



**LandWatch**  
monterey county

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April 28, 2009

Mr. Lou Calcagno, Chair  
Monterey County Board of Supervisors  
168 West Alisal St., 1<sup>st</sup> Floor  
Salinas, CA 93901

SUBJECT: MOUS IMPLEMENTING REGIONAL PROJECT

Dear Chair Calcagno and Members of the Board:

LandWatch Monterey County reviewed the two memorandums of understanding (MOUs) being considered on April 28, 2009. We have the following comments:

MOU FOR MONTEREY WATER SUPPLY PROGRAM PLANNING

The MOU provides for participating entities to execute institutional agreements for the developing the following: Brackish Water Desal Supply Wells; Ocean Outfall for Brine Disposal, and Recycled Water for Urban Reuse.

The MOU is a discretionary action and is a “project” as defined by the California Environmental Quality Act (CEQA) unless it is either categorically or statutorily exempt. The staff report does not indicate the action is exempt from CEQA. The MOU states the action is dependent on certification of the FEIR for the Coastal Water Project (CWP). CEQA does not include provisions for approving projects prior to completion of an environmental document; in fact, recent case law specifically addresses this approach and finds it inconsistent with CEQA provisions (*Save Tara v. City of West Hollywood* (2008) 45 Cal.4<sup>th</sup> 116 and *Riverwatch v. Olivehain Municipal Water Dists.* (2009) 170 Cal.App.4<sup>th</sup> 1186).

LandWatch Monterey County believes the proposed action is inconsistent with CEQA and should be delayed until the FEIR for the CWP is certified.

MONTEREY REGIONAL WATER SUPPLY PROGRAM RECYCLED WATER THREE-WAY MOU

The MOU claims to clarify without amending prior agreements demand schedules for recycled water for irrigation and non-irrigation seasons. It further approves recycled water for the Urban

Reuse Augmentation Project (RUWP) which was evaluated in an environmental impact report certified by the Marina Coast Water District on October 27, 2004.

As a Responsible Agency under CEQA, the County is required to take certain actions under CEQA. None of the relevant CEQA provisions are addressed either in the staff report or MOU.

The MOU approves expansion of urban reuse to include new projects for which recycled water has not been allocated in Exhibits A and B. These project would be required to satisfy certain criteria including completion of environmental review under CEQA. As noted above, CEQA does not include provisions for approving projects prior to completion of an environmental document.

LandWatch Monterey County believes the proposed actions are inconsistent with CEQA. The Board's actions should be delayed until the County complies with CEQA.

Thank you for your consideration.

Sincerely,

Amy L. White, Interim Executive Director  
LandWatch Monterey County