

MONTEREY COUNTY

WATER RESOURCES AGENCY

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June 6, 2022

Steve Blois, Director
Nacimiento Regional Water Management Advisory Committee
P.O. Box 398
Paso Robles, CA 93447
sblois@verizon.net

Re: Dock Licensing and Inspection Program requirements for private docks at Nacimiento Reservoir

Dear Mr. Blois,

On May 4, 2022, the Nacimiento Regional Water Management Advisory Committee (NRWMAC) provided a letter to the Monterey County Water Resources Agency (MCWRA) concerning the authority and legal basis for collecting dock fees for docks that are not floating and which remain below the highwater mark¹ of Nacimiento Reservoir (Reservoir). The NRWMAC has argued that non-floating docks should pay no fee for the licensing year because the docks are on dry land and reside on private property. The MCWRA disagrees with this opinion and will respectfully respond in this letter to the demands for logic and fairness made by NRWMAC. As the NRWMAC is aware, the necessity for the dock licensing and inspection fee is an important one. The Reservoir is owned and operated by the MCWRA, and MCWRA is attempting to allow for the continued use of private docks in or on the Reservoir. The current dock licensing regulatory fee allows the MCWRA the ability to regulate, inspect, and license all structures that float on, or are designed to float on, the surface of the reservoir (California Water Code, Appendix 52, "Agency Act", Sec. 9(q)). A dock stored on dry land within the highwater mark of the Reservoir is subject to floating, as the MCWRA has the right to flood and deposit water in the Reservoir. As such, the course of action to invoke licensing fees and insurance requirements for docks in or on the Reservoir in support of the Dock Licensing and Inspection Program (Program) is lawful and necessary.

Regarding the condition of a non-floating dock, this is an occurrence described per ordinance as "removed from the water" or distinguished as "high and dry" (Regulations for Dock Licensing, Ordinance No. 4065, MCWRA 2000). The Reservoir does have fluctuating water surface elevations, and has seen years and floods pass when the water rises quickly and hazards from docks are immediate. A dock "high and dry" can quickly become one that is floating once the rainy season begins in October and continues into March. This adds to the complexity of monitoring docks left in or on the Reservoir as there is no way to predict future water levels and whether these docks will float or be refloated with changing conditions or the by licensee. Therefore, regardless of floating at the time of renewal, any dock left in or on the Reservoir below the highwater mark could be floating, as designed, and is subject to completing the annual renewal license requirement. The MCWRA has communicated this to the over 400 licensees in the dock program. Licensees generally accept

¹ The "highwater mark" means the elevation or contour line that is reached by the water in Nacimiento Reservoir when the Reservoir is at the top of the dam spillway, elevation 800 feet NGVD 29. The Reservoir is considered full when it is at the highwater mark.

the current practice of the MCWRA dock program that renewal licenses are required for all docks that reside within the Reservoir up to the highwater mark, and that the renewal of the license may be deferred, only when the MCWRA is provided evidence that the dock is removed from the Reservoir and is not planned to be floated or refloated during the licensing year.² In fact, the licensing program's annual compliance rate is already at 87% for Licensing Year 2022 (April 1, 2022 through March 31, 2023). Private dock owners benefit from the Program which allows the privilege for floating when the Reservoir levels allow, or storing the dock within the Reservoir, when conditions are dry. It can be concluded that any dispute over fees for non-floating docks in the Reservoir is limited to the comments by NRWMAC and a small percentage of licensees.

The Program as it is currently administered provides safety and accountability for those who use the Reservoir. It protects the MCWRA's facilities including Nacimiento dam and associated outlet structures from damage and potential failure. The MCWRA uses these dock licensing fees (\$200 per dock) and funds from its Fund 116 (Dam Operations and Maintenance) for its dock licensing and inspection program functions. These are necessary to run the Program, monitor hazardous conditions from docks, and ensure dam safety. Please note that future studies and possible ordinance updates are scheduled to be performed in or around year 2023. The MCWRA is available to receive suggestions now on how this might be structured. The MCWRA would like to thank the NRWMAC for its consideration of the dock licensing requirements and enclosed is the Planned Out of Water Form for your records. I am available to discuss this with you or your counsel should NRWMAC need further clarification on this matter.

Sincerely,



Brent Buche, PE
General Manager

Enclosure: Planned Out of Water Form

Cc: Kelly L. Donlon, Assistant County Counsel, donlonkl@co.monterey.ca.us
Shaunna Murray, Senior Water Resources Engineer – Operations, murraysl@co.monterey.ca.us
Jennifer Bodensteiner, Associate Hydrologist – Operations, bodensteinerjm@co.monterey.ca.us

² Ord. No. 4065 offers those docks removed from the Reservoir the ability to retain the license without renewal or fee. This licensing condition (license may be deferred) is made available for those docks who can demonstrate they are removed from the Reservoir and stored above the highwater mark, where they will not be floated or floating for the entire licensing year. The MCWRA considers requests for a license deferral when a licensee completes a Planned Out of Water Form with photo of the dock above the highwater mark or in storage.



**BOAT DOCK LICENSE
PLANNED OUT-OF-WATER FORM**
(Please print clearly or fill-in electronically)

PURPOSE OF THE FORM

In 1972, the Monterey County Water Resources Agency (MCWRA) established a boat dock licensing program for Nacimiento Reservoir. The program was developed to support the recreational use of boat docks on the reservoir and to monitor any hazardous conditions which may arise. It is the MCWRA's responsibility to ensure that all docks on the reservoir comply with current dock licensing conditions. The licensing program monitors docks which may present a hazard to reservoir navigation or to the outlet structures of the reservoir's dam. Each dock license must be renewed on or before April 1 of each licensing year during which the dock is left, reinstalled, or floated on the waters of Nacimiento Reservoir. All licensed docks are inspected annually by the MCWRA.

Planned Out-of-Water option

Boat dock owners may apply for a Planned Out-of-Water option, if the previously licensed dock has been removed from the water and is stored above the highwater mark (800' NVGD 29) on or before April 1. If at any time the dock is floated or stored within the highwater mark, the owner will be responsible for providing full licensing including the annual fee and insurance certificate.

DOCK NUMBER:		
OWNER NAME:		
MAILING ADDRESS:		CITY/STATE/ZIP:
OWNER EMAIL:	PHONE:	ALT PHONE:
AGENT NAME:	PHONE:	EMAIL:
<small>By my signature below, I certify to each of the following: I am the boat dock owner or authorized agent to act on the boat dock owner's behalf. I have read this form and the information I have provided is correct. I have read the Description of Planned Out of Water and verify it is accurate to my boat dock.</small>		
OWNER/AGENT NAME:	SIGNATURE:	DATE:

PLEASE ATTACH A PHOTOGRAPH OF DOCK

- The dock has been removed from the water of the Nacimiento Reservoir and resides in storage above the highwater mark (800' NGVD 29).
- I understand that if the dock has been, or will be, on the water any time or within the highwater mark during this current dock year that I am responsible for complying with all applicable dock licensing requirements.
- The dock has been removed from the water of the Nacimiento Reservoir and has been destroyed on _____(date).

To complete the Planned Out-of-Water option, please complete and sign this form. Return the signed form by email or mail to:

Monterey County Water Resources Agency
Eva Gonzales, Office Assistant III
1441 Schilling Pl., N. Bldg.
Salinas, CA 93901
gonzales1@co.monterey.ca.us

*** FOR STAFF USE ONLY:
Approved or Denied (circle one). Staff name: _____ Date: _____