



Monterey County

Board of Supervisors
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

Legistar File Number: RES 19-107

August 28, 2019

Introduced: 8/8/2019

Current Status: Agenda Ready

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Matter Type: BoS Resolution

Public hearing to consider the appeal by Marina Coast Water District from the April 24, 2019 Planning Commission decision approving a Use Permit and Design Approval for a 764 square foot pump station to deliver water to the California American Water Company (CalAm) Monterey District service area as a component of the overall Monterey Peninsula Water Supply Project (MPWSP).

Project Location: 26530 Rancho San Carlos Road, Carmel Valley (Assessor's Parcel Number 015-251-030-000), Carmel Valley Master Plan area.

Proposed CEQA Action: Consider an Environmental Impact Report/Environmental Impact Statement (EIR/EIS) certified by the California Public Utilities Commission for the Monterey Peninsula Water Supply Project (SCH#2006101004).

PLN150653 - California American Water Company (Carmel Valley Pump Station component of the Monterey Peninsula Water Supply project)

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution to:

- a. Consider the Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the Monterey Peninsula Water Supply Project, certified by the California Public Utilities Commission on September 13, 2018 (SCH#2006101004);
- b. Deny the appeal by the Marina Coast Water District from the April 24, 2019 Planning Commission decision granting a Use Permit and Design Approval for a 764-square foot pump station
- c. Approve a Use Permit and Design Approval for construction of a 764-square foot pump station, including grading; and
- d. Adopt a Mitigation Monitoring and Reporting Plan

The attached resolution includes findings and evidence for consideration (Attachment B). Staff recommends approval of the project subject to 18 Conditions of Approval.

PROJECT INFORMATION:

Planning File Number: PLN150653

Owner: California American Water Co

APN: 015-251-030-000

Zoning: LDR/2.5-D-S-RAZ

Agent: John Chamberlain, AECOM

Plan Area: Carmel Valley Master Plan

Flagged and Staked: No

SUMMARY:

On April 24, 2019, the Planning Commission approved a Use Permit and Design Approval (CalAm/PLN150653), by a vote of 6-0, to allow a 764 square foot pump station. The pump station is part of the Monterey Peninsula Water Supply Project (MPWSP), a project by California-American Water Company (CalAm) to develop a new water supply for CalAm's Monterey District service area as a means of complying with the cease and desist order issued by the State Water Resources Control Board.

The MPWSP has multiple components located in multiple jurisdictions, including the following:

- A source water intake system consisting of subsurface slant wells extending offshore into the submerged lands of Monterey Bay National Marine Sanctuary. The system is proposed to be located within the CEMEX mining area within the City of Marina. (City of Marina, California Coastal Commission)
- A 6.4 million gallon per day desalination plant and appurtenant facilities on Charlie Benson Lane, off Del Monte Boulevard, north of the City of Marina. (County of Monterey, PLN150889)
- Water conveyance pipelines and associated facilities, including the Carmel Valley Pump Station (The subject project) (County of Monterey, PLN150653)
- Improvements to the Seaside Groundwater Basin ASR system, including two additional injection/extraction wells, and associated pipelines (U.S. Army, Seaside groundwater basin water master, City of Seaside).

Monterey County is a permitting authority only for the components of the MPWSP located in the unincorporated area of the County: 1) pump station (subject project/appeal, PLN150653), and 2) a desalination plant located just north of the City of Marina (approved on appeal, PLN150889). On July 15, 2019, the Board of Supervisors denied Marina Coast Water District's appeal of the Planning Commission's approval for the desalination plant, and approved entitlements for that project (PLN150889). The subject project (appeal) is a 764 square foot pump station on Rancho San Carlos Road, off of Carmel Valley Road. The County has permitting authority over the pump station because it is located in the unincorporated area of the County.

California Public Utilities Commission (CPUC) assumed Lead Agency for State environmental review (CEQA) on the Monterey Peninsula Water Supply Project. National Oceanic and Atmospheric Administration (NOAA) was the Lead Agency for Federal environmental review (NEPA). Agencies like Monterey County with permitting authority are Responsible Agencies. CPUC certified an Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the Monterey Peninsula Water Supply Project on September 13, 2018 (SCH#2006101004). The resolution includes a Condition of Approval requiring the applicant to provide evidence to the County that the mitigation measures pertaining to the Carmel Valley Pump Station have been implemented. A similar condition was included with the desalination plant portion of the project.

An appeal from the Planning Commission's decision was timely filed on May 20, 2019 on behalf of Marina Coast Water District (Attachment D). The appeal challenges the Planning Commission's approval and contends the decision is not supported by evidence. Discussion of the appeal contentions is provided below, and a detailed account of contentions and responses are provided in the attached resolution (Attachment B). Staff recommends denial of the appeals and granting of the Use Permit and Design Approval. The Board of Supervisors hearing on the project is de novo. Staff has prepared a draft resolution denying the appeal and granting entitlements subject to conditions.

Neither project located within Monterey County's jurisdiction is located in the coastal zone; and therefore, they are not subject to notice/appeal to the Coastal Commission. However, part of the Monterey Peninsula Water Supply Project is located in the coastal area (City of Marina), so the Coastal Commission does have appeal authority in that respect.

DISCUSSION:

Subject Project

The majority of water sources and the CalAm distribution system currently flow from Carmel Valley, around the Peninsula, to the north. As a result of legal requirements, CalAm will only be extracting a maintenance flow, a minimal amount of water to keep the system working, from the Carmel River during the summer season. A new source of water will be necessary in the form of the Pure Water Monterey Project (PWM) and the MPWSP. Sourcing water from these two projects means the flow will be reversed from north to south. A hydraulic trough currently exists in the CalAm peninsula distribution system, with very small pipe diameters and very low elevation, which prevents adequate water delivery from Seaside Groundwater Basin to most of Monterey and all of Pacific Grove, Pebble Beach, Carmel Valley, and the City of Carmel areas. The change in water source and flow direction requires a change in hydraulics, to move water from the PWM and MPWSP to CalAm customers in these areas. Currently the existing Begonia Iron Removal Plant (BIRP) treats the water from the Carmel River and pumps potable water to CalAm's Forest Lake Tanks in Pebble Beach and Segunda Tanks in Upper Carmel. Because only a maintenance flow will occur during the summer, the BIRP will be operating at minimal capacity and cannot deliver the pressures or the volume of water needed to serve Upper Carmel Valley. To deliver water to the Segunda Tanks during the summer, water sourced from the MPWSP desalination plant would instead need to be pumped in the opposite direction, from the Forest Lake Tanks to the Segunda Tanks. Since the Forest Lake Tanks are at a lower elevation than the Segunda Tanks, the pump station is necessary to provide the water pressure for delivery of water to the Segunda Tanks, which would then serve the Carmel Valley and Upper Carmel areas. Regardless of the ultimate outcome of the desalination plant, the Carmel Valley Pump station is necessary to convey water to these customers since it will be coming from the opposite direction, whether that water ultimately originates from the Pure Water Monterey Project, and/or the desalination project.

The pump station will be located on a property currently owned by CalAm in a developed residential neighborhood on Rancho San Carlos Road, near the intersection with Carmel Valley Road. The property is zoned Low Density Residential. Monterey County Inland zoning (Title 21 of the Monterey County Code) allows water system facilities including wells and storage tanks serving fifteen (15) or more service connections with a Use Permit. The pump station will be enclosed in a 764 square-foot,

single-story concrete block building. A gravel driveway/access road will provide access to the structure with a 14 foot by 30 foot concrete pad in front of a roll up garage door. Total grading for the project is estimated at 36 cubic yards of cut and 720 cubic yards of fill. Existing facilities on site, including an abandoned well, are proposed to be removed.

See Attachment C: Detailed Discussion, for an explanation of potential issues/impacts of the project.

Monterey Peninsula Water Supply Project

The objective of the Monterey Peninsula Water Supply Project (MPWSP) is to replace existing water supplies that have been constrained by legal decisions affecting the Carmel River and Seaside Groundwater Basin. Specifically:

1. State Water Resources Control Board (SWRCB) Order 95-10, which requires CalAm to reduce and terminate surface water diversions from the Carmel River in excess of its legal entitlement of 3,376 acre feet per year (afy);
2. SWRCB Order 2009-0060, as amended by SWRCB Order 2016-0016, which requires CalAm to terminate its diversions in excess of its legal entitlement by December 31, 2021; and
3. The Monterey County Superior Court's adjudication of the Seaside Groundwater Basin, which effectively reduced CalAm's pumping from the Seaside Groundwater Basin from approximately 4,000 afy at the time of the adjudication to CalAm's adjudicated right of 1,474 afy.

The MPWSP as proposed consists of construction and operation of various facilities and improvements, including a subsurface seawater intake system at the CEMEX plant in Marina, a desalination plant off Charles Benson Road near the Marina landfill, desalinated water storage and conveyance facilities, and expanded Aquifer Storage and Recovery (ASR) facilities. The Carmel Valley Pump Station is one component of the MPWSP. Cal-Am is required to meet certain milestones specified in the legal decisions including progressive reductions in water diversions from Carmel River until compliance with established water diversion rates are achieved. The next major milestone is to begin construction activities on the MPWSP by September of 2019. Without a new water supply, reductions in water diversions will require significant water rationing for customers in the Cal-Am service territory.

CEQA:

The California Public Utilities Commission (CPUC) was the lead agency under the California Environmental Quality Act (CEQA) for the MPWSP and the National Oceanic and Atmospheric Administration (NOAA) Monterey Bay National Marine Sanctuary was the lead agency for environmental review under the National Environmental Policy Act (NEPA). The CPUC, as the Lead CEQA Agency, in consultation with NOAA, worked with a consultant, ESA (Environmental Science Associates) to prepare a Draft Environmental Impact Report/Environmental Impact Statement (DEIR) for the MPWSP. The DEIR was circulated to responsible agencies and interested parties, including the State Clearinghouse (SCH#2006101004) during the public comment period from January 13, 2017 to March 29, 2017. The CPUC adopted a Certificate of Public Convenience and Necessity (CPCN) for the MPWSP on September 13, 2018 certified the Final Environmental Impact Report (FEIR) and adopted a Mitigation Monitoring and Reporting Plan (Attachment B, Exhibit C).

The NEPA process for the MPWSP is not yet finalized. The EIS was required under NEPA for the Monterey Bay National Marine Sanctuary's consideration of authorizations and permits for the proposed MPWSP, specifically authorization by the Central Coast Regional Water Quality Control Board to issue a National Pollutant Discharge Elimination System permit for discharges to the bay, and for the Coastal Commission to issue a Coastal Development Permit for actions to drill into submerged lands within the Monterey Bay National Marine Sanctuary. The Monterey Bay National Marine Sanctuary will issue a Record of Decision based on the Final EIR/EIS upon review of permits planned to be issued by the Regional Board and the California Coastal Commission.

The CPUC is responsible for implementation of the Mitigation Monitoring and Reporting Plan. A Condition of Approval (Condition 16) has been added to require the applicant to provide evidence to the County that the mitigation measures adopted as part of the FEIR for the MPWSP that pertain to the Carmel Valley Pump Station have been implemented.

The County is a Responsible Agency under CEQA because the County is the permitting authority for the desalination plant and Carmel Valley pump station components of the project which are located in the unincorporated area of the County and require land use entitlements per County zoning. CEQA requires that a Responsible Agency consider the EIR certified by the Lead Agency and impose all feasible mitigation measures and feasible alternatives within its powers for the part of the project over which County has permitting authority. As a responsible agency, the County must make CEQA findings for the significant unavoidable and potentially significant impacts identified by the EIR and adopt a statement of overriding considerations for significant unavoidable impacts. All identified potential impacts for the pump station project will be mitigated to a level of less than significant with the exception of Traffic and Transportation and Air Quality impacts from combined construction activities, which was determined to be Significant and Unavoidable.

CEQA requires public agencies to adopt a program for monitoring or reporting on the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program. CEQA guidelines section 15097(e) states that lead and responsible agencies should coordinate their mitigation monitoring or reporting programs where possible. In this case, the CPUC is responsible to ensure all measures are implemented according to the adopted MMRP. As a responsible agency, the County will adopt its own MMRP, which requires verification that mitigation measures which apply to the Carmel Valley Pump Station have been implemented in accordance with the CPUC adopted MMRP.

The Environmental Impact Report/Environmental Impact Statement is available at the Resource Management Agency Office at 1441 Schilling Place, 2nd floor, Salinas, CA 93901 and online at:

<http://www.co.monterey.ca.us/government/departments-i-z/resource-management-agency-rma/planing/current-major-projects/monterey-peninsula-water-supply-project-california-american>

Summary of Appeals

The following is a summary of the appeal contentions. A brief response to these contentions has also been included. More detailed responses to these contentions can be found in the draft Resolution - Attachment B, Finding 16.

As a responsible agency, the County's jurisdiction relative to the MPWSP is limited to those components within the unincorporated areas of the County. Below are summarized responses to the main contentions received from the appellants.

Comments relative to the approval of the land use for the Carmel Valley Pump Station include concerns about environmentally sensitive habitat. As explained above and in the resolution, development is not proposed within environmentally sensitive habitat; it is proposed within 100 feet of potential environmentally sensitive habitat. Surveys conducted for the EIR satisfy the requirements of Section 21.66.020(C) and mitigation measures proposed will reduce impacts to less than significant levels as required by Section 21.66.020(D)

Many of the appellant's contentions refer to impacts of the slant wells, which are located within the City of Marina and are not within the County's jurisdiction. Nevertheless, many of these contentions were discussed and responded to within the existing administrative record of the MPWSP, including the FEIR, and the CPUC's Findings and Evidence in approving the MPWSP, including Appendix J to the decision (D.18-09-017), which is a 51-page memorandum, dated September 12, 2018, from the CPUC's EIR/EIS preparation team to the Commissioners of the CPUC and Administrative Law Judges responding to comments received after the publication of the Final EIR/EIS. Also referenced is the Hydrogeologic Working Group Hydrologic Investigation Technical Report (October 2, 2017). The Hydrogeologic Working Group (HWG) is a team of hydrogeologists and groundwater modeling experts representing the diverse interests of rate payers, environmental groups, business groups, local governments, and government agencies, and key stakeholders on the Monterey Peninsula.

The appellant also contends that the project cannot be approved because Cal Am does not have water rights. The County only has jurisdiction to approve those portions of the project are within its jurisdiction. The subject project is a pump station, which does not require proof of water rights for approval. Approving the pump station only allows the applicant to construct the pump station, not to extract water from the slant wells. Additionally, the pump station is required to reverse the flow of water since water will no longer be primarily extracted from the Carmel River. It would be required regardless of whether the desalination plant is ultimately constructed because it is also needed to convey water from the Pure Water Monterey Project.

LUAC

The proposed project was reviewed by the Carmel Valley Land Use Advisory Committee (LUAC) on December 3, 2018. The LUAC recommended approval of the project by a vote of 6 to 0 (**Exhibit D**), but suggested the applicant look into undergrounding of existing power lines at the request of a neighbor. CalAm does not have authority to require existing PG&E lines to be undergrounded but is continuing to coordinate discussions about this possibility. The Planning Commission added a Condition of Approval (Condition 18) to provide proof of good faith efforts to coordinate this.

FINANCING:

Funding for staff time associated with processing this project is included in the FY2018-19 Adopted Budget for RMA-Planning.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents effective and timely response to our RMA customers. Processing this application in accordance with all applicable policies and regulations also provides the County accountability for proper management of our land resources.

Check the related Board of Supervisors Strategic Initiatives:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by: Cheryl Ku, Senior Planner, 796-6049

Reviewed by: Brandon Swanson, Acting RMA Chief of Planning

Approved by: John M. Dugan, FAICP, Deputy Director, RMA Land Use and Community Development

The following attachments are on file with the RMA:

Attachment A - Project Data Sheet

Attachment B - Draft Resolution Including;

- Conditions of Approval
- Plans
- CalAm Monterey Peninsula Water Supply Project MM&RP

Attachment C - Detailed Discussion

Attachment D - Color Elevations

Attachment E - Marina Coast Water District Appeal

Attachment F - LUAC Minutes

Attachment G - Vicinity Map

Attachment H - Notice of Preparation for the Supplemental EIR

Attachment I - Planning Commission Resolution 19-007

Attachment J - EIR - Environmental Impact Report/ Environmental Impact Statement previously certified by the California Public Utilities Commission for the Monterey Peninsula Water Supply Project (SCH#2006101004). The Board has received the EIR on compact disk and it is available online at:

<http://www.co.monterey.ca.us/government/departments-i-z/resource-management-agency-rma/-/planning/current-major-projects/monterey-peninsula-water-supply-project-california-american->

cc: Front Counter Copy; Craig Spencer, Interim RMA Services Manager; Applicant/Owner (CalAm); John Chamberlain; Christopher Cook (CalAm); Paul Encinas (Interested Party); Craig Holdren (Interested Party); Howard Wilkins III (Representing Appellant); Anthony Lombardo (Representing

Applicant); David Mack (City of Marina); Katherine Ramirez (Remy, Moose, Manly); Sheila Sannadan (Adams Broadwell, Joseph, and Cardoza); Howard Wilkins III (Appellant); The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); John H. Farrow; Janet Brennan; Project File PLN150653