



County of Monterey

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

Board Report

File #: 12-810, **Version:** 1

- a. Approve a Fuel Spill Cost Reimbursement Agreement between the Monterey County Water Resources Agency and the County of Monterey; and,
- b. Authorize the County Administrative Officer to execute the Agreement (ADDED VIA ADDENDUM)

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve a Fuel Spill Cost Reimbursement Agreement between the Monterey County Water Resources Agency and the County of Monterey; and,
- b. Authorize the County Administrative Officer to execute the Agreement

SUMMARY/DISCUSSION:

Prior to 1972 an operational agreement existed between the County and the Agency under which the County would provide recreational services in and around Nacimiento and San Antonia Reservoirs.

The County of Monterey entered into a concessionaire agreement with Water World Resorts, Inc. (“Water World”) dated December 14, 1972 which was subsequently amended three times, through which Water World would provide recreational uses at Nacimiento Reservoir in the County of San Luis Obispo. Later, the County entered into a concessionaire agreement with Lake San Antonio Resorts, Inc. (“Lake Resorts”), an affiliate of Water World, dated January 29, 1992 through which Lake Resorts would provide recreational uses at San Antonio Reservoir in the County of Monterey.

During the term of their agreements with the County, Water World caused fuel spills to occur on Nacimiento Reservoir lands, and Lake Resorts caused fuel spills to occur on San Antonio Reservoir lands in 2005 and 1997, respectively, from faulty underground storage tanks. Mitigation and monitoring of the spilled fuel is required by the Central Coast Regional Water Quality Control Board.

The State Water Resources Control Board provides reimbursement funding for the clean-up of underground storage tank leaks, up to \$1.5 million per site. Accordingly, both concessionaires were fully reimbursed for their clean-up related expenditures of approximately \$127,000 for the Nacimiento leak and over \$1.2 million for the San Antonio leak. Additional remediation and monitoring activity, however, is required at both sites.

On July 31, 2007 the County entered into a *Settlement Agreement* (hereinafter the “Settlement Agreement”) with concessionaires. The County also entered into an associated *Agreement of Purchase and Sale of Assets* with Water World dated July 31, 2007 and an *Agreement of Purchase and Sale of Assets* between the County and Lake Resorts dated July 31, 2007 (hereinafter the purchase and sale agreements are collectively referred to as the “Purchase/Sale Agreements”). Under the Settlement Agreement and the Purchase/Sale Agreements, the County assumed liability for all costs related to the fuel spill clean-up at Nacimiento and San Antonio Reservoirs.

Since October 2007, the Agency has provided to the County fuel spill clean-up project management services, and expended over \$750,000 for that purpose including costs for the clean-up Consultant’s (GeoRestoration, Inc.) monitoring and fuel extraction expenses, and regulatory reporting activities. That amount includes

\$147,428 in Agency direct and indirect labor charges.

The Agency was reimbursed the amount of \$151,086 by the County and received the amount of \$307,069 from the State UST Fund. Consequently, there is an outstanding balance of \$335,556 in unreimbursed Agency expenditures.

On June 12, 2012, the Agency suspended fuel spill clean-up activities due to unavailability of funds and has notified the State Water Resources Control Board.

The County desires that the Agency continue providing fuel spill clean-up project management services, regulatory reporting, as well as the hiring and managing of a fuel spill clean-up Consultant for monitoring and fuel extraction. The attached agreement between the County and the Agency provides for reimbursement of the unreimbursed Agency expenditures to date and for reimbursement of Agency costs related to these two fuel spills for the next five fiscal years.

County Counsel, County Risk Management, Auditor's Office and CAO's office will work together with Monterey County Water Resources Agency to identify the appropriate funding source, which may include the GL-ISF.

OTHER AGENCY INVOLVEMENT:

The Board of Directors of the Monterey County Water Resources Agency and the Board of Supervisors of the Monterey County Water Resources Agency concur with and approve this agreement

County Counsel, County Risk Management, Auditor's Office and CAO's office will work together with Monterey County Water Resources Agency to identify the appropriate funding source, which may include the GL-ISF.

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

County Counsel and the Auditor-Controller have reviewed this report and submit it for approval.

FINANCING:

County Counsel, County Risk Management, Auditor's Office and CAO's office will work together with Monterey County Water Resources Agency to identify the appropriate funding source, which may include the GL-ISF and the funds will be deposited into Monterey County Water Resources Fund 116.

Prepared by: Patrick McGreal, Deputy County Counsel, (831) 755-5313

Approved by: Lew Bauman, County Administrative Officer, (831) 755-4

Attachments:
Fuel Spill Agreement