on page D1

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DA to review official's role in desal

COLLINS DOUBLE-BILLED COUNTY, PRIVATE FIRM

By Jim Johnson
Herald Staff Writer

Herald Exclusive

A county investigation into a former county water official's dual role in the regional seawater desalination project is headed to the District Attorney's Office for further review.

According to public records released to The Herald by Marina Coast Water District, Steve Collins was billing RMC Water and Environment thousands of dollars for his professional time working on behalf of the desalination project — while he was serving as director of the county Water Resources Agency and seeking county reimbursement for travel and meals for the same work.

Supervisor Dave Potter said the board decided last week to turn the investigation over to the District Attorney's Office to ensure it receives a "thorough review."

Potter acknowledged the investigation could produce findings that threaten the project agreements, though he suggested the agreements might need to be revised.

He said the county is still committed to the project.

"That's the main concern, the viability of the agreements," Potter said. "I know the board is just as alarmed about the situation as anyone else is, or should be. I'm anxious to see the results of the investigation myself.

"We're still committed to moving forward with this project. It's a viable project. The Peninsula needs a solution. By no stretch of the imagination is this the end of the desal project."

County Counsel Charles McKee said forwarding the investigation to the District Attorney's Office will allow the county to focus on a "water solution" for the area. But McKee said the project

Please see Collins page A9

Steve Collins Work for RMC included PR efforts to counteract "negative press" of the project.

This story can be found only in The Herald's print version and e-Edition.

Collins

From page A1

agreements could be nullified if a conflict of interest involving Collins and RMC is confirmed.

Supporting project

According to invoices from Marina Coast, Collins billed RMC for work in support of the project from planning and promotion to finance, while the firm was working for Marina Coast as its project manager.

The proposed project is backed by the county Water Resources Agency, Marina Coast and California American Water as a replacement source of water for Peninsula customers faced with a state-ordered cutback of pumping from the Carmel River. Cal Am ratepayers will pay the bulk of the project cost on their water bills.

The invoices show Collins' work for RMC included meetings with county supervisors and other officials, appearances at the state Public Utilities Commission, meetings in Washington, D.C. — even public relations efforts to counteract "negative press" and criticism of the project.

At the same time, Collins represented himself as a county water resources director, voting for the desalination project agreements on the water board and regularly arguing for the project in public meetings.

The Herald received the invoices and reports from Marina Coast on Tuesday.

Neither Marina Coast general manager Jim Heitzman nor board president Bill Lee were available for comment.

Paid for meetings

Potter said he wasn't aware that Collins was working for RMC at the time, nor did he know if anyone else knew.

According to the invoices, Collins billed RMC for meetings with county Water Resources Agency general manager Curtis Weeks, Assistant County Counsel Irv Grant, Heitzman and supervisors Potter, Lou Calcagno and Simon Salinas.

He also was paid by RMC to meet with area mayors, representatives from the Monterey Peninsula Water Management District, Cal Am President Rob MacLean and spokeswoman Catherine Bowie, state Public Utilities Commissioner John Bohn and officials from the Ag Land Trust as part of an effort to resolve an ongoing lawsuit over water rights.

In all, Collins was paid more than $150,000 by RMC.

Last fall, Collins recused himself from a Water Resources Agency vote involving RMC and explained he had done work for the firm starting in January 2010. Even after he stopped working for RMC in December, he recused himself from voting on a $28 million contract for the firm to manage the desalination project.

Under pressure, Collins resigned his seat on the water board in April after serving 16 years as the Grower-Shipper Association representative.

'Close to resolution'

The county's investigation was ordered by the Board of Supervisors in mid-April and was conducted by outside counsel. McKee said the investigation was "close to a resolution."

Potter said he expects a synopsis of the investigation to be released to the public, but he wasn't sure when.

A project financing plan was due from the Water Resources Agency by the end of May, and Potter said he expects a presentation from Weeks within a week or two.

The project, which has been approved by the PUC and the Board of Supervisors, has been beset by litigation, delay and concerns over its $400 million price tag and alleged lack of transparency.

Jim Johnson can be reached at 753-6753 or jjohnson@montereyherald.com.

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Story in GO!

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Inside the Peninsula Wellness Center
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MUDDY WATERS

CONTROVERSY CLOUDS DESAL PROJECT'S FUTURE

VERN FISHER/Herald file

Steve Collins, a former county water board member, is the subject of a conflict-of-interest investigation.

On the Web

montereyherald.com
See **http://regionalwaterproject.org/project_library.php** for a PDF version of the Regional Desalination Project Management Agreement.

Below: The project agreement describes the role of participants in the desal project.

By JIM JOHNSON
Herald Staff Writer

Two Monterey County supervisors have expressed serious reservations about the future of a proposed regional seawater desalination project, at least as it is currently proposed.

Board of Supervisors Chairwoman Jane Parker and Supervisor Lou Calcagno said Wednesday they have a number of questions about the future of the proposal — including the project agreements — as they await the release of an independent county investigation into a potential conflict of interest involving Steve Collins.

Collins is a former county water board member who resigned earlier this year after admitting he earned about $150,000 while working on the project as a consultant selected to develop plans for the desalination project.

The proposed desalination project is a private-public partnership among the county Water Resources Agency, Marina Coast Water District and California American Water as a replacement source of water for Peninsula customers faced with a state-ordered cutback of pumping from the Carmel River. Cal Am ratepayers will pay the bulk of the project cost on their water bills.

The results of the investigation, which is expected to be delivered to supervisors in a closed-door meeting Friday, come on the heels of revelations about the extent of Collins' paid efforts for RMC Water and Environment on behalf of the project while serving as a public official.

Collins billed RMC for his professional work on the project, which included advocacy efforts, while seeking reimbursement from the county for travel and meals. He voted for the project agreements as a water board member.

The East Bay law firm of Remcho, Johansen & Purcell is conducting the investigation. County Counsel Charles McKee said the investigation is ongoing.

Parker said she expects the report to include potential ramifications of the Collins-RMC issue and advice on how to proceed, especially with regard to RMC's future role with the project and the validity of the project

Please see **Collins page A9**

HERALD QUESTION OF THE DAY

Should the desalination project process be started from scratch?

❑ Yes ❑ No

Go to: **montereyherald.com** to place your vote

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This story can be found only in **The Herald's print version and e-Edition.**

"This is such an important project, and to not know what's going on with it is unsettling."

Jane Parker
supervisor

Collins

From **page A1**

agreements. She said she wants to hear the firm's plans for releasing a public version of the investigation's findings "as soon as possible."

According to state conflict of interest laws involving public governing bodies with contracting power, public contracts could be voided if a public official representing the governing body has a financial interest in the outcome.

If the investigation suggests the project agreements are vulnerable, Parker said, it could give the county a chance to rewrite the agreements. The new agreements could address the growing number of concerns the current deal has raised, she said.

"If (the project agreements) are in question, it might give us an opportunity to start over and really try to get agreements that protect the ratepayers and will work better," Parker said. "It really puts a lot possibility up in the air."

Calcagno said he won't support moving ahead with the project until a number of issues are resolved, including the Collins-RMC matter. He said the investigation, ordered April 12, has already stretched on longer than expected. He said the investigation "kept unraveling different situations," though he declined to elaborate.

He noted that the project is still the focus of litigation backed by the Ag Land Trust and that a permit application is pending before the Coastal Commission. A financial plan is also still in the works.

Calcagno said he won't support the expenditure of more money on the project until all issues are resolved.

"At this point, a lot of questions need to be answered before we go forward," he said. "We can't move forward without those resolutions."

At the Board of Supervisors' closed-door meeting May 26, McKee told the board to expect press coverage of newly revealed information about the Collins-RMC case.

Parker said the board is still committed to a desal project for the Peninsula and wants to take whatever action is necessary "as soon as we can."

"We're living in this limbo," she said. "This is such an important project, and to not know what's going on with it is unsettling. The sooner we can determine a course of action, the better."

McKee has announced plans to refer the investigation to the District Attorney's Office for further review.

Chief Deputy District Attorney Terry Spitz said talks have been ongoing with the County Counsel's office for weeks. A meeting is being set to discuss turning over the investigation.

Spitz said the DA's office might hand off the investigation to the state Fair Political Practices Commission, which is conducting its own inquiry, to avoid replication of effort.

For a public official to be found culpable of a conflict-of-interest violation, Spitz said, the official would need to have a direct financial stake in the contract.

Spitz said the matter would more likely be investigated for potential conflict of interest violations under provisions of the recently updated Political Reform Act, which only requires a link between the public official and the firm that benefits from a contract.

Collins could face civil, criminal or administrative penalties, and be barred from public office, if he is found to have violated state conflict of interest laws.

Collins did not return a phone call left by The Herald.

Jim Johnson can be reached at 753-6753 or jjohnson@montereyherald.com.

Monterey County
The Herald

Editorial: Desal leadership needs real oversight panel

The Monterey County Herald

Posted: 06/05/2011 01:46:56 AM PDT

Updated: 06/06/2011 10:10:25 AM PDT

For a number of reasons — legal, financial, environmental and political — it has never been certain that the people of the Peninsula would ever manage to build the proposed desalination plant or find another way to solve the region's increasingly serious water shortage.

Now, because of recent revelations providing insight into how the project's leadership has conducted itself, it becomes harder yet to envision success unless someone with better credibility steps up to finish the job. What was intended as a fairly innovative solution to a pressing community problem seems to have mutated into a giant cash cow.

We remain supportive of the project despite the troubles. The state water bureaucracy is serious about greatly cutting back the Peninsula's access to its major water source, the declining Carmel River. And though there is talk of replacing the proposed Marina desalination plant with a series of smaller desal facilities, no one has come up with a viable alternative that could be completed soon enough to take the pain out of the state's cease-and-desist order.

Unless there is immediate action on an alternative, we still believe the proposed desal plant is the best option if some structure can be created to centralize authority and provide practical accountability and transparency.

The project leadership says it is too late to change quarterbacks. They say the various technical approvals and the still-iffy financing would be jeopardized. We

suspect, however, that the leadership's failure to play straight with the public has already put the approvals and financing in great danger. Change may be the only option.

What raised the community's concerns to higher levels was this spring's news about how Steve Collins, an exceptionally active board member for the Monterey County Water Resources Agency, had made at least $150,000 working as a consultant and lobbyist for RMC Water and Environment. That company is under a $28 million contract to manage the $400-million plus desalination project.

While some might have thought Collins was vigorously lobbying for the project because he was a true believer, it turned out he was a well-paid hired hand.

Significantly, Collins remained on the water agency board for six months after officially declaring his conflict, but no one else apparently thought it was information worth sharing with the public. It took the press to bring it to light. That has led to a formal county investigation, the results of which remain under wraps, of course. They call this a public project. Sometimes that seems to be in name only.

Collins' actions also raise questions about others involved in the project. Some act as though they were surprised to learn of Collins' double role this spring even though RMC a year earlier had started putting his name in the bills it sent each month to the Marina Coast Water District, one of the key partners in the desal venture. His rates, by the way: $225 an hour for lobbying work, $95 an hour for driving time.

If Marina Coast officials knew about the apparent conflict, they had an ethnical obligation to bring it

Monterey County
The Herald

to light.

If they didn't know, that means they weren't paying attention to huge expenses being borne by the public.

Either explanation is unacceptable.

Cal Am officials say they learned about Collins' special relationship with RMC in May 2010 but didn't say anything because he was being paid by the taxpayers, not by Cal Am customers. The explanation is not reassuring.

For his money, Collins played a large role in piecing the desalination plan together. He traveled often to meet with lawyers, engineers and politicians and he enjoyed plenty of expensive meals with local officials, a generally savvy bunch who must have wondered how this agribusiness accountant could take so much time away from his paying job. Or maybe they didn't wonder.

Cal Am and RMC certainly knew what Collins was up to. If that's the way they do business, should either of them be in charge of this thing?

A closely related issue is the remarkably fragmented structure overseeing the project. Unlike most public works projects, overseen by one entity, this is a partnership between the county, the Marina Coast special district and a private utility under the direction of the state Public Utilities Commission. For practical purposes, the Peninsula taxpayers and ratepayers paying for it all have no meaningful input and no effective way to object when their water bills shoot up.

As we have opined in the past, this project should be managed by a joint-powers authority, a non-taxing entity covering the territory to be served — the cities of Monterey, Carmel, Pacific Grove, Seaside, Del Rey Oaks and parts of Monterey County. It would hold open public meetings and its records would be open to the public. The public could express approval or disapproval every time a city council election rolls around.

If that can't be accomplished in the available time frame, perhaps a committee of the Peninsula mayors could be formed as sort of a super watchdog. Much bickering has gone on over the power, or powerlessness, of an advisory committee already formed to theoretically represent municipal interests. If a mayor's committee is formed, its first order of business should be to petition the Public Utilities Commission for real oversight authority.

Some will argue that it is too late for ideas of this sort, but it seems that the alternative is more expensive shenanigans without any promise that the Peninsula will have a sustainable water supply before the end of the decade. It is time for a change.

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Story on page C1

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MONTEREY COUNTY

Water officials broke spending rules, records show

By JIM JOHNSON
Herald Staff Writer

Staying at expensive hotels and dining out regularly, Monterey County Water Resources Agency general manager Curtis Weeks, former water board director Steve Collins and others racked up such a bill while working on the regional seawater desalination project and other matters last year that their spending is now under scrutiny.

The Herald obtained records that show Weeks, Collins and others charged hotel rooms, airfare and meals on county credit cards, much of it in violation

Please see **Expenses page A11**

This story can be found only in
The Herald's print version and e-Edition.

Expenses

From **page A1**

of county policy that sets limits on expense reimbursement and bans dining out in local restaurants on the public dime without proper justification.

Most of the spending, according to the records, was charged to Weeks' card or his assistant's. Records also show that Collins charged the county for travel and meal expenses while he was also being paid by RMC Water and Environment for his work on behalf of the desalination project. The charges included trips to Washington, D.C., and San Francisco.

County Auditor-Controller Mike Miller said Weeks, Collins and others so regularly exceeded limits and broke rules last year on thousands of dollars in spending for travel and meals that county auditors blew the whistle on them in early 2010.

Weeks didn't responded to a phone message.

Even after Weeks was warned, Miller said violations continued, as a staff review of June 2010 charges showed. Miller said he wanted to pull Weeks' card, but his staff talked him out of it because of potential costs.

Instead, Miller ordered an ongoing comprehensive audit of all Water Resources Agency expenses. So far, all confirmed charges in violation of county policy have been repaid, Miller said. He couldn't say how much the total was.

Miller said if he'd known that Collins was charging the county while working for RMC, he would have sought legal advice from the County Counsel's Office. He called the practice "inappropriate" and potentially illegal.

Collins resigned from the water board in April amid reports that he earned more than $150,000 working for RMC on the desalination project during 2010 while advocating for the project as a county official.

Collins is under investigation by the Board of Supervisors, the District Attorney's Office and the state Fair Political Practices Commission for a potential conflict of interest involving his dual role for the county and RMC on the desalination project.

County Counsel Charles McKee said the board's investigation continues. The supervisors considered the results so far and potential ramifications in recent closed sessions.

McKee said a public report on the investigation likely will be released before the end of the month. He said he gave the board a legal analysis of the investigation's findings so far, but he declined to go into details.

District Attorney Dean Flippo said his office is "actively pursuing the matter" and cooperating with the FPPC but has not seen a report about the board's investigation.

Miller said his audit began late last year, after a memo from his auditors in September recommended a "comprehensive" analysis because they said the June 2010 review indicated "a pattern." He said the audit should be finished within a month, noting that the matter has "obviously become a lot more of a hot potato."

According to Miller, county credit cards are appropriately used to pay for all manner of county-related business expenses. But they must be used within specific per-diem limits and reimbursement for meals at local restaurants must include a rationale for why business had to be conducted during a meal.

The June 2010 review showed Weeks' county credit card was used to charge rooms at the Hyatt Regency in San Francisco which exceeded the per-diem limit. Charges were made on Weeks' card for meals at Tusca Ristorante at the Hyatt Regency Hotel & Spa in Monterey and Elli's Great American Restaurant in Salinas for himself, Collins, and other county and area officials without proper justification.

Jim Johnson can be reached at jjohnson@monterey herald.com or 753-6753.

DOCUMENTS: Steve Collins Conflict of Interest Investigation

By Staff

Tuesday, June 21, 2011

Reporting by Sara Rubin and Rebecca Robinson

A new report on alleged double-dipping by former Monterey County Water Resources Agency board member Steve Collins has implicated Marina Coast Water District General Manager Jim Heitzman. The finding, made public this afternoon, threatens to quickly unravel the strings tying together the $400 million Regional Desalination Project.

Collins—who resigned from the MCWRA board when facts emerged about his side contract with RMC Engineering, which he helped land the $28 million project management gig—was hired by RMC on the recommendation of Marina Coast Water District General Manager Jim Heitzman, according to the June 21 report by San Leandro law firm Remcho, Johansen & Purcell LLP.

Heitzman asked RMC to hire Collins in January 2010, according to an investigation commissioned by the Monterey County Board of Supervisors. The report was released to the media by Monterey County Counsel Charles McKee on Tuesday afternoon.

The entire situation may have remained secret but for the fact that Marina Coast hired a new accounting clerk in August 2010, and that unidentified clerk raised questions about the invoices Collins was submitting—and that Marina Coast was paying.

Heitzman then went to RMC and told the Walnut Creek-based firm he would not pay for Collins' time. RMC continued to pay Collins' invoices after Marina Coast refused, "and after becoming fully aware that Collins had been billing for time spent performing his duties as an MCWRA director," the report states.

Heitzman and RMC Principal Lyndel Melton "became aware that Collins was charging RMC, and RMC in turn was charging MCWD, for time spent performing his official duties as MCWRA [board member]," according to the report. MCWRA is one of three partners in the $400-million Regional Project.

"We have uncovered evidence that...while Collins was serving on the Monterey County Water Resources Agency board, he was also being paid by RMC Engineering, the firm awarded the project management contract," according to the report. "This conduct raises concerns about the validity of certain contracts that the MCWRA approved as part of the Regional Desalination Project, including the Settlement Agreement, Water Purchase Agreement and Reimbursement Agreement."

Collins' contract terminated on Dec. 2—the same day the CPUC granted final approval on the project. "Indeed, Collins' contract with RMC appears to have coincided with the 2010 CPUC

proceedings," according to the report.

RMC paid Collins for at least five appearances made in his capacity as an MCWRA director. For example, he was compensated for the following activity on Feb. 23: "Attend [Board of Supervisors] meeting with Curtis Weeks and Irv Grant to obtain County approval of all agreements for the PUC."

Under Collins' original contract with RMC, he was authorized to bill up to $25,000, but his total billings from January to November. 2010 totaled $160,598. His maximum compensation was first boosted the day after Collins met with the Board of Supervisors for more than two hours in closed session, after which the board voted to conditionally approve the Regional Project.

Marina Coast paid the invoices in full, but under the reimbursement agreement—now potentially rendered invalid—California American Water reimbursed the full amount of the invoice requests, at Marina Coast's request. The report, at the request of MCWRA, has also been sent to the District Attorney and the California Fair Political Practices Commission, which initiated an investigation into Collins' conduct May 18.

Meanwhile, Monterey County Chief Assistant District Attorney Terry Spitz says his office began investigating the Collins contract and the potential conflict of interest violation two weeks ago at McKee's request. The prosecutors are conducting their investigation in conjunction with the FPPC—the first time local prosecutors have launched a joint investigation with the state agency. Spitz says he was a bit chagrined the Supervisors released the Remcho investigation before his own investigation was complete. But that, he says, is not going to be quick..

"As prosecutors, we would like to see no report until our investigation is done...but we will live with that decision," Spitz says. "The FPPC seems eager to get involved and talk about strategy, and we will speak next week about what we have done so far."

Jim Heitzman could not be reached for immediate comment. Marina Coast General Counsel Lloyd Lowry says it's too early to comment until Remcho's final report is released. "I don't think it's appropriate to speculate on anything at this point," he says.

McKee says the report doesn't implicate any supervisors.

"There is no evidence that any county personnel were aware of Collins' billings other than to recognize that Marina Coast Water District, through RMC, had retained Collins for the Ag Land Trust case," McKee says. He also notes the supes' desire to move forward with the project and not get mired in emerging scandal.

"The supervisors are committed to making sure that ethics are held to a high level at the county, while making sure that the project doesn't get derailed," McKee says. "It's easy to play up the firestorm and get everyone's ire moving, but the focus now is moving on to the next step and getting constituents' needs met."

McKee says a lawsuit to nullify all of the desal contracts "could occur, but I haven't heard any murmurs yet."

The Californian.com

Monterey County water project contracts in jeopardy

Written by

LESLIE GRIFFY

10:49 PM, Jun. 21, 2011|

Monterey County officials hope to salvage a regional water project even as a preliminary report into alleged conflict of interest puts contracts essential to the plan in jeopardy.

According to the report released Tuesday, a water board member who voted on pieces of the water project and lobbied for its approval before the Board of Supervisors was simultaneously a paid consultant for the firm chosen as the project's manger.

Former Monterey County WaterResources Board director Steve Collins' work with contractor RMC Water and Environment raises questions "about the validity of certain contracts that the [water resources agency board] approved," the report said.

"That is the million-dollar question," said Monterey County Counsel Charles McKee. "Are they actually void?"

The contracts in question cover the agreement to share water among the three agencies developing the project, a settlement with state regulators and a funding agreement. The county also signed a $200,000 contract with RMC for an environmental report on north county water issues while Collins sat on its water agency board.

The county, McKee said, hopes to work with the other parties in the contracts to f ind ways to make the agreements stand, rather than scrap the whole project.

"It is probably in the best interest of the people on [Monterey] Peninsula for us to focus on getting them water," he said.

The regional water project would help California American Water meet a court order to use less water from the Carmel River by creating a desalination plant. The plant would be operated by Marina Coast Water District and would pull brackish water from just inland of the coast. The Monterey County Water Resources Agency claims the rights to that inland water. The

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three groups have worked together for years to craft a plan to build the desalination plant and distribute its water.

County officials hope the alleged conflict of interest doesn't kill the plan, still in development.

"While this investigation continues, it is critical that the water solution caught up in the controversy not be derailed in the process," Supervisor Jane Parker wrote in the cover letter accompanying the preliminary report.

Amid allegations that his consulting job created a conflict of interest, Collins resigned from the water board after 16 years as the representative from the agriculture industry group the Grower-Shippers Association. He did so, he said in an April 11 letter, to avoid becoming a "distraction."

"I have committed no act which would discredit the [Grower-Shipper Association] and I categorically deny all allegations made against me," Collins said in the letter.

Collins recused himself from votes making RMC the project's manager but did vote on other issues related to the project, according to the report.

The report found:

ª In January 2010, Marina Coast Water District officials requested that the RMC, already under contract to manage the project, hire director Collins as a subcontractor. Between then and December, Collins billed RMC $160,598 for his work. RMC in turn billed the water district, which sought reimbursement for the bill from California American Water.

ª RMC paid Collins for appearing before supervisors as a water resources director at least five times, including in closed session. The day after one such meeting, where the board tentatively approved the project, RMC raised Collins maximum potential compensation.

ª Collins billed RMC for attending water resources agency meetings, where he was an appointed director.

ª As a director, while being paid by RMC, Collins voted in favor of recommendations beneficial to the project that RMC managed for Marina Coast.

ª Collins billed RMC for a lobbying trip to Washington D.C., seeking federal funding for the project. The resources agency paid for Collins to be on the trip.

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[a] In August 2010, a new accountant reviewed and rejected the bills. The water district then asked RMC for a credit for the money it paid to cover Collins' work for the firm.

Community activists, some of whom have long opposed the water project, allege that officials should have been aware of the alleged conflict.

"It's a question of who knew what when," said north county resident Ed Mitchell.

According to the report, resource agency staff might have known Collins was working with RMC for Marina Coast as early as February 2010 and through financial disclosures in June 2010.

By then, officials with Marina Coast and RMC knew that they were paying Collins for doing his duties as a director.

The issue came to light for the public when Collins' recusal on a vote to keep RMC as the project's manger this February raised concerns.

Also on Tuesday, supervisors approved the nomination of Mike Scattini to replace Collins as the Grower-Shipper Association's representative on the water board.

Supervisors requested that the county audit the water resources agency's finances and review the contracts impacted by the potential conflict.

The investigation, Parker's cover letter said, is "now in the hands of the district attorney" and a state ethics watchdog.

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MONTEREY COUNTY

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June 21, 2011

Re: Investigation of Conflict of Interest Allegations regarding former MCWRA Board of Director Steve Collins

On behalf of the Board of Supervisors of the Monterey County Water Resources Agency, attached for your information is a report with preliminary findings from an investigation into conflict of interest questions regarding the Water Resources Agency Board of Directors.

This is only preliminary information, the investigation is continuing and the County will continue to cooperate with the District Attorney and the Fair Political Practices Commission (FPPC) on this matter. However, because of the level of community concern over this issue, the Board of Supervisors has chosen to release the information it has received about the controversy to the public rather than wait for a final report.

The County acknowledges the seriousness of allegations of impropriety surrounding the desalination project and has cooperated fully with investigative agencies, including seeking a highly credentialed outside legal firm to review the case. The investigation is now in the hands of the District Attorney and the FPPC.

While this investigation continues, it is critical that the water solution caught up in the controversy not be derailed in the process. The need for a water solution for our region remains, and the County cannot let it fail because of these circumstances. Towards that effort, the Board of Supervisors is taking the following actions:

Asking the Auditor-Controller to perform a financial audit on WRA to ensure proper accounting for project expenses to date.

Tasking County Counsel to review the Regional Desalination Project Agreements and advise on ramifications resulting from claims of a conflict.

Working with WRA/project partners to determine the most viable option for a water project.

Asking WRA GM to evaluate best measures in the implementation of next phases of project and project alternatives to ensure timely delivery at lowest possible cost to customers.

The Board of Supervisors is committed to focusing its efforts on the delivery of a regional water solution including an action and recovery plan. This emphasis does not diminish the seriousness of the situation or its implications, but keeps this critically important effort moving forward.

Jane B. Parker, Chair
Board of Supervisors of the Monterey County
Water Resources Agency

SENATE UNANIMOUSLY CONFIRMS PANETTA

CIA director to be nation's next Secretary of Defense
Story on page A4

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Steve Collins
Says he told county officials about his work with RMC.

Firm asked to hire Collins

REPORT CALLS SITUATION 'TROUBLING'

By JIM JOHNSON
Herald Staff Writer

Marina Coast Water District general manager Jim Heitzman asked RMC Water and Environment to hire Steve Collins, a county Water Resources Agency director at the time, as a consultant on the regional seawater desalination facility in January 2010.

Collins then billed RMC for working on behalf of the desal project while identifying himself as a county water board director, according to a preliminary report by a law firm hired by the county to investigate. Collins collected more than $160,000 for his efforts. RMC was later hired as project manager for the proposal.

The report calls Collins' actions "extremely troubling."

It wasn't until August 2010 that Heitzman was alerted about the extent of the work done by Collins for RMC, although regular bills had been submitted to Marina Coast.

Collins

From **page A1**

Heitzman told RMC he wouldn't pay for Collins' time, and Marina Coast would seek reimbursement for the payments from the firm.

But Collins, Heitzman and RMC's Lyndel Melton apparently kept the matter to themselves. No one at the county admits to knowing that Collins was being paid by RMC, according to the law firm's investigation, despite Collins' insistence that he told several county officials about it.

The investigation is continuing, said County Counsel Charles McKee. The District Attorney's Office and the state Fair Political Practices Commission are conducting inquiries.

Possible conflict

The report, released Tuesday, outlines the work Collins did while billing RMC, including a series of closed-door sessions and public hearings before the county Board of Supervisors, the water board, the state Public Utilities Commission and in Washington, D.C., to advocate the desal project.

Marina Coast, the county Water Resources Agency and California American Water are seeking to build the estimated $400 million desalination project to produce a new water supply for Cal Am's Peninsula customers.

Collins' actions, the report suggests, could constitute a conflict of interest under laws that prohibit a public officer from being financially interested in a contract made in public and private capacities, from participating in a decision in which he has a financial interest, or from being paid for performing official duties.

Much of the report's details have been reported by The Herald.

Collins insisted he told county officials he was consulting for RMC, but none of them "remembers such a discussion," the report says.

McKee said Collins indicated supervisors Lou Calcagno, Dave Potter and Simon Salinas, as well as Deputy County Counsel Irv Grant and attorneys for the county-hired law firm of Downey Brand, knew about the arrangement.

Contracts in question

Collins' conduct, according to the report, raises questions about the "validity of certain contracts" the county Water Resources Agency approved as part of the desal project, including settlement, water purchase and reimbursement agreements.

McKee said county staff will begin meeting today with officials from desal project partners to discuss the future of the project.

"I think everything's on the table," McKee said, including possible changes to the project agreements and a revised timeline.

He would not say what advice he offered supervisors regarding the project, but said the board had not directed him to begin legal action aimed at extracting the county from the project agreements.

Along with the release of the investigation, the Board of Supervisors on Tuesday issued a statement that "it is critical the water solution caught up in the controversy not be derailed in the process."

"The need for a water solution for our region remains, and the county cannot let it fail because of these circumstances," the board said.

'Moving forward'

A replacement source of water is needed as Peninsula customers face a state-ordered cutback of pumping from the Carmel River. Cal Am ratepayers will pay the bulk of the project cost on their water bills.

The Board of Supervisors said it has called for a financial audit of the Water Resources Agency's project expenses; a County Counsel review of the project agreements and advice on possible conflict of interest claims; meetings with project partners to "determine the most viable option for a water project"; and advice from county Water Resources Agency general manager Curtis Weeks on the best ways to implement the "next phases of the project and project alternatives" in a timely and cost-effective manner.

"This emphasis," the board said, "does not diminish the seriousness of the situation or its implications, but keeps this critically important effort moving forward."

In its conclusion, the report says no one suggested Collins was "acting against the interests" of the county Water Resources Agency, and appeared to be moving the project forward, "which was the direction given (the agency) and its staff by the Board of Supervisors."

But the report notes the investigation is "far from complete and the facts we have discovered to date are extremely troubling."

Jim Johnson can be reached at 753-6753 or jjohnson@montereyherald.com.

BOUNCING BACK
Bumgarner helps Giants sweep Indians
Story on page B1

DEFINING ABUSE
Case highlights caregiver challenges
Story on page A6

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Collins conflict cloudy

INVESTIGATION RAISES MORE QUESTIONS ON DESAL PROJECT

By JIM JOHNSON
Herald staff writer

Last week's release of a preliminary report on Monterey County's investigation of former water board director Steve Collins' alleged conflict of interest in the regional seawater desalination project left many questions unanswered, as the report itself acknowledged.

"Our investigation is incomplete and many questions remain," said the report, submitted by San Leandro law firm Remcho, Johansen & Purcell LLP.

There's still no indication of who knew what about Collins' relationship with RMC Water and Environment, for whom he worked on behalf of the desal project while he also represented the county water resources agency, and exactly when they knew it. And, there's no sense of why no one apparently raised questions or concerns about his role until after Collins' second recusal, in February, from voting on a contract involving RMC.

It wasn't until two months later the supervisors launched their investigation.

Collins worked for RMC, which served as Marina Coast Water District's project manager, on behalf of the desal project for most of 2010 and was paid more than $160,000 by the firm. He also sought

Steve Collins
Says he told county officials about his work with RMC.

This story can be found only in **The Herald's print version and e-Edition.**

Please see **Collins page A11**

Collins

From **page A1**

payment from the county for expenses related to his work on the project.

But there's some question whether the county's investigation, which is continuing, will include answers to those questions.

County Counsel Charles McKee said he and the supervisors will decide together how to proceed with the rest of the investigation, including what remaining questions it will address. McKee said the board will have to consider whether a continued factual investigation is warranted given that the District Attorney and the state Fair Political Practices Commission are also investigating the matter.

However, he said questions about who knew what and when about Collins' relationship with RMC should be answered, even if they don't ultimately have any bearing on the project itself.

"It's important to find that out from a public credibility standpoint but not from a legal standpoint," McKee said.

Involvement unclear

According to the report, Collins "insists" he informed county representatives that he was consulting for RMC shortly after he signed with the firm in January 2010, but the report says no one at the county "remembers such a discussion." In addition, the report said there may have been disclosure to the water resources agency about Collins' consulting for RMC as early as February last year, but the earliest independent documentation of disclosure regarding Collins' relationship with the firm to anyone at the county was June 2010.

By August, according to the report, both Marina Coast general manager Jim Heitzman and RMC's Lyndel Melton knew Collins was billing RMC for his work, ostensibly as a county representative, and the bills were being paid by Marina Coast, but neither apparently told water resources officials. In fact, the report found that RMC signed Collins to a $50,000 increase to his contract after he argued on behalf of the project agreements before the supervisors in both a closed session and a public hearing when the board approved the deal in April 2010. RMC increased Collins' contract to $125,000 by mid-July, according to the report.

However, McKee said it's not clear anyone at the county knew about the extent of Collins' involvement with RMC. That may have been true even after the county launched its investigation in early April about the same time that Collins resigned from the county water board. It also appears that no one considered what they knew about the matter to constitute a serious violation until a public records request by The Herald in May uncovered the extent of Collins' work for which he billed RMC.

McKee has declined to discuss the cost of the investigation, arguing that it would reveal the county's commitment to the case in any potential litigation.

County supervisor Dave Potter, who has been appointed "watchdog" of the project, said he's not sure how the county's investigation will proceed in the context of the others, though he pointed out that the "big question" remaining is whether there was a criminal offense committed. He noted that there has been an allegation that some of the meetings Collins billed RMC for attending never actually occurred.

Supervisor Lou Calcagno said he doesn't believe the county's investigation needs to address who at the county knew about the nature of Collins' relationship with RMC and when, pointing out that the project is likely to undergo significant oversight changes anyway.

Supervisor Jane Parker said she believes the investigating firm is finalizing details of the report, including a more detailed assessment of who knew what and when, and more information could ultimately be included in a final report. The preliminary report also didn't include a detailed legal analysis offered to county officials by the firm.

A final report could be finished by the end of the month.

Project critic Ed Mitchell said he will deliver a complaint to the Fair Political Practices Commission this week alleging that "other county officials purposely or negligently aided and abetted violations by Steve Collins," including water resource agency general manager Curtis Weeks, Deputy County Counsel Irv Grant and Heitzman. Mitchell previously filed a complaint with the FPPC over Collins' actions, as well as one with the District Attorney's Office asking for an investigation of County Counsel staff.

Collins, Weeks, Grant, Heitzman and RMC's Melton and senior project manager Leslie Dumas did not return phone calls from the Herald.

Jim Johnson can be reached at 753-6753 or jjohnson@montereyherald.com.

Regional Water Project

What is the project: The construction of a desalination plant north of Marina to supply drinking water to the Monterey Peninsula and to redevelopment areas of Fort Ord. It would be fed by brackish water and could be completed in 2015.

Why build it: A new water source must be developed to comply with state-ordered pumping reductions on the Carmel River.

Who are the project partners: The Marina Coast Water District would own the plant; the Monterey County Water Resources Agency would own the wells; California American Water would purchase the water and build a delivery pipeline.

Who is the project manager: RMC Water and Environment

How much will it cost: $400 million. Cal Am estimates water rates on the Peninsula will double but other estimates predict even higher increases.

The Herald

Editorial: Public shut out of desal process

The Monterey County Herald

Posted: 06/28/2011 01:40:25 AM PDT

Updated: 06/28/2011 08:43:07 AM PDT

We knew it would be hard to get a desalination plant built. Major public works projects often become misadventures. Success requires stamina and thick skin, among many other things.

Almost always there are problems in the planning and execution. That's the way it goes when bond consultants, engineers, architects and public officials attempt something big. It would be naive to demand perfection or to expect everyone involved to play it straight with the public's money and trust.

But, that being said, the long road toward a functional desalination plant on the Marina coast is proving to be even longer, more winding and more deeply rutted than we imagined at the start.

Has the path already become hopelessly crooked? We certainly hope not, but we are not reassured by how those in charge respond to revelations of conflicted interests and growing concerns about management of the $400 million-plus operation. In fact, we are beginning to wonder if they are actually hearing and understanding the points being raised by an alarmed public.

The latest example of political tone deafness came last week with two announcements. One, that Supervisor Dave Potter will act as Monterey County's watchdog over the desalination process, especially as it relates to issues raised by the $160,000 in payments from the project manager, RMC Water and Environment, to county water official Steve Collins. Second, that the county, the Marina Coast Water District and California American Water

have signed confidentiality agreements about their effort to modify their desalination partnership agreement in light of the Collins-related issues.

Collins, of course, until recently was the most active member of the county's Water Resources Agency board and a key player in the decision to award the management contract to RMC. If you have half an interest in this project, you already know that story. What concerns us here is what happens next.

Appointing a real, live person to an oversight role was a fine idea, but the choice of Potter was, well, problematic. Potter, like Supervisor Lou Calcagno, has been exceedingly active in the desalination discussions and met several times with Collins and others responsible for the heavy lifting. If Potter and Calcagno didn't know what Collins was up to, they should have. They're political pros, and if they didn't wonder how he could afford to spend so much time advocating for the project and attending meeting after meeting unless someone was paying, they must have been napping.

(Remarkably, another official heavily involved in the project, Marina Coast water district manager Jim Heitzman, not only knew about Collins' c ompensation, he helped set it up. But as far as we know, Heitzman hasn't been called on anyone's carpet. In fact, considering the way things work at Marina Coast, we wouldn't be surprised if he had received a bonus.)

We could list other reasons for our objection to Potter as overseer, but our purpose is not to scold or antagonize. It is to suggest a more logical path. While there are ongoing efforts to develop other solutions to the Peninsula's water supply problem, it is almost universally accepted that without the Marina plant coming on line as soon as possible, the state is very likely to dramatically curtail the Peninsula's supply of water from the Carmel River.

The result would be truly devastating to the local economy.

It is, therefore, critical that the desal venture regain its momentum and that the principals get the job done. If there is to be any chance of success, they need to start hearing what the public is saying a bout the process and the lack of public disclosure, the lack of accountability and the apparent lack of self-control by those in position to profit personally.

If there is to be success, officials of the various entities have to realize that the structure they created isn't working and that they need, quickly, to give the public or trusted representatives of the public an equal seat at the table. If there are to be negotiations toward a revised partnership agreement, the public needs to know what is going on — now, not after the papers are all signed.

If there is to be a watchdog, it must be someone fully committed to protecting the public interest and no one else's. Someone from business, perhaps, or the judiciary? Leon Panetta's busy, but what about an engineering consultant or an academic? There must be someone who can walk the winding road without the baggage of a county supervisor, someone who actually pays attention when the public speaks.

The Herald

Editorial: Plenty to blame in desal controversy

The Monterey County Herald

Posted: 07/03/2011 01:48:33 AM PDT

Updated: 07/06/2011 09:46:16 AM PDT

Correction: The Herald's editorial on Sunday should have said that former Monterey County Water Agency trustee Steve Collins and agency Director Curtis Weeks formed a partnership, Collinsweeks Consulting, in January 2010.

It's too bad the name is already taken because Watergate would be an appropriate label for the growing controversy over the Marina desalination plant. "Desalinationgate" doesn't work and neither does "Collinsgate" despite the key role played by former county water official Steve Collins.

For a time, it looked like "Heitzmangate" could stick. That was a couple of weeks back after the Monterey County Board of Supervisors issued parts of an investigative report that tried to stick Jim Heitzman, Marina Coast Water District's general manager, with the ill-fated decision to quietly put Collins to work for the desalination project manager, RMC Water and Environment.

But Heitzman deftly stepped out from under that cloud on Friday with the release of another investigative report, this one by lawyers working for Marina Coast. Now it seems we have a choice. It could be "Calcagnogate," because of the string-pulling role of Supervisor Lou Calcagno, but even better might be "Pottergate," if only because it rhymes so nicely with Watergate.

Potter, of course, is Supervisor Dave Potter, who, according to the new report, joined Calcagno to urge the hiring of Collins way back when, ignoring state conflict-of-interest law and common sense in the

process.

The facts of the two reports aren't necessarily at odds. The new one just has considerably more detail. It blames Calcagno and Potter for starting the process that led to Collins being paid $160,000 by RMC even while he was a member of the board of the county's Water Resources Agency and even though he had helped swing the project manager contract RMC's way.

The county report make it sound like it was Heitzman's idea. The Marina Coast report counters that Heitzman was just a team player and that Calcagno and Potter were calling the shots, largely out of concern that the high-powered team of water consultants, engineers and lawyers working for the county and Marina Coast couldn't carry off the desalination venture without the help of Collins, an agribusiness accountant.

If the new report has its facts straight, the county owes Heitzman an apology for trying so hard to make him the bad guy. In truth, it now appears, there are plenty of bad guys, or at least below-average guys. Forget about their ability to build a desal plant. If all these well-paid fellows couldn't figure out a way to get Collins paid for his time without breaking laws or creating a web of lies, one wonders how they can accomplish much of anything.

Neither of the reports address any aspect of that issue, but most objective readers of the two reports would likely join us in calling for some new form of leadership.

Among the latest info in the new report is that shortly after Collins resigned from the water agency board in January, he formed a partnership with Curtis Weeks, director of the county Water Resources Agency. The report says the new firm of

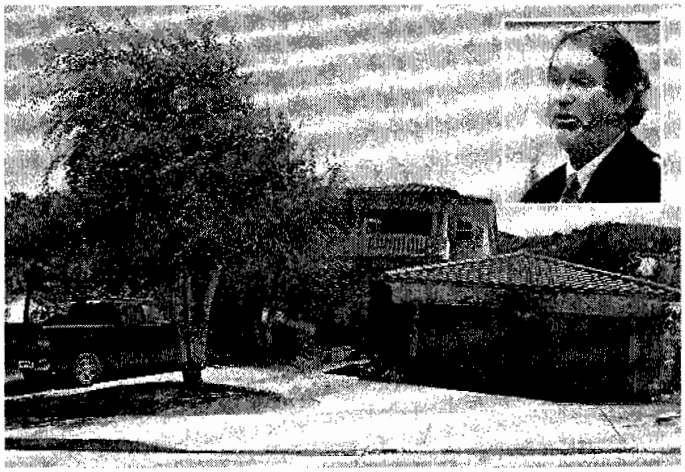
Collinsweeks Consulting hoped to manage the desalination project, or at least the county's role.

For the record, that is not the new form of leadership we have in mind.

NEWS

Everyone Under the Bus

Dueling reports point fingers in many directions on Regional Water Project conflicts. By Kera Abraham



NIC COURY

House Rules: Collinsweeks LLC operates out of Stephen Collins' Las Palmas home, according to Secretary of State records. County Water Resources Agency GM Curtis Weeks, inset, partnered with Collins in the firm nearly 18 months ago.

TomKat and Brangelina may be international sensations, but a new supercouple is stealing even more media attention in Monterey County: Collinsweeks.

That's Steve Collins, former Monterey County Water Resources Agency board member under investigation for alleged conflict of interest in the Regional Desalination Project, and MCWRA General Manager Curtis Weeks.

California Secretary of State records show the pair formed Collinsweeks LLC, a private engineering and financial consulting company, in January 2010—just as Collins began consulting for RMC Engineering, the firm that ultimately won the $28 million contract to manage the Regional Project. Collins was simultaneously advocating for the project in his public position as MCWRA board member, in alleged violation of state conflict-of-interest laws. Collinsweeks is still active, according to SOS records.

The juicy Collins issue has sparked a competition among investigators. While the Monterey County District Attorney works with the state Fair Political Practices Commission, private law firms hired by the county Board of Supervisors and Marina Coast Water District (not to mention local media) are working to make sense of a scandal that threatens to invalidate the project's legal foundation.

The preliminary county investigation, known as the Remcho report, names Marina Coast General Manager Jim Heitzman as the orchestrator of Collins' ill-fated contract. But the preliminary investigation released by Marina Coast last week, prepared by James Markman of the Los Angeles firm Richards, Watson & Gershon (as reported July 1 at www.mcweekly.com), pins the blame primarily on Weeks, Supervisor Dave Potter and Supervisor Lou Calcagno, with a legal assist from county counsel.

In the Markman narrative, Collins repeatedly offered to resign from the MCWRA board once he started working for RMC, but Supervisors Potter, Calcagno and Simon Salinas told him not to. Heitzman cut off MCWD's reimbursements to RMC for Collins' work because county counsel would not provide a written opinion green-lighting Collins' dual role, Markman states.

Calcagno denies he helped arrange the RMC consulting deal for Collins. "I never did such a thing. Why would I do something like that?" he asks. "All I did was ask Steve Collins to take a leadership role as a Water Resources Agency board member on this project."

Potter has denied knowing of Collins' dual role before it became public. Weeks and Heitzman could not be reached by deadline.

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Sunday, July 10, 2011
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Calcagno seeks Weeks' resignation

SUPERVISOR SAYS WATER AGENCY CHIEF'S PARTNERSHIP WITH COLLINS IS A CONFLICT OF INTEREST

Curtis Weeks
Asked for an amended employment contract, Supervisor Lou Calcagno says.

Steve Collins
Billed RMC for project work while representing the county water agency.

Herald Exclusive

By JIM JOHNSON
Herald Staff Writer

Supervisor Lou Calcagno said he will recommend to the Board of Supervisors that Monterey County Water Resources Agency general manager Curtis Weeks be asked to resign.

Calcagno's recommendation comes in the wake of revelations that Weeks and former county water board director Steve Collins formed a business partnership about a year and a half ago, then pursued private consulting work together while both represented the county water agency. Calcagno views that as a conflict of interest because of the agency's influence on local water issues. He believes Weeks should have officially reported the business partnership with Collins when it was formed.

A preliminary report on a conflict-of-interest investigation of Collins commissioned by the Marina Coast

> "I wanted to (ask Weeks to resign) earlier but I didn't have the support. I knew something was fishy; I just didn't feel good about it."
>
> — **Lou Calcagno, county supervisor**

This story can be found only in **The Herald's print version and e-Edition.**

Please see **Water page A9**

Water

From **page A1**

Water District found that Weeks and Collins had formed a partnership dubbed Collinsweeks Consulting LLC, which was registered with the California Secretary of State on Jan. 4, 2010. The report also suggested the pair told Marina Coast general manager Jim Heitzman and RMC Water and Environment's Lyndel Melton they formed the partnership to manage the proposed regional desalination project.

Both Calcagno and Supervisor Dave Potter said the pair had told them about their plans to form a private consulting firm, but not until months after the partnership had already been formed and there was never any mention of the desal project.

Calcagno said he told Weeks and Collins when they approached him in the spring that he opposed their consulting plans because of the conflict of interests. He said he immediately had doubts about the duo's motives, especially when Weeks asked for an amended employment contract that would allow him to continue working for the county and engage in private consulting work. He said he later found out the pair had already pitched their services to at least one local agribusiness organization on the ag waiver issue (state water board rules regarding the discharge and quality of agricultural water).

"I wanted to (ask Weeks to resign) earlier but I didn't have the support," Calcagno said. "I knew something was fishy; I just didn't feel good about it. I was suspicious of everything they brought to me after that."

Potter said he was told by Weeks last fall about the pair's plans to go into business together, and that they already had a variety of potential clients.

"I never got the impression they would be doing both (private consulting and working for the county) at the same time," Potter said.

Potter said the board would have to consider Weeks' future with the county water agency, though he said there remains

Dave Potter
Says the board will have to consider Curtis Weeks' future with the county water agency

questions to be answered about what actually occurred. If, he said, the pair worked on behalf of their firm on county time or prepared a formal consulting proposal, then it would be "an issue."

Calcagno said he was approached by Weeks and Collins in March about the consulting plans, and that's when Weeks asked for an amended contract. The supervisor said he immediately reported the matter to County Administrative Officer Lew Bauman and County Counsel Charles McKee.

McKee confirmed he had been informed about the pair's proposal, and had seen a draft copy of Weeks' proposed contract, which he said appeared designed to offer the water agency general manager "more flexibility." He said he told Weeks he represented the board and couldn't recommend such a change to the supervisors.

Calcagno said he discovered in April, during discussions with Grower Shipper Association president Jim Bogart and other association officials, that the pair had pitched their services to the GSA on the ag waiver issue last fall.

That same month Collins, who was facing conflict-of-interest accusations about his dual role with RMC and the county water agency on the desal project, submitted his resignation from the water agency board.

Bogart said he had only a short meeting with Weeks and Collins, and informed them that Grower Shipper was merely a member of a larger coalition of agribusiness interests involved with the ag waiver issue and the entire group would need to weigh in on the duo's offer. He said there were never any details offered on services or programs.

Potter said such an engagement would have likely created at least the perception of a conflict given the county water agency's influence on ag water quality and discharge policy.

McKee said he was told by Weeks and Collins last year that they planned to go into business together, though they never said what they would be doing. He said he told them they couldn't "engage in any lines of business" that they also worked on for the county water agency, though he also said he couldn't offer them any advice.

The Marina Coast report suggested that when Weeks and Collins allegedly told RMC's Melton last fall that they had formed the consulting business to manage the county water agency's portion of the desal project, they told Melton they had asked McKee how such an arrangement could be structured.

Just four days after forming Collinsweeks Consulting, Collins was hired as a consultant by RMC Water, Marina Coast's project manager on the desal project at the time.

Collins would spend most of 2010 billing RMC more than $160,000 for work on the project while representing the county water agency.

RMC subsequently won a $28 million deal to manage the entire $400 million desal project, which is backed by a partnership between the county water agency, Marina Coast and California American Water. The proposal is designed to provide a new water source for the Peninsula to offset a state order to reduce pumping from the Carmel River.

Weeks was hired by the county water agency in 1997, and was promoted to general manager in 2000, according to county records. Collins spent 16 years on the county water agency board.

Neither Weeks nor Collins have returned repeated phone calls from The Herald for months.

On Friday, Michael Lawrence, an attorney for Collins, said in an e-mail statement that the consulting business has been dormant from the outset, but might pursue projects outside Monterey County that do not involve water.

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Opinion

THE HERALD'S VIEW

Time to lift desal shroud of secrecy

From the beginning, some of the biggest concerns about the planning for a Marina desalination plant — other than cost — have been the lack of clear, accountable leadership and the amount of back-room maneuvering that has left the public out of the process and barely able to follow along.

Now that this important project apparently has stalled — in part because of highly questionable side deals made in those back rooms — the leadership might be expected to learn from experience and change its ways.

Unfortunately for all involved, those in charge seem not to have received the message. In fact, they have added additional layers of secrecy, and additional squads of lawyers, to the point that even those overseeing the process could soon find themselves unable to get a clear picture themselves. With lawyers involved in so many aspects of the project and various ancillary investigations, much of it is already shrouded in attorney-client privilege.

One of the key players, the Marina Coast Water District, has a lawyer at its daily disposal but hired others to conduct a special investigation into conflict-of-interest issues in response to Monterey County's decision to hire lawyers to investigate the same thing. So what's next? On the agenda for the water district's next board meeting is a request to hire another lawyer just to represent district General Manager Jim Heitzman.

This newspaper recognizes its role to try to sort it all out on behalf of the public regardless of the obstacles, but the hurdles have only grown steeper as those in charge have chosen to aggressively ignore the public's call for more information.

At the moment, we believe the partnership of Marina Coast, Monterey County and California American Water is negotiating some new terms that could change the dynamics somewhat and do something to make it appear that the public is being given more of a voice. We don't know for sure, however, because the parties started by agreeing not to say anything publicly.

We believe a committee of Peninsula mayors may be involved in the talks, but we don't know for sure because, you guessed it, the mayors also have taken a vow of silence.

The entire process, of course, was born in secrecy. The original partnership arrangement was negotiated in secrecy in a quasi-judicial process initiated by the state Public Utilities Commission. Perhaps that created an impression that secrecy has been sanctioned and that transparency is only a buzz word, a distraction.

The many who are out of the loop might actually be able to accept that status in this case if real progress was being made — if bonds were being sold, if water rights had been obtained, if there was a sense that taxpayer and ratepayer money was being used for something other than meals, hotel bills and legal fees. Instead, the perception now is that the various entities — and their lawyers — could be doing nothing trying to minimize their liability when the whole thing falls apart.

It is our hope and expectation that they stop covering their rears and do what needs to be done to get things moving again. The Peninsula faces a very real state order to start turning off the pumps along the Carmel River. Our expectation is that our elected and appointed leaders will listen to the public as well as the lawyers, open the process up to public inspection and either get back on track or admit defeat while there is still time for the community to act.

Carmel Pine Cone

On the Internet: www.carmelpinecone.com July 15-21, 2011

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Potter and Calcagno say hiring Collins wasn't their idea

By KELLY NIX

COUNTY SUPERVISORS Dave Potter and Lou Calcagno this week defended themselves against allegations by former county water board director Steve Collins that they played a role in encouraging him to take a lucrative deal with a private consulting firm, even while he served in an official capacity.

Collins' alleged double role has resulted in serious conflict of interest charges and could delay a new water supply for the Monterey Peninsula.

Citing statements from Collins, a report released last week by the Marina Coast Water District alleged Calcagno and Potter were responsible for the hiring of Collins as a high-priced consultant by RMC Consulting at the same time he was a director with the Monterey County Water Resources Agency during planning of the regional desalination project. RMC paid Collins $160,000 for helping promote the $400 million desal project in his dual roles, and the firm was later awarded a $28 million contract to manage it.

The Marina water district report says that during a meeting in January 2010 with supervisors Calcagno, Potter and Simon Salinas, Collins said he was told he had "to close the deal and act as a sub-consultant to RMC."

But Potter told The Pine Cone the accusations are "ludicrous" and said he never recommended Collins — who ran against Potter in 2004 for the 5th District Supervisor seat — for the job at RMC.

"I've never heard anything so ridiculous in my life," Potter said. "I would never suggest they hire Steve Collins, because I was under the impression he was a representative of the county water resources agency and I would have perceived it as being a conflict."

Potter said he's still not sure what exactly

See COLLINS page 20A

COLLINS

his participation in the project was crucial to its success."

Calcagno sought his help with the regional desalination project because he and Collins had worked together on projects "with great success." Calcagno said he often consulted Collins about the county general plan and other issues.

"Over the years, we developed a good working relationship based on mutual trust, a common interest in serving our community, and a desire to protect and promote agriculture as the leading economic driver in the county," Calcagno said.

But Calcagno said the manner in which Collins became an RMC consultant "raises questions about leadership and management" of the regional water project.

"If any laws were broken, those responsible will be held accountable," Calcagno said.

While Calcagno reiterated the importance of the regional water project — which would provide an alternative to pumping from the Carmel River — he said the project agreements, including the contract with RMC to manage the project, needed "reexamining."

"The ratepayers of the Peninsula need our best effort to solve their water problems at a fair and reasonable cost through a project developed with complete and total transparency," he said.

On April 11, Collins resigned his position on the resources agency's board of directors.

'Collinsweeks'

The Marina Coast report indicates that in January 2010 Collins and county water agency general manager Curtis Weeks formed a company called Collinsweeks Consulting which Calcagno said he had no idea existed until reading newspaper stories about the partnership last week.

In March of this year, though, Calcagno said Collins and Weeks approached him and said they planned to start a consulting business. Calcagno said Weeks wanted approval that would allow him to retain his job at the county water agency and also work as a consultant.

"I advised them that I could not support their proposal," Calcagno said, "and I immediately reported this information to county counsel Charles McKee and county administrative officer Lew Bauman."

Allegations of a serious conflict of interest that could delay a badly needed water project

Weeks evaluated

On Tuesday in closed session, the supervisors conducted a performance evaluation of Weeks. After the evaluation, Calcagno issued a prepared statement to the press that mentioned the "concerns" over allegations involving Collins and Weeks' and Collins' consulting company.

"There are investigations under way by private attorneys, the Fair Political Practices Commission and the district attorney," he said. "The outcome of those investigations will help guide any actions by the board and this supervisor."

Though it was reported Calcagno would call for Weeks' resignation, that didn't happen. Instead, Calcagno said it's important to "allow the legal processes to run its course."

"It is easy to make allegations against another person," he said. "We think it is important to allow those investigations to reach an end before anyone rushes to judgment."

Meanwhile, Heitzman has received approval from the Marina Coast board of directors to hire a $495-per-hour attorney to represent him in the Collins investigation, which he said should not derail the regional water project.

At Cal Am's Pacific Grove offices Wednesday, Heitzman said he, Cal Am's president Rob MacLean, Weeks, Carmel Mayor Sue McCloud and Monterey Mayor Chuck Della Sala met and discussed the importance of "moving forward" with the regional project.

"The parties met today, and things look really good," Heitzman said. "It looks like things are getting back on track."

But other officials said the Collins debacle could be a very serious setback for the regional water project.

THE HERALD'S VIEW

Water manager must be replaced

If there is to be a chance of completing a significant desalination project within a meaningful time frame, Monterey County officials must install new leadership — a process that starts with getting rid of the old leadership.

Our shaky faith in the current structure was rattled even more when the Monterey County Board of Supervisors decided earlier this month not to terminate Curtis Weeks, general manager of the county Water Resources Agency.

Sitting around waiting for investigations to end doesn't cut it.

Instead of dismissing him as Supervisor Lou Calcagno was proposing, the supervisors opted to keep him around at least until completion of conflict of interest investigations being conducted by the district attorney and the state Fair Political Practices Commission.

In other words, the supervisors essentially could leave it up to others with very limited responsibilities and authority to decide, eventually, whether Weeks should continue to play a key role in the most important public works project in recent county history.

Will his fate hang on whether others find technical violations of state law? Or will the supervisors step up and recognize that he has seemingly accomplished little on the public's behalf while helping create a web of conflicting interests that has severely undermined the public's faith in the Marina desalination project?

Some details must be repeated here, but it is not just the specifics that support a call for new leadership now. Add it all up and it appears the project is doomed unless there is quick action to demonstrate that officialdom has both the will and the expertise to perform. The best way to start would be to replace Weeks with a competent professional whose loyalties are not at issue, and to do it as soon as possible.

Our limited support for Weeks collapsed after this spring's revelation that Steve Collins, a member of the Water Resources Agency board of directors, had been paid $160,000 by the desal project manager, RMC Water and Environment, to perform lobbying and consulting work on behalf of the project. It was learned later that Collins had taken on that role partly at the urging of supervisors Calcagno and Dave Potter because they felt that Weeks wasn't capable of getting the project done on his own.

Many participants thought Collins was volunteering his time, largely because he failed to take advantage of numerous opportunities to correct that misimpression. Weeks knew, however, and he went so far as to join Collins in creating a private business partnership, Collinsweeks Consulting, in January 2010.

It isn't clear what role Collinsweeks Consulting hoped for itself in connection with the desal project, but it is known that the two water officials were pitching themselves to various firms and organizations in the related arenas of water and agriculture.

For instance, they offered to represent growers and others at odds with the state over plans for tighter regulation of irrigation runoff. It apparently did not matter that Weeks already plays a role in that regulatory process or that state water officials have felt for some time that his office was running interference on behalf of local growers who could be sending contaminants into the Salinas River and other waterways.

With Weeks and Collins busily soliciting clients for themselves, it would have been difficult or impossible to determine whose concerns they were representing at any certain time over the past couple of years, but it is a good bet that the public interest was low on the list.

The supervisors need to replace Weeks with someone who understands both urban and rural water issues, who has demonstrated competence with large public works projects, who knows how to work within a budget and who understands conflict of interest rules. Sitting around waiting for investigations to end doesn't cut it.

RECEIVED

AUG 08 2011

CALIFORNIA
COASTAL COMMISSION

August 1, 2011

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Subject: Monterey Bay Regional Desalination Project Slant Test Well Coastal Development Permit Application (CDP Application #3-11-036)

To California Coastal Commissioners:

This letter is to communicate our strong support for approval of the Monterey Bay Regional Desalination Project Slant Test Well Coastal Development Permit (CDP) application number E-11-036. This application is being heard by the California Coastal Commission at their August 12, 2011 meeting in Watsonville, CA. This application (E-11-036) is Item 6A on that meeting agenda.

This proposed application is for a test well and associated monitoring wells, and is a critical step to providing essential data required to move the Monterey Bay Regional Desalination Project forward and to ensuring compliance with State Water Resources Control Board (SWRCB) Order WR 95-10 and SWRCB Order WR 2009-0060 (the Cease and Desist Order). The slant test well is required by the California Public Utilities Commission's Certificate of Public Convenience and Necessity (CPCN) regarding the Regional Desalination Project and will also provide data that will support resolution of any ongoing litigation regarding the project.

Thank you for your consideration and your approval of the CDP application number E-11-036 for the Regional Desalination Project's Slant Test Well program.

Sincerely,

Sue McCloud
City of Carmel

Chuck Della Sala
City of Monterey

Felix Bachofner
City of Seaside

Carmelita Garcia
City of Pacific Grove

Jerry Edelen
City of Del Rey Oaks

David Pendergrass
City of Sand City

LandWatch
monterey county

Post Office Box 1876, Salinas, CA 93902
Email: LandWatch@mclw.org
Website: www.landwatch.org
Telephone: 831-759-2824
FAX: 831-759-2825

RECEIVED
AUG 0 8 2011
CALIFORNIA
COASTAL COMMISSION

August 4, 2011

Mary Shallenberger, Chair
Members of the Commission
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

SUBJECT: August 12, 2011 - AGENDA ITEM 6 - REGIONAL DESALINATION PROJECT

Dear Chair Shallenberger and Members of the Commission:

This is the second letter LandWatch Monterey County is submitting to urge the Commission to delay a decision on the slant test well application for the Regional Desalination Project (RDP) in Monterey County.

We have already expressed our concern regarding the piecemeal approach to environmental review engendered by separate approval of this application. However, regardless of the project's source water alternatives (slant wells or vertical wells), the cumulative impact to North Monterey County's upgradient aquifers was never analyzed or mitigated in the project EIR or the EIR addenda mentioned in the staff report.

The Coastal Commission's long-standing concerns regarding availability of long-term, adequate water supplies in North Monterey County's coastal zone is clearly documented by a letter sent to the Monterey County Board of Supervisors by Attorney General Bill Lockyer in April, 2006. [See attached letter and related documents, Attachment 1.] The letter, written on behalf of the California Coastal Commission, asks the county to evaluate the adequacy of water supply to accommodate buildout authorized under the North Monterey County Land Use Plan (LUP) and to propose a process to address inadequate supplies. Although a hearing was scheduled on the issue almost a year later, March 13, 2007, the board voted to continue the item to a date uncertain. It was never placed on the board agenda again.

Monterey County never resolved how to proceed with residential buildout in North County in the face of inadequate water supplies. The water demand posed by that buildout is dwarfed by comparison to the water demand envisioned by the Regional Desalination Project, which further threatens those supplies. To put the issue into perspective, annual water demand in the *entire* North Monterey County Land Use Plan Area is about 23,000 acre-feet. [North Monterey County Hydrogeologic Study, Volume I, Water Resources, page 85, Attachment 2.] The Regional Desalination Project will require between 22,000 and 25,000 acre-feet of source water.

Because all of the proposed source well locations are for sites in the north Salinas Basin, the RDP poses a huge threat to North Monterey County's interconnected and interdependent aquifers, which are upgradient of the Salinas Basin and drain into the Salinas Basin in the south and the Pajaro Basin in the North. [Figure 12 from the North Monterey County Hydrogeologic Study illustrates 1994 ground water levels and ground water movement in North County's aquifers, Attachment 2.]

In 1994, ground water levels in Springfield Terrace were entirely below sea level; and ground water levels in significant portions of Highlands North and Highlands South were below sea level. Water levels throughout the region were declining and continue to decline. It is important to note that the boundary between Highlands North and Highlands South is an arbitrary, jurisdictional boundary. These two subareas are hydrogeologically similar and hydraulically connected. Because of the interconnection and interdependence of North County's aquifers and the adjacent river basins, it is impossible to completely isolate the impacts of one upon another. Furthermore, until overdraft is reversed in the Salinas Basin, North County's water will continue to drain away into the Salinas Basin.

Despite North County's vulnerability, none of the calibration wells upon which projected ground water elevations were modeled in the RDP EIR are located in North County's aquifers. [See Figure 2, Regional Project Scenario 4f Hydrographs for calibration well locations, Attachment 3.]

LandWatch has repeatedly expressed its concerns about the complete lack of analysis of the cumulative impacts to North County's aquifers of the proposed project, regardless of the ultimate type and configuration of the source wells. [See the LandWatch FEIR comment letter, Attachment 4.] Until that significant deficiency is corrected, the Coastal Commission should not rely upon the project's EIR, any addenda to that EIR or upon any proposed slant test well mentioned as "a key component of a Water Purchase Agreement among the three entities proposing the RDP." [Page 10, Combined Staff Report, Coastal Development Permit Application, item F6a, file number E-11-019]

Once again, LandWatch urges the Commission to delay approving any part of the Regional Desalination Project until these and other issues are resolved.

Sincerely,

Amy L. White
Executive Director

Attachment 1

BILL LOCKYER
Attorney General

State of California
DEPARTMENT OF JUSTICE

1511 CLAY STREET, 20TH FLOOR
OAKLAND, CA 94612

Public: (510) 622-2000
Telephone: (510) 622-2136
Facsimile: (510) 622-2270
E-Mail: tara.mueller@doj.ca.gov

April 20, 2006

Mr. Jerry Smith
Chairman of the Board of Supervisors
County of Monterey
2616 1st Ave.
Marina, CA 93933

RE: Request for Staff Referral or Appointment of Board Subcommittee Regarding Water Supply and Land Use Planning Issues in the Coastal Zone of North Monterey County

Dear Mr. Smith:

I am writing this letter on behalf of staff to the California Coastal Commission, as well as representatives of Mr. Stephen Bradshaw, LandWatch, and Friends and Neighbors of Elkhorn Slough (FANS) to request that the Monterey County Board of Supervisors refer the issue of the availability of long-term, adequate water supplies in the North Monterey County coastal zone to your staff (e.g. the Monterey County Planning & Building Inspection Department, Water Resources Agency, and County Counsel) for an evaluation and recommendation to the Board. Specifically, we request that staff be authorized to evaluate, consult with interested parties and provide a report and recommendation to the Board regarding: (1) the availability of long-term, adequate water supplies for the North Monterey County coastal zone to accommodate the remaining build out authorized under the North Monterey County Land Use Plan (LUP); and (2) if current water supplies are found to be inadequate, the process for consideration of new and pending residential development proposals in the North Monterey County coastal zone until long-term, adequate water supplies can be secured for this area of North Monterey County.

This request stems from a lawsuit filed by Mr. Bradshaw in February of 2005, challenging the California Coastal Commission's denial, in December of 2004, of Mr. Bradshaw's application for a coastal development permit (CDP) to subdivide his 25-acre parcel into ten lots. The Bradshaw property is located in the coastal zone of northern Monterey County. (*Bradshaw v. California Coastal Commission*, Monterey County Superior Court Case No. M73177.) The County Board of Supervisors approved the permit in July of 2004. LandWatch, FANS, and two members of the Commission then appealed the Board's decision to the Commission in August of 2004. The Commission denied the CDP in part based on its conclusion that, because the groundwater demand in the North Monterey County coastal zone now significantly exceeds the safe yield of the underlying aquifer, approval of the CDP would

violate policy 2.5.2.3 of the North Monterey County Land Use Plan, among others. As you are aware, this policy requires development to be phased so that groundwater use does not exceed the safe yield level of local aquifers.

Since Mr. Bradshaw filed his lawsuit challenging the Coastal Commission's denial of his permit, the parties have been engaged in extensive settlement negotiations. As part of those negotiations, the parties have consulted with the environmental organizations that initially appealed Mr. Bradshaw's CDP application to the Commission. Although the Bradshaw litigation has recently been resolved by a settlement between the Commission and Mr. Bradshaw, this settlement is structured so that it does not provide a precedent or template for any other project. At the same time, all interested parties agree that the issues raised by this matter will certainly be raised again, most likely in the very near future. Further litigation on these issues, both at the County and the Commission level, is likewise foreseeable. Indeed, the Commission currently has before it appeals of the County's approval of the Rancho Roberto and Tanglewood residential subdivisions in North Monterey County. We understand that applications for several other residential subdivisions in the North Monterey County coastal zone are currently pending before the County, all of which have the potential to be appealed to the Commission.

Therefore, the Coastal Commission staff, Mr. Bradshaw's counsel, FANS and LandWatch believe that it is in the best interests of all concerned, including the County, to attempt to resolve the broader question of the availability of long-term, adequate water supplies for the North Monterey County coastal zone, and the process for considering residential development proposals pending the availability of such supplies. We understand that the Board is considering an updated general plan that may have some bearing on this issue. However, since that plan and the corresponding revised implementing ordinances are unlikely to be completed in the near future, and the proposed revised plan is not specifically intended to address coastal zone issues, and given that there are a number of pending subdivision applications in North Monterey County coastal zone, we believe that it is necessary and appropriate to move forward on the North Monterey County groundwater issue at this time.

Toward this end, we respectfully request that the Board refer this matter to its staff to provide a report and recommendation to the Board on these issues, or address this matter in an appropriate alternative manner, such as by appointing a subcommittee of the Board to investigate and address these issues and to meet and confer with interested parties. The purpose of this effort would be to engage in a constructive dialogue with all interested parties in an effort to develop a mutually acceptable solution to the ongoing concern about the adequacy of available groundwater supplies to serve new development in the North Monterey County coastal zone. Assuming the County accepts this request, Coastal Commission staff, counsel to Mr. Bradshaw, and representatives of FANS and LandWatch agree to actively participate in the ensuing dialogue and discussion.

We appreciate the County's consideration of this request. Please contact me at 510-622-2136 if you have any questions. Thank you.

Sincerely,

Tara Mueller/s.v

TARA MUELLER
Deputy Attorney General

cc: John Bridges, Esq., Fenton & Keller
Charles Lester, California Coastal Commission
Rick Hyman, California Coastal Commission
Bill Yeates, Esq., Law Offices of J. William Yeates
Chris Fitz, LandWatch Monterey County
Mari Kloeppel, Friends, Artists and Neighbors of Elkhorn Slough
Charles McKee, Monterey County Counsel
Alana Knaster, Monterey County Planning Director
Curtis Weeks, Monterey County Water Resources Agency General Manager

Notice of Public Hearing

Monterey County Board of Supervisors

NOTICE IS HEREBY GIVEN that the Monterey County Board of Supervisors, State of California will hold a Public Hearing to consider the project described below. The hearing will be held on **Tuesday, March 13, 2007** at the hour of **1:30 PM** in the Monterey County Board of Supervisors Chambers, County Government Center 168 West Alisal Street at Capitol in Salinas, California, at which time and place any and all interested persons may appear and be heard thereon.

Project Title:	**WATER SUPPLY EVALUATION**
Project File No:	PD061169
Project Location:	NORTH MONTEREY COUNTY
Permit Type:	Miscellaneous
Planning Area:	North County Coastal Area Plan
Environmental Status:	Categorically Exempt pursuant to the California Environmental Quality Act
Note:	This project is located in the Coastal Zone.
Project Description:	ANALYZE ATTORNEY GENERAL'S REQUEST FOR STAFF TO EVALUATE WATER SUPPLIES IN THE NORTH MONTEREY COUNTY COASTAL ZONE TO ACCOMMODATE BUILD OUT UNDER THE LAND USE PLAN AND PROPOSE A PROCESS TO ADDRESS INADEQUATE SUPPLIES.

IF YOU CHALLENGE THIS MATTER IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS PUBLIC NOTICE OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE APPROPRIATE AUTHORITY AT OR BEFORE THE PUBLIC HEARING.

FOR ADDITIONAL INFORMATION CONTACT: KNASTER, Project Planner Monterey County Planning & Building Inspection Department168 West Alisal St, Salinas, CA 93901 (831) 755-5322 or knastera@co.monterey.ca.us

MONTEREY COUNTY

BOARD OF SUPERVISORS

Fernando Armenta	1st District (Vice Chair)	Lew C. Bauman
Louis R. Calcagno	2nd District	County Administrative Officer
Simón Salinas	3rd District	
Jerry Smith	4th District	Charles J. McKee
Dave Potter	5th District (Chair)	County Counsel

Darlene Drain
Clerk to the Board
P. O. Box 1728
Salinas, CA 93902

Phone: (831) 755-5066
FAX: (831) 755-5888
Home Page: www.co.monterey.ca.us

ACTION MINUTES

MONTEREY COUNTY BOARD OF SUPERVISORS
MONTEREY COUNTY REDEVELOPMENT AGENCY
TUESDAY, MARCH 13, 2007
9:00 AM

NOTICE OF TELECONFERENCED MEETING

Pursuant to Government Code section 54953, the afternoon session of the meeting will be teleconferenced to permit Supervisor Fernando Armenta to participate from the following location:

The Independence Room
J.W. Marriott Hotel-Washington D.C.
1331 Pennsylvania Avenue
Washington D.C.

A copy of the agenda for the meeting will be posted at the teleconference location, and then teleconference location will be accessible to the public.

9:00 a.m.

6300.000 S-1 Closed Session under Government Code section 54950, relating to the following items:

a. Pursuant to Government Code section 54957, the Board will provide a performance evaluation for the following public employment position:

1. Natividad Medical Center CEO

BOARD ACTION: The performance evaluation was started and will be ongoing for a while.

BOARD ACTION: Upon motion of Supervisor Potter, and seconded by Supervisor Salinas, and carried 3/0 (Supervisor Armenta and Smith were absent from the vote).

0602.200 S-16 **Resolution No. 07-072** Public hearing to consider:

a. **Denied** the appeal and uphold the County fees for the Initial Study; and

b. **Approved** a refund of the Appeal fees.

(Appeal, Use Permit - PLN070026/O'Connell, 21444 Parrot Ranch Road, Carmel Valley, Cachagua Area)

BOARD ACTION: Upon motion of Supervisor Potter, and seconded by Supervisor Salinas, and carried 3/0 (Supervisors Armenta and Smith were absent from the vote).

S-17 **Continued to a Date Uncertain**

Analyze Attorney General's Request for Staff to Evaluate Water Supplies in the North Monterey County Coastal Zone to Accommodate Build out Under the Land Use Plan and Propose a Process to Address Inadequate Supplies.

(Evaluation - PD061169/Water Supply Evaluation, North Monterey County)

BOARD ACTION: Upon motion of Supervisor Caicagno, and seconded by Supervisor Salinas, and carried 3/0 (Supervisors Armenta and Smith were absent from the vote).

S-18 **Considered but did not adopt** a resolution to withdraw from the June 5, 2007 special election the County's measure concerning whether or not to repeal the 2006 County General Plan adopted by the Board of Supervisors on January 3, 2007.

BOARD ACTION: Upon motion of Supervisor Potter, the motion lacked a second and failed.

Public Comment:

a. Chris Fitz: Addressed the Board requesting that they remove the repeal measure.
b. Tom Carvey: Addressed the Board requesting that they keep the original language as is.
c. Jan Mitchell: Addressed the Board requesting that they remove the repeal measure.
d. Julie Engell: Addressed the Board requesting that they remove the repeal measure.
e. Hans Jongens: Addressed the Board requesting that they remove the repeal measure.
f. Sheri Damon: Addressed the Board to advise that with a new lawsuit on this matter, to take action would only result in having further problems.

www.montereyherald.com/mld/montereyherald/news/14599119.htm

Posted on Wed, May. 17, 2006

Lawsuit pushes water talks

Decisions could affect other coastal projects

By LARRY PARSONS Herald Staff Writer

The settlement of a lawsuit over a 10-home subdivision in North Monterey County has triggered a state request for the county, state Coastal Commission and other parties to thrash out contentious water-supply issues.

Last month, the state Attorney General's Office asked the county Board of Supervisors to direct its staff to prepare a report on the long-term water-supply picture in coastal North County.

Water has been a recurring friction point, putting the county at odds with the Coastal Commission and local environmentalists over new subdivisions in the water-short area.

The friction led a landowner seeking to develop 10 lots on 25 acres off Maher Road to file suit in February 2005 against the Coastal Commission after he won unanimous support for the project from the Board of Supervisors.

The suit by Sunridge Views developer Stephen Bradshaw was settled after Bradshaw agreed to a novel plan to ensure that the new homes in his project wouldn't use more water than is already being used in the area. He is committed to installing low-water-use fixtures in other homes or businesses, which would save the same amount of water the new homes will use.

"We're thinking it can and will work, and it will address the water issue from Mr. Bradshaw's project," said his attorney, John Bridges. "No one can say it's using any more water than today."

Bridges said the attorney general's suggestion on behalf of the Coastal Commission could head off similar legal battles over other North County coastal projects pending before the county and the commission.

"It's a good idea to have some dialogue on the differences," Bridges said. That would clarify the situation for property owners and environmentalists alike, he said.

In her letter, Deputy Attorney General Tara Mueller said, "It's in the best interests of all concerned, including the county, to attempt to resolve the broader question of the availability of long-term adequate water supplies."

LandWatch Monterey County and Friends, Artists and Neighbors of Elkhorn Slough opposed Bradshaw's project because of water issues.

Chris Fitz, LandWatch's executive director, said he hopes "all the parties can work together to make sure this (case) doesn't become a precedent for other projects."

Fitz said he didn't know if the county has responded to the request from the Attorney General's Office.

On Tuesday, Supervisor Lou Calcagno referred the matter to his fellow supervisors. County Counsel Charles McKee said county staff members are trying to decide the best way to proceed.

"It's fairly complicated," he said. The county already requires developers to prove they have water. The question is whether the county should use a different approach for projects in the coastal zone, he said.

A staff recommendation will be made to the supervisors "so the board can give us the ultimate recommendation," he said. No date for that discussion is set.

Larry Parsons can be reached at 646-4379 or lparsons@montereyherald.com.

Attachment 2

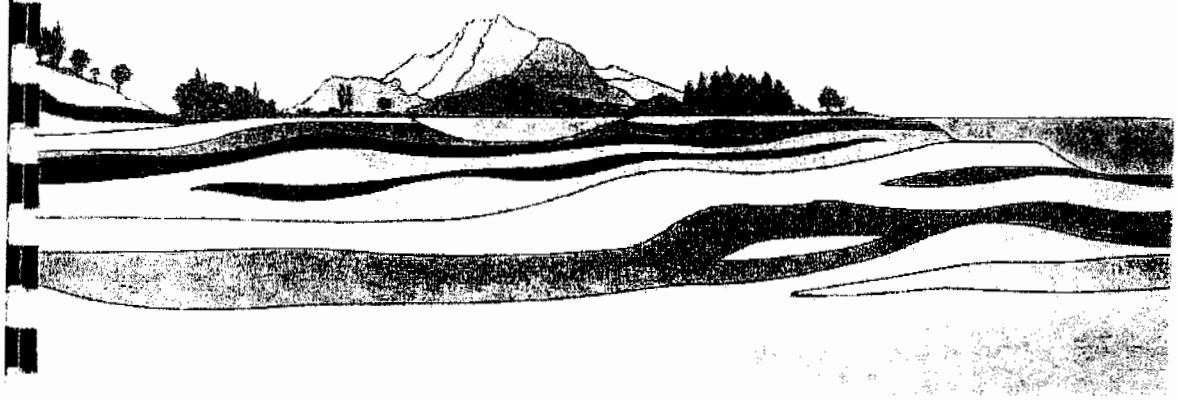
FUGRO WEST, INC.

NORTH MONTEREY COUNTY HYDROGEOLOGIC STUDY

Volume I
Water Resources

Prepared for:
MONTEREY COUNTY WATER RESOURCES AGENCY

October 1995



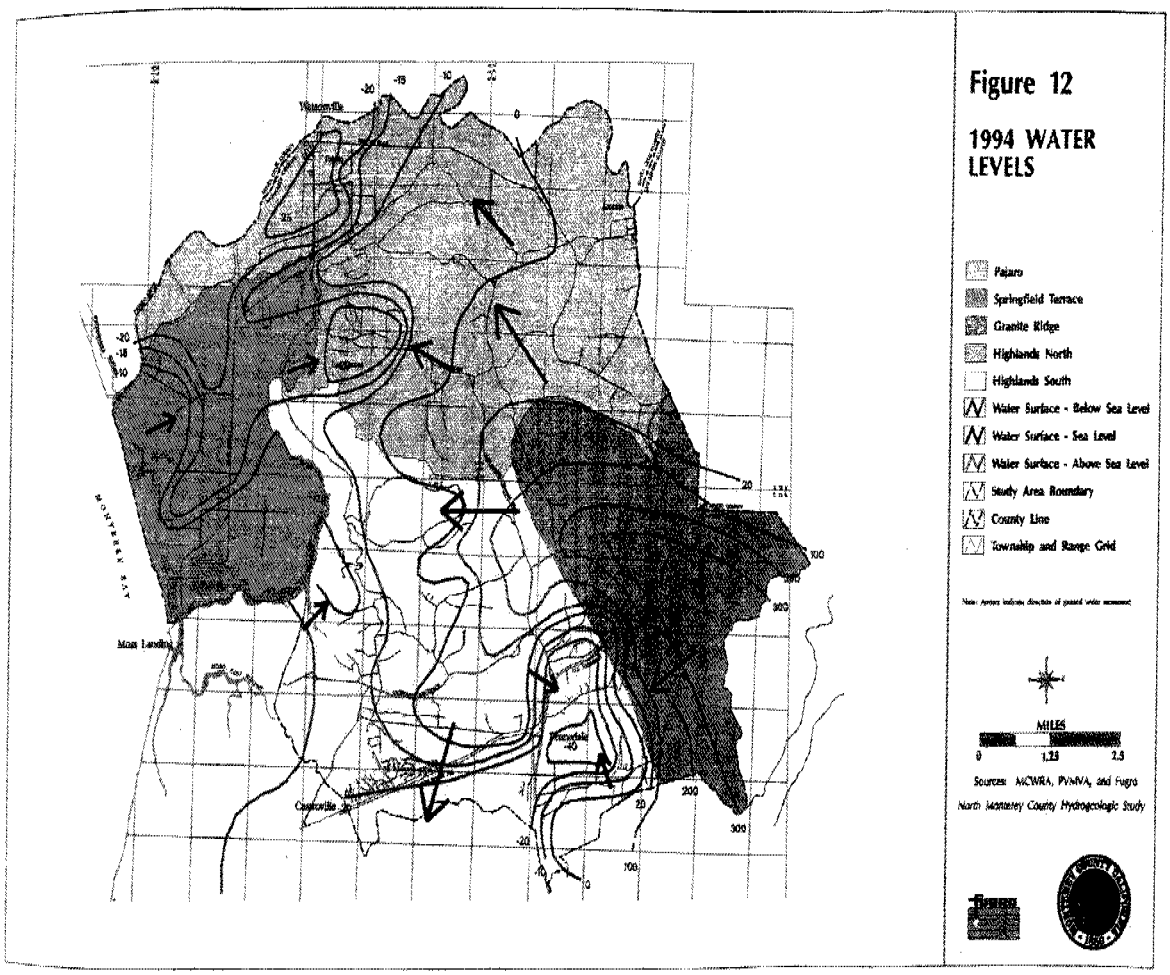


Figure 12
1994 WATER LEVELS
Pajaro
Springfield Terrace
Granite Ridge
Highlands North
Highlands South
Water Surface - Below Sea Level
Water Surface - Sea Level
Water Surface - Above Sea Level
Study Area Boundary
County Line
Township and Range Grid
MILES
0
1.25
2.5
Sources: MCWRA, PVMWA, and Fugro
North Monterey County Hydrogeologic Study
MONTEREY BAY
Moss Landing
Castroville
Marinas
Salinas

Granite Ridge. Most wells in the hilly region east of Maher Road and near Crazy Horse Canyon north of Prunedale are completed in either a thin veneer of Aromas or completed in weathered and fractured zones of granite. As shown on Plate 2, the granitic basement in this area slopes steeply west and south from an approximate elevation of 300 to zero feet MSL. Wells in this area have water levels perched above and in the granitic basement. Ground water elevations in these wells range from approximately 100 to 400 feet MSL. Some wells perforated in the weathered and fractured granite display rapidly decreasing water levels. This occurs with the removal of water stored in fractures which is not readily recharged.

GROUND WATER MOVEMENT

Ground water movement is controlled by differences in water level elevations or pressure. Water at higher pressure or elevation moves to areas of lesser pressure or elevation. In the study area ground water moves generally westerly, northerly, and southerly from the Granite Ridge area into the Highlands South, Highlands North, and Salinas Valley, respectively. The current directions of ground water flow in the study area is shown on the 1994 water level contour map.

Ground water flow directions are locally effected by the development of various pumping troughs in the study area. Most significant are the developed pumping troughs in the Prunedale and Las Lomas areas and a coastal pumping trough along Elkhorn Slough. In these areas, regional flow directions are disturbed. Ground water moves radially towards these pumping centers. Ground water flow in the areas immediately adjacent to the Granite Ridge area are also influenced by the permeability boundary which is represented by the change in aquifer properties and thickness.

Much discussion was focused on the importance, existence and volume of regional ground water flow from the study area into the adjacent Pajaro and Salinas Valleys. The existence of this regional flow has been identified on the basis of historical water level gradients between these areas. While current water levels in the majority of the study area are still higher than the adjacent areas, this difference is decreasing, reducing the volume of recharge from these upgradient areas.

Consideration of the natural flow system in the study area and the adjacent areas raises the question of ground water flow direction between the study area and the adjacent areas prior to alteration of water level conditions resulting from ground water extractions. The large majority of the recharge in both the Pajaro and Salinas Valleys is derived from the respective river systems. In the study area, recharge is much less and limited to the infiltration of a minor portion of total precipitation. Prior to the onset of ground water extractions in the beginning of this century, both the Salinas and Pajaro Valleys contained many flowing (artesian) wells. These data suggest that before extractions in the adjacent river valleys began, ground water from these valleys may have

been tributary to the study area (rather than the current conditions). Additionally, prior to extractions in the study area, the natural flow fresh water regime probably included surface discharge into the Elkhorn Slough system as a part of the flow regime.

WATER QUALITY

General Statement

Current water quality conditions within the study area were assessed utilizing both existing data and water quality data collected as part of this investigation. Existing water quality data were summarized and, where needed, supplemented with specific sampling. While ground water quality in the study area is generally excellent to good, localized water quality problems, specifically elevated nitrate and chloride ion concentrations, do exist and are increasing. This investigation focused primarily on these two water quality parameters.

Data Review/Existing Conditions

Data Sources

Chemical Hydrographs. Water quality data from the Agency study wells were utilized to prepare chemical hydrographs for selected constituents. Specific electrical conductivity (SEC) and nitrate ion concentration are presented for the eastern portion of the study area. In the western portion of the study area, chloride ion concentrations are also presented to document the occurrence of contamination of ground water by seawater. The chemical hydrographs are also included in Appendix D.

Small Water System Water Quality Data. As part of the review of the water system data, water quality data was tabulated from the files of Monterey County Division of Environmental Health (MCDEH). Nitrate ion concentration data were collected and tabulated if the construction of the well sampled was known or the water level data were available. This allowed the segregation of the water quality data into two groups, data from wells producing from the many isolated perched aquifer systems in the area and data from those in the regional aquifer system.

Water Quality Sampling. After review of the existing water quality data, specific ground water quality samples were collected from 10 locations within the study area. Samples were collected in areas where data were sparse and in areas where existing data was either questionable or interpretation was difficult. Particular attention was paid to those areas near Elkhorn Slough for purposes of assessing degradation due to seawater. Collected water quality samples were provided to the Agency for analysis at the Monterey County Consolidated Laboratory. The analytical program was limited to major cations, anions and nitrate ions. These data are included in Appendix E.

Pumpage. The previous studies have estimated ground water extractions for purposes of comparison with recharge. Extractions for agricultural irrigation were estimated from land use and crop water duty. Population data was used to estimate residential demand. These extraction estimates from the two most comprehensive studies are presented and compared with recharge estimates in Table 9 - Summary of Annual Water Budget Estimates from Previous Studies.

Table 9. Summary of Annual Water Budget Estimates from Previous Studies

Study, Date (Study Area)	Area (Acre)	Recharge (Acre-Feet)	Agricultural Extractions (Acre-Feet)	M & I Extractions (Acre-Feet)	Overdraft (Acre-Feet)	Overdraft/Acre (Acre-Feet/Acre)
DWR, 1977 (Study Area)	53,700	8,055	21,200	1,800	15,000	0.28
USGS, 1983 (Study Area)	59,300	20,508	32,800	3,500	15,500	0.26

Overdraft. Comparison of the recharge and extraction estimates of previous studies show significant variation in estimated values of both extraction and recharge; however, both studies reveal ground water extractions to significantly exceed recharge and the magnitude of the deficit is comparable. Notable differences in the two studies show the USGS estimate of recharge to be substantially higher; however, the estimates of extractions are also accordingly higher. The resulting overdraft on an area-wide basis is comparable.

The overdraft conditions documented result in the depletion of ground water storage, and in areas adjacent to seawater bodies, seawater intrusion. In the study area, the chronic overdraft has resulted in both of these conditions.

Seawater Intrusion. The previous studies documented the occurrence and advancement of seawater intrusion in the study area. The previous studies, however, did not quantify the volume of seawater intrusion. The intrusion of seawater into the aquifer system has masked the magnitude of storage depletion as ground water in storage has been replaced by seawater.

Water Budget - Ground Water Modeling

Since the completion of the previous studies, advances in computer technology have allowed the development of computer models of hydrologic systems that can simulate multiple sources of recharge, the interaction between surface and ground water, and the extraction and use of ground water. The development of these tools allow the quantitative assessment of the various components of the water budget for an area. The water budget of the study area was evaluated through the combined use of the Pajaro and Salinas Valley ground water basin models developed by Montgomery Watson as part of previous studies. Both ground water models utilize the IGSM code developed by Dr. Young Yoon. Through the use of a linkage routine, the two models, which join in the center of the study area, were used to run simultaneous simulations to quantify

The IGSM ground water model requires as input, precipitation, climatic, land use, hydrogeology and streamflow data. The sources of these data and the model assumptions and methodologies are summarized in the model documentation for each of the models. From these data, the model estimates areal recharge, gross and net pumpage, seawater intrusion, stream recharge, storage depletion, and boundary inflows and outflows. The results of the simulations are presented by subarea in Table 10 - Simulation Results - Calibration Conditions - 1970-1992.

Table 10. Simulation Results - Calibration Conditions - 1970-1992

	Inflow (AF/Y)				Outflow (AF/Y)	
Model Subarea	Deep[4] Percolation	Recharge from Rain	Recharge from Streams	Recharge from Boundary[1]	Pumping	Change in Storage (AF/Y)
Highlands South	4,260	2,034	0	-110[5]	5,020	-870
Granite Ridge	1,720	1,371	-230	-2,230	610	-1,350
Highlands North	2,670	1,722	+210	-320	4,780	-2,220
Pajaro	2,260	541	—	+6,070[2]	9,030	-700
Springfield	2,670	1,132	-160	+4,070[3]	6,670	-90
Totals:	13,580	6,800	-180	+7,480	26,110	-5,230

1 Positive number indicates ground water flow into the subarea.

2 Includes Pajaro River recharge of 4,254 AF/Y.

3 Includes seawater intrusion of 750 AF/Y and Elkhorn Slough leakage of 2,570 AF/Y.

4 Includes agricultural return and recharge from precipitation.

5 Includes 1,090 AF/Y of Elkhorn Slough leakage.

The modeling results are generally consistent with the interpretations of previous studies. The overall results for the study area show chronic storage depletion for the entire area and each subarea. Total fresh water recharge to the study area from all sources is estimated at 17,740 AF/Y (includes agricultural returns). Total gross pumpage is estimated at approximately 26,110 AF/Y. Overall storage depletion for the storage area is estimated at 5,230 AF/Y. However, an additional 3,320 AF/Y of storage depletion is offset by the combined inflow of seawater from the ocean and the Slough, bringing overall annual storage depletion to approximately 8,550 AF/Y.

Comparison of the model calculated inflows and outflows for each of the subareas reveal the interdependency of the subareas and the lack of any significant hydrogeologic boundaries. The model confirms and quantifies the occurrence of subsurface flows between various subareas. Generally, ground water flows from the Granite Ridge subarea into the adjoining subareas of Highlands North, Highlands South, and the Eastside area. The model also confirms the flow from the Highlands South subarea into the Pressure area of the Salinas Valley. In the Pajaro subarea, tributary subsurface flow derives from areas north of the Pajaro River. The net result of the inflows and outflows between areas are incorporated in the storage depletion estimates for each subarea.

Recharge in the study area is limited to the infiltration of rainfall, streamflow, and applied water. In the undeveloped areas, the annual infiltration of rainfall is estimated at between 0.9 and 1.8 inches and results in an average value of approximately 6,800 AF/Y. These values are consistent with the previous suggested values discussed above. In the developed areas, recharge is also derived from applied agricultural water and septic return flows and is estimated as an additional 6,780 AF/Y. This estimated return flow is a function of land use and will change if land uses are converted to uses with differing consumptive uses. With the exception of the Pajaro subarea, stream recharge is not a significant component of recharge to any of the subareas. In the Pajaro subarea, infiltration from the Pajaro River is the major component of recharge and is estimated at 4,254 AF/Y.

Sustainable Yield. Utilizing the model results, MW developed estimates of the sustainable yield of the study area and various subareas were developed. Sustainable yield is defined as the amount of annual pumping not causing additional ground water declines from 1992 conditions and/or not causing additional seawater intrusion. These estimates are presented in Table 11 - Sustainable Yield.

Table 11. Sustainable Yield

Subarea	Historical Pumping (AF/Y)	Sustainable Yield (AF/Y)	Difference (AF/Y)	Percent Reduction
Highlands South	5,020	4,390	-630	13
Granite Ridge	610	610	0	0
Highlands North	4,780	2,920	-1,860	39
Pajaro	9,030	6,490	-2,540	28
Springfield	6,670	0	-6,670	100
Totals:	26,110	14,410	-11,700	45

The estimates above show that to achieve sustainable yield, significant reductions in pumping will need to occur in all of the subareas with the exception of the Granite Ridge subarea. The required reductions range from no reduction in the Granite Ridge subarea to complete cessation of agricultural pumpage in the Springfield subarea. The cessation of agricultural extractions in Springfield is required because, although recharge does occur, water levels needs to rise above sea level in order to avoid further seawater intrusion. It is assumed that minor pumpage for domestic supply will continue. The complete cessation in agricultural pumpage in Springfield is consistent with the recommendations of the Pajaro Valley Water Management Agency Basin Management Plan (MW, 1993). No expansion of pumpage can occur in the Granite Ridge subarea, as it is estimated to be at sustainable yield.

The estimates of sustainable yield developed by MW contain several assumptions. The sustainable yield values are gross pumpage and include assumptions regarding return flows from various land uses. For this reason, the sustainable yield estimates assume that current land use remains approximately static and that reductions in extractions occur in proportion to the current land use. Changes in land use will affect return flows and may change the sustainable yield for a subarea. Additionally, MW estimates assume the maintenance of existing inflows and outflows between various subareas. The magnitude of these flows is a function of regional ground water gradients. Changes in water use in various subareas or hydraulically adjacent areas not within the study area (Salinas Valley or north of Pajaro River) could change the magnitude of the subsurface flow between subareas.

Because the estimates of sustainable yield presented above contain many assumptions, it is useful to evaluate the components of natural fresh water recharge within the study area. This methodology results in the calculation of a "water crop" for the area that is not dependent on return flows from various land uses. This water crop can then be compared to estimates of net pumpage (consumptive use) for any land use. Utilizing this methodology and the values from the model for recharge resulting from percolation of rainfall and river infiltration, total annual average recharge to the area is 11,050 acre-feet.

Ground Water Storage

The volume of ground water in storage within an area controls the area's ability to tolerate periods of drought and/or extractions in excess of the annual recharge rate. Areas with a large volume of ground water in storage can maintain extraction rates that exceed annual average recharge rates for multiple years without significant impacts. However, areas with limited storage will experience water supply shortages relatively rapidly. Additionally, the volume of ground water in storage represents the volume of water available for dilution of contaminants. Again, areas with large volume of ground water in storage have a greater dilution factor compared to areas with less storage

The total ground water in storage is the volume of water existing within void space of the water-bearing materials. The amount of this void space which holds retrievable water, commonly know as specific yield, is estimated to range from 20 percent by volume for the eolian sands of the Aromas Formation to less than 5 percent for the fractured granite (Freeze and Cherry, 1979). Utilizing the GIS to calculate the volume of materials between bedrock surface and current water levels and these specific yield values, the total ground water in storage was estimated for each of the subareas and is shown in Table 12 - Ground Water in Storage.

Table 12. Ground Water in Storage

Subarea	Acreage	Average Saturated Thickness (feet)	Volume of Saturated Materials (Ft^3)	Specific Yield (percent)	Storage (acre-feet)	Useable* Storage (acre-feet)
Highlands North	11,205	407	4,561,235	20	912,247	13,169
Highlands South	17,050	474	8,073,570	20	1,614,714	35,460
Granite Ridge	9,366	35	326,140	5	16,307	8,091
Springfield	8,078	598	4,833,905	20	966,781	0
Pajaro	6,972	504	3,514,045	20	702,809	580

*Storage above sea level.

The volume of ground water in storage presented in Table 12 is all the ground water contained in the sediments. This volume can be misleading since the majority of this water is located below sea level. Alternatively, useable ground water in storage is defined as the volume of ground water above sea level. This definition is useful in a coastal basin. When water levels decline below sea level, depleted ground water storage is replaced with sea water. By this definition, the Springfield and Pajaro subareas have little useable storage capacity, while some useable storage remains in the Highlands subareas. The definition of useable storage above does not, due to its elevated topography, apply to the Granite Ridge area.

The reduction of useable storage capacity in these areas is the result of chronic overdraft for the last 40 years. As the result of chronic overdraft, storage in the study area has been steadily declining. This declining storage is manifest as declining water levels throughout the area. The cumulative effects of storage depletion are illustrated on Figure 14, which shows the easterly migration of the zero elevation ground water contour over the last 25 years. Water level data analyses discussed above suggest an average water level decline of approximately 0.5 feet per year.

WATER DEMAND

General Statement

An estimate of water demand for the study area was developed by MW as part of the IGSM modeling of the study area. The IGSM calculates water demand from data inputs of land use and climatic information. From these data, an estimate of pumpage was derived for modeling purposes. While the use of IGSM can accurately estimate water demand, the use of a GIS water demand model would be more efficient and flexible in evaluating changes in water demand in

in this area given the fact that demand is currently more than 80% in excess of sustainable yield and will go much higher.

Residential. Currently, there are approximately 9,300[4] homes in the North County area. Most of these, over 6,000, are located in the Highlands North and South. Less than 1,500 homes are in the heavily cultivated areas of Pajaro and Springfield Terrace. Granite Ridge has over 1,400 homes. Most of the homes are on relatively large parcels (greater than 1 acre). This is a key component of the water demand. Larger parcels usually involve greater water using activities (gardens, pastures, etc.) and the water duty factors have been developed accordingly. Total residential demand is estimated to be 3,461 AF/Y.

Agriculture. Agriculture, at 85% of total demand (19,695 AF/Y), is the largest component of water used in the North County. Seventy percent of North County agricultural demand is in the Pajaro and Springfield Terrace subareas (7,979 and 5,370 AF/Y, respectively). The Granite Ridge subarea has strawberry fields in its northern lobe, but otherwise accounts for less than 400 AF/Y. The North and South Highlands subareas use approximately 3,000 AF/Y each for agriculture, most of which is in strawberries.

Table 14. Existing Water Demand (Net)

Summary - Current Demand (AF/Y)				
Subarea	**Agriculture**	**Residential**	**Other**	**Total**
Pajaro	7,979	303	32	8,315
Highlands North	3,190	818	9	4,016
Highlands South	2,700	1,547	36	4,283
Springfield Terrace	5,370	226	111	5,707
Granite Ridge	456	567	21	1,044
Totals:	19,695	3,461	209	23,365

Future Demand

Residential. Future residential water demand can be determined with reasonable accuracy by performing a build-out analysis. This analysis estimates the amount of additional development that could eventually take place in an area under current zoning regulations. Zoning

[4] Several data sources, but principally planning and assessor's, were used to establish the existing number of dwellings. A full discussion of this issue is contained in Appendix G.

Residential. Table 15 - Build-Out Analysis of Dwelling Units (DU), compares the build-out scenario and current land use. The full tables for the build-out analysis are contained in Appendix G. Under current zoning, without agriculture conversion, it is estimated that an additional 2,200 houses could be built in the North County study area.

Table 15. Build-Out Analysis of Dwelling Units (DU)

	Pajaro	Highlands North	Highlands South	Springfield Terrace	Granite Ridge	TOTAL
Existing[a]	881	2,126	4,243	621	1,447	9,319
Potential[b]	112	661	937	114	376	2,200
Build-out	993	2,787	5,180	735	1,824	11,519

[a] Based on assessor's records and Planning Department data[1994]
[b] Based on current zoning (See Appendix G).

Agriculture. In order to develop a "build-out" for agriculture, it was necessary to develop a model on the GIS to analyze land suitable for cultivation. It was assumed that Pajaro and Springfield Terrace were cultivated to a level that will probably not be exceeded. Granite Ridge, except for the extreme northern portion, is not suitable for cultivation due to poor soils and lack of readily available water. The only areas assumed to be appropriate for significant additional cultivation are the Highlands North and South. The GIS model only analyzed these areas. The assumptions in the model were that areas likely for cultivation would be parcels larger than three acres, on slopes less than 30% and designated as open or grazing in the land use map. The model predicted that 2,566 additional acres could be cultivated for strawberries in Highlands North, and 5,217 acres in Highlands South. Nearly 8,000 acres of land could be cultivated, most likely as strawberries under current market trends (Figure 21).

Build-out Water Demand. The following table shows the estimate of demand for water that would occur at build-out for all land uses. The table combines land uses into agriculture, residential and other, for simplicity. The full build-out demand tables are contained in Appendix G.

CONCLUSIONS

1.0 GENERAL STATEMENT

The North County study area has extremely varied and complex hydrogeology. The area has significant water supply and water quality problems including falling water levels, seawater intrusion and nitrate ion contamination. North County problems not only affect residents and agriculture in the area, they also affect water supply and quality conditions in the adjacent and hydraulically connected Salinas and Pajaro Valleys. Previous reports have documented the study area to have been in a state of chronic overdraft since the 1950's. This finding is confirmed by this report. Based on the analysis of available data, the study area is believed to be severely overdrafted, with annual ground water extractions exceeding average annual recharge by more than 100 percent.[5] At build-out, under existing land use plans, water demand could increase to 300 percent of sustainable yield or more. Under current demand conditions the ratio of agricultural/non-agricultural demand is approximately 85 to 15 percent. At build-out, this ratio is expected to remain similiar (82 to 17), although most of the future potential water demand will be from additional agriculture.

The chronic overdraft of the has area resulted in falling water levels and the degradation of ground water by seawater. Excessive nitrogen loading has rendered ground water nonpotable in many areas. Supplemental water supplies for the area have been recommended since the 1950's. However, the delivery of water to the area has always been judged to be too expensive. At the present time, with the possible exception of PVWMA proposed water importation project and Salinas River Basin Management Project (BMP) water, imported supply is likely not available. If imported water would become available, delivery of this water would be difficult. Because of the number and dispersed nature of the agricultural users and small water systems, delivery of imported water would require construction of an expensive distribution system to deliver the water. Without a supplemental supply and distribution system, water supply problems in the area will need to addressed by demand management.

2.0 HYDROGEOLOGY

2.1 Hydrogeologic Setting

The hydrogeology of the study area is quite varied and complex. The area is bounded to the north and south by the alluvial basins of the Salinas and Pajaro Rivers. Between these alluvial basins, the area is comprised of a complex system of sediments aggregated under the designation of the Aromas Sands which overlie older Tertiary rocks and onlap to the east onto exposed

[5] Compare this with an 8% overdraft in the Salinas Valley, an area with 50 times the sustainable yield of North County.

4.0 WATER BUDGET

Water budget analysis for the study area was performed utilizing both a numerical ground water model and a GIS based demand model. The various components of the water budget for the study area for this report were estimated through the combined use of the Pajaro and Salinas Valley ground water basin models developed by Montgomery Watson. Through use of a linkage routine, the two models, which join in the center of the study area, were used to run simultaneous simulations to quantify the various components of the water budget for the simulation period of 1970 through 1992. After calibration, the models were used to develop water budgets for the study area.

Water demand in the area was estimated utilizing the ground water models and the GIS parcel-based demand model. Current water demand was estimated utilizing the ground water models and was verified with the GIS model (using different methodologies, the two approaches produced demand results within 10% of each other). Future demand was estimated utilizing the GIS model which allows for greater flexibility in analysis of alternative build-out scenarios.

4.1 Water Supply

The modeling effort resulted in an estimated sustainable yield of 14,480 AF/Y for the study area. This value represents the amount of water that can be pumped without causing additional ground water declines from 1992 conditions and/or not causing additional seawater intrusion.

Alternatively, total annual average fresh water recharge (does not include inflow from adjacent areas) from all sources to the study area was estimated 11,050 AF/Y. Of this value, the major components are approximately 6,800 AF/Y from infiltration of rainfall and an additional 4,250 AF/Y of recharge from the Pajaro River. The two estimates differ only in that the sustainable yield estimate reflects the consideration of recharge from the infiltration of pumped water, either as agricultural or septic system return flows.

4.2 Current and Future Water Demand

Agricultural activities account for approximately 85% of the water demand in North County. Low density residences use 14%. A small amount of commercial activities in the area accounts for the balance of water demand.

Future water use in the North County will see a similar percentage of agricultural water demand. Under current zoning, an estimated 2,200 more houses could be built in the North County, a 23% increase. The estimates for new agriculture are market driven and based upon recent trends. The subareas of Springfield Terrace, Pajaro and Granite ridge will not sustain much additional cultivation. The Highlands North and South will likely see considerable additional cultivation of strawberries. Nearly 8,000 acres of land have the potential for conversion to cultivation in the Highlands North and South. Volume II of this report examines several possible future scenarios for additional water demand, accounting for differing management options available to the County. Total net demand could increase to 33,348 AF/Y if current development and cultivation practices were left to continue.

4.3 Overdraft

Overdraft in the area is currently estimated at approximately 8,550 AF/Y. This includes an annual storage depletion of 5,230 AF and the additional loss of 4,410 (3,660 + 750) AF/Y of aquifer storage due to seawater inflow of various types. Current overdraft is over 200 percent of the estimated supply. This estimate of overdraft compares with previous estimates of approximately 15,000 AF/Y suggested by the USGS and DWR. The lower estimate resulting from this study is the result of the use of the numerical ground water model which allowed better accounting of the various components of recharge. At build-out under current land use plans, overdraft is estimated to increase to as much as approximately 22,200 AF/Y.

4.4 Seawater Intrusion

Continued overdraft in the study are will increase seawater intrusion in the coastal areas and near the Slough. As discussed above, seawater inflow was quantified at 4,410 AF/Y as part of the water budget for the study area. This inflow replaces depleted storage in primarily the Springfield Terrace subarea and in the vicinity of the Slough. As water levels are maintained at increasing lower elevations below sea level, seawater intrudes at an increasing rate, reducing fresh water storage capacity and, as discussed, above impacting water quality.

4.5 Subarea Water Supply and Accessibility

Sustainable yield estimates were developed for each of the subareas. All of the subareas with the exception of the Granite Ridge subarea will require substantial reductions in extractions

to achieve sustainable yield. Granite Ridge area is estimated to be at sustainable yield. To maintain sustainable yield no expansion of pumpage can occur in the Granite Ridge subarea.

Although discrete sustainable yield estimates have been developed, water supply conditions in the subareas are interdependent. This interdependence is reflected in the sustainable yield estimates developed. The sustainable yield estimates assume that each of the subareas can be operated at the recommended yield. If extractions from a subarea exceed the recommended sustainable yield value, the sustainable yield for the adjacent subarea is accordingly reduced. For example, extractions in the Granite Ridge subarea are currently estimated to be approximately at sustainable yield. However, water levels in this subarea are declining due to outflow to the adjacent areas in which extraction substantially exceed the sustainable yield estimates. Because of this interdependence, it is difficult to establish firm supply numbers for the subareas. It is recommended that planning analysis and land use modification not be predicated on subarea budgets.

The interdependence of the subareas not withstanding, significant differences in the hydrogeology, current conditions, water availability and nature of demand exist between the subareas which merit consideration of demand management strategies. The generalized conditions are summarized in the following sections.

4.5.1 Pajaro

Hydrogeology: Alluvial basin overlying Aromas Sand
Primarily recharged by Pajaro River

Current Conditions: Water levels below sea level
Seawater intrusion and localized elevated nitrate ion concentrations

Water Budget:

Pumpage:	9,030	AF/Y
Sustainable Yield:	6,490	AF/Y
Required Reduction:	2,540	AF/Y

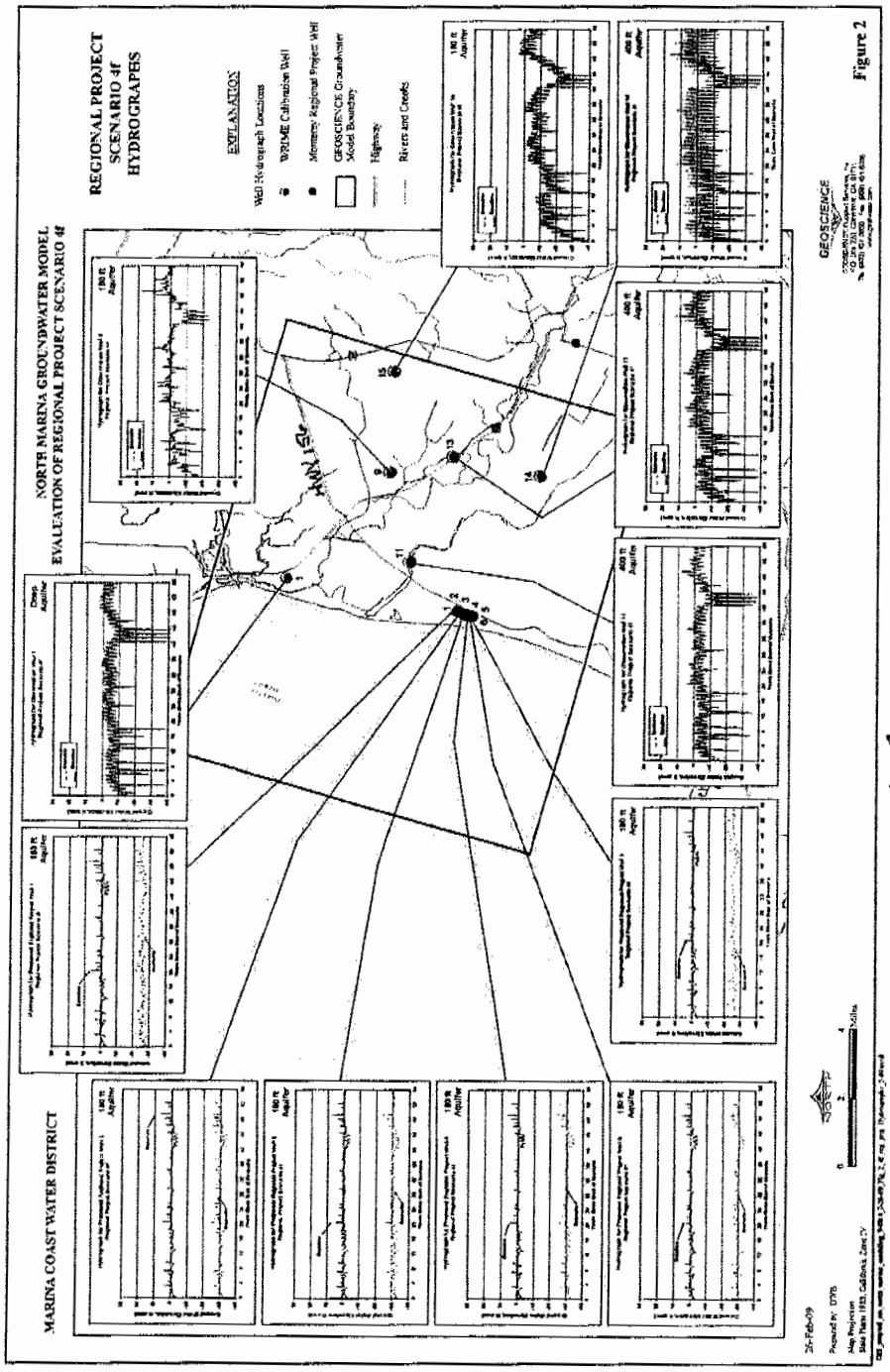
Water Supply Accessibility:
Generally good. Well yields are high, where not impacted by salt water intrusion, water quality is good. Storage is high, overdraft supported by storage depletion.

Nature of Demand: Pajaro is an area of flat, prime soils, most of which is under cultivation. Some urbanization exists south of Watsonville. There should not be considerable increase in demand unless there is extensive conversion of agriculture to high density residential development.

Ground Water Demand
Summary of Total

Comparison – Current and Buildout Demand							
Summary – Current Demand						FUGRO	M-W
Subarea	Agriculture	Residential	Other	Total	Supply	Result	
Pajaro	7,979	303	32	8,315	4,860	-3,455	-2,451
Highlands North	3,190	818	9	4,016	1,932	-2,084	-1,900
Highlands South	2,700	1,547	36	4,283	2,034	-2,249	-760
Springfield Terrace	5,370	226	111	5,707	972	-4,735	-4,160
Granite Ridge	456	567	21	1,044	1,141	97	880
	19,695	3,461	209	23,365	10,939	-12,426	-8,391
Summary – Buildout Demand						FUGRO	
Subarea	Agriculture	Residential	Other	Total	Supply	Result	
Pajaro	7,979	415	32	8,427	4,860	-3,567	
Highlands North	5,756	1,479	9	7,243	1,932	-5,311	
Highlands South	7,917	2,484	36	10,437	2,034	-8,403	
Springfield Terrace	5,370	340	111	5,821	972	-4,849	
Granite Ridge	456	943	21	1,420	1,141	-279	
	27,478	5,661	209	33,348	10,939	-22,409	

Attachment 3



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Attachment 4

LandWatch
monterey county

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November 24, 2009

Andrew Barnsdale
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Subject: FEIR for Coastal Water Project

Dear Mr. Barnsdale:

LandWatch has reviewed the FEIR for the Coastal Water Project and has the following comments:

1. **Growth-Inducement.** The FEIR indicates that 859 afy is included in the demand number "to ensure adequate supplies during critically dry years (FEIR, p. 14.5-141)." The document also states that a 20 percent contingency factor is "to provide a measure of flexibility for jurisdictions to respond to unanticipated water needs" and "the relaxation of current conservation practices and water us restrictions when additional water supply become available. (FEIR, p. 14.5-142)" While we appreciate the purpose of a drought reserve and the 20 percent contingency factor, **without binding assurances that limit water supplies to these uses**, the water above and beyond that needed to meet regulatory requirements would be growth-inducing. This finding is based on the experience of the last 14 years where conserved water was used for growth and development rather than for drought reserve or to meet requirements of Order 95-10. The MPWMD should either provide written assurances that the excess water would not be used for new growth or the FEIR should be revised to address the growth-inducing impact of a drought reserve and the contingency factor.

2. **Water Demand.** Water demand to meet regulatory requirements for the Monterey Peninsula is identified as 12,500 afy. Water produced under all CWP Alternatives should be reduced to account for projects identified in the September 16, 2009 SWRCB order. Water reductions that would be permanent include a total of 879 afy -- 549 afy from pipeline replacement (p. 42) and 330 afy from retroffing properties (p. 43). Without a comparable reduction in water produced by CWP alternatives, Phase I of all the

alternatives would be growth inducing and could accommodate over 3,660 new residential units (0.24 afy/unit).

3. **Impacts to North County of the Regional Project.** The FEIR fails to adequately analyze and mitigate impacts to North County's up-gradient aquifers caused by pumping approximately 22,000 to 25,000 acre-feet of brackish water from the 180-foot aquifer of the Salinas Basin.

The FEIR states (p. 13.6-1), "Project effects on the SVGB from extraction of coastal area desalination feedwater were adequately addressed in the Draft EIR. Therefore, this master response is intended to clarify and enhance information brought to light in the Draft EIR regarding the quantity, use of, and replacement of water that would be drawn from the SVGB and used by the proposed project."

This statement couldn't be further from the truth. In fact, the DEIR failed to adequately address the impacts of brackish water extraction from the 180-foot aquifer of the Salinas Valley Groundwater Basin. None of the wells upon which projected ground water elevations were modeled are located in the up-gradient subareas of North County – Highlands and Granite Ridge. This makes the projected groundwater contours, at best, guesstimates. [Well Hydrographs, Figure 2 of the North Marina Groundwater Model (Appendix A of Appendix Q) include no wells located in Highlands North, Highlands South or Granite Ridge. No well locations in those subareas are identified in RMC's Impacts of Salinas Valley Ground Water Basin from the Monterey Regional Water Supply Project (Appendix B of Appendix Q), Focused View of Ground Water Elevations, figure 4.]

The FEIR (p. 13.6-9) admits the current modeling is inadequate, and in violation of CEQA, it proposes an analysis of the impacts *after* project approval. "If the Regional project was approved, the existing groundwater monitoring program would need to be augmented in order to assess the aquifer response to groundwater extraction. An augmented monitoring well network and monitoring plan would be developed to provide information that could accurately represent the groundwater elevations in both the 180-foot Aquifer and associated strata near Marina *and in the North County area.* [Emphasis added] Data collected from the monitoring program would be used to evaluate the Regional Project and compare its effects to the basin management objectives." *"Aquifer response to groundwater extraction" must be analyzed prior to project approval. Groundwater elevations need to be "accurately represented"* ***now*** *not later.*

Furthermore, no meaningful, measurable or enforceable mitigations are proposed if and when negative impacts result. "Findings from the program would assist decisions-makers with policy decisions or actions regarding the basin's response to the Regional Project. Objectives for the groundwater monitoring network would be to determine effects of the Regional Project on groundwater quality and quantity and to provide data for development of additional basin management solutions." The residents of North Monterey County are already paying for a "basin management solution" in the form of the yet-to-be-completed Salinas Valley Water Project. Who are the EIR preparers proposing pay for development and implementation of "additional basin management solutions" should impacts of the Regional Plan make those additional solutions necessary?

While the EIR fails to provide any meaningful analysis of further reducing water pressure in the 180-foot aquifer, there is significant information in the public record that the results of doing so would have serious negative consequences. According to the North Monterey County Hydrogeologic Study: Volume 1, Water Resources, Fugro West, Inc., (p. 57), ground water movement is a significant aspect of managing North County's diminishing water resources. "Ground water movement is controlled by differences in water elevations or pressure. Water at higher pressure or elevation moves to areas of lesser pressure or elevation. In the study area, ground water moves generally westerly, northerly, and southerly from the Granite Ridge area into the Highlands South, Highlands North, and Salinas Valley respectively."

The North Monterey County Hydrogeologic Study: Volume 2 – Critical Issues Report and Interim Management Plan, (p. 3), reiterates, "The subareas, while displaying distinctive differences, are hydraulically connected with each other and the adjacent Pajaro and Salinas Valley areas. Because of this connection between these areas, *ground water conditions within the subareas and connected areas are interdependent."* [Emphasis added]

Volume 1 of the hydrogeologic study, (p. 57-58), continues, *"Much discussion was focused on the importance, existence and volume of regional ground water flow from the study area into the adjacent Pajaro and Salinas Valleys. The existence of this regional flow has been identified on the basis of historical water level gradients between these areas.* [Emphasis added] While current water levels in the majority of the study area are still higher than the adjacent areas, this difference is decreasing, reducing the volume of recharge from these upgradient areas.

"Consideration of the natural flow system in the study area and the adjacent areas raises the question of ground water flow direction between the study area and the adjacent areas prior to alteration of water level conditions resulting from ground water extractions. The large majority of the recharge in both the Pajaro and Salinas Valleys is derived from the respective river systems. In the study area, recharge is much less and limited to the infiltration of a minor portion of total precipitation. Prior to the onset of ground water extractions in the beginning of this century, both the Salinas and Pajaro Valleys contained many flowing (artesian) wells. *These data suggest that before extraction in the adjacent river valleys began, ground water from these valleys may have been tributary to the study area (rather than the current conditions)."* [Emphasis added]

The study further states (p. 78), "Comparison of the model calculated inflows and outflows for each of the subareas *reveal the interdependency of the subareas and the lack of any significant hydrogeologic boundaries.* [Emphasis added] The model confirms and quantifies the occurrence of subsurface flows between various subareas. Generally, ground water flows from the Granite Ridge subarea into the adjoining subareas of Highlands North, Highlands South, and the Eastside Area. *The model also confirms the flow from the Highlands South subarea into the Pressure Area of the Salinas Valley."* [Emphasis added]

The study also states (p. 78), "...the sustainable yield estimates assume that current land use remains approximately static and that reduction in extractions occur in proportion to the current land use. *Changes in land use will affect return flows and may change the sustainable yield for a subarea. Additionally, MW estimates assume the maintenance of*

existing inflows and outflows between various subareas. The magnitude of these flows is a function of regional groundwater gradients. Changes in water use in various subareas or hydraulically adjacent areas not within the study area (Salinas Valley or north of Pajaro River) could change the magnitude of the subsurface flow between subareas." In other words, changes in water use in the Salinas Valley, such as pumping an additional 22,000 to 25,000 afy as proposed under the Regional Project, would change the magnitude of the flow between the subareas, impacting the sustainable yield of the up-gradient subareas – Highlands and Granite Ridge.

Given the interdependency of the subareas and the lack of hydrogeologic boundaries between them, what is the impact on sustainable yield of extracting an additional 22,000 to 25,000 acre-feed from the Salinas Basin? The EIR preparers propose to evaluate impacts *after* project approval. However, the North Monterey County Hydrogeologic Study: Volume 1, Water Resources provides enough perspective to raise grave concern. In Table 11, (p.77), sustainable yield is identified for each North County subarea. Highlands South has a sustainable yield of no more than 4,390 afy. Granite Ridge has a sustainable yield of a mere 610 afy. Both of these sustainable yields pale by comparison to the amount of water the Regional Project proposes to extract from the 180-foot aquifer in the adjacent Salinas Valley.

Before project approval and certification of the Coastal Water Project EIR, the PUC is legally required to fully analyze impacts to North Monterey County's up-gradient aquifers. Furthermore, the water rights enjoyed by residents of North Monterey County require that the PUC *avoid* negative impacts to North County's water supplies.

4. **Seawater Intrusion.** The Regional Project would not arrest seawater intrusion. Rather, it would change the contours of the seawater intrusion front, inducing more intrusion into North County while decreasing it in the Salinas Valley.

   According to the North Monterey County Hydrogeologic Study: Volume 1, Water Resources, (p. 79), "The volume of ground water in storage presented in Table 12 is all the ground water contained in the sediments. This volume can be misleading since the majority of this water is located below sea level. Alternatively, useable ground water in storage is defined as the volume of ground water above sea level. *This definition is useful in a coastal basin. When water levels decline below sea level, depleted ground water storage is replaced with sea water."* [Emphasis added]

   As of 1992, useable groundwater in storage according to Table 12 totaled 57,300 acre-feet. At the same time, overdraft was estimated at 8,550 afy [North Monterey County Hydrogeologic Study: Volume 1, Water Resources, page 108]. At 1992's rate of overdraft, North County's useable ground water in storage (groundwater stored above sea level) was exhausted seven years later – in 1999. [57,300 af / 8,550 afy = 6.7 years]

   Decreasing the pressure gradient in the adjacent Salinas Basin by 22,000 to 25,000 afy, would further deplete North County's groundwater below sea level. This would exacerbate seawater intrusion in North County's aquifers, even while purportedly reducing seawater intrusion in the Salinas Basin. This shift in the contours of the seawater intrusion front was not analyzed in the Coastal Water Project EIR. Nor are impacts mitigated.

5. **North County Aquifers.** The drawdown of North County's aquifers caused by feedwater pumping for the Regional Project's desalination plant (22,000 to 25,000 afy) would significantly increase the difficulty of managing North County's scarce water resources.

The North Monterey County Hydrogeologic Study: Volume 1, Water Resources states (p. 101), "The chronic overdraft of the area has resulted in falling water levels and the degradation of ground water by seawater. Excessive nitrogen loading has rendered ground water non-potable in many areas. Supplemental water supplies for the area have been recommended since the 1950's. However, the delivery of water to the area has always been judged to be too expensive....If imported water would become available; delivery of this water would be difficult. Because of the number and dispersed nature of the agricultural users and small water systems, delivery of imported water would require construction of an expensive distribution system to deliver the water. *Without a supplemental supply and distribution system, water supply problems in the area will need to be addressed by demand management."* [Emphasis added]

According to the study (Table 11, "Sustainable Yield," p. 77), without additional water supplies, demand management would require pumping reductions of 11,700 afy from 1992 levels. As explained above, outflow increases to adjacent areas reduce a subarea's sustainable yield. When the sustainable yield of North County's subareas is diminished, the burden of reducing pumping is increased well beyond the 11,700 acre-feet identified as necessary in the hydrogeologic study.

Furthermore, the drawdown caused by source water pumping for desalination also affects contaminant concentrations in North County's aquifers. "Additionally, the volume of ground water in storage represents the volume of water available for dilution of contaminants." [P. 78, the North Monterey County Hydrogeologic Study: Volume 1, Water Resources, Fugro West, Inc.]

The Coastal Water Project EIR fails to analyze, quantify or mitigate this increased burden of reducing pumping beyond the 11,700 acre-feet identified in the study. The Coastal Water Project EIR fails to analyze or mitigate increased concentrations of contaminants caused by reductions in groundwater storage that will result from pumping 22,000 to 25,000 afy from the adjacent Salinas Basin.

6. **15% Allocation.** The 15% allocation of product water which is to be returned to the Salinas Basin must increase over time.

The FEIR's own modeling indicates that the seawater intrusion front will recede toward the coast as 22,000 afy is pumped from the 180-foot aquifer. "Continued pumping in this highly intruded zone along the coast would gradually pull the intruded groundwater seaward back towards the coast." (Coastal Water Project FEIR, p. 13.6-2) If this modeling is accurate, then the 85%:15% ratio would necessarily shift as fresh water is drawn toward the coast.

There is no provision for monitoring this shift and adjusting the amount of water returned to the basin based upon increasing amounts of fresh water being used as feedwater for desalination. This is a major omission. Extracting more fresh water from the Salinas Basin than is returned to the Basin would have significant, unanalyzed and unmitigated

impacts. Exporting that fresh water from the basin poses legal problems not addressed in the FEIR, i.e., desalinated water derived from the Salinas Basin rather than from ocean water must legally be retained in the Basin leaving a shortfall in water that can be exported to the Monterey Peninsula.

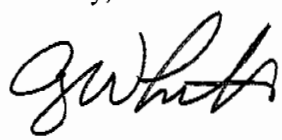
7. **Brackish Water.** Brackish water in the 180-foot aquifer is a valuable resource, the benefits of which will be permanently denied to residents of the Salinas Basin.

   According to the FEIR, pumping of brackish feedwater in the 180-foot aquifer of the Salinas Basin would pull intruded groundwater back to the coast. It is a resource the Marina Coast Water District is eager to use, so one must infer that it is a valuable resource. The FEIR contains no analysis of impacts to communities in North County and the City of Salinas of exhausting the brackish water source when those communities may, in the future, need to rely on it and the same technology proposed in the EIR to provide potable water for their populations.

8. **Water to Meet Regulatory Requirements.** As revised, the Regional Project relies almost exclusively on a large, structural solution to meet the regulatory requirements imposed on the Monterey Peninsula. This places residents of the Monterey Peninsula at the mercy of assumptions regarding the ratio of SVWB water to ocean water and the shifting nature of that ratio as addressed above. The Regional Project should be revised to include smaller, incremental projects that have greater certainty of outcome, e.g., reclaimed water for landscaping on the Monterey Peninsula, continued retrofitting, pipeline replace, stormwater runoff and Ground Water Replenishment.

Thank you for the opportunity to review the FEIR.

Sincerely,



Amy L. White
Executive Director

Carmel Valley Association

P.O. Box 157, Carmel Valley, California 93924

www.carmelvalleyassociation.org

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AUG 8 2011

California Coastal Commission,
Central Coast Area

Since 1949

Mary Shallenberger, Chair
Members of the Commission
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

SUBJECT: August 12, 2011 - AGENDA ITEM 6 - REGIONAL DESALINATION PROJECT

Dear Chair Shallenberger and Members of the Commission:

The Water Committee of the Carmel Valley Association has some questions and concerns relating to the application for a permit to drill a test well as part of the Regional Plan for a water supply for the Monterey Peninsula. They relate to technical issues; CEQA compliance; and the uncertainty that the project will go forward.

Technical Issues: The application is for a slant well, not a vertical well. During the CEQA approval process several commenters recommended the use of slant wells and were told by the engineer, RMC, that slant wells would be infeasible. It was said that the wells were too costly and might be impossible to construct. If they were to be built, they would be too deep when they passed under the ocean to be practical. It is unclear as to what has transpired to make the slant wells the appropriate design.

We like the idea of wells designed to take water from under the sea and outside the Salinas Valley Groundwater Basin (SVGB) as described in the CCC Staff Report. However, using the published figure of 700' of horizontal distance that the well screens will be located west of the well head at the south-center of the MCWD property, a rough measurement of the small scale maps that we have seen does not give us the assurance that the wells will, in fact, be taking water from beyond the boundary of the SVGB. We therefore would ask that the CCC confirm that the water would be taken

from outside the basin, regardless of how long the well needs to be.

CEQA Compliance: Since the FEIR for the project describes vertical wells and CEQA process for the Phase 1 project has been finalized. One would expect that there would be a formal, public process to amend the project and the CEQA documentation relating to the wells. We are not aware of any such proceedings. The well design is not a trivial component of the project as it was the focus of a great deal of the concern by Peninsula residents during the public review process. We would ask that the legal requirements of CEQA be followed relative to this significant change.

Uncertainty about Project's Future: There are several factors that we believe you have been made aware of that raise serious doubts that the project will go forward as planned or that it will be sponsored by the same parties. The use of the slant well design presents another variable relative to the question of what parties should be involved. Specifically, the use of slant wells taking water outside the SVGB will eliminate the need for the production of the excess water that was to be used to offset the freshwater that would be exported, to comply with the law.

This means that the role once played by Marina Coast Water District (MCWD), as the user of the excess water, is no longer needed. MCWD has said repeatedly that they have no need for the water. Furthermore, it appears that the Peninsula water supply may be able to be designed with a much smaller desal component, meaning that the environmental impact associated with this larger desal facility could be reduced significantly.

The Agreements that linked MCWD to the project may be to be voided due to conflicts of interest that are being investigated by the District Attorney. It is not unrealistic to conclude that MCWD may be out of the project at some time in the near future. Locating the test well on the MCWD property at this time is potentially an inappropriate waste of resources if the production wells are relocated and a new test well required. For this reason, we request that the permit be denied and the applicant be instructed to reapply when the current uncertainties about the project have been resolved.

Very truly yours,
Carmel Valley Association Water Committee

Todd Norgaard, Chair

Roger Dolan, Member

CalDesal A Unified Voice for Water Desalination in the Golden State

August 9, 2011

Mary Shallenberger, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

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AUG 09 2011
CALIFORNIA COASTAL COMMISSION

Subject: Monterey Bay Regional Desalination Project Slant Test Well Coastal Development Permit Application (CDP Application #3-11-036)

Dear Chair Shallenberger and Members of the California Coastal Commission:

This letter is to communicate CalDesal's support of the Monterey Bay Regional Desalination Project and for approval of the Project's Slant Test Well Coastal Development Permit (CDP) application number E-11-036. The application for the Slant Test Well is being heard by the California Coastal Commission at their August 12, 2011 meeting in Watsonville, CA and is Item 6A on that meeting agenda. CalDesal is a statewide organization that advocates for clean, safe, reliable drinking water for California through environmentally responsible water desalination and salinity management.

The proposed Slant Test Well Program is an industry-standard pre-design project to collect essential data required to move the Monterey Bay Regional Desalination Project forward. Data to be collected from the Slant Test Well and associated monitoring wells will allow for design of the treatment system as well as provide site-specific information such as hydrostratigraphic data for use in designing infrastructure components to be protective of the environment. The Test Well Program will also provide data to further support the use of slant wells for desalination plants throughout California where the hydrogeology provide such opportunities. To that end, the results of the Monterey Bay Regional Desalination Project's Slant Test Well Program support both the proposed Project and the general understanding of this innovative intake technology.

Thank you for your consideration and we urge your approval of the CDP application number E-11-036 for the Regional Desalination Project's Slant Test Well program when the issue is before you on August 12, 2011.

Sincerely,

Ronald Davis

Ronald L. Davis
Executive Director,
CalDesal

Cc: Members of the California Coastal Commission
Mr. Tom Luster

F6a

MONTEREY COUNTY

WATER RESOURCES AGENCY

PO BOX 930
SALINAS , CA 93902
(831)755-4860
FAX (831) 424-7935

CURTIS V. WEEKS
GENERAL MANAGER

RECEIVED
AUG 10 2011
CALIFORNIA
COASTAL COMMISSION

STREET ADDRESS
893 BLANCO CIRCLE
SALINAS, CA 93901-4455

August 10, 2011

Tom Luster
California Coastal Commission
45 Fremont Street, #200
San Francisco, CA 94105

Subject: Monterey Bay Regional Desalination Project Slant Test Well CDP Application
Monterey County Water Resources Agency (Agency) Water Rights Clarification

Dear Mr. Luster:

Recent correspondence to the Commission has raised issues related to water rights in the Salinas Valley and the Regional Desalination Project (Project). Through this letter the Agency desires to clarify its position on water rights for the Project as set forth in the May 20, 2011 letter from Downey Brand LLP to Lyndel Melton.

The Agency takes very seriously its duties to manage the Salinas River Groundwater Basin (Basin) and to prevent the export of groundwater from the Basin. In this regard the Agency holds water rights issued by the State of California that enable the Agency to store water in and release water from Nacimiento and San Antonio reservoirs. The released water directly benefits the Basin. The Agency acknowledges that it is the public and private landowners of the Salinas Valley who have invested their assessment dollars to build and operate the reservoirs and associated projects that are legally entitled to receive the benefits of the reservoirs and associated projects. Moreover, the water rights referenced in the May 20, 2011 letter are subject to the prior and paramount overlying rights of Salinas Valley landowners in and to the native waters of the Basin. As explained below, the Project is designed to avoid harm to these rights.

Under the Water Purchase Agreement the use of Basin groundwater is subject to existing commitments for the use of water on the former Fort Ord. In Sections 9.3, 9.4 and 9.6 of the Water Purchase Agreement (WPA) between California American Water (CAW), Marina Coast Water District (MCWD) and the Agency, any Salinas Valley groundwater identified through the analyses presented in Exhibit E of the WPA must be used by MCWD. Hence, any water designated as Basin groundwater will be used in lieu of MCWD groundwater pumping until the entire 6,600 acre-feet of MCWD groundwater allocation is exhausted. In essence, MCWD will substitute use of Salinas Valley groundwater component of the brackish water produced by the Regional Desalination Project for its pumping of groundwater. Given the MCWD current usage (approximately 3,000 acre-feet annually on the former Fort Ord) and the current projected demand for additional water, it will likely be decades before the

current allocation is exhausted. During that time period the product water from the Regional Desalination Project that is Basin groundwater will be used for MCWD's water demand.

There are also other sources of water that are expected to be available to MCWD, including its own proposed desalination project that is anticipated to generate 1,700 aft. An existing Environmental Impact Report was prepared by MCWD for that project. However, given the rate at which the former Fort Ord is developing under the base reuse plan, additional environmental evaluation and permitting should be undertaken at that time to assure that the circumstances, assumptions and analysis in the MCWD EIR remain valid. It may also be appropriate to review water rights related to Fort Ord development and its dependence on the Regional Desalination Project's water production. Long-term modeling shows a recovery within the Salinas Valley Groundwater Basin. Determination of the actual groundwater conditions in the coming decades will be equally important.

Please feel free to call me at (831) 755-4860 if you have any questions. We look forward to continuing our work with the California Coastal Commission in implementing this strategically-important project.

Sincerely,

Curtis Weeks
General Manager

F6a

August 10, 2011

RECEIVED

AUG 11 2011

CALIFORNIA
COASTAL COMMISSION

Mary K. Shallenberger, Chair, and
Members of the California Coastal Commission
45 Fremont Street, #2000
San Francisco, CA 94105-2219

Subject: Response to July 29, 2011 letter from Molly Erickson, Law Offices of Michael W. Stamp

Dear Chair Shallenberger and Members of the California Coastal Commission:

This letter has been prepared in response to the July 29, 2011 letter to you from Molly Erickson with the Law Offices of Michael W. Stamp, representing the Ag Land Trust. First and foremost, the application before you on Friday is for a Coastal Development Permit to construct and operate a slant test well. The application for the overall project will be presented to the Commission at a future date. As proposed, the permit for the slant test well would require the well to be either removed or permitted as a component of the overall project. Therefore, the Commission is being asked to approve a limited use slant test well and nothing more.

Please note the following information in regards to the nine numbered points made by Ms. Erickson in her July 29th letter.

1. Ag Land Trust states: "Slant wells were not part of the project approvals by the Public Utilities Commission, or the Monterey County Water Resources Agency, or the Marina Coast Water District."

   Slant wells were evaluated as a part of the North Marina Alternative in the Coastal Water Project (CWP) FEIR, the document certified by the California Public Utilities Commission (CPUC) when issuing the Certificate of Public Convenience and Necessity and adopted by Marina Coast Water District (MCWD) and Monterey County Water Resources Agency (MCWRA). The CWP FEIR provides for "mixing and matching" of components that may not have originally been proposed together—such as vertical and slant wells—"in order to provide a variety of options to select from in case a component proves to be infeasible or is undesirable for environmental or other policy reasons." (CWP FEIR, 1-5 and 7-4.) Furthermore, the Water Purchase Agreement, which sets forth how the Project will be carried out and was approved by all of the parties and the CPUC, specifically allows for flexibility in the choice of a slant or vertical well design for the project, and directs that at least one slant test well be drilled and pumped and water analyzed for the purposes of obtaining more precise data regarding operation of the wells and salinity of the water extracted. (Water Purchase Agreement, Art. 8.2(a).)

2. Ag Land Trust states: "The proposed slant well would pump water from the 180-foot aquifer of the Salinas Valley Groundwater Basin. Any removal of groundwater from the overdrafted groundwater basin must have valid groundwater rights. The project applicants have no rights to pump groundwater. Pumping groundwater would harm the water rights of others. If existing water rights or water supplies are harmed, it could lead to liability."

   This issue was addressed by the applicants in their May 31, 2011 and July 14, 2011 submittals to the Coastal Commission and was fully evaluated in the July 28, 2011 Combined Staff Report.

3. Ag Land Trust states: "The Commission should review the Regional Project as a whole, instead of reviewing project parts in a piecemeal fashion. The Commission deserves a comprehensive presentation and analysis of the entire project and its impacts before acting on any part of the project, such as the proposed slant well."

   A Coastal Development Permit application for the entire Regional Desalination Project has been submitted to the Coastal Commission and is currently under review. The Coastal Development Permit application to be heard by the Coastal Commission at the August 12, 2011 meeting is for a slant test well to be installed to collect data necessary to determine the well configuration for the overall project, consistent with and responsive to the requirements included in the CPUC decision that approved the project and issued a CPCN to California American Water Company. The application identifies a specific time period for the slant test well Coastal Development Permit. Should the well become part of the overall project components, an application will be made to the Coastal Commission to this effect.

4. Ag Land Trust states: "The proposed well is likely to cause irreparable damage, contamination and harm to Ag Land Trust's existing groundwater supplies and groundwater rights, and would constitute a taking of Ag Land Trust's rights by the Commission and a denial of due process. The Commission has no right or authority to approve test wells that would take or contaminate the groundwater supplies under Ag Land Trust farmlands."

   The proposed slant test well will be installed using industry-standard procedures following water well design standards of Monterey County and the State of California. Therefore, there is no reason to expect that this well will cause either irreparable damage to or contaminate the groundwater basin or the supplies contained therein. Further, the slant test well is located over a mile south of any Ag Land Trust farmlands. The CWP FEIR stated that no agricultural wells are operating within a 1.5 mile radius of the proposed well site, and found that impacts to adjacent landowners would be less than significant. (CWP FEIR, 6.2-15.) Ms. Erickson has not stated any facts to the contrary. Ms. Erickson is also incorrect in her subsequent statement that Ag Land Trust property is proposed to be the site of project wells—it is not.

5. Ag Land Trust states: "The environmental documents are inadequate and do not adequately disclose or mitigate environmental impacts of the desalination project or of the proposed slant well."

   The CWP EIR (which included the Regional Desalination Project) was publically evaluated and found to adequately disclose and mitigate the environmental impacts of the desalination project and the proposed slant well. The CWP FEIR was certified by the CPUC on December 18, 2009. No challenge was made to that certification. Thereafter, the certified FEIR was relied on in the CPUC's December 3, 2010 decision approving the project. (E.g., CPUC D.10-12-016, pp. 7, 34-54, 194, 196, and Appendix B.).

6. Ag Land Trust states: "'Slant wells are relatively new technology with few known successful uses for desalination feed water.' (FEIR, p. 7-28). Slant wells would not meet the objectives of the Regional Project. (FEIR, p. 7-29)."

   The first quote from the CWP FEIR is, in context, made in a comparison of vertical wells with slant wells. Slant well technology is relatively new for water wells, and there are very few desalination projects that use slant wells as intake structures. Therefore, there are very few data points from which to draw conclusions.

   The second quote made by Ms. Erickson is incorrect. The CWP FEIR on page 7-29 (second paragraph) states: "Additionally, *while slant wells meet the project objectives of the CWP*, seawater vertical wells meet both these objectives and the objectives of the Regional Project due to their effectiveness in alleviating seawater intrusion." (Italics added.) Finally, it should be noted that one of the purposes of the slant test well is to confirm the acceptability of slant wells as intake structures for the Regional Project.

7. Ag Land Trust states: "The proposed groundwater pumping by the approved vertical wells would violate the North County Land Use Plan policies."

   The application in front of the Commission for hearing on August 12, 2011 is for a slant test well, not vertical wells. Moreover, the CWP FEIR specifically addressed the North County Land Use Plan and determined that the Project is consistent with the Plan's policies. (CWP FEIR, H-16 – H-19.)

8. Ag Land Trust refers to "[p]ending litigation challenges to the actions of the Marina Coastal Water District and Monterey County Water Resources Agency."

   This issue was addressed by the applicants in their May 31, 2011 and July 14, 2011 submittals to the Coastal Commission and was fully evaluated in the July 28, 2011 Combined Staff Report.

9. Finally, Ag Land Trust raises "[a]llegations of misconduct and conflicts of interest with regards to public officials and Regional Project contracts."

   Ms. Erickson's statements have no bearing on the technical need for the slant test well program or the Commission's evaluation of the Coastal Development Permit Application for the slant test well or any related environmental issue. The State Water Resources Control Board and the Public Utilities Commission have indicated that time is of the essence and, thus, the project should not be delayed unnecessarily.

We strongly urge you to approve the slant test well Coastal Development Permit. Representatives of the applicants are and will continue to be available to answer any questions you may have.

Thank you for your consideration.

Sincerely,

Lyndel Melton
Project Manager
Monterey Bay Regional Desalination Project

F6a

E-11-019

ATTN: STAFF & COMMISSIONERS

Monterey Co. DESAL

RECEIVED

AUG 10 2011

California Coastal Commission,
Central Coast Area

To Commisioners :

Information for your consideration. These articles are just a few of MANY.

Documenting the deceit , and improper conduct / handling (actions) of the majority the people involved in trying to pass this proposed project.

The most agregious thing of all. Is that it is not SAFE in anyway whatsoever. It falls under the heading of PUBLIC Safety. All of Monterey Co. water aquifers are curently in overdraft..

Ever since water storage in this area was started to be examined (starting 30 or so years ago) , it was determined that this was the case (IE: ~~Figaro~~ Figeo Report).

Not more than 5 miles away (or less) , inland. Large sections of Monterey Co. are currently and have been for years suffering well failures. In fact it is so previlant . That in an area of Monterey Co. called "Granite Ridge" (as stated just previously ...no more than 5 miles away from these proposed test wells). The Monterey Co. Health Dept. insituted a program to compensate/ subsidize residents of this area monetarily to help pay for trucking water to their properties / residences / /homes. This was approved by the nomterey Co. Supervisors in the last year.

This project is being pushed forward on false / inaxccurate / solicited (paid for) science (supposed expert analysis).

The only 'expert' unbiased , unsolicited (i'm not sure if this is the corect word...I mean PAID for reports) analysis that I have found is that of Roger Dolan. Some of whose anaysis I have included. His credential are also noted. And he is the only water expert that has weighed in, that that I believe is accurate. Not only is this porposed project UNSAFE to North Monterey Counry residets. It is not safe for ANY Monterey Co. residents period ! Nor the residences of the ajoining Counties of Santa Cruz & San Benito (both less than 10 miles from these wells.

Think of how much water gets used in these area for agricuture. This proposed project hasonly gained traction in the last year (and at a runaway

To stop overpumping Carmel River. But interestingly , the only people crying out concerning any possible water shortage in Monterey County with the exception of any failed well owners in north Co. (there is actually NO water shortage for EXISTING Cal. Am customers) are people who are part of 3 groups :

1) Local City & County officials (who want further growrh and buiding ..at any cost !) . Also included in this are the local water boards (need a job).

2) Cal Am. Water (nice FREE addition to their infrastructure ..and Co. , & stockholders assets).

3) Developers (wonder why ?)

You will notice that the existing Cal Am. customers are not really concerned over any water shortage. That is because any inference of it is false publicity whipped up by the proponants of this project. And those few who might are uninformed (do you know of any majority of ther public anywhere that is really very well informed of what is actually going on around them. In fact, I would bet that if you polled the current population of Monterey Co., where they thought saltwater would be being accessed from for a Proposed desalination Plant to be located right next to the ocean. The resounding answer would be "why the ocean of course".

So in conclusion, after you read the science of Roger Dolan , does it make much sense to pump MORE existing fresh groundwater (yes , the majority of the salinated / salt water , that would be pumped out of these wells would actually be FRESH water) ....out of an already severely overdrafted aquifer ?

This would be a direct voilation of the Public Trust put into any elected , or appointed official to maintain Public Safety. As jeoprodizing the existing aquifer is completely non-sensical.

If It does not make sense to used 100% saltwater (economically or otherwise) . NO De-Salination Plant. I hope you can see the truth from the BS. If you look , it is extremely evident ..if you just look at information from any source other than the proponents. Thank You

PS - nearby Pajaro valley has MAJOR groundwater problems also.

The science tells us that if you pump more water out of an aquifer which besides being overdrafted. Is saltwater intruded . It does do hold back any saltwater intrusion ...it just takes away more fresh water. Just ask Mr. Dolan. LOL Read his Articles & The Articles on Salt water Intrusion / Guyberwitherspoon

Remember any 'experts' of the proponants . Have been bought and paid for.

2.1.1 John Kingsley, November 1994

The Kingsley report is a geologic hazards study that makes minor mention of groundwater. According to Kingsley, water percolating downdip along the upper surfaces of clay layers, impermeable duripans, and oxidized zones may create undesirable seepage downslope from the water sources. Resistant paleosols at the site, also called duripans, range between 10 and 60 feet thick and commonly contain perched water tables due to low permeability.

2.1.2 Fugro, October 1995 and 1996

The North Monterey County Hydrogeologic Study - Volume I and II reports by Fugro were intended to evaluate groundwater conditions throughout the north Monterey County region. The reports redefine the hydrogeologic area units from previous work by the U.S. Geological Survey and designate the area occupied by the proposed Heritage Oaks Subdivision as "Highlands North." Plate 5 shows the approximate

boundaries of the Highlands North subarea. The Fugro study draws on historical groundwater elevations and discusses seawater encroachment toward the Heritage Oaks project site.

The Fugro report concludes that water demand in the North County study area far exceeds supply and therefore the area is in a state of chronic overdraft[1]. The Fugro reports summarize possible long-term solutions to the overdraft conditions but offers little hope for a solution in the near future.

[1] Overdraft is the withdrawal of ground water in excess of replenishment. (Glossary of Geology, Fifth Edition).

About Marina Coast Water District

Locally Owned Water and Sewer Operations

Marina's Forefathers Planned for Our Future

In 1958, a local group of dedicated citizens, known as the Marina Community Service Corporation, proposed the formation of a municipal-owned water system with boundaries to coincide with the existing Marina Fire District (approximately 1,600 acres). Two years later, the Marina County Water District was formed by a vote of the 766 registered voters of the then unincorporated city of Marina. In 1966, voters authorized the sale of water bonds totaling $950,000 to acquire a privately owned water company serving the area.

Founding Board Members William Williams and Raymond Isakson at groundbreaking of the District office on Marina Beach (March 1969).

Long before the District was formed, studies revealed that seawater had been intruding into the area's groundwater supply, because more water was being pumped from the aquifers each year than was being replenished naturally. In 1983, the District abandoned pumping from the 180-foot well because of saltwater intrusion, and, from 1983 to 1989, drilled three deep wells in the 900-foot aquifer. These wells provide Marina with its current source of water. In 1997, the District began operating desalination plant, capable of producing 13 percent of its water supply, to supplement well water. The plant remained in service for several years before a sudden rise in electricity costs made it uneconomical to continue operating. Because of its diminishing water supply, the District continue to seek new water sources and expand its conservation programs.

What about new technological advances?

Though there is a lot of hype around different ways to separate carbon from fossils, the fact remains that viable substitutes for drilling and refining oil are nowhere in sight. Oil exploration and extraction have followed a pretty simple axiom. Resources are exploited along the path of least resistance (and hence greatest profit), thus the lowest hanging fruit is always picked first. We've recovered the most easily reached and refined oil already.

What remains of our oil reserves is increasingly expensive, dangerous and environmentally sensitive to extract. It also is the most energy intensive, meaning the return is much lower. Even when we get to the halfway point, there's no telling how much of what's left will be reachable and/or practical to get out. Increasingly, oil production requires oil or other expensive fuels to complete its recovery. At a certain point, it no longer makes sense to spend the input energy required, considering what's returned. Techniques such a "fracking" have raised serious questions about environmental problems, though as dark as this sounds, carcinogens in our water supply will ultimately come second to the oil that keeps our economy afloat when it comes down to it.

The "other biggest problem" with fracking as well as many other alternative methods of converting fossil fuels to energy is that they use an unthinkable amount of another precious and dwindling resource – water. Though it receives very little attention, more than half of the world is in a water crisis and the U.S. continues to use water at many times the rate it is naturally replenished – increasingly relying on well water, which we also pump out of the ground at 15 times the rate which it is returned through the water cycle (sinkholes anyone?) The very fact that we even consider methods of fuel production that are incredibly water-intensive further highlights how desperate we've become to get oil.

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Opi

4/2/2011

Growers hoodwinked to favor water project

By ROGER DOLAN
Guest commentary

The recent disclosure of conflict of interest involving Monterey County Water Resources Agency board member Steve Collins sheds light on an enigma that has puzzled more than a few citizens who have been watching the development of the proposed water supply facility known as the Regional Water Project.

The puzzle is, how did a proposed project that is predicted to annually remove 6,800 acre-feet of freshwater from the Salinas Valley groundwater basin in return for supplying 1,700 acre-feet per year of desalinated water for the municipal development of Fort Ord ever get the enthusiastic, even passionate, support of Salinas Valley growers?

The facts on the water depletion are quite straightforward. The wells for the Regional Water Project will pump about 24,000 acre-feet out of the ground each year. The project's environmental impact report predicts that the freshwater component of the well water will range from 15 percent to 40 percent, with an average of about 28 percent freshwater. This means that on average, about 6,800 acre-feet of freshwater will be removed from the groundwater each year.

The Salinas Valley proponents of the project dismiss the concern by saying the freshwater is in an unusable mix of brackish water and so it does not matter. This position displays an ignorance of the groundwater hydrology.

In an unusual aquifer that derives seawater flows slowly under the more productive freshwater aquifers in a pool fed by the encroaching seawater, separated only by a band of brackish water known as the transition zone. (Google "Salinas Valley seawater intrusion.")

A well located in the [illegible] would draw the [illegible] and the [illegible] that the [illegible] pump will be [illegible] the odds are that most of the freshwater component of the well water was actually ancient fresh groundwater a few moments before it reached the surface.

Initially, the growers strongly opposed the Regional Water Project, but they mysteriously changed to strong supporters. Collins is ostensibly representing the growers on the Monterey County Water Resources Agency board, but it is not clear whether they knew that he was actually working for RMC, the consulting engineering firm that just received the $3 million design contract for the project.

Perhaps the growers were simply complacent, figuring it was the Peninsula residents who were being taken to the cleaners, and were blind to the fact that they were quietly getting their own pockets picked in the process.

Roger Dolan lives in Carmel Valley and is a member of the Carmel Valley Association's Water Committee. He has a bachelor's degree in civil engineering and a master's in water resources engineering.

He was the general manager and chief engineer of the Central Contra Costa Sanitary District for 22 years and, before that, manager of technical services for the East Bay Municipal Utilities District, the water and sewer district for the East Bay.

He is a past president of the American Academy of Environmental Engineers and the Water Environment Federation.

Saltwater intrusion

From Wikipedia, the free encyclopedia

Saltwater intrusion is the movement of saline water into freshwater aquifers. Most often, it is caused by ground-water pumping from coastal wells,[1] or from construction of navigation channels or oil field canals. The channels and canals provide conduits for salt water to be brought into fresh water marshes. Salt water intrusion can also occur as the result of a natural process like a storm surge from a hurricane.[2] Saltwater intrusion occurs in virtually all coastal aquifers, where they are in hydraulic continuity with seawater.

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- 2 Hydrology
- 3 Ghyben-Herzberg relation
- 4 Modeling
- 5 Mitigation
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Effect on drinking water

When fresh water is withdrawn at a faster rate than it can be replenished, the water table is drawn down as a result. This draw-down also reduces the hydrostatic pressure. When this happens near an ocean coastal area, salt water from the ocean is pulled into the fresh water aquifer. The result is that the aquifer becomes contaminated with salt water. This is happening to many coastal communities.[3][4]

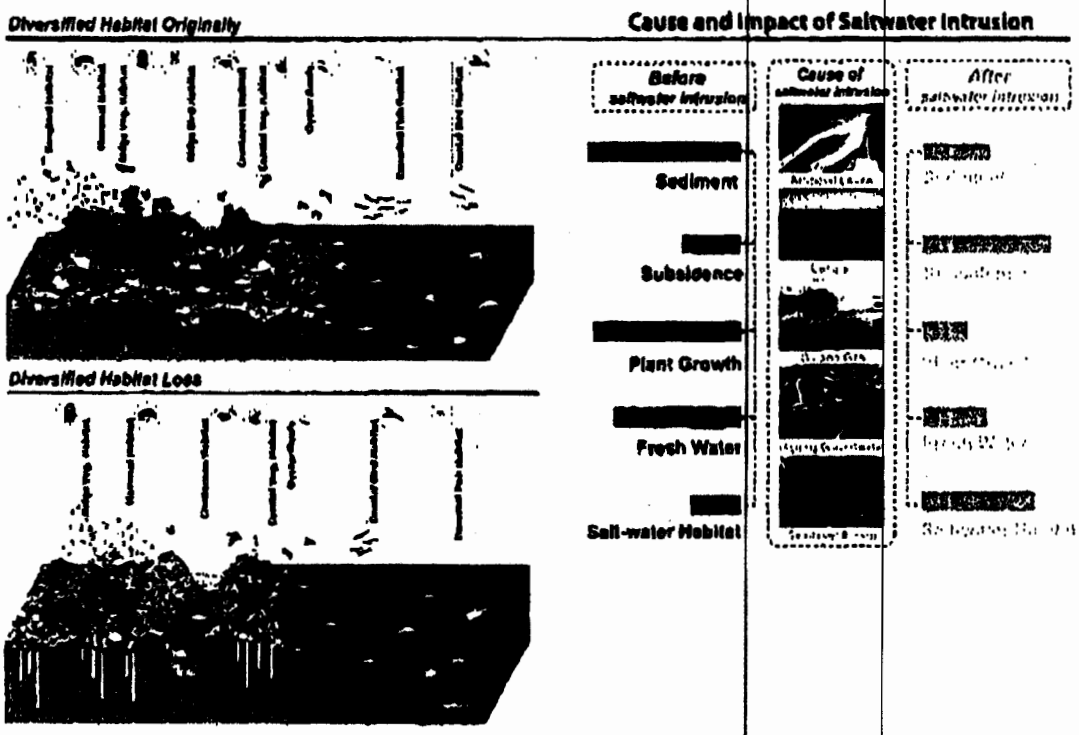
Hydrology

Saltwater intrusion happens when saltwater is drawn-in (from the sea) into freshwater aquifers. This behavior is caused because sea water has a higher density (which is because it carries more solutes) than freshwater. This difference in density causes the pressure under a column of saltwater to be greater than the pressure under a column of the same height of freshwater. If these two columns are connected at the bottom, then the pressure difference would cause a flow of saltwater column to the freshwater column until the pressure equalizes.

The flow of saltwater inland is limited to coastal areas. Further inland, the freshwater column is higher due to the increasing altitude of the land and is able equalize the pressure from the salt water, stopping the saltwater intrusion. The higher water levels inland have another effect: the freshwater flows seaward. This completes the picture: at the sea-land boundary, at the high part of the aquifer freshwater flows out and in the lower part, saltwater flows in. The saltwater intrusion forms a wedge.

Pumping of fresh water from an aquifer reduces the water pressure and intensifies the effect, drawing salt water into new areas. When freshwater levels drop, saltwater intrusion can proceed inland, reaching the pumped well. Then saltwater, unfit for drinking or irrigation, is produced by the pump. To prevent this, more and more countries adopt extensive monitoring schemes and numerical models to assess how

much water can be

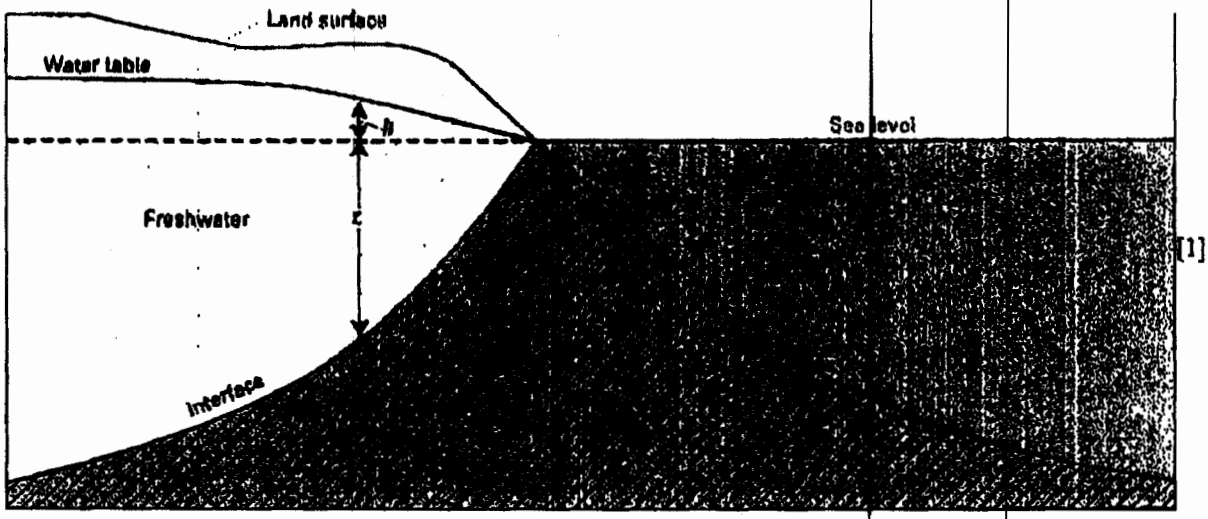


Cause and Impact of Saltwater Intrusion

pumped without causing such effects.

Ghyben-Herzberg relation

The first physical formulations of saltwater intrusion were made by W. Badon-Ghijben (1888, 1889) and A. Herzberg (1901), thus called the Ghyben-Herzberg relation.[5] They derived analytical solutions to approximate the intrusion behavior, which are based on a number of assumptions that do not hold in all field cases.



[1]

The figure shows the Ghyben-Herzberg relation. In the equation,

$$z = \frac{\rho_f}{(\rho_s - \rho_f)} h$$

the thickness of the freshwater zone above sea level is represented as h and that below sea level is represented as z. The two thicknesses h and z, are related by ρ_f and ρ_s where ρ_f is the density of freshwater and ρ_s is the density of saltwater. Freshwater has a density of about 1.000 grams per cubic centimeter (g/cm^3) at 20 °C, whereas that of seawater is about 1.025 g/cm^3. The equation can be simplified to

$$z = 40h.$$ [1]

The Ghyben-Herzberg ratio states, for every foot of fresh water in an unconfined aquifer above sea level, there will be forty feet of fresh water in the aquifer below sea level.

In the 20th century the higher computing power allowed the use of numerical methods (usually finite differences or finite elements) that need less assumptions and can be applied more generally. [*citation needed*]

2-1

Pump/Recharge Rate Affects Saltwater Intrusion

Groundwater Monitoring, Management and Conservation
Keep Saltwater Intrusion Under Control

Almost two thirds of the world's population lives within 400 km of the ocean shoreline; just over half live within 200 km, an area only taking up 10% of the earth's surface (Hinrichsen, 2007). Most of these coastal regions rely on groundwater as their main source of fresh water for domestic, industrial and agricultural purposes. As the world's population continues to grow at an alarming rate, fresh water supplies are constantly being depleted, bringing with it issues such as saltwater intrusion and increasing the importance of groundwater monitoring, management, and conservation.

Freshwater-Saltwater Interactions

Saltwater intrusion is a major concern commonly found in coastal aquifers around the world. Saltwater intrusion is the induced flow of seawater into freshwater aquifers primarily caused by groundwater development near the coast. Where groundwater is being pumped from aquifers that are in hydraulic connection with the sea, induced gradients may cause the migration of salt water from the sea toward a well, making the freshwater well unusable.

Because fresh water is less dense than salt water it floats on top. The boundary between salt water and fresh water is not distinct; the zone of dispersion, transition zone, or salt-water interface is brackish with salt water and fresh water mixing.

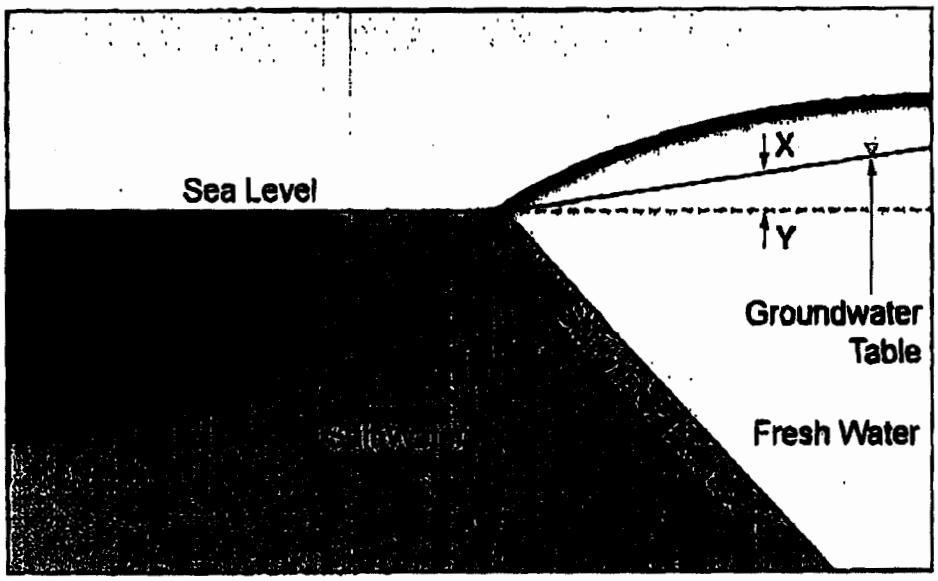
Under normal conditions fresh water flows from inland aquifers and recharge areas to coastal discharge areas to the sea. In general, groundwater flows from areas with higher groundwater levels (hydraulic head) to areas with lower groundwater levels. This natural movement of fresh water towards the sea prevents salt water from entering freshwater coastal aquifers (Barlow, 2003).

Groundwater pumping/development can decrease the amount of fresh water flowing towards the coastal discharge areas, allowing salt water to be drawn into the fresh water zones of coastal aquifers. Therefore, the amount of fresh water stored in the aquifers is decreased (Barlow, 2003).

The Ghyben-Herzberg Relation assumes, under hydrostatic conditions, the weight of a unit column of freshwater extending from the water table to the salt-water interface is balanced by a unit column of salt water extending from sea level to that same point on the interface. Also, for every unit of groundwater above sea level there are 40 units of fresh water below sea level.

top

2-2



X Groundwater Level Y Sea Water Level

Salt-water interface in an unconfined coastal aquifer according to the Ghyben-Herzberg relation.

This analysis assumes hydrostatic conditions in a homogeneous, unconfined coastal aquifer. According to this relation, if the water table in an unconfined coastal aquifer is lowered by 1 m, the salt-water interface will rise 40 m.

Generally, saltwater intrusion into coastal aquifers is caused by two mechanisms:

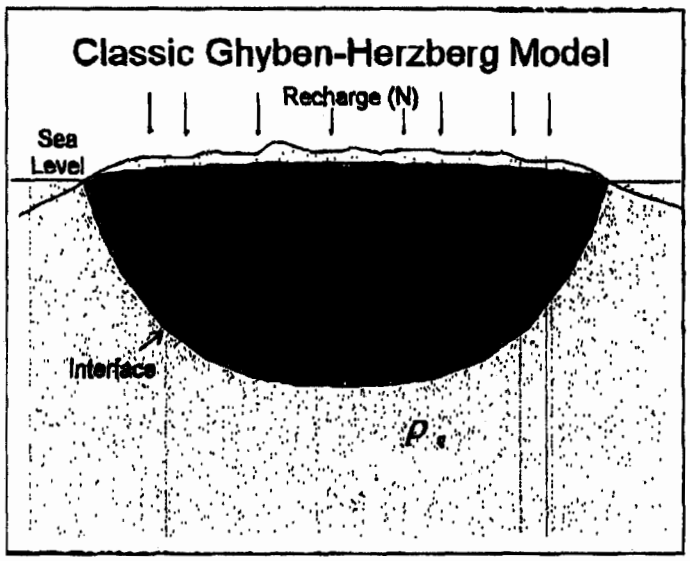
- Lateral encroachment from the ocean due to excessive water withdrawals from coastal aquifers, or
- Upward movement from deeper saline zones due to upconing near coastal discharge/pumping wells.

The Ghyben-Herzberg Model

The Mean Sea Level Aquifers of the Maltese Islands have formed basically due to the differences in density of sea water and fresh water. This principal was discovered by two scientist **Baden-Ghyben** and **Herzberg.**

Fresh water (ρ_f) is lighter than sea water (ρ_s).

Freshwater has a density of 1.0g/cm^3 whilst salt water is slightly denser: 1.025g/cm^3. Because of this fresh water floats on top of the sea water. Rainwater that percolates the ground depresses the salty water found beneath and thus gives rise to a lens shaped profile. The transition zone between the salty sea water and fresh groundwater is not a distinct boundary but a zone of brackish water since the salty sea water and fresh water intermix. Such a zone on the Maltese Islands is greatly influenced by seasonal fluctuations in rainfall. Yet the amount of water abstracted for human use also greatly influences this zone. Boreholes that penetrate deeply within this transition zone results in sea water intrusion.



The Baden Ghyben-Herzberg relationship states that for every foot (h) of groundwater above sea level there are forty feet of fresh water below sea level (H)

Thus:

$$H = \frac{\rho_f}{\rho_s \rho_f} x\ h = 40\ x\ h$$

adapted from McLane, C; Magelky, R; and Sieling, D. (2002)

1 of 2

12/2/2010

+ flip-flop Reversal (Bohn) (pretty strange goings on!)

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GO!

Final 'Nutcracker' show for Dance Kids

STATE PUBLIC UTILITIES COMMISSION

Desal plant could skip changes

PUC MEMBER CALLS FOR OK OF BACKERS' AGREEMENTS

By JIM JOHNSON
Herald Salinas Bureau

Reversing an earlier course, a state Public Utilities Commission member issued a proposed decision Wednesday that suggested the panel could approve a regional seawater desalination project for the Peninsula without previously recommended changes.

With the commission poised to consider the project this morning, John Bohn issued the new decision that calls for approving the desalination project's agreements as submitted by the public-private partnership backing the bid.

California American Water, which is seeking a permit from the PUC, is collaborating with the Monterey County Water Resources Agency and the Marina Coast Water District on the project designed to provide a replacement source of water for Peninsula customers facing a state-ordered reduction in pumping from the Carmel River.

The commission meets 9 a.m. today at its San Francisco headquarters.

Bohn's alternate proposed decision represents a marked shift from October, when he suggested several modifications to the project

Please see Desal page A11

If you go

- **What:** State Public Utilities Commission meeting (for consideration of the proposed regional seawater desalination project)
- **When:** 9 a.m. today
- **Where:** PUC headquarters, 505 Van Ness Ave., San Francisco

12/2/2010

Desal

From page A1

agreements, including a tighter cap on project costs and interest rates, and additional PUC oversight of project financing plans, cost overruns and other details.

It diverged from a new proposed decision from Administrative Law Judge Angela Minkin issued Wednesday that continues to recommend modifications to the project agreements as a condition of commission approval.

Minkin's decision still calls for tighter cost caps and a full voting role on the project advisory committee for a group of Peninsula city representatives. It suggests allowing the main project proponents 60 days to agree to any approved changes or seek other relief.

In Bohn's latest proposed decision, he wrote that the "Regional Project is a reasonable and fair solution to the water constraints on the Peninsula," and that the project agreements "are reasonable and are in the public interest."

Noting the shift from his earlier proposal, Bohn suggested it could be explained by the persuasiveness of project proponents' arguments that the agreements already provide appropriate cost-control measures. The previously suggested changes, he wrote, are "not necessary to ensure Cal Am rate payers are provided an adequate supply of water at a reasonable price."

The decision noted the dangers of further delaying the project and the looming state-ordered cutback, which could be economically devastating to the Peninsula.

In response to the initial proposed decisions issued by Bohn and Minkin, project proponents had flatly rejected the suggested changes and warned they would delay the project, likely make it more expensive, and could even scuttle it entirely. Delay, they said, would represent an unacceptable risk to the Peninsula's well being, and they called for the commission to consider the project agreements without changes.

Critics, including the PUC's Division of Ratepayer Advocates, called for even tougher cost-containment measures to protect Peninsula customers who would end up paying for the project through increased water bills.

Bohn called for Cal Am to provide regular project updates to PUC officials and staff in his latest decision.

Cal Am spokeswoman Catherine Bowie said the company is encouraged by Bohn's recommendation, but said it isn't a guarantee.

"I would say it's good news for us, encouraging news, but you never know what's going to happen at the commission," Bowie said. "Time is of the essence. We can't waste any more time with study or review. The time for alternatives (passed) long ago and we need to be in the approval and construction phase now."

Division of Ratepayer Advocates supervisor Diana Brooks said she was still reading Bohn's decision, but approving the project agreement without changes would be unacceptable.

"We're disappointed," Brooks said. "We're definitely concerned about the absence of adequate cost controls. Both the (earlier proposed decisions) made reasonable changes that we thought was a reasonable compromise for a complex situation. This would be leaving the door open for costs to skyrocket."

Bohn, whose term on the commission expires at the end of the year, indicated he would like to have the project bid resolved before he leaves office.

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2/27/2011

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Lawsuit delay could increase costs on $400 million project

Desal legal issues halt well work

ey've raised a number of issues we need to resolve before we ceed. We can't move forward l those issues are resolved."

—Curtis Weeks,
r Water Resources Agency general manager

By JIM JOHNSON
Herald Staff Writer

Work on test wells for the proposed seawater desalination project has been stopped until key issues raised by a lawsuit against Monterey County are resolved.

The suit could drive up the costs for the estimated $400 million project, including the cost of litigation, and raise questions about the project's viability.

Filed in Superior Court last week by the Ag Land Trust, the suit challenges the county's ability to secure water rights for the project's brackish-water feeder wells because of the potential for violating a ban on exporting water from the Salinas Valley groundwater basin.

It names the county Water Resources Agency and Board of Supervisors as the primary defendants and asks the court to resolve the dispute.

Please see **Desal page A8**

Desal

From page A1

The Ag Land Trust, a nonprofit organization that seeks to preserve farmland and owns land north of Marina where the wells would be located, sued the Marina Coast Water District over the project last year. That suit could go to a pretrial hearing in the next three months.

County Water Resources Agency general manager Curtis Weeks said the county decided to stop work on the test wells until the litigation is addressed.

"They've raised a number of issues that we need to resolve before we proceed," Weeks said. "We can't move forward until those issues are resolved."

Attorney Michael Stamp, who represents the Ag Land Trust, indicated his client was open to talks with the county.

"The Ag Land Trust is hopeful that they can have meaningful discussions with the county and the Water Resources Agency, and we have made some proposals for how to do that," he said. "We'd like to have meaningful discussions as soon as possible."

Supervisor Lou Calcagno said he expects to resolve the suit "very rapidly."

Negotiations unfinished

Weeks said preliminary design work has been completed on the test wells, but the county still needs to finish negotiating on potential sites. Those would be on property owned by the Armstrong family, Cemex and the Ag Land Trust.

Any delay, Weeks said, would drive up costs on the project. He noted it already was delayed two years while the three partners negotiated project agreements and the project went through an extended approval process before the state Public Utilities Commission, or PUC.

According to a project schedule, test wells were supposed to be completed by the end of this year.

Under the proposal, brackish-water wells along the beach north of Marina, which would be owned and operated by the county, would supply a desalination plant owned by the Marina Coast Water District.

The plant would produce up to 10,500 acre-feet of potable water per year. Most of that water would go to California American Water's Peninsula customers as a replacement for a state-ordered cutback of pumping from the Carmel River.

Some of the water — the percentage of fresh water in the supply pumped from the county wells — would be kept by Marina Coast in an attempt to comply with the county Water Resources Agency Act, which prohibits pumping water to customers out of the Salinas Valley basin.

Most of the project would be paid for by Cal Am Peninsula customers through rates that are expected to double. Marina Coast customers would pay the usual rate for their share.

Addressing water rights

Weeks declined to say whether the county sought a resolution on water rights before the suit was filed, citing the litigation. Last year, he said the water rights would need to be acquired.

Calcagno said he believes water rights is not an issue in the area because the water is unusable due to seawater contamination.

"The underground water in that vicinity and under the Ag Land Trust land is basically saline water, so I can't understand why anyone would be upset about pumping brackish water out of there," he said.

Calcagno said property owners agreed not to draw water from wells in the area in exchange for access to recycled water. "I don't know what water rights the Ag Land Trust believes it has," he said.

Cal Am spokeswoman Catherine Bowie said the company is convinced the issues have already been addressed.

"The county has existing water rights as well as the ability to acquire additional rights," Bowie said in a statement. "We are confident these provisions are adequate and will withstand legal challenge."

In its suit, the Ag Land Trust alleges the county can't secure water rights for the desalination project because no rights are available to be appropriated in an overdrafted aquifer such as the Salinas Valley basin.

The suit also contends:

- the Salinas Valley Water Project, which is designed to restore the aquifer's balance, is not fully operational and not meeting terms of its approvals;
- the county, Marina Coast and Cal Am have collaborated to take the Ag Land Trust's groundwater rights, and the county has refused to identify or obtain those rights; and
- the desalination project would extract groundwater from the Salinas Valley basin without recharging an equal amount, in violation of the county Water Resources Agency Act.

Questions about costs

During the PUC's review of the desalination project, the Division of Ratepayer Advocates raised questions about the potential costs of securing water rights.

DRA analyst Max Gomberg said the group was told the PUC doesn't have jurisdiction over water rights and county and Marina Coast representatives said not to worry about them.

"I didn't feel like we ever get a good answer on that," Gomberg said. "It's troublesome that a lot of work was done on CEQA and the issue was never resolved, and now there's a group out there claiming in court there are no water rights."

CEQA is the California Environmental Quality Act.

The PUC approved desalination proposal late year.

The project also has b approved by the supervi and Marina Coast's bo but it still needs a numbe approvals, including a co development permit from state Coastal Commission

According to Weeks, county is proceeding other project-related w including hiring a bond c el — San Francisco-ba Jones Hall — to assist eff in seeking bond financ The Water Resou Agency board is set to c sider an agreement RMC Water and Envi ment of Walnut Creek manage the project week.

Weeks said the pro partners recognized securing financing would "a challenge" but he de that the county had been the bonding would be c cult or impossible.

A financing plan is du the Board of Supervisor soon as next month.

The county has sp about $2 million on project, about half on l costs.

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4/7/2011

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Thursday, April 7, 20
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Water official denies conflict

AGENCY HEAD HELPED FIRM THAT WON DESAL CONTRACT

By JIM JOHNSON
Herald Staff Writer

Longtime Monterey County Water Resources Agency director Steve Collins spent much of last year advocating for the proposed regional seawater desalination project while working for a firm that benefitted from the proposal.

Collins, who has served 16 years on the water board and was appointed by the Grower-Shipper Association, represented the water agency at state Public Utilities Commission hearings and other meetings during a crucial time for the proposal. At the same time, he earned $150,000 for project-related tasks from RMC Water, the firm that completed the project's environmental study and was awarded the $28 million project management contract.

Collins continued to vote on other water agency board issues related to the firm and the regional water project. That project includes a desalination plant designed to produce a replacement source of water for Peninsula customers facing a state-ordered cutback in pumping from the Carmel River.

Collins said he fully disclosed his work for RMC to county attorneys and others. He said he recused himself from voting on two contracts involving the firm, including the project management pact, which was awarded in February, two

Please see Collins page A7

VERN FISHER/Herald file
Steve Collins, director of the county Water Resources Agency, earned $150,000 from RMC Water.

4/7/2011

②

...onths after he ended his contract with RMC.

He flatly rejected any suggestion he had done anything improper.

"Anyone can demonize someone, and I'm sure there are people who will try, but I don't see a conflict," he said. "Out of an abundance of caution, I recused myself from voting on the RMC contracts. I'm good at the kind of work I did for RMC and I'm proud of what I did."

Collins said he continues to do similar work on behalf of the project, though he no longer is paid by RMC. He said he is free to vote on any project-related issues, including those involving the firm.

"Whether or not (Collins) followed all of the rules, it will draw unwanted attention and unneeded concern for the project."
Jane Parker
supervisor

Area land-use activist Julie Engell said Collins' relationship with RMC raises a number of concerns. She pointed out that Collins has been a staunch supporter of the water project and played a key role in securing the agency's support for the proposal, despite its previous concerns about exporting water out of Salinas Valley.

Engell called RMC a "key player" in the project.

"As a member of the (water) board, he was working for another firm that was involved in the project, and that's certainly something people should be concerned about," she said. "If he represented the county Water Resources Agency's interests on a project where RMC was involved, yes, I believe there is a conflict. I believe there's a conflict on any project involving RMC, and there's a conflict in the future even if it's not a legal conflict.

"To have an employee of a corporation taking an active (public) role in a project that could benefit that corporation seems like a conflict."

Supervisor Jane Parker, a critic of the project agreement, said the matter "sounds like a pretty classic conflict of interest," though she said she wanted to know more before drawing conclusions.

Nevertheless, Parker said, "It's not good news for the Water Resources Agency or the regional water project to

financing plan, efforts to secure state low-interest loans and federal grants, and as an advocate for federal legislation.

Collins said he primarily represented the water agency at PUC meetings but was paid by RMC for playing an integral part in the development of a financing model for the project in cooperation with the commission's Division of Ratepayer Advocates and others. He said he never thought about disclosing his work for the firm to the PUC or the Division of Ratepayer Advocates.

Collins said he recused himself from voting on the RMC project management contract even though he stopped working for the firm in early December. He said he began working for RMC in January 2010 but ended his contract as soon as the PUC approved the project Dec. 2.

The Salinas Valley Water Coalition sent a letter to the water agency board after it voted on the project management contract, demanding that Collins reveal the reason for his conflict. The organization later sent another letter notifying the board that it was satisfied, but maintained Collins should have left the room during the vote.

RMC's four-year contract to manage the project is worth about $28.25 million.

The firm has worked on other area water issues, including the Salinas Valley Water Project and the environmental study for a proposed water pipeline at Granite Ridge, which was awarded to RMC on a no-bid contract.

While working for RMC last year, Collins approved in March a series of 21 change orders on the Salinas River diversion facility, which is part of the Salinas Valley Water Project and is managed by RMC, increasing the contract to $13.9 million.

He voted last year to approve increases for the law firm of Downey Brand, which represents the water agency on the regional water project.

In August, Collins initially voted to approve a $1.2 million contract with Geoscience Inc. for work on the design and monitoring of intake

VERN FISHER/Herald file

Steve Collins, director of the county Water Resources Agency, earned $160,000 from RMC Water.

4/7/2011

the region ... have this kind of controversy show up. Whether or not (Collins) followed all of the rules, it will draw unwanted attention and unneeded concern for the project.

"We want our public agencies to operate at the highest standards. There may be broader implications beyond just his actions. It gets back to the need to be as transparent and above-board as possible."

Collins, a certified public accountant, said he represented the interests of both the agency and the firm by turns, "depending on the issue." But he said he only recused himself ... month from the board ... vote on the contract after ... said he was told about a link between RMC and the firm.

The same day, he joined the water board in approving a letter to Monterey County Superior Court regarding its ruling that the Marina Coast Water District had not followed state rules on the environmental study for the regional project.

Jim Johnson can be reached at 753-6753 or jjohnson@montereyherald.com.

Firm asked to hire Collins

REPORT CALLS SITUATION 'TROUBLING'

By JIM JOHNSON
Herald Staff Writer

Marina Coast Water District general manager Jim Heitzman asked RMC Water and Environment to hire Steve Collins, a county Water Resources Agency director at the time, as a consultant on the regional seawater desalination facility in January 2010.

Collins then billed RMC for working on behalf of the desal project while identifying himself as a county water board director, according to a preliminary report by a law firm hired by the county to investigate. Collins collected more than $160,000 for his efforts. RMC was later hired as project manager for the proposal.

The report calls Collins' actions "extremely troubling."

It wasn't until August 2010 that Heitzman was alerted about the extent of the work done by Collins for RMC, although regular bills had been submitted to Marina Coast.

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See this story on montereyherald.com

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Collins

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Heitzman told RMC he wouldn't pay for Collins' time, and Marina Coast would seek reimbursement for the payments from the firm.

But Collins, Heitzman and RMC's Lyndel Melton apparently kept the matter to themselves. No one at the county admits to knowing that Collins was being paid by RMC, according to the law firm's investigation, despite Collins' insistence that he told several county officials about it.

The investigation is continuing, said County Counsel Charles McKee. The District Attorney's Office and the state Fair Political Practices Commission are conducting inquiries.

Possible conflict

The report, released Tuesday, outlines the work Collins did while billing RMC, including a series of closed-door sessions and public hearings before the county Board of Supervisors, the water board, the state Public Utilities Commission and in Washington, D.C., to advocate the desal project.

Marina Coast, the county Water Resources Agency and California American Water are seeking to build the estimated $400 million desalination project to produce a new water supply for Cal Am's Peninsula customers.

Collins' actions, the report suggests, could constitute a conflict of interest under laws that prohibit a public officer from being financially interested in a contract made in public and private capacities, from participating in a decision in which he has a financial interest, or from being paid for performing official duties.

Much of the report's details have been reported by The Herald.

Collins insisted he told county officials he was consulting for RMC, but none of them "remembers such a discussion," the report says.

McKee said Collins indicated supervisors Lou Calcagno, Dave Potter and Simon Salinas, as well as Deputy County Counsel Irv Grant and attorneys for the county-hired law firm of Downey Brand, knew about the arrangement.

Contracts in question

Collins' conduct, according to the report, raises questions about the "validity of certain contracts" the county Water Resources Agency approved as part of the desal project, including settlement, water purchase and reimbursement agreements.

McKee said county staff will begin meeting today with officials from desal project partners to discuss the future of the project.

"I think everything's on the table," McKee said, including possible changes to the project agreements and a revised timeline.

He would not say what advice he offered supervisors regarding the project, but said the board had not directed him to begin legal action aimed at extracting the county from the project agreements.

Along with the release of the investigation, the Board of Supervisors on Tuesday issued a statement that "it is critical the water solution caught up in the controversy not be derailed in the process."

"The need for a water solution for our region remains, and the county cannot let it fail because of these circumstances," the board said.

'Moving forward'

A replacement source of water is needed as Peninsula customers face a state-ordered cutback of pumping from the Carmel River. Cal Am ratepayers will pay the bulk of the project cost on their water bills.

The Board of Supervisors said it has called for a financial audit of the Water Resources Agency's project expenses; a County Counsel review of the project agreements and advice on possible conflict of interest claims; meetings with project partners to "determine the most viable option for a water project"; and advice from county Water Resources Agency general manager Curtis Weeks on the best ways to implement the "next phases of the project and project alternatives" in a timely and cost-effective manner.

"This emphasis," the board said, "does not diminish the seriousness of the situation or its implications, but keeps this critically important effort moving forward."

In its conclusion, the report says no one suggested Collins was "acting against the interests" of the county Water Resources Agency, and appeared to be moving the project forward, "which was the direction given (the agency) and its staff by the Board of Supervisors."

But the report notes the investigation is "far from complete and the facts we have discovered to date are extremely troubling."

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Collins conflict cloudy

INVESTIGATION RAISES MC QUESTIONS ON DESAL PROJ

By JIM JOHNSON
Herald staff writer

Last week's release of a preliminary report on Monterey County's investigation of former water board director Steve Collins' alleged conflict of interest in the regional seawater desalination project left many questions unanswered, as the report itself acknowledged.

"Our investigation is incomplete and many questions remain," said the report, submitted by San Leandro law firm Remcho, Johansen & Purcell LLP.

There's still no indication of who knew what about Collins' relationship with RMC Water and Environment, for whom he worked on behalf of the desal project while he also represented the county water resources agency, and exactly when they knew it. And, there's no sense of why no one apparently raised questions or concerns about his role until after Collins' second recusal, in February, from voting on a contract involving RMC.

It wasn't until two months later the supervisors launched their investigation.

Collins worked for RMC, which served as Marina Coast Water District's project manager, on behalf of the desal project for most of 2010 and was paid more than $160,000 by the firm. He also sought

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Collins

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payment from the county for expenses related to his work on the project.

But there's some question whether the county's investigation, which is continuing, will include answers to those questions.

County Counsel Charles McKee said he and the supervisors will decide together how to proceed with the rest of the investigation, including what remaining questions it will address. McKee said the board will have to consider whether a continued factual investigation is warranted given that the District Attorney and the state Fair Political Practices Commission are also investigating the matter.

However, he said questions about who knew what and when about Collins' relationship with RMC should be answered, even if they don't ultimately have any bearing on the project itself.

"It's important to find that out from a public credibility standpoint but not from a legal standpoint," McKee said.

Involvement unclear

According to the report, Collins "insists" he informed county representatives that he was consulting for RMC shortly after he signed with the firm in January 2010, but the report says no one at the county "remembers such a discussion." In addition, the report said there may have been disclosure to the water resources agency about Collins' consulting for RMC as early as February last year, but the earliest independent documentation of disclosure regarding Collins' relationship with the firm to anyone at the county was June 2010.

By August, according to the report, both Marina Coast general manager Jim Heitzman and RMC's Lyndel Melton knew Collins was billing RMC for his work, ostensibly as a county representative, and the bills were being paid by Marina Coast, but neither apparently told water resources officials. In fact, the report found that RMC signed Collins to a $50,000 increase to his contract after he argued on behalf of the project agreements before the supervisors in both a closed session and a public hearing when the board approved the deal in April 2010. RMC increased Collins' contract to $125,000 by mid-July, according to the report.

However, McKee said it's not clear anyone at the county knew about the extent of Collins' involvement with RMC. That may have been true even after the county launched its investigation in early April about the same time that Collins resigned from the county water board. It also appears that no one considered what they knew about the matter to constitute a serious violation until a public records request by The Herald in May uncovered the extent of Collins' work for which he billed RMC.

McKee has declined to discuss the cost of the investigation, arguing that it would reveal the county's commitment to the case in any potential litigation.

County supervisor Dave Potter, who has been appointed "watchdog" of the project, said he's not sure how the county's investigation will proceed in the context of the others, though he pointed out that the "big question" remaining is whether there was a criminal offense committed. He noted that there has been an allegation that some of the meetings Collins billed RMC for attending never actually occurred.

Supervisor Lou Calcagno said he doesn't believe the county's investigation nee to address who at the coun knew about the nature Collins' relationship wi RMC and when, pointing o that the project is likely undergo significant overaig changes anyway.

Supervisor Jane Parke said she believes the invest gating firm is finalizin details of the report, inclu ing a more detailed asses ment of who knew what an when, and more informatio could ultimately be include in a final report. The prelim nary report also didn' include a detailed legal analy sis offered to county official by the firm.

A final report could be fin ished by the end of th month.

Project critic Ed Mitchel said he will deliver a com plaint to the Fair Politica Practices Commission thi week alleging that "othe county officials purposely o negligently aided and abet ted violations by Steve Collins," including water resource agency general manager Curtis Weeks, Deputy County Counsel Irv Grant and Heitzman. Mitchell previously filed a complaint with the FPPC over Collins' actions, as well as one with the District Attorney's Office asking for an investigation of County Counsel staff.

Collins, Weeks, Grant, Heitzman and RMC's Melton and senior project manager Leslie Dumas did not return phone calls from the Herald.

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SUNDAY, JULY 3, 2011

Opi

OTHER VIEWS

Pacts held hostage

During the Bush administration, congressional emocrats never tired of nding reasons to oppose nportant free trade pacts ith South Korea, Colombia nd Panama. The deals were o unfriendly to U.S. tomakers, they omplained, or they didn't otect against human rights uses, or they failed to arantee that foreign mpanies wouldn't dercut American mpetitors by underpaying eir workers. Under esident Barack Obama, e agreements have been negotiated to erase nearly those objections, and they ally seemed poised for proval. Except now it's publicans who are nding in the way.

On Tuesday, the White use struck a deal with nate Democratic leaders at could end a logjam on three trade agreements. issue was an obscure, year-old program called ade Adjustment sistance, which aids rkers who have lost their s because of foreign mpetition, providing them h job retraining, health urance payments and er benefits. In May, the ama administration nounced that it wouldn't mit the pacts to a gressional vote unless y were coupled with an ension of the program. at angered Republicans, o see the program as an

THE HERALD'S VIEW

Plenty to blame in desal controversy

It's too bad the name is already taken because Watergate would be an appropriate label for the growing controversy over the Marina desalination plant. "Desalinationgate" doesn't work and neither does "Collinsgate" despite the key role played by former county water official Steve Collins.

For a time, it looked like "Heitzmangate" could stick. That was a couple of weeks back after the Monterey County Board of Supervisors issued parts of an investigative report that tried to stick Jim Heitzman, Marina Coast Water District's general manager, with the ill-fated decision to quietly put Collins to work for the desalination project manager, RMC Water and Environment.

But Heitzman deftly stepped out from under that cloud on Friday with the release of another investigative report, this one by lawyers working for Marina Coast. Now it seems we have a choice. It could be "Calcagnogate," because of the string-pulling role of Supervisor Lou Calcagno, but even better might be "Pottergate," if only because it rhymes so nicely with Watergate.

Potter, of course, is Supervisor Dave Potter, who, according to the new report, joined Calcagno to urge the hiring of Collins way back when, ignoring state conflict-of-interest law and common sense in the process.

The facts of the two reports aren't necessarily at odds. The new one just has considerably more detail. It blames Calcagno and Potter for starting the process that led to Collins being paid $160,000 by RMC even while he was a member of the board of the county's Water Resources Agency and even though he had helped swing the project manager contract RMC's way.

The county report make it sound like it was Heitzman's idea. The Marina Coast report counters that Heitzman was just a team player and that Calcagno and Potter were calling the shots, largely out of concern that the high-powered team of water consultants, engineers and lawyers working for the county and Marina Coast couldn't carry off the desalination venture without the help of Collins, an agribusiness accountant.

If the new report has its facts straight, the county owes Heitzman an apology for trying so hard to make him the bad guy. In truth, it now appears, there are plenty of bad guys, or at least below-average guys. Forget about their ability to build a desal plant. If all these well-paid fellows couldn't figure out a way to get Collins paid for his time without breaking laws or creating a web of lies, one wonders how they can accomplish much of anything.

Neither of the reports address any aspect of that issue, but most objective readers of the two reports would likely join us in calling for some new form of leadership.

Among the latest info in the new report is that shortly after Collins resigned from the water agency board in January, he formed a partnership with Curtis Weeks, director of the county Water Resources Agency. The report says the new firm of Collinsweeks Consulting hoped to manage the desalination project, or at least the county's role.

For the record, that is not the new form of leadership we have in mind.

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7/10/2011

Weeks - Collins private business partnership

Aug. 10. 2011 2:34PM No. 7267 P. 25

Calcagno seeks Weeks' resignation

SUPERVISOR SAYS WATER AGENCY CHIEF'S PARTNERSHIP WITH COLLINS IS A CONFLICT OF INTEREST

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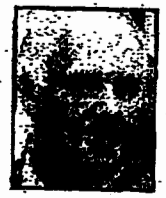

Steve Collins
Billed FMC for project work while representing the county water agency.

Herald Exclusive

By JIM JOHNSON
Herald Staff Writer

Supervisor Lou Calcagno said he will recommend to the Board of Supervisors that Monterey County Water Resources Agency general manager Curtis Weeks be asked to resign.

Calcagno's recommendation comes in the wake of revelations that Weeks and former county water board director Steve Collins formed a business partnership about a year and a half ago, then pursued private consulting work together while both represented the county water agency. Calcagno views that as a conflict of interest because of the agency's influence on local water issues. He believes Weeks should have officially reported the business partnership with Collins when it was formed.

A preliminary report on a conflict-of-interest investigation of Collins commissioned by the Marina Coast

Please see **Water page A9**

"I wanted to (ask Weeks to resign) earlier but I didn't have the support. I knew something was fishy; I just didn't feel good about it."

— **Lou Calcagno, county supervisor**

This story can be found only in **The Herald's print version and e-Edition.**

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7/10/2011

Water

(continued from page A1)

Water District found that Weeks and Collins had formed a partnership dubbed Collinsweeks Consulting LLC, which was registered with the California Secretary of State on Jan. 4, 2010. The report also suggested the pair told Marina Coast general manager Jim Heitman and RMC Water and Environment's lobbyist Melton they formed the partnership to manage the proposed regional desalination project.

Both Calcagno and Supervisor Dave Potter said the pair had told them about their plans to form a private consulting firm, but not until months after the partnership had already been formed and there was never any mention of the desal project.

Calcagno said he told Weeks and Collins when they approached him in the spring that he opposed their consulting plans because of this conflict of interests. He said he immediately had doubts about the duo's motives, especially when Weeks asked for an amended employment contract that would allow him to continue working for the county and engage in private consulting work. He said he later found out the pair had already pitched their services to at least one local agribusiness organization on the ag waiver issue (state water board rules regarding the discharge and quality of agricultural water).

"I wanted to (ask Weeks to resign) earlier but I didn't have the support," Calcagno said. "I knew something was fishy. I just didn't feel good about it. I was suspicious of everything they brought to me after that."

Potter said he was told by Weeks last fall about the pair's plans to go into business together, and that they already had a variety of potential clients.

"I never got the impression they would be doing both (private consulting and working for the county) at the same time," Potter said.

Potter said the board would have to consider Weeks' future with the county water agency, though he said there remains questions to be answered about what actually occurred. If, he said, the pair worked on behalf of their firm on county time or prepared a formal consulting proposal, then it would be "an issue."

Dave Potter
Says the board will have to consider Curtis Weeks' future with the county water agency

Calcagno said he was approached by Weeks and Collins in March about the consulting plans, and that's when Weeks asked for an amended contract. The supervisor said he immediately reported the matter to County Administrative Officer Lew Bauman and County Counsel Charles McKee.

McKee confirmed he had been informed about the pair's proposal, and had seen a draft copy of Weeks' proposed contract, which he said appeared designed to offer the water agency general manager "more flexibility." He said he told Weeks he represented the board and couldn't recommend such a change to the supervisors.

Calcagno said he discovered in April, during discussions with Grower Shipper Association president Jim Bogart and other association officials, that the pair had pitched their services to the GSA on the ag waiver issue last fall.

That same month Collins, who was facing conflict-of-interest accusations about his dual role with RMC and the county water agency on the desal project, submitted his resignation from the water agency board.

Bogart said he had only a short meeting with Weeks and Collins, and informed them that Grower Shipper was merely a member of a larger coalition of agribusiness interests involved with the ag waiver issue and the entire group would need to weigh in on the duo's offer. He said there were never any details offered on services or programs.

Potter said such an engagement would have likely created at least the perception of a conflict given the county water agency's influence on ag water quality and discharge policy.

McKee said he was told by Weeks and Collins last year that they planned to go into business together, though they never said what they would be doing. He said he told them they couldn't "engage in any lines of business" that they also worked on for the county water agency, though he also said he couldn't offer them any advice.

The Marina Coast report suggested that when Weeks and Collins allegedly told RMC's Melton last fall that they had formed the consulting business to manage the county water agency's portion of the desal project, they told Melton they had asked McKee how such an arrangement could be structured.

Just four days after forming Collinsweeks Consulting, Collins was hired as a consultant by RMC Water, Marina Coast's project manager on the desal project at the time.

Collins would spend most of 2010 billing RMC more than $160,000 for work on the project while representing the county water agency.

RMC subsequently won a $28 million deal to manage the entire $400 million desal project, which is backed by a partnership between the county water agency, Marina Coast and California American Water. The proposal is designed to provide a new water source for the Peninsula to offset a state order to reduce pumping from the Carmel River.

Weeks was hired by the county water agency in 1997 and was promoted to general manager in 2000, according to county records. Collins spent 16 years on the county water agency board.

Neither Weeks nor Collins have returned repeated phone calls from The Herald for months.

On Friday, Michael Lawrence, an attorney for Collins, said in an e-mail statement that the consulting business has been dormant from the outset, but might pursue projects outside Monterey County that do not involve water.

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SUNDAY, JULY 10, Opinio

THE HERALD'S VIEW

Time to lift desal shroud of secrecy

From the beginning, some of the biggest concerns about the planning for a Marina desalination plant — other than cost — have been the lack of clear, accountable leadership and the amount of back-room maneuvering that has left the public out of the process and barely able to follow along.

Now that this important project apparently has stalled — in part because of highly questionable side deals made in those back rooms — the leadership might be expected to learn from experience and change its ways.

Unfortunately for all involved, those in charge seem not to have received the message. In fact, they have added additional layers of secrecy, and additional squads of lawyers, to the point that even those overseeing the process could soon find themselves unable to get a clear picture themselves. With lawyers involved in so many aspects of the project and various ancillary investigations, much of it is already shrouded in attorney-client privilege.

One of the key players, the Marina Coast Water District, has a lawyer at its daily disposal but hired others to conduct a special investigation into conflict-of-interest issues in response to Monterey County's decision to hire lawyers to investigate the same thing. So what's next? On the agenda for the water district's next board meeting is a request to hire another lawyer just to represent district General Manager Jim Heitzman.

This newspaper recognizes its role to try to sort it all out on behalf of the public regardless of the obstacles, but the hurdles have only grown steeper as those in charge have chosen to aggressively ignore the public's call for more information.

At the moment, we believe the partnership of Marina Coast, Monterey County and California American Water is negotiating some new terms that could change the dynamics somewhat and do something to make it appear that the public is being given more of a voice. We don't know for sure, however, because the parties started by agreeing not to say anything publicly.

We believe a committee of Peninsula mayors may be involved in the talks, but we don't know for sure because, you guessed it, the mayors also have taken a vow of silence.

The entire process, of course, was born in secrecy. The original partnership arrangement was negotiated in secrecy in a quasi-judicial process initiated by the state Public Utilities Commission. Perhaps that created an impression that secrecy has been sanctioned and that transparency is only a buzz word, a distraction.

The many who are out of the loop might actually be able to accept that status in this case if real progress was being made — if bonds were being sold, if water rights had been obtained, if there was a sense that taxpayer and ratepayer money was being used for something other than meals, hotel bills and legal fees. Instead, the perception now is that the various entities — and their lawyers — could be doing nothing trying to minimize their liability when the whole thing falls apart.

It is our hope and expectation that they stop covering their rears and do what needs to be done to get things moving again. The Peninsula faces a very real state order to start turning off the pumps along the Carmel River. Our expectation is that our elected and appointed leaders will listen to the public as well as the lawyers, open the process up to public inspection and either get back on track or admit defeat while there is still time for the community to act.

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THE HERALD'S VIEW

Troubling responses about RMC deal

If your position on the proposed Marina desalination plant is that you're for it, no matter what, don't bother reading this. But if you support the idea, *and* want to see it done right, you might want to pay attention.

You may recall that it was belatedly revealed last month that Steve Collins, a veteran member of the Monterey County Water Resources Agency, had been paid some $150,000 for accounting and advocacy work for RMC Water and Engineering, the project manager for the desal plant.

The work was performed last year, before the Water Resources Agency and other project principals had awarded the management contract to RMC but after the agency had awarded several other no-bid contracts to RMC.

News of the payments to Collins raised several important questions about the desal project. Among them, did RMC receive the $28 million contract through merit or connections? Who else knew of Collins' dual role and why did they keep quiet about it? What other conflicts exist?

In the aftermath, Collins resigned from the agency board, but the matter didn't fade away. Monterey County officials are investigating, and the Division of Ratepayer Advocates, a branch of the Public Utilities Commission, sent a series of Collins-related questions to California American Water, the utility company that is a partner in the desalination project and is regulated by the commission.

Cal Am's answers — or, in many cases, non-answers — were not reassuring. They add, in fact, to existing concerns about the openness of the process and whether Cal Am customers, who will be paying for the bulk of the $400 million-plus process, will have access to meaningful information about the construction process and subsequent operations.

Cal Am, while answering some questions, took the position that most need not be answered because they are irrelevant and do not technically apply to the formal cases pending before the Public Utilities Commission. Never mind that this is a Cal Am project, ordered by the PUC and proceeding under PUC regulation and that the Division of Ratepayer Advocates is the one agency designed to protect the interests of utility customers.

Cal Am also objected because some questions called for "confidential and privileged information" of other parties. Presumably that would be the public agencies involved, the Marina Coast Water District, Monterey County and the county's Water Resources Agency, and RMC, working under contract to those public agencies.

As tersely as possible, Cal Am went on to say that none of the work Collins performed for RMC had been paid for by Cal Am ratepayers. It did reveal, however, that the other project partner, Marina Coast Water District, had "mistakenly" sent four invoices to Cal Am for a total of $59,015 for work that Collins had performed for RMC — and that Cal Am had paid the bills. The written answer doesn't say Cal Am "mistakenly" paid the bill, but that's the inference. After the error was discovered, Cal Am recovered the money, the company reported.

Among the questions that come to mind are: A. How proficient are the financial folks at Marina Coast and Cal Am? B. Was it really a mistake?

Some of the subsequent answers were no more reassuring.

For instance, Cal Am said it had been unable to determine how many no-bid contracts were awarded to RMC while Collins was on the water agency board. (If Cal Am has trouble getting public information from its desalination partners, pity the poor private citizen.)

And though Cal Am should have been able to figure out the Collins-RMC relationship when it "mistakenly" began receiving the invoices in May 2010, it said that while it addresses conflicts "within its control," it doesn't feel a responsibility to assure that the other parties play it straight.

Reassuring? No. Correctable? Yes, if the public and the public's representatives insist on corrections.

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Opinion

Time for more desal project testimony

By ED MITCHELL
Guest commentary

The public deserves to hear some facts supplied in the sworn complaints I delivered to the Fair Political Practices Commission regarding the desalination scandal. This may help readers judge if county officials are guilty of breaking state laws and whether their recent public comments are self-serving.

On April 6, 2010, a year before the scandal appeared in local newspapers, I warned the Board of Supervisors reviewing the water purchase agreement that it was so poorly written that a public official could shape the lucrative agreement and then could go work for the private company delivering the desalination technology.

How accurate was that conflict-of-interest warning? During the review, Steve Collins, as a director of the Water Resources Agency, briefed and recommended that the supervisors approve the desalination project agreements. Simultaneously, he hid from the public that four months earlier, RMC Environment and Water had hired him to consult on the regional project. Who was he working for during the review? Collins even charged RMC for 6.7 hours he spent during Board of Supervisors' meetings, open and closed.

Twelve months later I saw Collins' financial disclosure statement for 2010. It revealed that while serving as a Water Resources Agency director, he was also paid over $100,000 by RMC. On May 5, I filed a FPPC complaint against Collins.

However, the foundation of this scandal is not Collins' actions. It is whether other public officials were his accomplices. My second complaint asked the FPPC to investigate whether five other officials knew of Collins' conflict and helped him repeatedly violate state law. Four of the five attended the approval review. It took the FPPC only two weeks to agree to investigate after receipt of DVDs, CDs, and hard copy records. The quick decision does not mean any named individual is guilty. Some may be innocent and others may be lying against them. The five are Jim Heitzman of the Marina Coast Water District, Curtis Weeks of the Water Resources Agency, Deputy County Counsel Irv Grant, County Counsel Charles McKee, and Supervisor Lou Calcagno.

California judges determine the guilt or innocence of alleged accomplices by assessing their behavior prior to, during, and after a violation of law. Public records show that some supervisors, Heitzman, Weeks, Grant, and Collins jointly prepared, strategized, and later briefed or influenced contract decisionmakers during 2010.

So I provided the supervisors and the FPPC two diagrams based upon available records, showing "Who Knew What When?" What was the response? The Herald reported that "Supervisor Calcagno said he doesn't believe the county's investigation needs to address who at the county knew about the nature of Collins' relationship with RMC and when . . ."

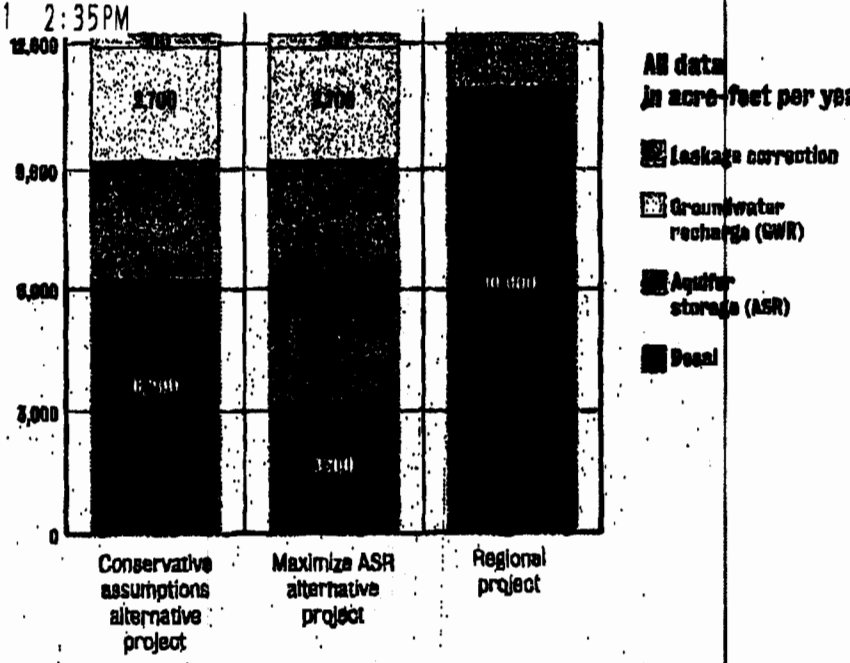
Luckily, three newspapers, KION TV and FPPC investigators recognized the question is key to unraveling this scandal.

Later, reports by the county's independent investigator and the Marina Coast Water District supplied comments from Heitzman, Collins, Weeks, and others that substantiated material I had submitted. More important, the MCWD report documents that Heitzman, Weeks, a county lawyer, and RMC recognized Collins' conflict of interest as early as January 2010.

Yet Heitzman went for months wanting Collins to give him a legal opinion that the dual employment created no conflict. So why didn't Heitzman, the county's highest paid water official, protect MCWD ratepayers by just asking MCWD's own counsel for a legal opinion?

I have declared under penalty of perjury that the filed complaints were true and correct. Isn't it time for those being investigated to answer under oath?

Ed Mitchell is a North County activist and former acquisition manager for the Department of Defense.



Better ways to get water

By ROGER DOLAN
Guest commentary

The first part of this article, which appeared July 9, explained the range of water supply options that already exist right on the Peninsula. This second part puts them together and recommends a range of projects that offer a much better way to meet our water needs than the Marina desalination plan.

First, a review of the supply options:

Aquifer storage and recovery (ASR): It is the supply option that will be the least expensive and have the lowest environmental impact. This process pumps excess winter flows from Carmel River wells for storage in the Seaside groundwater basin for summer use. ASR has the greatest potential, but to determine the maximum ASR capacity, additional technical and environmental analysis is required. California American Water or the Monterey Peninsula Water Management District would own ASR facilities, as appropriate. The process can produce at least 3,000 acre-feet per year and, with further study, may be able to produce 6,000 acre-feet per year, or more.

Leakage control: As the marginal cost of water escalates from the low cost of well water to the very high cost of desalinated water, the wastewater through a series of processes, including forcing the treated water through plastic membranes to remove all organic molecules. The purified water is injected into the ground where it must remain for a year before being pumped out for use. This is the second most expensive process. The facilities would be owned by the Monterey Regional Water Pollution Control Agency, which has years of experience in water reuse and an excellent track record. MRWPCA would supply the purified water under contract. GWR can produce 2,700 acre-feet per year.

Desalination of seawater is the most expensive source and, due to the large amount of electrical energy required, it has the largest environmental impact. We should minimize the use of desal as much as possible. Desalination planning for a scaled-down, Peninsula-based facility is being conducted by MPWMD as a contingency option, and it shows great promise. MPWMD would own the facility. Private engineers and contractors would design and construct it. The plan is to maximize the less expensive sources and have desal provide the net capacity required to meet the demand. For the examples proposed, the desal facility would range from 2,200 to 6,200 acre-feet per

the Peninsula's water needs and compares them to the Marina desalination plant.

Option 1 is feasible based on currently available knowledge. It supplies 6,200 acre-feet per year (afy) of desal water, plus 3,000 afy of aquifer storage and recovery water, plus 2,700 afy of of groundwater recharge (GWR), plus 300 afy of water saved by leakage control.

Option 2 would be less expensive as it maximizes the use of ASR, the lowest cost supply, but it requires further technical analysis. Each of the columns totals 12,200 afy, which, together with the 300 afy production of the existing Sand City desal plant, equals the Peninsula's water needs.

Clearly, there are better options for the Peninsula than the currently proposed Regional Plan. Either of these options would provide local governance, cost control and transparency, as well as lower environmental impact. And, the Peninsula ratepayers could avoid dealing with the irresponsible agencies in control of the Regional Project.

This was written by Roger Dolan and other members of the Carmel Valley Association's Water Committee. Dolan has degrees in civil engineering and water resources engineering. He was general manager and chief engineer of the Central Contra Costa Sanitary District for 22 years and manager of

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8/7/2011

No. 7267 P. 31

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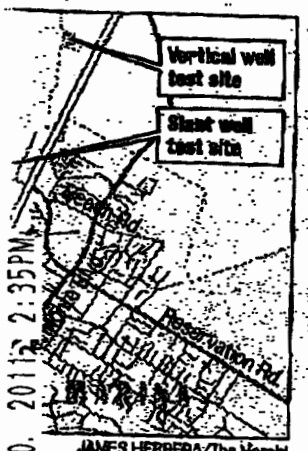
RAUNCHIER ROLES
Women actors take a turn on big screen
Story on page B1

Ag group airs desal project concerns



JAMES HERRERA/The Herald

WATER RIGHTS POSITION AT ISSUE

By JIM JOHNSON
Herald Staff Writer

New opposition to the proposed regional seawater desalination project from Salinas Valley agricultural interests has emerged as the project approaches its first big test before the state Coastal Commission.

Last week, the Salinas Valley Water Coalition urged its members to seek a postponement of Friday's Coastal Commission hearing on the desal project's slant test wells. The coalition is a group of agribusiness interests whose support for the desal project is considered key to its success.

The group objects to the county Water Resources Agency's stated position on water rights for the project and asked its members to lobby county supervisors to seek a postponement of the Coastal Commission hearing until the issue has been resolved.

The commission hearing would be the first test of the project's viability by a regulatory agency that has not been involved in its planning. The commission is scheduled to review only the application for test wells and associated monitoring wells, which would be located at the Marina Coast Water District office site, along the shoreline at 11 Reservation Road, Marina.

Data from the test wells will be used to determine if the water is suitable for the proposed $400 million project, which is backed by a public-private partnership among Marina Coast, the county water agency and California American Water.

The project is designed to provide a replacement water source for Peninsula residents facing a state-ordered reduction in Carmel River

Please see Desal page A9

If you go

- What: State Coastal Commission hearing
- When: 9 a.m. Friday
- Where: Watsonville City Hall, 275 Main St.

See www.waterformontereycounty.org to ready more about the Regional Desalination Project.

Aug. 10. 2011 2:35PM

ks said earlier this
ear that the Ag Land Trust

8/7/2011

Desal

From page A1

pumping.

If the tests are successful, the applicants likely would propose that the test wells be converted into long-term source wells for the project.

A hearing before the commission on the rest of the project, including test wells planned near the Cemex plant north of Marina, will occur later as the project partners work out remaining issues, including land acquisition and environmental impacts.

The partners expect the rest of the project to be considered by the commission within six months, said Cal Am spokeswoman Catherine Bowie.

Commission analyst Tom Luster said project supporters only recently asked the commission to move ahead with the test wells before seeking approval for the entire project.

A dispute about water rights is pending, including a lawsuit filed by the Ag Land Trust. That litigation maintains that the project's partners can't acquire water rights to pump groundwater from the overdrafted Salinas Valley Groundwater Basin.

County water agency general manager Curtis Weeks said earlier this year that the Ag Land Trust litigation would need to be resolved before the test wells moved forward.

The Salinas Valley Water Coalition is arguing that the county's position on the project's right to the groundwater is "unacceptable" and ignores the interests of other "vested water rights holders," including Salinas Valley farmers.

A letter last week from coalition spokeswoman Nancy Isakson to members argues that the stored groundwater is intended for the benefit of the "overlying landowners" who paid for the storage projects, and not for "whatever use the (water resources agency) may decide to put it to."

"We believe the Coastal Commission does not have the authority to grant groundwater rights or to grant approval of any permit or project that relies on, or causes, the illegal taking of groundwater that belongs solely to the overlying landowners of the Salinas Valley," the letter reads.

Isakson said the coalition has offered conditional support for the desal project as long as questions about the water rights and the impact on pumping from the 180-foot aquifer are resolved. Those questions have not been answered, she said.

She said the project's partners are taking a big risk in moving forward with the slant wells and investing money in the process before the water rights dispute is resolved.

Isakson said she is concerned that the county water resources agency is spending taxpayer money that may not be reimbursed if the project falters, and won't be paid back for years even if the project is successful. She said she fears that some costs, including litigation and related conflict-of-interest investigations, are not reimbursable.

Earlier this year, county supervisors limited the water resources agency's access to a Cal Am-backed line of credit for the project to $286,000 until a financing plan was presented to the board. That hasn't yet happened.

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8/9/2011

Monterey County
The Herald

County has doubts about desal

By JIM JOHNSON
Herald Staff Writer

Posted: 08/09/2011 01:35:49 AM PDT

Updated: 08/09/2011 07:54:09 AM PDT

Monterey County officials sent notice last month to its partners in the regional seawater desalination project that the proposal's agreements were void and it wanted to start formal negotiations about how to proceed.

Marina Coast Water District officials insisted the agreements are valid and the project should proceed as proposed, leaving the two partners at an apparent impasse.

According to correspondence from attorneys for the county Water Resources Agency and Marina Coast obtained by The Herald, the two sides have vastly different interpretations of the project's status as a result of alleged conflict of interest involving former county water board member Steve Collins. They also have different ideas about how to deal with the situation.

Collins was paid about $160,000 by RMC Water and Environment for working on behalf of the desal project while he was a water board member. RMC later won a $28 million contract to manage the $400 million project, a partnership between the county agency, Marina Coast and California American Water.

The project is designed to provide a replacement source of water for Peninsula residents facing a state-ordered cutback in pumping from the Carmel River.

The county, Marina Coast, the District Attorney's Office and the state Fair Political Practices Commission are all investigating Collins' dual role on the project, with the county and Marina Coast producing markedly different conclusions in summary reports that seem to have

contributed to the stand-off.

Dispute resolution

In a letter to officials and attorneys from Marina Coast and Cal Am dated July 7, county water resources attorney Kevin O'Brien wrote that the agency considered the project agreements void as a result of Collins' conduct.

The letter, according to O'Brien, represented "formal notice" that the agency was initiating dispute resolution procedures after earlier efforts to resolve the issue were unsuccessful.

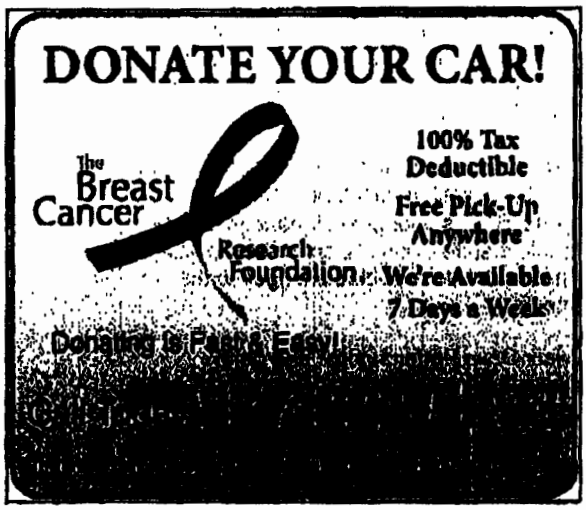
The water agency is under no obligation to seek dispute resolution before more formal legal action, O'Brien said, but it is pursuing the legal alternative in a "good faith effort to resolve the current dispute."

After a July 13 meeting between the partners was unsuccessful, O'Brien sent a letter July 20 that set out a sequence for resolving the dispute as provided for in the project agreements, including a meeting with "senior management" from the partners before July 28.

Without a resolution, according to the letter, the agency would consider seeking mediation and reserving the right to seek "judicial remedies."

In response, Marina Coast attorney Lloyd Lowrey sent a letter strongly suggesting the county has not been "acting in good faith" in its efforts to maintain its partnership in the desalination project.

Lowrey wrote, "We cannot understand the county's position and motivations with respect to the (project), and despite our repeated requests, the county has refused to enlighten us."



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8/9/2011

The Herald

Lowrey pointed to Marina Coast's legal analysis of the alleged conflict of interest, which suggests the project agreements can't be legally challenged. He complained that Marina Coast repeatedly asked the county and Cal Am to share "any contrary legal analysis," but didn't get a response.

Lowrey challenged recent private meetings among people representing agencies in the partnership, as well as requests for confidentiality, saying they appear to be "inconsistent with the principle of transparency upon which the (desal project's) public-private partnership is based."

Lowrey said Marina Coast could agree, under certain conditions, to the county agency's request for a meeting among senior managers and would be willing to consider participating in a "confidential settlement discussion" under a "one-time confidentiality agreement," provided attorneys are present.

Finally, Lowrey wrote that Marina Coast remains committed to the project agreement, which he called "valid and legally enforceable." He said he believes the parties "must move forward quickly to implement" the project.

O'Brien responded the next day by designating Curtis Weeks, general manager of the water agency, as the senior management representative in future talks.

Confidential meeting

Officials for the three project partners have declined comment on any meetings between them, and there is no indication they met before July 28 or afterward, although the partners held a confidential meeting at Cal Am's local headquarters in Pacific Grove on Thursday.

But representatives for all three partners have said they are still committed to fulfilling their obligations. RMC senior project manager Leslie Dumas told a state Coastal Commission official last week there were no expected changes to the agreements.

Supervisor Dave Potter said he and other supervisors have had little involvement with project oversight since the confidential meeting in mid-June. He said that meeting bogged down over the nature of the confidentiality agreement.

Potter said he believes there has been little progress because of the "difference of opinion" about how to proceed.

Potter, who was named the board's representative to the desal project in June, said at the time that supervisors would get more involved in project oversight.

Supervisor Jane Parker said the board is leaving it to county staff to work through the legal issues. County Counsel Charles McKee said the water resources agency and Weeks are taking the lead in project discussions.

Jim Johnson can be reached at 753-6753 or jjohnson@montereyherald.com.

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SETTLEMENT MEETING CONFIDENTIALITY AGREEMENT

California-American Water Company, Marina Coast Water District, and the Monterey County Water Resources Agency ("the Parties") are all parties to the Water Purchase Agreement and participants in the Regional Desalination Project, as each was approved by the California Public Utilities Commission in its Decision No. 10-12-016, as modified on denial of rehearing in Decision No. 11-04-035. Circumstances have arisen that could potentially lead to possible disagreements and or claims made by third parties or between and among the Parties themselves in connection with the implementation of the Regional Desalination Project. The Parties desire to meet in an effort to avoid and, if necessary resolve, any potential disagreements that could arise. As part of this effort the Parties have agreed to meet on June 22, 2011 on a confidential basis. The confidentiality of the meeting is a material inducement to the willingness of the Parties to participate in this meeting. The Parties hereby agree that the matters discussed or materials disclosed at this meeting shall be treated as confidential communications subject to all applicable law permitting such confidentiality, including but not limited to California Evidence Code Section 1152, California Government Code Section 6254(k), Rule 408 of the Federal Rules of Evidence, and Rule 12.6 of the CPUC Rules of Practice and Procedure. Notwithstanding the foregoing limits on confidentiality, nothing in this agreement precludes any of the Parties from communicating such information or sharing such materials with any of the Parties' decision makers, board members, respective officers, agents, employees, advisors, legal counsel, or other representatives; provided, further that such information may be disclosed to any persons or entities conducting official investigations with respect to the matters discussed at this meeting.

DATED: June 22, 2011

California-American Water Company

By: Robert MacLean

Its: President

DATED: June 22, 2011

Marina Coast Water District

By: Jim Heitz

Its: GM

DATED: June 22, 2011

Monterey County Water Resources Agency

By: CURTIS V. WEEKS

Its: GENERAL MANAGER

Item No. F6a
E-11-019

Monterey County Water Resources Agency
Marina Coast Water District
California-American Water Company

EX PARTE COMMUNICATIONS

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LCP, etc.:	F 6a Application E-11-019 (Monterey County Water Resources Agency, Marina Coast Water District, California-American Water Company, Monterey Co.)
Date and time of receipt of communication:	7/28/11 3:10 pm
Location of communication:	Board of Supervisor's Office, Santa Cruz, CA
Type of communication:	Telephone Conference
Person(s) initiating communication:	Molly Erickson
Person(s) receiving communication:	Mark Stone

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

She is concerned that this is piece-mealing the larger project and is an attempt to get around the significant issues that are being raised by the project over all. The project is a solution to the overdraft of the Carmel River. The Salinas Valley, however is fully appropriated and this project has no rights to pump any water. If there is a take of brackish water then that would be illegal. None of the agencies who approved the project approved slant wells. They all approved vertical wells. The Commission is seeing a test well project that has not been approved by any other agency, including the PUC. She is asking that we postpone any decision on these test wells until there is a complete project before us and after the responsible agencies have issued their approvals for the slant wells.

Date: 7/28/11 Signature of Commissioner: Mark Stone

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred within seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meting, other means of delivery should be used; such as facsimile,

From: Jana Zimmer [mailto:janazimmer@cox.net]
Sent: Friday, August 05, 2011 12:29 PM
To: Vanessa Miller; Jeff Staben
Cc: Alison Dettmer
Subject: Monterey Water Dist slant test well

Attached below my exparte for F6a Monterey test well

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LPC, etc.:
Date and time of receipt of communication: August 5, 11:50 am a.m. – 12:20 pm

Location of communication: Santa Barbara

Type of communication (letter, facsimile, etc.):
_telecon

Person(s) initiating communication: Dave Neitch, agent for applicants

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

Mr. Neitch described the project as a test well to determine suitability for future regional desalination project. This is only for the test well. There are three applicants. They hope to be coming back to the Commission with the application for the regional plan later this year. They concur with staff recommendations and conditions. The location is on the existing Marina District offices property, in an already paved area, which has been paved for a number of years. There are no environmental constraints with surrounding agricultural or ESH lands.

I asked:
1. why are the vertical well and slant well being reviewed separately? Response: Staff was not ready to do vertical well on the same application. Staff feels this is the ideal situation for a desal plant.
2. The test well would convert to permanent. Since there is mention of a future need potentially for managed retreat, has applicant looked at a site further inland at the outset? Response: They have located inland of the fifty year line.
3. Staff report indicates MCWRA EIR Addendum for test wells. Why was an addendum needed? Response: At the time EIR was created location of test wells wasn't set.
4. Staff report references measures to be identified through Special Condition 3 to mitigate erosion impacts for short term use of well. I stated a concern with them needing to apply for shoreline protection despite the condition prohibiting it. They will work with staff to provide best available measures prior to issuance of CDP for the test well.

5. are there any hazards from the presence of the well that could damage other adjacent property, i.e. spills of hazardous materials. Again measures to be provided to staff satisfaction per Condition 6.
6. asked about letter from Agricultural Land Trust claiming that the District has not perfected ownership rights. Response: Staff is comfortable with the applicants' claim that they do have the right.
7. Are they required to provide adaptive managed retreat plan prior to issuance of *this* CDP?

_____

_____

Date Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

Dear Jana,

As Santa Barbara's ORCA liaison to the Coastal Commission, I've been asked to share with you two requests for Commission consideration at the August meeting. Have a great time there. We are all proud of having you there.

RECEIVED

AUG 0 8 2011

CALIFORNIA COASTAL COMMISSION

Lee Moldaver

1. Thursday. Item 8d. City of Santa Cruz - La Bahia Hotel LCP Amendment Request (Santa Cruz LCPA STC-1-11)

[Submitted on behalf **Don Webber,** and the *Coalition to Build a Better* La Bahia]

Coastal Act Section 30253.5. The applicant would demolish an existing *historic landmark* within the Santa Cruz coastal zone, and replace it with new structures 6x larger, which appears to violate Santa Cruz's adopted LCP.

Inaccurate interpretation of the *Bix-Cardozo* demolition study is a key factor.

Coastal Act Section 30251. Visual and aesthetic values.

a) Commission staff's interpretation of "compatibility" with the "surrounding neighborhood" is flawed, and *inconsistent* with their interpretation of these terms with other projects within their offices review sphere. Only two existing structures vaguely similar to the proposed project in size-bulk-scale exist in Santa Cruz - *both* built before passage of the Coastal Act. Actual Santa Cruz "neighborhood" has no other structures in any way similar to project proposal.

b) "Public view shed" generally means *more* than just a single angle from the end of the Wharf, a great distance from the proposed project. *All* other area view sheds would be compromised.

c) "minimum alteration of coastal land form" generally does not encompass such great grading or excavation, especially on such a prominent coastally proximate hillside. Since the developer also owns the existing, nearby *Boardwalk* parking lot, more efficient "joint use" there could reduce or eliminate the need for project's bi-level hillside parking construction.

The Coalition to Build a Better *La Bahia Hotel* supports "visitor serving redevelopment" at the project site.

But the weak, obtrusive design, excessive grading, visual impact, and spot-zoning implicit in this item moves Mr.Webber to ask that the Commission's proposed "conditioned approval" be set aside, and the application denied, pending a superior re-design alternative.

2. Friday. Item 6a. De-Sal Test Well on Monterey Peninsula. E-11-019 (Monterey Water Resources)

[Submitted on behalf of **Margie Kay**, and the Greater Monterey Water Coalition]

Recommendation that the hearing be **continued to a later date**.

The applicant's "groundwater rights" at the site of the proposed test well are in current litigation with third parties, which could render their application *moot*.

Coastal Act Section 30231. The proposed de-sal "*slant* test well" is immediately adjacent to "active Ag production". The Coastal Act suggests maximum protection for working Ag lands, with could easily conflict, especially since the "test" site is identical with the proposed "permanent de-Sal slant well" proposed by the applicant *if* the "test" is "successful".

Coastal Act Section 30241. The proposed project could exacerbate existing Carmel Valley over-pumping, which has led the Ca State Water Board to issue *cease & desist* orders to the project applicant, which have not yet been resolved. The applicant's mandatory requirement to submit an updated plan to "protect" existing water resources still has not happened.

Coastal Act Section 30006. Regarding the priority for *leg* findings and opportunities for "public participation", Margie Kay notes the cancellation of the scheduled "project public workshop", and the revelation of the "secret *mayors' memo"* among Monterey area municipal agencies and special districts to "defer" the public meeting until after the Coastal Commission hearing.

Margie Kay and the Greater Monterey Coalition recommend that this item be continued, until such time as the actual groundwater rights challenge is resolved, the open public workshop has been held and substantive suggestions made at the workshop have been reviewed, and the applicant's status with the Ca State Water Board has been properly resolved.

Kay also notes that the applicant's proposal - and CCC staff response - appears to be *contrary* to the Commission's most recent guideline recommendation for "a consistent approach to new *coastal de-sal project proposals*", and by continuing this item, CCC staff would have more time to determine whether this project actually meets the Commission's current standard.

Have a great Commission hearing.

Sincerely,

Lee Moldaver, ALE
Santa Barbara - ORCA