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September 30, 2015

File Ref: SCH # 2006101004

Mary Jo Borak  
California Public Utilities Commission  
c/o Environmental Science Associates  
550 Kearny Street, Suite 800  
San Francisco, CA 94108

**Subject: Draft Environmental Impact Report (EIR) for the Monterey Peninsula  
Water Supply Project, Monterey County**

Dear Ms. Borak:

The California State Lands Commission (CSLC) staff has reviewed the subject draft EIR for the Monterey Peninsula Water Supply Project (Project or MPWSP), which is being prepared by the California Public Utilities Commission (CPUC). The CPUC is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) because it is considering issuance of a Certificate of Public Convenience and Necessity (CPCN) to the California American Water (CalAm) pursuant to Public Utilities Code section 100. The CSLC is a trustee agency for projects that could directly or indirectly affect sovereign lands and their accompanying Public Trust resources or uses. Additionally, because the Project involves work on sovereign lands, the CSLC will act as a responsible agency. CSLC staff previously commented on the Notice of Preparation for the Project in a letter dated November 8, 2012 (enclosed):

**CSLC Jurisdiction and Public Trust Lands**

The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The CSLC also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6301, 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of

all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line, except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court. Such boundaries may not be readily apparent from present day site inspections.

On December 17, 2014, the CSLC authorized a General Lease – Right-of-Way Use to CalAm for the construction and operation of a temporary exploratory test slant well in Monterey Bay. In order to operate the existing test well as a permanent well, CalAm would be required to obtain a new lease. In addition, the Project includes nine new proposed slant wells which appear to be located on sovereign land within Monterey Bay; construction and operation of these wells would also require a lease. Please provide a more detailed map showing how far the slant wells extend waterward of the mean high tide line to assist CSLC staff's determination of the location and extent of its leasing jurisdiction. Lastly, the existing Monterey Regional Water Pollution Control Agency's (MRWPCA) ocean outfall and diffusers are currently under State Lands Lease No. PRC 6091.9. A lease amendment or new lease may be required for CalAm to use the existing outfall. Questions regarding CSLC jurisdiction or leasing requirements should be directed to Drew Simpkin with the Land Management Division (see contact information below).

### **Project Description**

The Project as proposed by CalAm would be located near the Salinas River along the coast in the southern portion of Monterey Bay, in Monterey County. The MPWSP is proposed to include various facilities and improvements, including:

- A subsurface seawater intake system which would consist of 10 subsurface slant wells (eight active and two on standby) located at the CEMEX property in Marina;
- A 9.6 million gallon per day (mgd) desalination plant located on Charles Benson Road, adjacent to the Monterey County Environmental Park;
- Approximately 30 miles of pipelines, two pump stations, and water storage tanks;
- Improvements to the existing Seaside Groundwater Basin Aquifer Storage and Recovery (ASR) facilities, which would enable CalAm to inject desalinated product water into the groundwater basin for subsequent extraction and distribution to customers; and
- An agreement to purchase 3,500 acre feet/year of recycled water from the proposed Pure Water Monterey Groundwater Replenishment (GWR) project to replace those portions of CalAm's supplies that have been constrained by legal decisions regarding CalAm's diversions from the Carmel River and pumping from the Seaside Groundwater Basin.

The MPWSP includes many of the same elements previously analyzed in the Coastal Water Project (CWP) Final EIR (October 2009). The proposed Project evaluated in the draft EIR is a modified version of the North Marina project evaluated in the CWP, and as a result there is substantial overlap between the MPWSP and the CWP; however, key components, including the seawater intake system and desalination plant, have been relocated and/or modified under the current proposal.

The draft EIR identifies the MPWSP Variant as the Environmentally Superior Alternative. This Alternative would reduce the overall energy use of the proposed Project, which results in reduced GHG emissions. In addition, the impacts on the Salinas Valley Groundwater Basin would be reduced as a result of a reduction in pumping at the slant wells.

### **Environmental Review**

As a responsible agency, the CSLC's exercise of discretion is limited to the portions of the Project that are under the CSLC's jurisdiction (State CEQA Guidelines, § 15096, subd. (d)). As a result, the below comments focus on the discharge pipeline and the slant wells, which are the components of the Project that would be subject to the CSLC's leasing authority. CSLC staff requests that the CPUC consider the following comments on the Project's draft EIR.

### **General Comments**

1. CSLC staff recommends that the CPUC meet with all potential regulatory agencies to identify roles and responsibilities as they relate to oversight and permitting of this Project, in particular the Monterey Bay National Marine Sanctuary (MBNMS), as they would likely be the lead agency under the Federal National Environmental Policy Act (NEPA). CSLC staff believe that the EIR should be developed as a joint EIR/EIS to satisfy NEPA's requirements and avoid potential Project delays.

### **Project Description**

2. Under section 3.4.2.5, Brine Storage and Disposal, the draft EIR provides a brief description of the existing 2.1-mile-long MRWPCA outfall pipeline and diffusers; however, no history of these existing components or their current condition was included. The draft EIR (section 4.13) states that an evaluation of the offshore portion of the MRWPCA outfall was performed in 2015 (E2 Consulting Engineering, 2015). CSLC staff requests that a copy of that report be made available for review (or if it has been provided, direct the public to its location), and that additional information on the pipeline be included in the draft EIR to further facilitate CSLC staff's analysis of the Project components within CSLC jurisdiction.

### **Deferred Mitigation**

3. Several impacts discussed in the draft EIR rely on other agency permits to reduce specific impacts to a less-than-significant level. For instance, Impact 4.3-1 (p. 4.3-56) analyzes general construction activities as they relate to water quality and states

that a SWPPP (stormwater pollution prevention plan) would be prepared by a Qualified SWPPP Developer, and a Qualified SWPPP Practitioner would oversee its implementation. The impact conclusion then states that because the Project would be required to comply with the Construction General Permit by preparation of a SWPPP, no mitigation is required.

Please note that under CEQA, a lead agency may not defer the formulation of a mitigation measure to other agencies; lead agencies have an independent obligation to address potentially significant impacts, even where a subsequent permit from another agency is necessary. In addition, CEQA requires that mitigation measures be presented as specific, feasible, enforceable obligations, or where identification of specific measures is infeasible or impractical, be presented as formulas containing "performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way" (State CEQA Guidelines, §15126.4, subd. (b)).

CSLC staff requests that all impacts that defer to other agency permits be revised to better comply with CEQA by identifying and incorporating mitigation to reduce impacts to the extent feasible, independent of subsequent permits that may be necessary to fully entitle the Project. Any revised measures should also provide sufficient detail about the mitigation measure(s) and its/their expected performance and enforcement mechanisms to enable the reader to independently assess and comment on the effectiveness and feasibility of the measure.

#### Land Use, Land Use Planning and Recreation

4. Page 4.8-39 of the draft EIR states that "since pipeline construction would proceed at a rate of 150 to 250 feet per day, the total duration of disturbance at any one location would generally be less than a week." Therefore, the draft EIR finds that the impacts to recreation would be less than significant. Although there may be no long-term impacts associated with each component's construction, the cumulative effects of ongoing construction along the coast that could affect public access to the beach and Monterey Bay at various coastal locations may be significant. According to Table 3-4, construction of the Transmission Main is estimated to take 6 months and the construction of the Monterey Pipeline is estimated to take 12 months. CSLC staff request that additional discussion be included in the draft EIR regarding access to public beaches and Monterey Bay along these routes, and mitigation proposed to offset the impacts associated with ongoing construction activities.

#### Greenhouse Gas Emissions

5. Although the draft EIR clearly states (p. 4.11-14) that the "CPUC cannot substantiate numerically that the mitigated GHG emissions would be reduced to a less-than significant level," in order to better analyze the impacts, CSLC staff suggest that the GHG Emissions Reduction Plan (presented in Mitigation Measure [MM] 4.11-1) and the Construction Equipment Efficiency Plan (MM 4.18-1) be prepared prior to

certifying the EIR so that the public and decision-making bodies are better informed as to what the resulting Project emissions would be under such plans.

In addition, the draft EIR only mentions Executive Order (EO) S-3-05 and Assembly Bill 32 under State Regulations in Section 4.11. In addition the draft EIR should discuss the following:

- Executive Order S-01-07 (Governor Schwarzenegger, January 2007) established a low carbon fuel standard for California, and directed the carbon intensity of California's transportation fuels to be reduced by at least 10 percent by 2020.
- Executive Order B-30-15 (Governor Brown, April 2015) established a new interim statewide GHG emission reduction target to reduce GHG emissions to 40 percent below 1990 levels by 2030 in order to ensure California meets its target of reducing GHG emissions to 80 percent below 1990 levels by 2050. It additionally directed all State agencies with jurisdiction over sources of GHG emissions to implement measures, pursuant to statutory authority, to achieve GHG emissions reductions to meet the 2030 and 2050 targets.

#### Climate Change

6. Sea-Level Rise: A tremendous amount of State-owned lands and resources under the CSLC's jurisdiction will be impacted by rising sea levels, including the coastal areas that are part of the proposed Project. Note that the State of California released the final "Safeguarding California: Reducing Climate Risk, an Update to the 2009 California Climate Adaptation Strategy" (Safeguarding Plan) on July 31, 2014, to provide policy guidance for state decision-makers as part of continuing efforts to prepare for climate risks. The Safeguarding Plan sets forth "actions needed" to safeguard ocean and coastal ecosystems and resources as part of its policy recommendations for state decision-makers.

The draft EIR (p. 4.3-99 to -100) discusses the potential for flooding due to sea-level rise, and states that "The wellheads for the slant wells would be encased in concrete vaults buried 5 feet below the sand and would be designed to withstand inundation. Therefore, the slant wells would not be subject to a significant risk of damage from flooding due to sea-level rise." However, the electrical panel (housing the electrical controls for the slant wells, as shown on Figure 3-3) is not discussed and is also in close proximity to areas that may be subject to sea-level rise. As damage to electrical panel could be significant in terms of operation of the slant wells, CSLC staff requests that the EIR include a discussion of how impacts to the electrical panel, due to flooding and/or sea-level rise, would be avoided.

Thank you for the opportunity to comment on the draft EIR for the Project. As a responsible and trustee agency, the CSLC will need to rely on the Final EIR for the issuance of any amended/new lease as specified above and, therefore, we request that you consider our comments prior to certifying the EIR.

Please send copies of future Project-related documents, including electronic copies of the Final EIR, Mitigation Monitoring and Reporting Program (MMRP), Notice of Determination (NOD), CEQA Findings and, if applicable, Statement of Overriding Considerations when they become available, and refer questions concerning environmental review to Cynthia Herzog, Senior Environmental Scientist, at (916) 574-1310 or via e-mail at [Cynthia.Herzog@slc.ca.gov](mailto:Cynthia.Herzog@slc.ca.gov). For questions concerning CSLC leasing jurisdiction, please contact Drew Simpkin, Public Land Management Specialist, at (916) 574-2257, or via email at [Drew.Simpkin@slc.ca.gov](mailto:Drew.Simpkin@slc.ca.gov).

Sincerely,



Cy R. Oggins, Chief  
Division of Environmental Planning  
and Management

Attachment

cc: Office of Planning and Research  
C. Herzog, CSLC  
D. Simpkin, CSLC  
L. Calvo, CSLC

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November 8, 2012

File Ref: SCH# 2006101004

California Public Utilities Commission  
Attn: Andrew Barnsdale  
550 Kearny Street, Suite 800  
San Francisco, CA 94108

**Subject: Notice of Preparation (NOP) for a Draft Environmental Impact Report (Draft EIR) for the Monterey Peninsula Water Supply Project, Monterey County.**

Dear Mr. Barnsdale:

The California State Lands Commission (CSLC) staff has reviewed the subject NOP for a Draft EIR for the Monterey Peninsula Water Supply Project (Project or MPWSP), which is being prepared by California Public Utilities Commission (CPUC). The CPUC is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) because it is considering issuance of a Certificate of Public Convenience and Necessity (CPCN) to California American Water (CalAm) pursuant to Public Utilities Code section 100. The CSLC provides these comments as a trustee agency with responsibility for natural resources held in trust for the people of the State of California which may be affected by a project, as provided in CEQA and the State CEQA Guidelines.<sup>1</sup> The CSLC will act as a trustee agency because of its trust responsibility for projects that could directly or indirectly affect sovereign lands, their accompanying Public Trust resources or uses, and the public easement in navigable waters. Additionally, because the Project will involve work on sovereign lands, the CSLC will act as a responsible agency.

#### **CSLC Jurisdiction and Public Trust Lands**

The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The CSLC also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6301, 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust.

<sup>1</sup> The State CEQA Guidelines are found in California Code of Regulations, Title 14, section 15000 et seq. Trustee agencies are designated in section 15386.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line, except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court. Such boundaries may not be readily apparent from present day site inspections.

Based on CSLC staff's review of in-house records and mapping, it appears that the proposed Project will extend onto sovereign ungranted lands in the Pacific Ocean. CalAm will be required to submit an application for all portions of the Project extending within the CSLC's leasing jurisdiction. CSLC staff notes that CalAm has already submitted an application for a proposed Slant Test Well Project (Test Well) that the Applicant states is needed to obtain information necessary for Project design.

### **Project Location and Description**

The Project as proposed by CalAm would be located near the Salinas River along the coast in the southern portion of Monterey Bay, in Monterey County. Proposed Project facilities and improvements would include:

- Construction and operation of a seawater intake system consisting of eight 750-foot-long subsurface slant wells extending offshore into the Monterey Bay, and source water conveyance pipelines.
- Construction and operation of a 9-million-gallons-per-day desalination plant including source water receiving tanks, pre-treatment, reverse osmosis, and post-treatment systems, chemical feed and storage facilities, brine storage and discharge facilities, pipelines, pump stations, clearwells, and a terminal reservoir.
- Construction and operation of desalinated water storage and conveyance facilities including pipelines, pump stations, clearwells, and a terminal reservoir.
- Construction and operation of expanded Aquifer Storage and Recovery (ASR) facilities including improvements to the existing Seaside Groundwater Basin ASR, including two additional injection/extraction wells, a pump station, a product water pipeline, a pump-to-waste pipeline, and pump-to-waste treatment.

### **Environmental Review**

Because the CSLC will need to rely on the EIR for issuance of a lease, CSLC staff requests the CPUC consider the following comments and suggestions when preparing the Draft EIR.

1. **Project Description.** A thorough and complete Project description of all proposed facilities and improvements should be included in the Draft EIR in order to facilitate meaningful environmental review of potential impacts, mitigation measures, and alternatives. The Project description should be as precise as possible in describing



the details of all allowable activities (e.g., types of equipment or methods that may be used, maximum area of impact or volume of sediment removed or disturbed, seasonal work windows, locations for material disposal, etc.), as well as the details of the timing and length of activities. Thorough descriptions will facilitate CSLC staff's determination of the extent and locations of its leasing jurisdiction, make for a more robust analysis of the work that may be performed, and minimize the potential for subsequent environmental analysis to be required.

2. Relationship of Coastal Water Project (CWP) EIR to MPWSP Draft EIR. The NOP on page 2 states that "[s]ubsequent to approval of the Regional Project CalAm withdrew its support for the Regional Project in January 2012. As a result, in April 2012, CalAm submitted Application A.12-04-019 to the CPUC for the Monterey Peninsula Water Supply Project (MPWSP)." The Draft EIR should clearly explain the relationship between the CPW EIR and MPWSP Draft EIR. CSLC staff recommends using tables and diagrams to illustrate relationships among past, present, and future components of the proposed Project and other similar Projects in the area. The Draft EIR should also clearly explain the relationship between the "DeepWater Desal Alternative" and the "People's Moss Landing Water Desalination Project (People's Project) Alternative" on page 12 of the NOP and should explain how these proposed or other alternatives meet CalAm's project objectives while reducing or avoiding one or more impacts.

#### Biological Resources

3. Mitigation Measures. In order to avoid the improper deferral of mitigation, mitigation measures should either be presented as specific, feasible, enforceable obligations, or should be presented as formulas containing "performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way" (State CEQA Guidelines, §15126.4, subd. (b)).
4. Sensitive Species Database Inquiries. The CPUC should conduct queries of the California Department of Fish and Game's (CDFG) California Natural Diversity Database (CNDDDB) and U.S. Fish and Wildlife Service's (USFWS) Special Status Species Database to identify any special-status plant or wildlife species that may occur in the Project area. The Draft EIR should analyze the potential for such species to occur in the Project area and, if impacts to special-status species are found to be significant, identify adequate mitigation measures. CSLC staff recommends early consultation with these agencies to minimize Project impacts on protected species.
5. Underwater Noise. The NOP does not address whether Project-related activities may generate underwater/below seafloor noise. The Draft EIR should evaluate, based on the activities required to construct and operate the Project, potential noise and vibration impacts on fish, marine mammals, and birds from Project-related activities in water or below the seafloor, on the beach, and for land-side supporting structures. Mitigation measures could include species-specific work windows as defined by CDFG, USFWS, and the National Oceanic and Atmospheric

Administration's Fisheries Service (NOAA Fisheries). Staff recommends early consultation with these agencies to minimize the impacts of the Project on sensitive species.

6. Pre-treatment and Post-treatment Procedures. The Draft EIR should include detailed discussions of possible environmental impacts from procedures and chemical treatments of pre-treatment of seawater and post-treatment of desalinated water. These discussions should also include possible environmental impacts from such treatments and how they may possibly impact the groundwater aquifers.
7. Injection of Desalinated Water into the Existing Seaside Groundwater Basin (Basin). Page 5 of the NOP explains that the primary function of the two additional proposed expanded ASR wells would allow "...desalinated water to be injected into the Seaside Groundwater Basin for subsequent distribution to customers...." The Draft EIR should include detailed discussion and possible environmental impacts of the following:
  - Current conditions of the Basin;
  - Procedures of injecting into the Basin;
  - Possible geological impacts of injections;
  - Possible impacts to hydrology in the Basin;
  - Duration of leaving injected water in the Basin; and
  - Procedures of drawing water out of the Basin.

The above stated Project components may be most effectively presented by using diagrams and images related to different stages and conditions of the Basin. CSLC staff also recommends discussions of the most recent scientific data supporting the above proposed activities for better evaluation of possible environmental impacts.

### Public Trust

8. Public Trust and Recreation. If the Project lies within the State-owned sovereign land, then it is subject to the Public Trust. Members of the public have the benefit of use consistent with the Public Trust which includes, but is not limited to, navigation and recreation such as rafting, sailing, rowing, fishing, fowling, bathing, and other water-related recreational uses. The Draft EIR should discuss the Project's potential to restrict or impede the public's use and enjoyment of the Pacific Ocean or to otherwise affected Public trust resources and values; for example, the Draft EIR should evaluate impacts associated with the brine discharge plume on Public Trust resources and values. If any impacts are determined to be significant, the CPUC should identify measures to avoid or reduce them as feasible.

The Draft EIR should also discuss how the members of the public will be notified of Project-related activities in the Project area. CSLC staff recommends posting signage, in advance, at and around the Proposed Project; any additional discussions of notification and operational or construction practices should be addressed in the Draft EIR in order to minimize the impact to members of the public.

### Land Use

9. Conflicts with Specially Designated Lands. The proposed Project is located within the boundaries of the Monterey Bay National Marine Sanctuary and in the vicinity of Marine Protected Areas. The Draft EIR should evaluate potential land use conflicts and other direct or indirect impacts resulting from Project construction and operation, and should list the appropriate agency jurisdictions that were consulted to ensure any such potential impacts are avoided or reduced to the extent feasible.

### Cultural Resources

10. Submerged Cultural Resources. The NOP on page 9 states that "the EIR will evaluate potential impacts on historic, archaeological, and paleontological resources, and human remains." However, it does not state how the Draft EIR will approach this analysis. The CSLC maintains a shipwrecks database that can assist with this analysis. CSLC staff requests that the CPUC contact Senior Staff Counsel Pam Griggs at the contact information noted at the end of this letter to obtain shipwrecks data from the database and CSLC records for the Project site. The database includes known and potential vessels located on the State's tide and submerged lands; however, the locations of many shipwrecks remain unknown. Please note that any submerged archaeological site or submerged historic resource that has remained in State waters for more than 50 years is presumed to be significant.
11. Title to Resources. The Draft EIR should also mention that the title to all abandoned shipwrecks, archaeological sites, and historic or cultural resources on or in the tide and submerged lands of California is vested in the State and under the jurisdiction of the CSLC. CSLC staff requests that the CPUC consult with Senior Staff Counsel Pam Griggs at the contact information noted at the end of this letter, should any cultural resources on state lands be discovered during construction of the proposed Project.

### Climate Change

12. Greenhouse Gases. A greenhouse gas (GHG) emissions analysis consistent with the California Global Warming Solutions Act (AB 32) and required by the State CEQA Guidelines should be included in the Draft EIR. This analysis should identify a threshold for significance for GHG emissions, calculate the level of GHGs that will be emitted as a result of construction and ultimate build-out of the Project, determine the significance of the impacts of those emissions, and, if impacts are significant, identify mitigation measures that would reduce them to the extent feasible.
13. Sea Level Rise. The Draft EIR should also consider the effects of sea level rise on all resource categories potentially affected by the proposed Project. At its meeting on December 17, 2009, the CSLC approved the recommendations made in a previously requested staff report, "A Report on Sea Level Rise Preparedness" (Report), which assessed the degree to which the CSLC's grantees and lessees

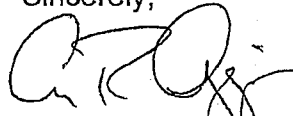
have considered the eventual effects of sea level rise on facilities located within the CSLC's jurisdiction. (The Report can be found on the CSLC's website, <http://www.slc.ca.gov>.) One of the Report's recommendations directs CSLC staff to consider the effects of sea level rise on hydrology, soils, geology, transportation, recreation, and other resource categories in all environmental determinations associated with CSLC leases.

Please note that, when considering lease applications, CSLC staff is directed to (1) request information from applicants concerning the potential effects of sea level rise on their proposed projects, (2) if applicable, require applicants to indicate how they plan to address sea level rise and what adaptation strategies are planned during the projected life of their projects, and (3) where appropriate, recommend project modifications that would eliminate or reduce potentially adverse impacts from sea level rise, including adverse impacts on public access.

Thank you for the opportunity to comment on the NOP for the Project. As a responsible agency, the CSLC will need to rely on the EIR for its review and consideration of a lease amendment as specified above and, therefore, we request that you consider our comments when preparing the Draft EIR. Please send additional information on the Project to the CSLC staff identified below as plans become finalized.

Please send copies of future Project-related documents, including electronic copies of the Draft EIR, Final EIR, CEQA Findings, and Notice of Determination when they become available, and refer questions concerning environmental review to Afifa Awan, Environmental Scientist, at (916) 574-1891 or via e-mail at [afifa.awan@slc.ca.gov](mailto:afifa.awan@slc.ca.gov). For questions concerning archaeological or historic resources under CSLC jurisdiction, please contact Senior Staff Counsel Pam Griggs at (916) 574-1854 or via email at [pamela.griggs@slc.ca.gov](mailto:pamela.griggs@slc.ca.gov). For questions concerning CSLC leasing jurisdiction, please contact Drew Simpkin, Public Land Management Specialist, at (916) 574-2275, or via email at [drew.simpkin@slc.ca.gov](mailto:drew.simpkin@slc.ca.gov).

Sincerely,



Cy R. Oggins, Chief  
Division of Environmental Planning  
and Management

cc: Office of Planning and Research  
A. Awan, DEPM, CSLC  
P. Griggs, Legal, CSLC  
S. Haaf, Legal, CSLC  
D. Simpkin, LMD, CSLC

STATE OF CALIFORNIA

CALIFORNIA STATE  
LANDS COMMISSION



*Established in 1938*

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September 30, 2015

File Ref: W26776

«Company»  
«First\_Name» «Last\_Name», «TitlePosition» «TitlePosition»  
«Address\_1\_»  
«City\_», «State», «Postal\_Code»

**Subject: Notification of the Mohave Valley Conservation Area Backwater Project**

Dear Mr./Ms. «Last\_Name»:

California State Lands Commission (CSLC) staff is providing this letter to notify you of the proposed Mohave Valley Conservation Area Backwater Project (Project), for which we are preparing an Environmental Assessment and Mitigated Negative Declaration (EA/MND) jointly with the Bureau of Reclamation (Reclamation). A new California law known as "Assembly Bill (AB) 52" (Chapter 532, Statutes of 2014) effective on July 1, 2015, makes changes to the California Environmental Quality Act (CEQA) regarding tribal cultural resources and consultation with California Native American Tribes who have previously requested to be notified of projects in the geographic area traditionally and culturally affiliated with that tribe. While we have no written requests from any tribes for the area associated with this Project, we wish to engage with tribes proactively to ensure you have the opportunity to provide meaningful input on the Project's potential effects. You will also receive a separate notice when the EA/MND is released for a 30-day public review and comment period.

Information collected and investigations conducted for the EA/MND analysis indicate there are no known tribal cultural resources in the area that would be affected by the Project. Reclamation conducted a pedestrian surface survey in 2011 that did not identify archaeological sites in the Project area. Reclamation also sent notification of the proposed Project pursuant to federal consultation provisions on or around May 20, 2015. In addition, a Sacred Lands File search conducted by the Native American Heritage Commission (NAHC) did not identify Native American traditional cultural places or properties in the Project area, although it noted that the project site may be considered "culturally sensitive" by local tribes.

Please review the proposed Project components, described below. If you have any questions, or wish to discuss the Project, please contact Jennifer DeLeon at [tribal.liaison@slc.ca.gov](mailto:tribal.liaison@slc.ca.gov), or at (916) 574-0748. CSLC staff also encourages you to visit

the NAHC's AB 52 resource page at <http://nahc.ca.gov/codes/>, where you can find a sample letter requesting notification of future CEQA projects, along with other information.

The proposed Project consists of activities on an approximately 149-acre portion of a vacant parcel along the Colorado River (River) between River Miles 237 and 236, and is composed largely of sediment spoils from past dredging activities by Reclamation on the River. It is located on the historic floodplain of the River within the Moabi Regional Park (Park), about 13 miles south of Needles, California, in San Bernardino County (see Enclosure 1). The proposed Project site is currently being used as an Off-Highway Vehicle recreation area.

The CSLC is considering issuance of a lease to the California Department of Fish and Wildlife (CDFW), as the State partner for implementing the Lower Colorado River Multi-Species Conservation Program (MSCP). It is anticipated that the lease will be considered by the CSLC at a formal public hearing in Sacramento on December 18, 2015. The Lower Colorado River MSCP balances the use of the River water resources with the conservation of native species and their habitats. Reclamation would create the Project as the federal partner implementing the Lower Colorado River MSCP.

The proposed Project would reconnect the River by excavating soil to create 50 acres of backwater channel and associated backwater habitat to contribute to the habitat restoration requirements identified in the Lower Colorado River MSCP. All excavated material would remain onsite, along the northeastern portion of the Project area (see Enclosure 2). The Project would provide habitat for flannelmouth sucker (*Castrotomus latipinnis*), razorback sucker (*Xyrauchen texanus*), and bonytail chub (*Gila elegans*), and would also benefit numerous migratory bird species. The proposed Project would be carried out in the following four phases:

- **Phase 1 – Vegetation Clearing:** Reclamation would manually (using hand tools) and mechanically (using machinery) remove and break down vegetation debris into manageable pieces that would be buried onsite (see Enclosure 2).
- **Phase 2 – Excavation and Construction:** Reclamation would excavate the backwater channel and construct water control structures and a gravel boat ramp before allowing water into the proposed Project site. The 1.2 million cubic yards of dry excavated compacted fill would be used to bury the broken down vegetation debris (from Phase 1) onsite (see Enclosure 2).
- **Phase 3 – Establishment/Re-Vegetation:** Reclamation would till the soil along the contours of the backwater channel, and plant native vegetation as recommended in the Habitat Conservation Plan for the Lower Colorado River MSCP.
- **Phase 4 – Habitat Management, Operations, and Maintenance:** Reclamation would draft and implement a Mohave Valley Backwater Restoration Development and Monitoring Plan to address habitat/vegetation management, operation and