



Board Report

File #: WRAG 18-063, **Version:** 1

Consider options on whether, and how, to proceed with granting permission to allow reconstruction in the Agency's Floodage Easement at Nacimiento Reservoir.

RECOMMENDATION:

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

- a. Consider options on whether, and how, to proceed with granting permission to allow reconstruction in the Agency's Floodage Easement at Nacimiento Reservoir.

SUMMARY/DISCUSSION:

The Monterey County Water Resources Agency (MCWRA) has received requests to consider granting permission to allow the continued, unauthorized use of the Floodage Easement (Easement) surrounding Nacimiento Reservoir at Cal Shasta Club. Most recently, San Luis Obispo County officials have asked MCWRA staff to provide a response as to whether some existing structures previously located in the Easement could be rebuilt due to recent fire damages. The encroachment, of the structures destroyed by the 2016 Chimney Fire, onto the Easement was not done through the permission of the MCWRA Board of Supervisors.

In August 2016, 28 privately owned structures were destroyed at the Cal-Shasta Club as a result of the Chimney Fire. Eight (8) of these structures were located within the MCWRA Easement at or below 825 (NGVD29). Owners of these structures are requesting MCWRA permission to replace these eight fire-damaged structures. MCWRA staff made an initial conclusion that the reconstruction of these structures would represent an encroachment into the Easement area.

In late 2016, MCWRA staff consulted with the Monterey County Counsel Office for advice on how to respond to the request for reconstruction. County Counsel's Office advised that any relief that the MCWRA might be able to afford would entail some form of permission to encroach into the Easement area (i.e., an encroachment permit).

In March 2017, MCWRA staff presented a reconstruction draft Policy to the Board of Directors, as the eight Owners were essentially seeking disaster relief which would allow in this one instance the ability of the structures within the Easement area to be reconstructed. The Board of Directors did not approve the Policy, and rather directed staff to continue working on issues raised by the Directors and the Owners.

Between March and August 2017, MCWRA staff attempted to resolve the Owners complaints over the reconstruction Policy. MCWRA staff could not reach a consensus on the terms of the proposed draft reconstruction Policy.

In August 2017, MCWRA staff met with California Department of Water Resources Division of Safety of Dams (DSOD) and Federal Energy Regulatory Commission (FERC) to confer on the project regulations for operations of the Nacimiento Reservoir. This meeting was a result of the recent events at the Oroville Dam. At the meeting and in meetings thereafter, DSOD and FERC staff have been supportive of the Agency's

position. The Agency is submitting letters to them to ensure that encroachment into the easement area would not represent a violation of the operations policies and/or approvals.

The MCWRA staff has considered the proposal by Cal Shasta Club Owners to allow 8 structures to be rebuilt in the MCWRA Easement area. It is the recommendation of MCWRA staff to uphold the purposes of the Easement and to not allow any new construction within the MCWRA Easement, even for reasons of fire damage relief. The MCWRA Easement area is necessary for properly operating and maintaining the Nacimiento Reservoir and its facilities owned by MCWRA; accordingly, MCWRA has an interest in maintaining the Easement clear for various purposes including: flexibility to accommodate known and unknown future reservoir related projects; control of storm water run-off into the reservoir; maintenance of an open space / buffer; containment of future flooding and provisions for detention; and, accommodation of present recreational uses. In summary, for all the reasons stated above, MCWRA staff does not recommend authorizing permission for use of the Easement by Cal Shasta Club Owners for replacement homes to be built in such locations.

OTHER AGENCY INVOLVEMENT:

County Counsel was consulted in the process.

FINANCING:

None

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Attachment:

1. Map - Location of 8 Structures
2. Summary of the Floodage Easement and Recorded Documents
3. Executed MCWRA Board Order