



Legislation Details (With Board Report)

**File #:** WRAG 21-079      **Name:** Opt Out Agreement - Resolution

**Type:** WR General Agenda      **Status:** Agenda Ready

**File created:** 4/16/2021      **In control:** Water Resources Agency Board of Directors

**On agenda:** 4/26/2021      **Final action:**

**Title:** Consider adopting a resolution authorizing the General Manager to sign the “Opt Out Agreement” for individual wells under the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley project; and authorize the General Manager to adjust language of the “Opt Out Agreement” template as may be necessary, upon the approval of County Counsel.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Board Report, 2. Prop. 1 Opt Out Agreement Template, 3. Resolution, 4. Board Order

Date	Ver.	Action By	Action	Result
4/26/2021	1	Water Resources Agency Board of Directors		

Consider adopting a resolution authorizing the General Manager to sign the “Opt Out Agreement” for individual wells under the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley project; and authorize the General Manager to adjust language of the “Opt Out Agreement” template as may be necessary, upon the approval of County Counsel.

RECOMMENDATION:

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

- a. Adopt a resolution authorizing the General Manager to sign the “Opt Out Agreement” for individual wells under the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley project; and
- b. Authorize the General Manager to adjust language of the “Opt Out Agreement” template as may be necessary, upon the approval of County Counsel.

SUMMARY:

The Monterey County Water Resources Agency (“MCWRA”) is implementing the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley project (“Project”), which is funded in part by a Proposition 1 grant from the State Water Resources Control Board (“SWRCB”). The Project is located primarily within MCWRA Zone 2B and activities under the project aim to eliminate conduits for vertical migration of impaired groundwater and fulfill the terms of MCWRA Ordinance No. 3790 (“Ord. 3790”). The full extent of the Project area includes some acreage outside Zone 2B but Ord. 3790, the appeal process, and “Opt Out Agreement” discussed herein are not applicable to wells outside Zone 2B.

DISCUSSION:

In part, Ord. 3790 “provides for the management of all groundwater wells within the Castroville Seawater Intrusion Project area, known as Zone 2B, following completion and start-up of the Castroville Seawater Intrusion Project.” In addition, Ord. 3790 states that all costs for the destruction of all non-exempt wells in Zone 2B shall be borne by MCWRA, though it does not identify a funding source for well destruction, stating

instead that “the General Manager may extend the time for destruction of such wells when funds are not available or budgeted for such purpose.”

MCWRA has destroyed seven CSIP supplemental wells since 2012, but over one hundred wells remain to be destroyed in Zone 2B. With award of a \$4.9 million Proposition 1 Implementation Grant from the SWRCB in 2020, MCWRA is currently able to fulfill the well destruction obligation described in Ord. 3790. However, there is a limited time in which to execute the work, as the Project must be completed by February 2023.

To move forward with the Project, MCWRA is stepping through a process set forth in Ord. 3790, whereby well owners, operators, or other interested members of the public may appeal the destruction of a well in Zone 2B. As of April 8, 2021, MCWRA has received appeals for twenty-two (22) of the wells within Zone 2B for which a notice of reclassification or notice of destruction has been issued, per Ord. 3790.

MCWRA has met, or will be meeting, with the appellants regarding each of these wells to review the well’s construction, current water quality, usage, and local conditions to determine if the well may be exempt from destruction under Ord. 3790. In cases where the well is exempt from destruction per Ord. 3790 and the well owner is choosing not to participate in the Project, MCWRA has requested that the well owner (i.e. landowner) sign an “Opt Out Agreement” (“Agreement”, Attachment 1). In brief, the Agreement formalizes that the well owner is electing to have MCWRA exclude the well from the Project, withdraws the appeal to the reclassification or destruction notice, and documents that the well owner assumes responsibility for proper destruction of the well if/when it is necessary in the future.

As of April 8, 2021, MCWRA has distributed Agreements for fourteen (14) wells and four (4) have been returned. This resolution would authorize the General Manager to sign those Agreements that have been returned as well as Agreements that are returned in the future.

OTHER AGENCY INVOLVEMENT:

The Proposition 1 Implementation Grant that funds a portion of this project is from the SWRCB. County Counsel assisted with development of the “Opt Out Agreement” template.

FINANCING:

Project totals \$9,125,524 over a three-year period. The Project is funded in part (54%) by the SWRCB (\$4,927,729) with the remaining 46% of the funding as local match from MCWRA. MCWRA is satisfying the match through a combination of in-kind services (\$1,534,495) and additional funds (\$2,663,300).

MCWRA was originally responsible for the full \$2,663,300 in additional funds, but that amount has been reduced to \$2,198,801 due to contributions from the Monterey County Cannabis Assignment (\$399,499) and Monterey One Water (\$65,000). MCWRA has identified reserves in Fund 134 to cover any portion of the remaining \$2,198,801 in additional funds that is not covered by contributions from outside sources.

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Attachments:

1. Opt Out Agreement template
2. Draft Resolution
3. Board Order

