

REVISED

Marina Coast Water District
Agenda Transmittal

Agenda Item: 9-F

Meeting Date: April 13, 2010

Submitted By: Lloyd Lowrey
Reviewed By: Jim Heitzman

Presented By: Jim Heitzman

Agenda Title:

Reconsider the Vote on Adoption of Resolution No. 2010-20

The President of the Board will entertain a motion to reconsider the vote on Resolution No. 2010-20.

- Resolution No. 2010-20 contains Findings, with a Statement of Overriding Considerations and adoption of mitigation measures identified and proposed in the Final EIR as certified by the CPUC on December 17, 2009, in Decision D.09-12-017, and tailored to MCWD's role as a responsible agency, as set forth in the Findings and the Mitigation Monitoring and Reporting Plan attached to the Findings, and based thereon.
- Resolution No. 2010-20 conditionally approves MCWD's participation in the Regional Desalination Project pursuant to
 - a Water Purchase Agreement between Marina Coast Water District, California American Water Company, and Monterey County Water Resources Agency,
 - a related Settlement Agreement between MCWD, MCWRA, CAW and various other interested parties to settle California Public Utilities Commission Proceeding A.04-09-019, "In the Matter of the Application of California-American Water Company (U 210 W) for a Certificate of Public Convenience and Necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs in Connection Therewith in Rates."
- Resolution No. 2010-20 authorizes the President and the General Manager and Secretary to execute the Water Purchase Agreement and the Settlement Agreement pursuant to the resolution and conditional approval.
- Resolution No. 2010-20 directs the General Manager and staff to take all other actions that may be necessary to effectuate and implement the resolution and conditional project approval.

In considering a Motion to Reconsider, the Board will review and consider the Final EIR and the Addendum released by the CPUC's consultant on March 24, 2010, and will entertain and consider comments from the public together with such other information as may be presented at the meeting.

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Recommended Actions: District Counsel recommends that the Directors take the following actions:

1. Move the reconsideration of Resolution No. 2010-20, as follows: “I move to reconsider the vote on Resolution No. 2010-20. I voted for the resolution.”
2. Review Resolution No. 2010-20 and attached Findings, including a Statement of Overriding Considerations and the Mitigation Monitoring and Reporting Plan attached to the Findings.
3. Review and consider the Final EIR as certified by the CPUC on December 17, 2009, in Decision D.09-12-017 and the Addendum released by the CPUC’s consultant on March 24, 2010.
4. Receive public comment and such other information as may be presented for the reconsideration of Resolution No. 2010-20.
5. Discuss the motion for reconsideration and the substance of Resolution No. 2010-20.
6. Vote on whether to reconsider Resolution No. 2010-20.

Detailed Description: The Board adopted Resolution No. 2010-20 at the Board’s special meeting held on April 5, 2010. At the meeting, the Board received a letter submitted on behalf of the Ag Land Trust that claimed the Agenda for the April 5, meeting violated by Brown Act by failing to adequately state the actions that would be taken under Agenda Item 5-A by adopting Resolution No. 2010-20. District Counsel disagreed and continues to disagree with the claim. Nevertheless, District Counsel recommends a Motion for Reconsideration to avoid a dispute over the Brown Act issue and to provide an additional opportunity for interested persons to present their views to the MCWD Board on the substance of Resolution No. 2010-20.

A motion to reconsider suspends all action that depends on the result of the vote proposed to be reconsidered, until the Board takes up the motion. Under Section 38-33 of the Board’s Procedure Manual adopted in 20072009, a motion for reconsideration may be made at the meeting following the meeting at which the Board adopted the item being reconsidered, if it is timely placed on the agenda. Therefore, a motion for reconsideration is proper at the April 13 meeting and Resolution No. 2010-20 will be suspended during the Board’s consideration of the motion.

If the motion to Reconsider is voted on and lost, the vote which it proposed to reconsider, and any action authorized by the resolution being considered, comes into full force, effective from the time the first vote was taken. (Robert’s Rules of Order Newly Revised, 9th Ed., 1990, p.316). If the motion to Reconsider is adopted, the question of whether to adopt Resolution No. 2010-20 will be before the Board again in the exact position it occupied the moment before it was voted on originally.

Environmental Review Compliance: None required.

Prior Committee or Board Action: The Board adopted Resolution No. 2010-20 on April 5, 2010, and has previously adopted Resolution Nos. 2009-18 and 2009-19 approving District participation in the Coastal Water Project/Regional Project CPUC proceedings and appropriating funds for District participation. The Board authorized a Reimbursement Agreement with California American Water Company on February 24, 2010, by Resolution No. 2010-12.

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Board Goals/Objectives: 2007/2008 Strategic Plan, Mission Statement – Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.

Financial Impact: Yes No

Resolution No. 2010-20 conditionally obligates and benefits MCWD as set forth in the Water Purchase Agreement and the Settlement Agreement.

Funding Source/Recap: An allocation of Private Activity Bonds has been obtained from the California Pollution Control Finance Authority in the amount of \$340 million to fund the entire Project, to allow financing on a tax-exempt basis. MCWD and MCWRA propose to issue bonds through one offering, bifurcated to specifically identify and separate each agency's liability. Revenue will come from grants and the charges for water produced by the Regional Desalination Project.

Material Included for Information/Consideration: Resolution No. 2010-20; Findings; Mitigation Monitoring and Reporting Plan; Summary of Water Purchase Agreement (Derrick Hansen); and the Settlement Agreement with Attachments.

Action Required: Resolution Motion Review
(Roll call vote is recommended.)

Board Action

____ Resolution No ____ Motion By _____ Seconded By _____

Ayes _____ Abstained _____

Noes _____ Absent _____

Reagendized _____ Date _____ No Action Taken _____