



Monterey County

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Report

Legistar File Number: WRAG 16-041

June 28, 2016

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Approve the Settlement Terms for Dismissal of Protests of National Marine Fisheries and California Department of Fish and Wildlife to Monterey County Water Resources Agency Water Rights Applications with California State Water Resources Control Board for Blanco Drain (#32263A), Reclamation Ditch (#32263B) and Tembladero Slough (#32263C).

RECOMMENDATION:

It is recommended that the Monterey County Water Resources Agency Board of Supervisors:

Approve the Settlement Terms for Dismissal of Protests of National Marine Fisheries and California Department of Fish and Wildlife to Monterey County Water Resources Agency Water Rights Applications with California State Water Resources Control Board for Blanco Drain (#32263A), Reclamation Ditch (#32263B) and Tembladero Slough (#32263C).

SUMMARY/DISCUSSION:

Monterey County Water Resources Agency (Agency) filed Water Rights Applications with the California State Water Resources Control Board (Water Board) for the Blanco Drain (#32263A), Reclamation Ditch (#32263B) and Tembladero Slough (#32263C). In response to those filings the Water Board solicits any protests a party may have against those rights. Once the protest period closes, the filing agency has 30 days to respond to the protest and a maximum of 180 days in which to resolve it. If the protest cannot be resolved within the 180 days, the Water Board holds a formal hearing and makes a decision based on the hearing record. On February 19, 2016 National Marine Fisheries Service (NMFS) and California Department of Fish and Wildlife (CDFW) each filed a protest on each water right for a total of six protests. Agency staff and along with other members of the Pure Water Monterey Project team have been in negotiations with the protestants since February in an effort to address the issues in the protest letters and attempt to find a resolution.

Since February 19, 2016 numerous meetings and telephone calls have been attended by the protestants and the Project Team, with monthly progress reports being submitted to the State Board. On June 3, 2016 proposed project dismissal terms were provided to NMFS and CDFW. Two items in that proposal were flagged by the protestants as needing additional discussion. Those items in that proposal were flagged by the protestants as needing additional discussion. Those items were: 1) allowing a by-pass from the Blanco Drain into the Salinas River during drought years where the Salinas River Diversion Facility (SFRD) is not in operation, and 2) timing and amount of diversions from the Reclamation Ditch. Additional modeling was completed by the Project Team and it was concluded that the Castroville Seawater Intrusion Project (CSIP) and Pure Water Monterey (PWM) would still be feasible with the remaining source water. On June 16 revised protest dismissal terms were drafted that addressed these two

remaining issues. This language may need some slight modifications to ensure the intent is fully captured, but the parties are confident that the terms can be finalized in the near future.

This item is scheduled for consideration by the MPWMD's Board on June 20, 2016 and by the MRWPCA's Board of Directors on June 27, 2016. If all three Boards (MCWRA, MPWMD and MRWPCA) approve the proposed settlement, it is anticipated that NMFS and CDFW will notify the State Board of the terms under which those Agencies will withdraw their protests of the water rights applications on Blanco Drain and the Reclamation Ditch. The protests on the Tembladero Slough will be retained by the State Board and addressed when a new project, not PWM, is proposed.

OTHER AGENCY INVOLVEMENT:

Monterey County Water Pollution Control Agency (MRWPCA), Monterey Peninsula Water Management District (MPWMD), NMFS, CDFW, California State Water Resources Control Board, Central Coast Regional Water Quality Control Board.

Due to the late submission of this report the CAO Budget and Analysis Division was not provided adequate time to review for potential fiscal, organization, policy or other implications to the County of Monterey.

FINANCING:

There is no direct financial impact resulting from this action.

Prepared by: Elizabeth Krafft, Senior Water Resources Hydrologist, (831) 755-4864

Approved by:

David E. Chardavoyne, General Manager (831) 755-5860

Attachments:

Draft Revised Protest Dismissal Terms
PWM Yield Graphs.