



County of Monterey

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

Legislation Details (With Board Report)

File #:	WRAG 18-233	Name:	MOA MCWRA and CDFW
Type:	WR General Agenda	Status:	Agenda Ready
File created:	11/8/2018	In control:	Water Resources Agency Board of Directors
On agenda:	11/19/2018	Final action:	
Title:	<p>Consider approving and recommending that the Monterey County Water Resources Agency Board of Supervisors:</p> <p>a. Approve and recommend revised terms for a Memorandum of Agreement with the California Department of Fish and Wildlife; and</p> <p>b. Authorize the execution by the Chairperson of the Agency Board of Supervisors of a Memorandum of Agreement with the California Department of Fish and Wildlife containing the revised recommended terms and authorizing the execution of the Memorandum of Agreement, with such other terms and provisions as deemed necessary or appropriate by Agency negotiators (as approved by Water Resources General Manager, the Board Chairperson, and County Counsel), and other necessary documents and certificates and related actions; and</p> <p>c. Direct the Chairperson of the Agency Board of Supervisors, the County Counsel, each Officer and any other official of the Agency and their duly authorized designees, deputies and agents to amend and execute documents, determine appropriateness of their terms and conditions, and to carry out, give effect to, and comply with the Memorandum of Agreement.</p>		

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board Report, 2. Revised MOA, 3. Exhibit-A to MOA, 4. Original MOA, 5. MCWRA Executed Board Order to Original MOA, 6. Board Order

Date	Ver.	Action By	Action	Result
11/19/2018	1	Water Resources Agency Board of Directors		

Consider approving and recommending that the Monterey County Water Resources Agency Board of Supervisors:

- a. Approve and recommend revised terms for a *Memorandum of Agreement* with the California Department of Fish and Wildlife; and
- b. Authorize the execution by the Chairperson of the Agency Board of Supervisors of a *Memorandum of Agreement* with the California Department of Fish and Wildlife containing the revised recommended terms and authorizing the execution of the *Memorandum of Agreement*, with such other terms and provisions as deemed necessary or appropriate by Agency negotiators (as approved by Water Resources General Manager, the Board Chairperson, and County Counsel), and other necessary documents and certificates and related actions; and
- c. Direct the Chairperson of the Agency Board of Supervisors, the County Counsel, each Officer and any other official of the Agency and their duly authorized designees, deputies and agents to amend and execute documents, determine appropriateness of their terms and conditions, and to carry out, give effect to, and comply with the *Memorandum of Agreement*.

RECOMMENDATION:

It is recommended that the Monterey County Water Resources Agency Board of Directors approve and recommend that the Monterey County Water Resources Agency Board of Supervisors:

- a. Approve and recommend terms for a revised *Memorandum of Agreement* with the California Department of Fish and Wildlife; and

- b. Authorize the execution by the Chairperson of the Agency Board of Supervisors of a revised Memorandum of Agreement with the California Department of Fish and Wildlife containing the revised recommended terms and authorizing the execution of the *Memorandum of Agreement*, with such other terms and provisions as deemed necessary or appropriate by Agency negotiators (as approved by Water Resources General Manager, the Board Chairperson, and County Counsel), and other necessary documents and certificates and related actions; and
- c. Direct the Chairperson of the Agency Board of Supervisors, the County Counsel, each Officer and any other official of the Agency and their duly authorized designees, deputies and agents to amend and execute documents, determine appropriateness of their terms and conditions, and to carry out, give effect to, and comply with the *Memorandum of Agreement*.

SUMMARY/DISCUSSION:

The Interlake Tunnel Project (“Tunnel Project”) includes a proposed tunnel to connect Lake Nacimiento to Lake San Antonio, providing flow diversion from Lake Nacimiento to Lake San Antonio by one way gravity flow. The purpose of the Interlake Tunnel is to provide additional flood protection and utilize available storage capacity to increase conservation releases from the reservoirs for aquifer recharge to benefit the agriculture industry and communities in the Salinas River Valley. The proposed tunnel between the reservoirs is approximately 10,940 feet long and 10 feet in diameter. The Monterey County Water Resources Agency (“Agency” or “MCWRA”) is also proposing to raise the spillway at the San Antonio Dam in conjunction with the Tunnel Project. While the two projects are discrete, a raised spillway would increase the storage capacity at San Antonio. The *Memorandum of Agreement* (“MOA” or “Agreement”) addresses both the Tunnel Project and the spillway modification project. The spillway modification project is addressed because it would affect the transfer of White Bass between the Nacimiento and San Antonio Reservoirs when a tunnel links the reservoirs.

White Bass (*Morone chrysops*) is a freshwater member of the temperate bass family (*Moronidae*) native to North America and historically found only in the Great Lakes and Mississippi River drainages. A prized sportfish known for its catchability, schooling behavior, and high quality flesh, White Bass have been introduced throughout the United States, including being introduced into Nacimiento Reservoir in the 1960s by California Department of Fish and Wildlife (CDFW) fisheries managers to increase warmwater fish production in the reservoir, ultimately providing increased angling opportunities for the angling community.

White Bass are now regarded as a top predator in many riverine and lentic lake/reservoir environments, and can present unique challenges to fisheries managers trying to maintain ecosystems with delicate predator-prey fish assemblages. Accordingly, since introduction of White Bass into Lake Nacimiento, California Fish and Game Code (“F&G”) section 6400 now makes it unlawful to place, plant or cause to be planted in any waters of the State any live White Bass without first submitting it for inspection and securing written permission from CDFW. F&G section 6400.5 makes it unlawful to transport or possess any live White Bass unless it is first submitted for inspection to, and written permission is obtained from CDFW.

On August 8, 2015, MCWRA requested an exemption from being required to exclude White Bass from Lake San Antonio, which request was considered by CDFW and later rejected.

Subsequently, during the conceptual design phase of the Project, MCWRA undertook extensive efforts to identify solutions to contain White Bass in Lake Nacimiento and prevent passage through the proposed tunnel to Lake San Antonio. The following efforts were identified by MCWRA (EPC 2015):

- Implement a White Bass Task Force;
- Evaluate environmental science relative to White Bass;
- Evaluate White Bass containment solutions; and

- Schedule a series of meetings with California Department of Fish and Wildlife.

The White Bass Task Force included 16 professionals from multiple firms with expertise in fish biology, dams, and hydraulic structures. The task force evaluated the environmental science of White Bass and evaluated possible containment solutions including mechanical, filter, chemical, behavioral, environmental, and physical/structural systems.

A preliminary list of White Bass exclusion systems was developed to identify systems that could be incorporated into the Nacimiento Tunnel Intake Structure. These alternatives were presented by MCWRA to CDFW on June 13, 2017 to start the process of reviewing the alternatives that were developed and evaluated for a potential White Bass exclusion system as described in a *White Bass Exclusion Analysis, Lake Nacimiento Intake Alternatives and Evaluation report* issued in July 2017 (McMillen Jacobs, 2017). The objectives of the overall analysis presented within the report were to develop a recommended fish screen alternative working collaboratively with CDFW to comply with the F&G section 6400.5(b) and compare the fish screen intake alternatives with a baseline alternative without fish screens. A total of nine alternatives were evaluated in the report, Alternatives 5 and 8 were selected by CDFW and MCWRA to carry forward with further analysis.

McMillen Jacobs Associates (McMillen Jacobs), CDFW and MCWRA held a conference call on March 2, 2018 to discuss design elements of Alternatives 5 and 8. McMillen Jacobs recommended carrying forward Alternative 8 using fish screens manufactured by Intake Screens Incorporated (ISI) to be installed in one of two configurations at the tunnel intake. The design criteria which were then agreed upon with CDFW and incorporated into an Exhibit to the Agreement. Working with CDFW has resulted in more realistic estimates of fish screen costs and collaboration has identified potential savings in other features of the project.

The original MOA between CDFW and MCWRA, approved at a Joint Board Meeting on June 11, 2018, provided for the following:

1. Agreed upon fish screen design criteria, to be contained in an exhibit in refinement between CDFW and Agency experts;
2. CDFW cooperation in the CEQA process;
3. Timely action by CDFW on permits;
4. If financial and staff resources are available, fisheries monitoring by CDFW;
5. Coverage under F&G sections 6400 and 6400.5 in the event White Bass are found in Lake San Antonio; and
6. Automatic cancellation of the Agreement if the Proposition 218 election for Project Funding fails.

CDFW then desired to continue negotiations for a revised MOA. The attached MOA contains terms CDFW has said are acceptable. Based on communications with CDFW, we have been advised that CDFW's directorate is in the process of reviewing and approving of the final form MOA.

The major change between the originally approved MOA and the revised MOA is the revised fish screen design criteria allowing 1.75mm screen size only if the top of the fish screens is 20' below the tunnel invert, which requires lowering the intake invert by 20 additional feet. The incremental cost of the revised fish screen installation is \$14.8 million.

An environmental impact report (EIR) is being prepared for the Interlake Tunnel and San Antonio Spillway Modification Project, which includes the Tunnel portion project addressed in the MOA. The EIR will address the environmental effects of the actions described in the MOA as part of the larger project. During the preparation of the EIR, certain mitigation measures designed to lessen or avoid identified significant

environmental effects may be recommended. The combined effect of those EIR mitigation measures may increase or revise mitigation measures identified in the MOA. As recited in the attached MOA, inclusion of a fish screen has made the project viable for avoidance and mitigation of White Bass passage and for CDFW's consideration of permission under F&G sections 6400 and 6400.5 in the event of unintended passage of White Bass.

OTHER AGENCY INVOLVEMENT:

Offices of the County Administrative Officer, County Counsel, NOAA Fisheries, California Department of Fish and Wildlife have been consulted in the preparation of the MOA.

FINANCING:

Salary costs and consultant costs prior to a Proposition 218 vote are reimbursable through the \$10 million DWR Grant received by the Agency. Actual construction and operation and maintenance costs of the fish screen assembly will be funded through grants or bond proceeds from the Proposition 218 vote, or a combination thereof.

Prepared and Approved by:

David E. Chardavoyne, General Manager, (831) 755-4860

Attachments:

1. Revised MOA
2. Original MOA
3. Executed Board Order, dated June 11, 2018 approving original MOA
4. Board Order re revised MOA