



March 20, 2023

VIA ELECTRONIC MAIL ONLY

Alex Henson
Associate Water Resources Engineer
Monterey County Water Resources Agency
E-Mail: tunnelEIR@co.monterey.ca.us

Re: **Interlake Tunnel and Spillway Modification Project**
Draft EIR Comments

Dear Mr. Henson:

On behalf of the Nacimiento Regional Water Management Advisory Committee (“NRWMAC”), we submit these comments on the Draft Environmental Impact Report (“DEIR”) prepared by the Monterey County Water Resources Agency (“Agency” or “MCWRA”) pursuant to the California Environmental Quality Act (“CEQA”) for the Interlake Tunnel and Spillway Modification Project (SCH No. 2016041085) (“Project”). The Agency proposes to connect Nacimiento and San Antonio Reservoirs with an underground water conveyance tunnel (i.e., Interlake Tunnel) and modify the spillway at San Antonio Dam (i.e., Spillway Modification) to reduce flood control releases from Nacimiento Reservoir and expand and make better use of the storage capacity at San Antonio Reservoir. Specifically, with respect to the Interlake Tunnel, Agency intends to construct a Tunnel Intake Structure, control building and road improvements at the north shore of Nacimiento Reservoir; an 11,000 foot long and minimum 10 foot diameter tunnel between Nacimiento Reservoir and San Antonio Reservoir; and an “Energy Dissipation Structure” on the southern shore of San Antonio Reservoir. The Spillway Modifications at the San Antonio Dam include removal and replacement of the existing ogee spillway crest control structure with a new labyrinth weir structure at the top of the spillway and raise the walls of the existing spillway.

Our office has reviewed the DEIR, its technical appendices, and reference documents with assistance of NRWMAC’s expert consultant Michael Preszler with Zanjero (hereafter, “Zanjero”). Based on our review, it is clear that the DEIR fails as an informational document under CEQA and lacks substantial evidence to support its conclusions that the Project’s significant impacts would be mitigated to the greatest extent feasible. There is also substantial evidence demonstrating that the Project’s potentially significant environmental impacts are far more extensive than disclosed in the DEIR. NRWMAC and our expert consultant identified numerous potentially significant impacts that the DEIR either mischaracterizes, underestimates, or fails to identify. Moreover, many of the mitigation measures described in the DEIR will not, in fact, mitigate impacts to the extent claimed.

NRWMAC supports the development of sustainable projects, including those that improve access to potable water and California's resilience to droughts, where those projects are properly analyzed and carefully planned to minimize impacts on public health and the environment. Sustainable projects should avoid impacts to recreational uses, sensitive species and habitats, water resources, and public health, and should take all feasible steps to ensure unavoidable impacts are mitigated to the maximum extent feasible. Only by maintaining the highest standards can projects be deemed truly sustainable.

I. STATEMENT OF INTEREST

The individual members of NRWMAC live, work, recreate, and raise their families in the vicinity of the Project. Accordingly, they will be directly affected by the Project's environmental and health and safety impacts. They each have a personal interest in protecting the Project area from unnecessary, adverse environmental and public health impacts. Finally, NRWMAC and its members are concerned about projects that risk serious environmental harm without providing countervailing economic benefits.

CEQA provides a balancing process whereby economic benefits are weighed against significant impacts to the environment. It is in this spirit we offer these comments. NRWMAC reserves the right to provide further comments at any and all future hearings or proceedings related to the Project.

II. LEGAL BACKGROUND

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an environmental impact report ("EIR") designed to inform decision makers and the public about the potential, significant environmental effects of a project. CEQA further directs public agencies to avoid or reduce environmental damage when "feasible" by requiring consideration of environmentally superior alternatives and adoption of all feasible mitigation measures.

III. PUBLIC HEARINGS

The CEQA guidelines encourage public hearings and outreach on environmental documents (14 CCR 15807(i)). In fact, the Agency actually conducted two such public hearings on the DEIR, one in Bradley, California and one in Greenfield, California. Both of these public hearings were conducted within Monterey County within electoral districts of the Agency and specifically targeting Agency's ratepayers. The hearings, however, were held nowhere near the Project itself, located in San Luis Obispo County and where over 5500 residents would be directly impacted by the Project. These residents were left abandoned by the Agency and up to 90 minutes away from the closest public hearing. CEQA does not contemplate public hearings to address specific ratepayers, voters, districts or residents based upon political subdivisions. Rather, the

intent of public outreach is to inform affected populations. While CEQA does not mandate public hearings, when such hearings are held, they should be meaningful and targeted to reach those individuals that are the most directly affected by a project's impacts to effectuate the intent of CEQA. In this case, the goals of CEQA were subverted by intentionally excluding those parties from the public hearing process. Accordingly, an additional public hearing should be held in the Lake Nacimiento area and the DEIR should be recirculated to include scoping and concerns from residents living at and near the Project site.

IV. THE DEIR BASES ITS CONCLUSIONS ON HYDROLOGY MODELS UNAVAILABLE TO THE PUBLIC

The DEIR hydrology analysis relies completely on two water models: the Salinas Valley Integrated Hydrologic Model (SVIHM) and Salinas Valley Operational Model (SVOM). Zanjero has requested copies of each of these models from Agency and has been refused (see copies of requests and response attached hereto as Exhibit "A"). Without access to these critical models, modeling input, output, basic data, assumptions, findings, etc., it is not possible to ensure these models are accurate or allow for any meaningful public review. CEQA requires that "all documents incorporated by reference in the EIR will be available for public review." (14 CCR 15087(c)(5)). The inability to examine the models upon which the DEIR analysis was based is a fatal flaw which has denied the public an opportunity to fully review the DEIR. Accordingly, we demand that the referenced models be released to the public and the DEIR be re-circulated once access to those models has been provided.

V. EVEN WITHOUT THE MODELING DATA, THE BASELINE APPEARS INCORRECT

Without access to models used to develop the DEIR it is impossible to review baseline operations. Even though not disclosed, the baseline appears incorrect. As an example, review of the Salinas Valley Operational Model Report, February 2023, suggests that baseline diversions out of Nacimiento Reservoir to the Nacimiento Water Project was modeled at 17,500 acre-feet per year ("afy"). In fact, under baseline conditions, less than 5,000 afy were diverted. This leads to, among other things, baseline Nacimiento lake levels that are inaccurate and artificially lower, thus masking potential impacts of the proposed project.

Furthermore, water modeling relies on historical climate and hydrology. The DEIR should disclose the operation of Agency's water supply system with the proposed project under conditions of climate change and the climate change impacts of the proposed project. The DEIR fails to address these foreseeable conditions in any of its analyses.

Finally, the impact analysis relying on lake level information only considers average or median monthly values. The range of effects to lake levels should be considered. For example, the DEIR notes in multiple places that the maximum average impact to Nacimiento lake level is a

reduction of about 17 feet. Modeling results will show a reduction in Nacimiento lake level much greater. Impact analysis on 17 feet when hidden modeling will show an impact much greater is simply incorrect. Additionally, a monthly timestep for Agency's operations is insufficiently course to analyze the proposed project. Appendix D to the DEIR only displays monthly average lake level conditions. For a proper evaluation, a daily analysis is necessary. The failure of Agency to disclose the values modeled for every month of the study period makes the impact analysis speculative and unverifiable.

VI. THE DEIR DOES NOT ADEQUATELY ADDRESS AND PROVIDE SUFFICIENT ANALYSIS OF REASONABLE ALTERNATIVES

CEQA requires that an EIR evaluate a reasonable range of potentially feasible alternatives to a project. In accordance with 14 CCR 15126.6(f), the lead agency should consider site suitability, economic viability, availability of infrastructure, general plan consistency, other regulatory limitations, and jurisdictional boundaries in determining the feasibility of alternatives to be evaluated in an EIR. An EIR does not need to consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote (unlikely) and speculative (14 CCR 15126.6(f)(3)).

An EIR must describe the rationale for selection and rejection of alternatives and the information that the Lead Agency relied on in making the selection. It also should identify any alternatives that were considered by the Agency but were rejected as infeasible during the scoping process and briefly explain the reason for their exclusion (14 CCR 15126.6(c)). In accordance with 14 CCR 15126.6(f), the Agency should consider site suitability, economic viability, availability of infrastructure, general plan consistency, other regulatory limitations, jurisdictional boundaries, and the proponent's control over alternative sites in determining the range of alternatives to be evaluated in an EIR. The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project (14 CCR 15126.6(d)). If an alternative would cause one or more significant effects in addition to those that would be caused by the project as proposed (*County of Inyo v. City of Los Angeles* (1981) 124 Cal.App.3d 1).

The DEIR provides an extremely brief analysis addressing a potential alternative design based on a larger interlake tunnel diameter. The DEIR provides a very brief conclusion that "[i]ncreased tunnel size could result in an increased drawdown rate when in operation due to higher discharge capacity" but provides no additional information for the basis of this conclusion (DEIR 6-11).

In addition, the DEIR provides a cursory analysis of a possible alternative from a higher tunnel intake elevation (DEIR 6-15). In this analysis, the DEIR speculates that "[w]ith this alternative, fewer transfers would occur due to the elevated intake" (DEIR 6-15). However, the proposed project is intended to transfer water from Nacimiento Reservoir when such water would

otherwise be lost over the Nacimiento Reservoir Dam Spillway, which can be as high as 800 feet in elevation. Accordingly, a tunnel elevation design at the proposed 745 feet elevation appears arbitrarily low. Was 750 feet elevation studied? What about 760 feet elevation? While some project impacts may make an 800 feet elevation alternative impact infeasible, it is impossible to tell from the DEIR what elevations were studied and what potential impacts to the environment or project feasibility occur at each step increase in height. Instead, the DEIR simply provides overbroad conclusions without any supporting study or analysis.

Additional analysis should be provided on these project alternatives and the DEIR recirculated with public access to the data and impacts shown in those studies.

VII. THE DEIR FAILS TO ADEQUATELY ANALYZE AND MITIGATE CUMULATIVE IMPACTS

An EIR must discuss a cumulative impact if the project's incremental effect combined with the effects of other projects or operations is "cumulatively considerable" (14 CCR § 15130(a)). This determination is based on an assessment of the project's incremental effects "viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects" (14 CCR 15065(a)(3)). "Cumulative impacts" are defined as "two or more individual effects, which, when considered together, are considerable or which compound or increase other environmental impacts" (14 CCR § 15355). The CEQA Guidelines set forth two methods for satisfying the cumulative impacts analysis requirement: the list-of-projects approach and the summary-of-projections approach. Under either method, an EIR must summarize the expected environmental impacts of the project and related projects, provide a reasonable analysis of cumulative impacts, and examine reasonable options for mitigating or avoiding the project's contribution to any significant cumulative impacts. It should also provide a specific reference to additional information stating where it is available.

Here, The DEIR does not clearly describe future operations under the proposed project. The DEIR should describe not only the operations that attach directly to the Interlake Tunnel, it should also describe how Agency water supply operations as a whole would change should the State Water Resources Control Board grant the requested changes to Permit 21089 and License 7543. The DEIR must describe how the Agency would integrate a modified Permit 21089 and License 7543 with all other available sources and demands of water, including License 19940, Lake Nacimiento local uses of 1,750 AFY, delivery of 17,500 AFY (Nacimiento Pipeline), Shandon-San Juan Applications A033189 and A033190, and others. Therefore, the DEIR's cumulative impact analysis fails to comply with CEQA. The DEIR, therefore, must be revised and recirculated to adequately analyze the cumulative impacts associated with the Project

VIII. NO MITIGATION IS PROVIDED FOR NOTED SIGNIFICANT IMPACTS TO RECREATION IN THE DEIR

The Project purpose is described in Section 1-3 of the DEIR as intending to meet the objective of to “preserve recreational opportunities in the reservoirs.” However, throughout the DEIR, the analysis makes clear that the Project will have the effect of lowering lake surface levels in all alternatives. Once again, these projections are based on models that are unavailable for public scrutiny. The DEIR goes on to conclude that these impacts are all “less than significant” while simultaneously noting that changed water levels could have substantial impacts on recreational uses.

- A. Section 4.12.4.4 of the DEIR states “*Decreased water levels at Nacimientio Reservoir could occasionally decrease use of some recreational facilities surrounding the reservoir, ...*” What is this finding based on? Median lake levels, average lake levels or the full range of lake level impact? Additionally, Table 4.12-2 indicates that Nacimientio lake levels under the proposed project are lower than baseline in all year types for all metrics, and not merely “*occasionally*”.
- B. Section 4.12.4.4 of the DEIR states “*On average, Nacimientio Reservoir’s surface water elevation would not be expected to deviate substantially from modeled baseline conditions.*” Explain how about 30 feet on average, with an undisclosed greater impact half of the time, is not substantial?
- C. Section 4.12.4.4 of the DEIR states “*The greatest changes in water levels compared to modeled baseline conditions would occur in wet years.*” Section 4.12.4.4 indicates that the largest reduction in lake levels at Nacimientio would occur in dry years. Please explain this apparent discrepancy.
- D. CEQA requires that “an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment” (PRC § 21002.1). Mitigation measures must be fully enforceable through permit conditions, agreements or other legally binding instruments (14 CCR § 15126.4(a)(2)). Failure to include enforceable mitigation measures is considered a failure to proceed in the manner required by CEQA.146 In order to meet this requirement, mitigation measures must be incorporated directly into the EIR to be enforceable. Formulation of mitigation measures cannot not be deferred until some future time.

The DEIR goes on to explicitly note the potential significant impacts during peak holiday periods. Specifically Section 4.12.4.4 states “that to minimize the impact of tunnel transfers and reservoir releases on reservoir levels during peak recreational periods, MCWRA would, to the extent possible, adjust transfers and releases to equalize the rate of decline in elevation between the reservoirs during

the Memorial Day, Fourth of July, and Labor Day holiday periods. This acknowledges the significance of such impacts and should be set forth as a specific mitigation measure and plan that will be implemented to reduce such impacts to a less than significant level. Reservoir levels are determined by long-term (multiyear) operational decisions and adjusting transfers and releases to equalize the rate of decline in elevation between the reservoirs during the Memorial Day, Fourth of July, and Labor Day holiday periods required a multi-year strategy and resulting policy and mitigation measure to be enforceable. A casual statement in a DEIR that the Agency will engage in such mitigation is insufficient under CEQA.

IX. THE DEIR FAILS TO ADDRESS IMPACTS WHICH MAY RESULT FROM THE INTRODUCTION OF INVASIVE SPECIES INTO THE SAN ANTONIO RESERVOIR

The DEIR regularly address the likelihood of White Bass being introduced into the San Antonio Reservoir but fails to address the impacts that would be caused by such an introduction. Page 4.3-186 of the DEIR even goes so far as to state that “[a]lthough there is a modest chance of tunnel transfer of white bass into San Antonio Reservoir, this potential is considered very low. . . .” The likelihood of such a transfer may be low but the impacts should such an event occur could be extremely significant. The DEIR must consider those potential impacts and impose specific mitigation measures to reduce such impacts to below a significant level. Reference to an existing Memorandum of Understanding between the lead agency and the Department of Fish and Wildlife is insufficient mitigation as contractual agreements can be readily altered by the parties or terminate on their own terms. There must be specific mitigation requirements tied to the Project to ensure that these potentially significant impacts are reduced.

The DEIR appears to wholly ignore the potential impacts from the introduction of quagga or zebra mussels between the reservoirs. As a boating and recreation lake, Nacimiento is at risk for the introduction of such invasive species and the Project would appear to expand that risk to the San Antonio reservoir. There appears to be no substantive analysis of such impacts in the DEIR.

X. THE DEIR FAILS TO ADEQUATELY ANALYZE IMPACTS TO WATER QUALITY

The DEIR failed to adequately analyze the Project’s potentially significant impacts to water quality. On page 4.1-58 of the DEIR, section 4.1.4.1 states “...no water quality modeling was conducted for *this EIR*.” Why? Water quality modeling is needed to evaluate the proposed project. The DEIR also fails to support its conclusion that groundwater impacts are less than significant with substantial evidence. The DEIR must be revised and recirculated to provide binding mitigation to mitigate groundwater and water quality impacts.

XI. ADDITIONAL SPECIFIC COMMENTS ON DEIR

In addition to the comments and concerns noted above, NRWMAC's consultant Zanjero has also noted the following specific areas of concern:

- A. On page ES-29 Table ES-1 fails to list lake level effects and resulting impacts.
- B. On page 2-60 section 2.5.1.1 states "*The flow through the tunnel would fluctuate, dependent upon the WSE in both reservoirs. When the tunnel is in operation, according to the operational parameters, the valve would be adjusted to maintain a full tunnel flow and slightly positive pressure throughout the tunnel when San Antonio Reservoir level is below 712 feet and Nacimiento Reservoir is below 780 feet; the valve would be completely open when the level at Nacimiento Reservoir is above 780 feet.*" The "operational parameters" are not defined. What are the operational parameters?
- C. On page 2-61, section 2.5.1.1 states that hydrologic modeling occurred for the period "*October 1, 1967, to December 31, 2014.*" The analysis should include recent years of prolonged drought and not ignore the modern eight years of hydrology information which contained several critically dry years.
- D. On page 2-62, section 2.5.1.1 States "*Thus, application of the simulated model results does not consider the full breadth of operational actions available to MCWRA and employed during actual operation of Nacimiento and San Antonio Reservoirs.*" The full breath of operational actions available to Agency need to be evaluated in order to adequately evaluate the proposed project.
- E. On page 2-63, Figure 2-18 indicates a major error in water modeling associated with the proposed project. In this water year type, it is typical for conservation flows to be released from Nacimiento starting in about March and continue at a high duration. The inability to accurately capture the baseline operation does not allow for evaluating the proposed project.
- F. On page 2-64, Figure 2-19 indicates a major error in water modeling associated with the proposed project. The inability to accurately capture the baseline operation does not allow for evaluating the proposed project.
- G. On page 2-66, section 2.5.1.1 states "*The modeled results demonstrate that the proposed project would result in similar mean monthly WSE values at Nacimiento Reservoir during all year types compared to existing conditions, with water levels during dry years representing a slightly greater drop than those during wet and normal years (Figure 2-21).*" Figure 2-21 indicates that, on average, lake level

impacts are reduced up to about 30 feet when compared to baseline and lake levels are reduced in all circumstances. Detailed modeling (not provided) will indicate lake level reductions much greater at times. This is not “*similar*” as stated.

- H. On page 3-2, section 3.5.1 states “Mean water surface elevations at Nacimiento Reservoir *would be similar to those for the Tunnel-Only Alternative and the proposed project; they would also be lower than elevations under existing conditions during all water year types (Figure 3-2).*” It is stated that Nacimiento lake levels will be lower under all water year types. This is in apparent conflict to the statement in section 2.5.1.1.1 where it states that the “*proposed project would result in similar mean monthly WSE values at Nacimiento Reservoir during all year types*”.
- I. On page 3-3, Figure 3-1 indicates that Mean Monthly Reservoir Elevations at Nacimiento are lower in all water year types and all months. This shows an impact up to about a 30 feet reduction to the mean. By definition, one half of the time impacts to Nacimiento lake level is greater than the mean, or 30 feet. What is the maximum? What is the minimum?
- J. On page 3-3, Figure 2-22 uses “Average Monthly Stage” and Figure 3-1 uses “Mean *Monthly Reservoir Elevation*”. Why does the evaluation use both “average” and “mean”? Please explain and define.
- K. On page, 4.1-31 Table 4.1-4 period is 1967-2013 while elsewhere it is stated that modeling study period is 1967 – 2014. Why are these different? What is the actual modeling study period?
- L. Page 4.1-56, section 4.1.4.1 states “*Impacts related to reservoir operations are analyzed using output from the SVOM, an operational baseline model that considers the geologic structure, land use, hydrologic processes and properties, reservoir operations, and climate. The SVOM provides modeled baseline data as well as modeled proposed project and Tunnel-Only Alternative scenarios. For operational analyses that utilize output from the SVOM, the CEQA baseline is the modeled baseline from the SVOM.*” Why are results from the ECORP modeling displayed and results from the SVOM modeling is used for baseline and impact analysis? How do results from the different water models compare?
- M. On page 4.1-59, section 4.1.4.2 does not state that lake levels were considered in determining if project would have significant impacts on the environment. Analysis of lake levels should be included.

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- N. On page 4.13-27, section 4.13.4.1 “*Potential impacts related to changes in reservoir levels and fluctuations were evaluated using results from the SVOM.*” Explain and provide the evaluation.

XII. CONCLUSION

For the reasons discussed above, the DEIR for the Project remains wholly inadequate under CEQA. It must be thoroughly revised to provide legally adequate analysis of, and mitigation for, all the Project’s potentially significant impacts. These revisions will necessarily require that the DEIR be recirculated for public review. Until the DEIR has been revised and recirculated, as described herein, the AGENCY may not lawfully approve the Project

Thank you for your attention to these comments. Please include them in the record of proceedings for the Project.

Sincerely,

ALESHIRE & WYNDER, LLP



Paul J. Early
Partner

PJE:PJE

EXHIBIT “A”

Michael Preszler

From: tunnelEIR <tunnelEIR@co.monterey.ca.us>
Sent: Wednesday, February 15, 2023 10:06 AM
To: Michael Preszler
Subject: Re: Interlake Tunnel DEIR - Hydrologic Modeling Report

Dear Mr. Preszler,

Thank you for your requests pertaining to the MCWRA's Interlake Tunnel and Spillway Modification Project. MCWRA is not permitted to distribute output files from the provisional Salinas Valley Operational Model (SVOM) until the SVOM has received final approval from the U.S. Geological Survey (USGS) in the form of publication of the model archive and public release.

However, the MCWRA is pleased to support your request with the attached *Salinas Valley Operational Model Report*. The report details the hydrological facts and analysis which informed and is generally presented in the EIR. The data presented in the *Salinas Valley Operational Model Report* are summarized directly from numerous SVOM output files. Some components of the SVOM described in the *Salinas Valley Operational Model Report* have been published by the USGS and are available at the following links:

- Discretization Data - <https://www.sciencebase.gov/catalog/item/62e02557d34e952be9098268>
- Regional Historical Climate - <https://www.sciencebase.gov/catalog/item/632398f0d34e71c6d67acc59>
- Salinas Valley Geological Framework - <https://doi.org/10.5066/P9IL8VBD>
- Surface Water Network - <https://www.sciencebase.gov/catalog/item/632265e7d34e71c6d67ab6bb>
- Surface Water Operations input and rules
- <https://www.sciencebase.gov/catalog/item/63601caad34ebe442505e7e9>
- SVIHM/SVOM Climate - <https://www.sciencebase.gov/catalog/item/632397a0d34e71c6d67acc4f>

The MCWRA is in the process of extending the public comment period to 60 days to allow sufficient time for public review. The public comment period will end on March 21, 2023.

Please do not hesitate to reach out if there are further questions or concerns.

Sincerely,
Alex Henson, PE
Associate Water Resources Engineer
Dam Safety & Engineering
Monterey County Water Resources Agency
831-755-4874 Office

From: Michael Preszler <michael@zanjeroams.com>
Sent: Saturday, February 11, 2023 12:14 AM
To: tunnelEIR <tunnelEIR@co.monterey.ca.us>
Subject: Interlake Tunnel DEIR - Hydrologic Modeling Report

[CAUTION: This email originated from outside of the County. Do not click links or open attachments unless you recognize the sender and know the content is safe.]

I would like to receive the Hydrologic Modeling Report and all detailed spreadsheets used as a basis for the Interlake Tunnel DEIR development.

Also, please provide SVOM and SVIHM documentation and models used as the basis for the DEIR.

Thanks,

Michael Preszler, P.E.



Principal

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