

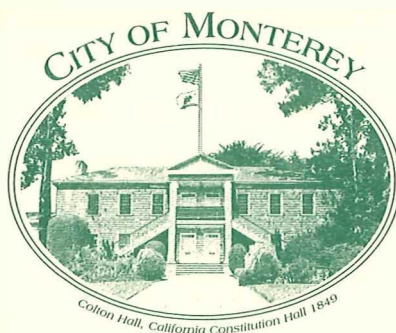


## Supplement to September 14, 2023 MPWMD Board Packet

Attached are copies of letters sent and/or received between **August 15, 2023 and September 11, 2023**. These letters are listed in the **Monday, September 18, 2023** Board Packet under Letters Received.

Author	Addressee	Date	Topic
<b>Hans Uslar</b>	General Manager	August 18, 2023	City of Monterey Formal Request for Preparation of a Water Supply Assessment for Monterey 2031 Project
<b>P. Dale, Captain, U.S. Navy Commanding Officer</b>	General Manager	August 23, 2023	Department of the Navy notice to MPWMD regarding the Naval Innovation Center (NIC) and request for cooperation in preparation of an Environmental Assessment (EA)
<b>George Soneff</b>	Board of Directors	September 5, 2023	Manatt, Phelps & Phillips, LLP on behalf of California-American Water Company with comments in advance of September 7, 2023 Closed Session of the Board
<b>George Soneff</b>	Clerk of the Board	September 12, 2023	Manatt, Phelps & Phillips, LLP on behalf of California-American Water Company Requesting to Appear at the October 10, 2023 Public Hearing on Resolution of Necessity

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August 18, 2023

David J. Stoldt  
General Manager  
Monterey Peninsula Water Management District  
5 Harris Court, Building G  
Monterey, CA 93940

Dear Mr. Stoldt:

Pursuant to California Water Code Division 6, Part 2.10, Section 10910, this is to formally request preparation of a Water Supply Assessment (WSA) for the Monterey 2031 Project, described below. The City of Monterey has determined that an Environmental Impact Report (EIR) is required for the Project, and the WSA is needed to evaluate whether the Monterey Peninsula Water Management District's (MPWMD) total projected water supplies available during normal, single-dry and multiple-dry water years are sufficient to meet the projected water demand associated with the Project, in combination with the MPWMD's existing and planned future uses. As part of the WSA, we request:

1. To know if the water is available during the planning period 2023-2031.
2. Should the water not be immediately available, please indicate when you think the potential water projects will be ready and online.
3. Please indicate how much water you have available for affordable housing projects in January 2023.

### **Background**

The Monterey 2031 Project involves updates to the Housing, Land Use, Circulation, and Safety Elements of the City of Monterey General Plan to respond to changing demographics, emerging issues, and new State law. A critical component of the Project is planning for additional housing to meet the City's assessed share of the projected Regional Housing Needs Allowance (called RHNA) at all income levels for the upcoming planning period, which runs from 2023 through 2031. Amid the ongoing housing shortage in California, the City of Monterey is required by law to plan to accommodate at least 3,654 new housing units over the planning period, including 1,177 units affordable to very-low-income households, and 769 units affordable to low-income households. To ensure that the City can comply with the no net loss provisions in State law in the event that housing sites develop at densities below those anticipated, the Draft Housing Element includes a buffer, consistent with guidance from the California Department of Housing and Community Development (HCD). Accordingly, the Draft Housing Element incorporates an inventory of housing sites with a total projected capacity of 5,802 new homes and a suite of implementing programs to facilitate and support buildout of the inventory. The Safety Element Update will incorporate new data on natural hazards, climate change, new strategies to strengthen community resilience, and emergency evacuation capacity. The Land Use Element Update will ensure consistency with the newly adopted *Monterey Regional Airport Land Use Compatibility Plan*. The Circulation Element Update will include a shift in the transportation metric away from Level of Service (LOS) to Vehicle Miles Traveled consistent with State law (SB743).

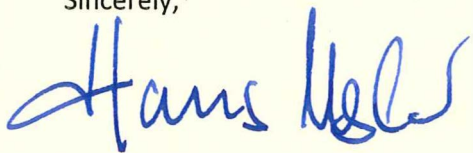
A more detailed description of the Project is attached, including a map of proposed housing sites and a summary of the housing and employment projected as a result of buildout of the Project in 2031.

### Request

MPWMD and the California American Water Company (Cal-AM) have previously prepared assessments of current and projected water supplies for the region; however, these prior assessments do not fully account for the City of Monterey's 2023-2031 RHNA allocation or the residential development capacity projected under the Monterey 2031 project. The *June 2021 Cal-AM Urban Water Management Plan*, intended to support regional long-range planning documents and serve as a key source of information for Water Supply Assessments (WSAs) and Written Verifications of Water Supply, was adopted two months before the Association of Monterey Bay Areas Governments (AMBAG) received its 6th Cycle Regional Housing Need Determination from HCD in August 2021. Therefore, it cannot have accounted for water demand resulting from buildout of the City of Monterey's RHNA allocation or cumulative demand in its service area. The *September 2022 MPWMD Technical Memorandum: 2022 Supply and Demand Forecast* is based on population and employment projections from the Regional Growth Forecast from AMBAG's *2045 Metropolitan Transportation Plan & the Sustainable Communities Strategy (Appendix A)*<sup>1</sup>, which are inconsistent with the Monterey 2031 Project. The Regional Growth Forecast assumes that only 480 new homes will be built in the City of Monterey between 2020 and 2030, which represents just 13 percent of the City's RHNA allocation for the 2023-2031 planning period. Further, the Regional Growth Forecast assumes that there were 40,989 jobs in the City of Monterey in 2020, whereas data from the U.S. Census indicate that there were 20,743 jobs in the City in 2020, down from 24,980 in 2015<sup>2</sup>.

Therefore, the City requests preparation of a WSA that fully accounts for its 2023-2031 RHNA allocation and based on employment projections that accurately reflect the number of existing jobs in the City of Monterey. Pursuant to California Water Code Division 6, Part 2.10, Section 10910(g), the City requests that MPWMD provide the WSA within 90 days of receipt of this request.

Sincerely,



Hans Uslar, City Manager  
City of Monterey

Cc: Chris Cook, Director of Operations, California American Water Company

<sup>1</sup> 2022 Regional Growth Forecast, Association of Monterey Bay Areas Governments, Monterey Bay 2045 Moving Forward, 2045 Metropolitan Transportation Plan & the Sustainable Communities Strategy, Appendix A, accessed on August 8, 2023 at: [https://www.ambag.org/sites/default/files/2022-12/REVISED\\_PDFAAppendix%20A\\_2022%20RGF.pdf](https://www.ambag.org/sites/default/files/2022-12/REVISED_PDFAAppendix%20A_2022%20RGF.pdf)

<sup>2</sup> United States Census Bureau, On The Map, accessed August 8, 2023 at: <https://onthemap.ces.census.gov>



## MONTEREY 2031 PROJECT DESCRIPTION

The Proposed Project involves updates to the Housing, Land Use, and Safety Elements of the City of Monterey General Plan to address emerging issues and new State laws. Key project components are summarized below.

### Draft Housing Element

Under State law, each city and county in California must plan to accommodate its share of the regional housing need - called the Regional Housing Needs Allocation (RHNA) - for the coming 8-year planning period, which runs from December 15, 2023, through December 15, 2031. The State determines the estimated need for new housing in each region of California, based on population projections and other factors including rates of vacancy, overcrowding, and cost-burden. The various regional planning agencies then allocate a target to each city or town within their jurisdiction, considering factors such as access to jobs, good schools, and healthy environmental conditions. RHNA is split into four categories representing different levels of affordability, based on area median income (AMI) in the county. The affordability categories are as follows:

- Very Low Income - Households making less than 50 percent of AMI
- Low Income - Households making 50-80 percent of AMI
- Moderate Income - Households making 80-120 percent of AMI
- Above Moderate Income - Households making more than 120 percent of AMI

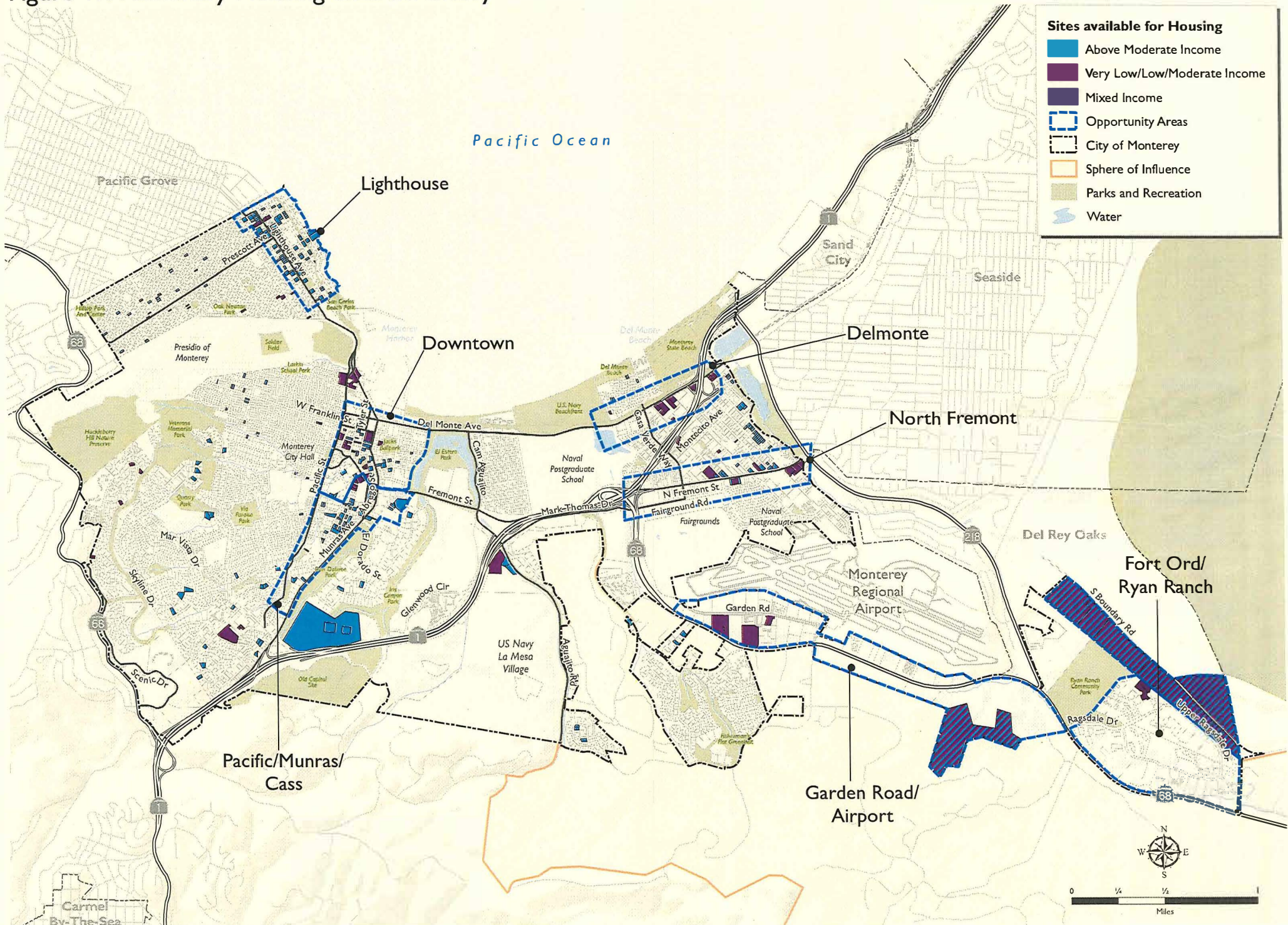
Amid the ongoing housing crisis in California, Monterey is required to plan for at least 3,654 new housing units between 2023 and 2031, including 1,177 Very-Low-Income units, 769 Low-Income units, 462 Moderate-income units, and 1,246 Above-Moderate units. As required by State law, the Draft Housing Element will include an inventory of sites available for housing and a projection of the realistic capacity of the inventory for housing. The Draft Housing Element will also include a Housing Action Plan, organized around communitywide housing goals. Each goal will be supported by policies and implementing programs that describe actions the City will take to help meet its RHNA obligations.

On June 20, 2023, the Monterey City Council approved a draft inventory of sites for housing, developed with extensive community input and shown on Figure 1. Together with development proposals currently in the pipeline and expected to be approved and constructed within the planning period, the inventory has a total projected capacity for 5,802 new homes, which is sufficient to meet the City's assessed share of the regional housing need at all income levels with a buffer. The inventory assumes a combination of strategies to ensure the City meets its RHNA obligations, including:

- Infill development on vacant and underutilized properties downtown and along commercial corridors, including North Fremont Street, Garden Road, Lighthouse Avenue, Del Monte Avenue, Munras Avenue, and Abrego Street;
- Preparation of a specific plan to guide future residential and mixed-use development in the Fort Ord/Ryan Ranch area, identify infrastructure needs and financing mechanisms, and establish measures to ensure sustainable development and adequate resource protection;
- Facilitating construction of accessory dwelling units (ADUs) and junior ADUs that provide affordable housing options on existing residential properties throughout the community; and
- Development or redevelopment of several larger sites to increase the range of housing options available in Monterey.



Figure I: Preliminary Housing Sites Inventory



Data Source: City of Monterey, 2022; Monterey County GIS, 2022; Dyett & Bhatia, 2022.



The projected capacity of the sites, summarized in Table 1 by area, is based on a survey of recently constructed projects in Monterey and surrounding communities, conducted to establish average as-built densities that represent the realistic capacity of sites included in the inventory.

**Table 1 – Summary of RHNA Capacity Projections**

Income Category	Very Low, Low, and Moderate		Above Moderate		Subtotal
	Vacant	Non-vacant	Vacant	Non-vacant	
Opportunity Area					
Downtown	0	216		241	457
North Fremont	0	218	24	86	328
Garden Road	0	356	0	0	356
Lighthouse	0	31	11	254	296
Pacific/Munras/Cass	0	38	0	92	130
Del Monte	0	126	0	0	126
Fort Ord/Ryan Ranch		420		1,680	2,100
Vacant Low Density Residential			111		111
Vacant High Density Residential	33				33
ADUs		120			120
Educational Workforce Overlay		100			100
Pipeline projects	108		383		491
County Courthouse Site		130			130
50-acre MCSD Site	290		350		640
590 Perry Lane Site				50	50
Elk's Lodge Site		94			94
Del Monte Shopping Center				150	150
Heritage Harbor Office Complex		90			90
Subtotal	431	1,939	879	2,553	5,802
Total by RHNA Category		2,370		3,432	5,802
Inclusionary Requirement (20%) <sup>3</sup>				244	
Adjusted Total RHNA <sup>4</sup>		2,614		3,188	5,802
RHNA		2,408		1,246	3,654
Buffer		206		1,942	1,498
		8.56%		155.84%	

<sup>3</sup> Infill sites that do not meet the site suitability criteria established by the State are assumed to develop with market rate housing and that capacity has been assigned to above moderate income households. However, the City has adopted an Inclusionary Ordinance which requires that 20 percent of new units in projects of six or more units be affordable to moderate and low income households. Therefore, 20 percent of the total above moderate infill development capacity has been reallocated to moderate, low, and very low-income households.

<sup>4</sup> Adjusted Total RHNA is the sum of Total by RHNA Category and the Inclusionary Requirement.

**Draft Safety, Land Use, and Circulation Elements**

As an urbanized community, nestled between the California coast and the Santa Lucia Mountains, integrating new housing into the fabric of Monterey will require a thoughtful approach to land use and community design. In parallel with the Housing Element Update, State law triggers requirements to incorporate new data on natural hazards and climate change into the Safety Element along with actions to strengthen community resilience and emergency evacuation capacity. At the same time, the Land Use Element will be updated to ensure consistency with the newly adopted *Monterey Regional Airport Land Use Compatibility Plan*. The Circulation Element Update will include a shift in the transportation metric away from Level of Service (LOS) to Vehicle Miles Traveled consistent with State law (SB743).

**Employment Projections**

The Association of Monterey Bay Areas Governments<sup>1</sup> (AMBAG) *2045 Metropolitan Transportation Plan & the Sustainable Communities Strategy* (MTP/SCS) projects that employment in the City of Monterey will increase by 2,463 jobs between 2020 and 2035<sup>5</sup>. Applying this increment of employment growth to the 20,743 jobs that existed in the City in 2020 according to the U.S. Census<sup>6</sup>, there would be 23,206 jobs in the City in 2035. The MTP/SCS provide employment projections in 5-year increments only. Therefore, employment projections for the Monterey 2031 Project assume 23,206 jobs in the City in 2031 for the purpose of providing a conservative estimate of demand for public services and utilities.

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<sup>5</sup> Association of Monterey Bay Areas Governments, Monterey Bay 2045 Moving Forward, 2045 Metropolitan Transportation Plan & the Sustainable Communities Strategy, accessed on August 8, 2023 at: <https://www.ambag.org/plans/2045-metropolitan-transportation-plan-sustainable-communities-strategy>

<sup>6</sup> United States Census Bureau, On The Map, accessed August 8, 2023 at: <https://onthemap.ces.census.gov>



DEPARTMENT OF THE NAVY  
NAVAL SUPPORT ACTIVITY MONTEREY  
271 STONE ROAD  
MONTEREY CA 93943-5180

IN REPLY REFER TO:  
11000  
Ser N00/109  
August 23, 2023

Mr. David J. Stoldt  
General Manager, Monterey Peninsula Water Management District  
P.O. Box 85  
Monterey, CA 93942-0085

Dear Mr. Stoldt:

Subj: NAVAL INNOVATION CENTER ENVIRONMENTAL ASSESSMENT

In accordance with the National Environmental Policy Act (NEPA) of 1969, the Department of the Navy (Navy) is preparing an Environmental Assessment (EA) to evaluate the potential environmental effects associated with the construction and operation of a new building to house the Naval Innovation Center (NIC). The approximately 270,000 square foot NIC would consist of laboratories, meeting rooms, and prototyping facilities within a flexible and reconfigurable space.

The Monterey Peninsula Water Management District (MPWMD) possesses special expertise with respect to water supply and conservation. Because of this expertise, the Navy requests that MPWMD serve as a cooperating agency for the development of its EA pursuant to NEPA and associated regulations.

As the lead agency, the Navy will be responsible for overseeing preparation of the EA for the proposed project, including the following environmental planning actions:

- a. Identifying and providing the necessary background information;
- b. Identifying protected resources and analyzing environmental impacts;
- c. Determining NEPA scope, including alternatives to be evaluated;
- d. Circulating the EA with the public and interested parties;
- e. Compiling, summarizing and responding to comments received by the public, stakeholders, and interested parties;
- f. Acting as the lead federal agency on all regulatory consultations and agency coordination; and

The Navy requests that MPWMD, in its role as cooperating agency, provide support as follows:



- a. Provide timely comments on working drafts of the EA and associated documents, where the Navy requests comments, in accordance with agreed upon project schedules and commenting protocols;
- b. Respond to Navy requests for information related to MPWMD's area of expertise;
- c. Maintain an administrative record of Information Act requests related to the this project;
- d. Provide a formal, written response to this request.

The Navy views MPWMD's involvement as a cooperating agency as an important element for the successful completion of the EA for the NIC. We appreciate your consideration of our request and look forward to your response. The Navy point of contact for this action is Ms. Victoria Taber, who can be reached at (831) 656-7746 or [victoria.l.taber.civ@us.navy.mil](mailto:victoria.l.taber.civ@us.navy.mil).

Sincerely,



P. DALE  
Captain, U.S. Navy  
Commanding Officer

Enclosure: 1. NIC EA Overall Project Schedule  
2. Map of Alternative Sites

Copy to:  
ASN (EI&E)  
DASN (EM&R)  
OAGC (EI&E)  
COMPACFLT (N465)  
COMUSFLTFORCOM (N46)  
CNIC (N45)  
COMNAVSEASYSKOM  
COMNAVAIRSYSKOM  
COMNAVWARCOM  
COMNAVREG HI (N45)  
COMNAVREG SW (N45)

September 5, 2023

By Email and U.S. Mail

Board of Directors  
Monterey Peninsula Water Management District  
P.O..Box 85  
Monterey, CA 93942

**Re: September 7, 2023 Board Meeting**

To the Board of Directors:

Our firm, along with the firm of Baker Donelson, represents California-American Water Company (“Cal-Am”). We write on behalf of Cal-Am to offer comments in advance of your upcoming September 7, 2023 meeting.

At MPWMD’s August 21, 2023 Board meeting, David Stoldt indicated that on September 7 the Board will meet in closed session to discuss a proposal to schedule a hearing on a Resolution of Necessity to condemn the water system facilities owned by Cal-Am. For the reasons set forth below, we ask the Board to reevaluate the wisdom of initiating the condemnation process as proposed.

As the Board is well aware, MPWMD’s application to the Monterey County Local Agency Formation Commission (“LAFCO”) for authorization to become the retail water provider in Monterey was rejected. MPWMD is currently prosecuting a lawsuit seeking to overturn LAFCO’s decision. If that lawsuit is successful, it is possible that LAFCO’s decision to reject the application will be nullified. However, in no event will the pending lawsuit result in an immediate approval of MPWMD’s application or in an order directing LAFCO to approve the application. The Court’s authority is limited to upholding or nullifying LAFCO’s decision; it may not mandate that an administrative agency such as LAFCO, acting in a quasi-legislative capacity, either approve or reject an applicant’s proposal. Therefore, regardless of the outcome of the pending lawsuit, MPWMD will continue to lack authorization to become the retail water service provider within its territory unless and until it obtains LAFCO approval.

As set forth in our April 28, 2023 letter to MPWMD’s attorneys, the law provides that a special district may not offer a new service beyond that which it currently provides without LAFCO approval, and may not “simply disregard the decision of LAFCO and proceed with its plan to provide a new or different service.” *South San Joaquin Irrigation Dist. v. Superior Court* (2008) 162 Cal.App.4<sup>th</sup> 146, 154.

# manatt

Board of Directors  
September 5, 2023  
Page 2

Notwithstanding this settled law, MPWMD has continued to expend taxpayer funds to proceed with its plan, in disregard of the denial of its application by LAFCO. Now, it appears MPWMD may spend even more money attempting to prosecute an eminent domain lawsuit in an effort to condemn the water service facilities. We believe it is clear that such a lawsuit would be dismissed by the courts because MPWMD, lacking LAFCO approval, is not legally authorized to undertake the project—the provision of retail water service—for which it would be seeking to condemn property.

If MPWMD files eminent domain litigation and the case is dismissed, the result will be that MPWMD has wasted money paying its own legal and consultants' fees—not to mention the waste of time and effort by its staff—and will also be required to pay all of Cal-Am's litigation costs. In sum, millions of dollars in taxpayer funds will have been expended by MPWMD in a quest to pursue a legally risky, massive eminent domain lawsuit, with nothing to show for it.

MPWMD has never publicly addressed or even acknowledged the legal impact that the LAFCO denial has on MPWMD's ability to acquire Cal-Am's facilities, or on what legal basis MPWMD contends that it can pursue a taking of those facilities without LAFCO approval to provide retail water service. In light of the risk of proceeding in these circumstances, the public deserves full transparency. MPWMD should acknowledge the law and advise the public as to why a Resolution of Necessity and eminent domain lawsuit would be an unwise course of action and a probable waste of public funds.

For these reasons, we respectfully urge MPWMD to refrain from proceeding to a hearing on adoption of a Resolution of Necessity to acquire Cal-Am's property.

Sincerely,



George M. Soneff

Cc: David Stoldt  
David Laredo



September 12, 2023


Clerk of the Board, Monterey Peninsula Water Management District  
5 Harris Court, Building G  
Monterey, CA, 93940

Re: Request to Appear at October 10, 2023 Hearing on Resolution of Necessity

To Clerk of the Board:

We request to appear and be heard on behalf of California-American Water Company at the above-referenced hearing.

Sincerely,



George M. Soneff

GMS:mlc

cc: David Laredo (dave@laredolaw.net)