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11 Attorneys for Petitioner and Plaintiff,  
12 **SALINAS VALLEY WATER COALITION**

13  
14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
15 **COUNTY OF MONTEREY**

16 **SALINAS VALLEY WATER COALITION,**  
17 **Petitioner and Plaintiff,**

18 **v.**

19 **MONTEREY COUNTY WATER**  
**RESOURCES AGENCY; BOARD OF**  
20 **SUPERVISORS OF MONTEREY COUNTY**  
**WATER RESOURCES AGENCY; BOARD**  
21 **OF DIRECTORS OF MONTEREY COUNTY**  
**WATER RESOURCES AGENCY; COUNTY**  
22 **OF MONTEREY; BOARD OF**  
**SUPERVISORS OF THE COUNTY OF**  
**MONTEREY; and DOES 1 through 100,**  
inclusive,

23 **Defendants.**

Case No. 17CV000157

**VERIFIED PETITION FOR WRIT OF**  
**MANDAMUS AND COMPLAINT FOR**  
**DECLARATORY RELIEF AND**  
**INJUNCTIVE RELIEF**

24  
25 **Petitioner and Plaintiff SALINAS VALLEY WATER COALITION (hereinafter "Plaintiff" or**  
26 **"Coalition") alleges as follows:**  
27  
28

1 I.

2 INTRODUCTION

3 1. This is a case about water and land in the Salinas Valley (“Valley”).

4 2. For more than half a century, the Valley’s landowners have worked cooperatively with  
5 the Monterey County Flood Control and Water Conservation District (“District”) and its successor,  
6 the Monterey County Water Resources Agency (“Agency”), toward sustainably managing a  
7 groundwater supply that has allowed the Valley to bloom into one of the most innovative agricultural  
8 economies in California, if not the world.

9 3. In the 1950s and 1960s, the Valley’s landowners cooperated with the District to build  
10 two major reservoirs that capture winter flood flows on the Salinas River’s two largest tributaries, so  
11 that the stored water could be gradually released during naturally occurring low-flow periods to  
12 percolate into the Salinas River’s sandy bed and artificially increase the naturally occurring recharge  
13 of the Salinas River Groundwater Basin (“Basin”). For nearly 60 years, the District and then the  
14 Agency operated Nacimiento and San Antonio reservoirs to augment the Valley’s groundwater supply  
15 in a way that supplemented and protected the overlying and riparian water rights that sustain the  
16 Valley’s entire agricultural economy.

17 4. In the 1990s, the Valley’s landowners cooperated with the Agency to build the  
18 Castroville Seawater Intrusion Project (“CSIP”), which delivers recycled municipal wastewater for  
19 use in lieu of groundwater to irrigate crops on farms overlying an area where groundwater pumping  
20 along the coast has caused seawater to intrude into the Basin.

21 5. In the early 2000s, the Valley’s landowners cooperated with the Agency to develop and  
22 approve the Salinas Valley Water Project (“SVWP”) to halt seawater intrusion by increasing  
23 groundwater recharge and delivering additional water through CSIP.

24 6. Recently, the more than half century of cooperation between the District and the  
25 Agency, on one hand, and the Valley’s landowners, on the other hand, has broken down to the point  
26 that litigation now seems to be the sole available means to get the Agency’s attention. The Coalition  
27 brings this lawsuit to protect the interests and rights of its members and others, who are Valley  
28 landowners that are harmed by the Agency’s unlawful actions.



1 Coalition was formed and operates to represent and further the interests of its members in protecting  
2 their water rights, their access to supplemental water supplies, and in sustainably managing water  
3 resources within the Monterey County portion of the Salinas Valley. The Coalition's members  
4 include individuals and business entities that own, lease or otherwise control real property including  
5 riparian surface water rights and overlying groundwater rights in the Monterey County portion of the  
6 Salinas Valley. The Coalition's members use their real property, including their water rights, to grow  
7 food and other crops. The Defendant Agency has imposed, and the Coalition's members have been  
8 paying, special assessments to pay for the Agency to develop and carry out water projects that  
9 augment the Valley's groundwater supply in a way that supplements and protects — rather than harms  
10 — the overlying and riparian water rights of the Coalition's members. The Coalition's members use  
11 the water developed by such projects to grow food and other crops, when the water is physically made  
12 available for their use.

13 12. The interests the Coalition seeks to protect in this action are germane to its  
14 organizational purpose.

15 13. Although some or all of the Coalition's members would have standing to sue  
16 Defendants in this action in their own right, neither the claims asserted nor the relief requested  
17 requires the participation in this action of individual members of the Coalition.

18 14. Defendant and Respondent Agency was created pursuant to the Monterey County  
19 Water Resources Agency Act, 1990 Stats. 1159, 1991 Stats. 1130, 1993 Stats. 234, and 1994 Stats.  
20 803 ("Agency Act") and is a public entity organized and existing under the laws of the State of  
21 California. The Agency Act directs Defendant Agency "to provide for the control of the flood and  
22 storm waters of the Agency and the flood and storm waters of streams that have their sources outside  
23 the Agency, but which streams and flood waters flow into the Agency, and to conserve those waters  
24 for beneficial and useful purposes by spreading, storing, retaining, and causing those waters to  
25 percolate into the soil within the Agency...." (Agency Act §§ 4, 8.) The Agency holds appropriate  
26 water rights to store water from the Nacimiento and San Antonio rivers, subject to prior water rights,  
27 like the riparian and overlying water rights of the Coalition's members. Defendant Agency is  
28 responsible for operating the Nacimiento and San Antonio reservoirs.



1 judicial review . . . .”

2 20. This Court has subject matter jurisdiction over this action and personal jurisdiction  
3 over the Defendants, all of whom reside in and operate and conduct business in the State of California.

4 21. Pursuant to Code of Civil Procedure sections 392 and 395, venue as to each Defendant  
5 is proper in this Court, because the Coalition’s members own and use real property and water rights  
6 located within Monterey County, the Defendants reside and operate in Monterey County, and the  
7 transactions and occurrences giving rise to the Coalition’s claims arise within Monterey County.

8 **IV.**

9 **GENERAL ALLEGATIONS**

10 22. The Coalition hereby incorporate by reference paragraphs 1 through 21 as if fully set  
11 forth herein.

12 **The Land And Water Of The Salinas Valley**

13 23. Since time immemorial, winter storms have poured down on the Valley, saturating its  
14 soils, sands and gravels and filling the creeks and streams that feed the Salinas River as it flows north  
15 and discharges into Monterey Bay. The Valley runs approximately 100 miles from the Monterey  
16 County-San Luis Obispo County line in the south to Monterey Bay in the north. The Salinas River  
17 runs through the Valley and its winter-season flows naturally provided water that recharged the  
18 surrounding groundwater Basin. As winter would ebb and the dry season would set in, creeks and  
19 streams ran dry, and the Salinas River disappeared into its sandy bed.

20 24. The Valley’s fertile soils, Mediterranean climate and abundant supply of groundwater  
21 attracted settlers who pioneered the Valley’s transformation into one of the most innovative and  
22 productive agricultural regions of California. Allowing and sustaining that transformation are  
23 “overlying” groundwater rights and “riparian” surface water rights that are part and parcel of the  
24 fertile land that the pioneers made bloom. The Coalition’s members are the successors to those  
25 pioneers and rely on those same land-based overlying and riparian water rights to sustain their farms  
26 and the Valley’s remarkable agricultural economy.

27 25. Winter rains replenished the Valley’s groundwater supply but also caused periodic  
28 flooding as natural inflows to the Salinas River sometimes topped its banks in a great surge toward the

1 ocean. Meanwhile, increasing groundwater use near the coast started lowering the water table to the  
2 point that seawater from Monterey Bay started seeping into the Basin.

3 26. By the 1940s, the Valley's settlers, now grown into well-managed farms and towns,  
4 sought to improve their groundwater supply. Engineering experts came in and worked with the local  
5 farms and towns on a plan to transform winter's storm flows into a well-managed supply of water to  
6 sustain the thriving agricultural economy while keeping seawater intrusion at bay. Starting in about  
7 the 1950s, the District, predecessor in interest to Defendant Agency, planned, built and started  
8 operating two large reservoirs to capture winter storm flows and to carefully mete out the conserved  
9 water to recharge the Salinas Valley's groundwater supply through reservoir releases during the low-  
10 flow periods on the Salinas River. To capture the storm flows, dams would be constructed on the  
11 Salinas River's two largest tributaries: the Nacimiento River and the San Antonio River.

12 27. The District commissioned a study resulting in a 1955 Engineer's Report ("Engineer's  
13 Report") recommending a \$7 million bond issue to pay for construction of Nacimiento Reservoir. The  
14 Engineer's Report explained that the District had established a "Zone 2" "to include the lands in the  
15 Salinas Valley which are dependent on the run-off of the Salinas River and its tributaries for their  
16 naturally available water supply." The Engineer's Report further explained that "Zone 2 represents  
17 the area which will be benefitted by an *increase in the water supply* which may be made available by  
18 storage of the present *unused run-off* of the Salinas River and its tributaries." (Emphasis added.)

19 28. The Coalition is informed and believes, and based thereon, alleges that the District  
20 thereafter prepared an Engineer's Report for construction of San Antonio Reservoir that would  
21 provide the same kinds of flood control and increased water supply benefits for essentially the same  
22 geographic area, which would be known as Zone 2A.

23 29. The Coalition is informed and believes, and based thereon, alleges that the District  
24 conducted elections in which landowners within Zone 2 and, subsequently, within Zone 2A approved  
25 real property assessments to finance construction, operation and maintenance of Nacimiento and San  
26 Antonio reservoirs for purposes of providing special flood control and water supply increase benefits.

27 30. To allow storage of water in the Nacimiento Reservoir and San Antonio Reservoir, the  
28 District filed applications for "appropriative" surface water rights from the predecessor of the State

1 Water Resources Control Board ("State Board"). The water rights were based on permit applications  
2 filed by the Agency's predecessor, the District.

3 31. In 1954, the District filed Application 16124 for a water right permit that would  
4 authorize construction and operation of Nacimiento Reservoir. Among other things, the application  
5 explained that the District sought "unappropriated waters" for storage in a new reservoir during the  
6 wet season, so that "[t]he water stored will be released at rates at which it will be absorbed in its flow  
7 down the channels of the Nacimiento and Salinas Rivers." The application further explained that  
8 "[t]he rate of storage release will be adjusted to the absorptive capacity of the Salinas River" and that  
9 "[t]he stored water so released and absorbed will mingle with the naturally available percolating  
10 ground water of the Salinas Valley and the mingled supply will be used by the landowners in Zone 2  
11 of the District for the various uses for which they have beneficial needs." The Application stated that  
12 the "water so absorbed will recharge the ground water under an area of about 193,500 acres."

13 32. In 1957, the State Board's predecessor approved a water right permit (Permit No.  
14 10137) authorizing the District to construct Nacimiento Dam to store up to 350,000 acre-feet per year  
15 ("AFY") of water collected between October 1 and July 1 each year, with releases of stored water  
16 limited to 180,000 AFY.<sup>1</sup> The authorized purposes for using the water included irrigation, industrial,  
17 municipal, recreation and domestic. The authorized place where the water could be used included  
18 200,000 acres within the Valley. "Use" of the water is made by subsequent release into the  
19 Nacimiento River, where it then flows into the Salinas River to recharge the groundwater Basin, and is  
20 then extracted at wells serving authorized purposes of use within the authorized place of use. The  
21 "priority date" for Nacimiento Reservoir's appropriative water right is November 4, 1954, which is  
22 when the District filed its water right permit application. The permit acknowledges that Nacimiento's  
23 appropriative water right is "SUBJECT TO VESTED RIGHTS."

24 33. The purpose of specifying a "priority date" for appropriative rights is to implement  
25 California's water right priority system. Under the priority system, the land-based riparian and  
26

27 <sup>1</sup> An acre-foot is a common agricultural unit of measurement representing a volume of water that  
28 would be sufficient to cover one acre of land one foot deep.



1 overlying water rights are “vested” and “senior” or “prior” to the Agency’s appropriative water rights,  
2 which are called “junior.” That priority system applies in an interconnected hydrologic system where  
3 a river’s natural flows recharge groundwater. During times of shortage, when the common,  
4 interconnected supply is insufficient to meet the needs of riparian and overlying water rights,  
5 appropriative rights must stop taking water.

6 34. In 1955, the District filed Application 16761 for a water right permit that would  
7 authorize construction and operation of San Antonio Reservoir. In 1957, the State Board’s  
8 predecessor approved a water right permit (Permit No. 12261) authorizing construction of San  
9 Antonio Dam to store up to 335,000 AFY of water, with up to 220,000 AFY of water collected  
10 between October 1 and July 1, and with releases of stored water up to 210,000 AFY. The authorized  
11 purposes for using the water included irrigation, industrial, municipal, recreation and domestic. The  
12 authorized place where the water could be used included 259,000 acres within the Valley. “Use” of  
13 the water is made by subsequent release into the San Antonio River, where it then flows into the  
14 Salinas River to recharge the groundwater Basin, and is then extracted at wells serving authorized  
15 purposes of use within the authorized place of use. The “priority date” for San Antonio Reservoir’s  
16 appropriative water right is December 2, 1955, which is when the District filed its water right permit  
17 application. The permit acknowledges that Nacimiento’s appropriative water right is “SUBJECT TO  
18 VESTED RIGHTS.”

19 35. The Agency’s predecessor completed construction and started operation of Nacimiento  
20 Reservoir in 1957, and completed construction and started operation of San Antonio Reservoir in  
21 1967. The State Board subsequently inspected the reservoirs, reviewed their operations, determined  
22 that the Agency had complied with its water right permits, and issued water right licenses for  
23 Nacimiento Reservoir (License 7543) and San Antonio Reservoir (License 12624).

24 36. In the 1990s, the Agency commissioned a survey of Nacimiento Reservoir that  
25 revealed the actual storage of water at the full capacity of the reservoir was 27,900 acre-feet greater  
26 than the amount of water authorized to be stored under water right License 7543. In 1996, the Agency  
27 filed Application 30532 for a water right permit authorizing the 27,900 acre-feet of additional water  
28 stored in Nacimiento Reservoir that was not covered by License 7543. In 2001, the State Board issued

1 Decision 1642, approving the application and approving Permit 21089, subject to prior rights. Permit  
2 21089 authorizes the appropriation of 27,900 AFY, to be collected from October 1 to July 1. The  
3 authorized purposes for using the water include irrigation, industrial, municipal, recreation and  
4 domestic. The authorized place where the water can be used include 200,000 acres within Monterey  
5 County. "Use" of the water is made by subsequent release into the Nacimiento River, where it then  
6 flows into the Salinas River to recharge the groundwater Basin, and is then extracted at wells serving  
7 authorized purposes of use within the authorized place of use. The "priority date" for the  
8 appropriative Permit 21089 is April 23, 1996, which is when the Agency filed its water right permit  
9 application.

10 **The Agency's Historical Reservoir Operations And Water Supply Benefits To Landowners**

11 37. The Agency, and its predecessor, have historically operated the Nacimiento Reservoir  
12 and San Antonio Reservoir to provide maximum groundwater recharge for the entire Salinas Valley,  
13 through reservoir releases that maintain the Salinas River's flows.

14 38. The Agency (or its predecessor) has periodically documented the criteria by which it  
15 operates the reservoirs in a written policy. The Agency's most recent policy was adopted in 2000.  
16 The 2000 Operation Policy explains that it "does not reflect a new policy but intends to consolidate all  
17 existing operational procedures, both verbal and written, into a single concise report."

18 39. The 2000 Operation Policy describes operation of Nacimiento Reservoir for  
19 groundwater recharge — referred to as "the water conservation operation." The Agency's 2000  
20 Operations Policy explains: "The most important priority of the water conservation operation is to  
21 maximize the amount of percolation into the Salinas Valley aquifer." To do that, the 2000 Operations  
22 Policy explains: "Natural flow in the Salinas River shall be monitored to determine the timing of its  
23 cessation. Natural flow in the Salinas River usually ceases first in the reach between Spreckels and  
24 Chualar Bridge, or near King City. When natural River flow is about to cease, or ceases, releases  
25 from the Reservoir will begin . . . ." From that point, the amount of water released from Nacimiento  
26 Reservoir is to be adjusted, up or down, so that the end of visible surface flow reaches a four-mile  
27 "target area" located between Salinas River mile 13 and 17, near the Highway 68 bridge. According  
28 to the Agency's 2000 Operations Policy: "The target area defined [above] reflects existing practice,

1 as the actual end of flow has been located over the entire target area during the 40 years of reservoir  
2 operation.” Consistent with that 40-year practice, the 2000 Operations Policy explains that the  
3 Agency’s top water conservation release priority is to:

4 Provide maximum groundwater recharge for the entire Salinas Valley.  
5 The intent is to provide releases to the Salinas River sufficient to keep  
6 an end of flow approximately six miles north of the Chualar Bridge.  
7 Conservation releases will be made when the natural flow of the  
8 Salinas River diminishes enough to cause drying of the Salinas River  
9 channel south of Chualar Bridge and when there is not a high  
10 likelihood of those releases flowing to the ocean.

11 According to the 2000 Operations Policy, the Agency’s final priority is to “[w]aste as little water as  
12 possible to evaporation or to the ocean.”

13 40. For more than half a century since Nacimiento and San Antonio reservoirs started  
14 operating, the Agency has captured winter storm flows and conserved them for release as the Salinas  
15 River’s natural flows went dry, so the conserved water would maximize groundwater recharge for use  
16 by the downstream agricultural and urban landowners within the Agency’s Zone 2. During all that  
17 time, the Valley landowners paid millions of dollars in real property assessments to the Agency (and  
18 its predecessor) to pay the costs of building, operating and maintaining the reservoirs — all in return  
19 for receiving the special benefits of flood control and groundwater recharge.

20 41. The Agency conducted a study of the special groundwater recharge benefits provided  
21 by the historic reservoir operations. The Agency’s 1998 Final Report on the Salinas Valley Historical  
22 Benefits Analysis explained:

23 Recharge of the ground water basin in Salinas Valley is the primary  
24 purpose of Nacimiento and San Antonio Reservoirs. During late  
25 spring, summer, and fall, when the Salinas River would normally be  
26 dry, enough water is released from the reservoirs to keep the Salinas  
27 River flowing, without allowing water to flow to the ocean. The  
28 amount of water released from storage each year is determined by the  
quantity needed to replenish the ground water basin (more in a dry  
year, less in a wet year).

29 42. The Agency’s Historical Benefits Analysis concluded that between 1958 and 1994,  
30 operation of the reservoirs increased groundwater recharge by an annual average of 30,000 AFY. The  
31 Agency’s estimate of that special benefit was based on a computer program, called the Salinas Valley  
32 Integrated Ground and Surface Water Model (“SVIGSWM”), which was operated to simulate what

1 groundwater levels would have been with versus without the reservoir recharge operations. The  
2 model simulated groundwater elevation changes within four "subareas" that have long been used to  
3 analyze groundwater conditions in the Valley. Moving "upstream" from north to south, the four  
4 subareas are: (1) Pressure Subarea; (2) East Side Subarea; (3) Forebay Subarea; and (4) Upper Valley  
5 Subarea. A map depicting the Basin and these subareas is attached hereto as Exhibit A.

6 43. The Upper Valley Subarea is in the southernmost part of the Basin, southeast of the  
7 Forebay Subarea. According to the Agency, the groundwater aquifer layer in this subarea is one unit  
8 and shallow, so the majority of wells in the Upper Valley Subarea are relatively shallow and lie along  
9 the course of the Salinas River. The model results presented in the 1998 Salinas Valley Historical  
10 Benefits Analysis estimated that reservoir recharge operations caused average annual groundwater  
11 levels in the Upper Valley Subarea to rise by 2.3 feet to 9.7 feet compared to levels estimated without  
12 the reservoir recharge operations. The 1998 Salinas Valley Historical Benefits Analysis explained:

13 In the Upper Valley Subarea, the wells are generally shallower and  
14 have relatively shorter screen intervals. Therefore, approximately 8  
15 percent of the wells in this area would have required replacement or  
16 supplemental wells to have been constructed under the "without  
reservoir" scenario. These wells would have been impacted because  
lower ground water levels would have been experienced if the  
reservoirs had not been constructed during drought conditions.

17 44. In contrast, the 1998 Salinas Valley Historical Benefits Analysis explained that no  
18 wells in the Forebay Subarea would have been affected, while just 1.6 percent of the wells in the  
19 Pressure Subarea and 1.2 percent in the East Side Subarea would have required only minor  
20 modifications to continue operations under the "without reservoir" scenario, because most of the wells  
21 in the Pressure and East Side Subareas are relatively deep and have large screen intervals.

22 45. Consistent with those conclusions from the 1998 Salinas Valley Historical Benefits  
23 Analysis, the Agency in 2001 issued an Engineer's Report describing the special benefits supporting  
24 the Agency's collection of assessments from Valley landowners in Zones 2 and 2A to pay for  
25 operation and maintenance of the reservoirs. The 2001 Engineer's Report explained:

26 The operation of the reservoirs decreases the impact of droughts by  
27 releasing water from storage and allowing the Salinas River to recharge  
28 the aquifer system for a longer period of time (i.e., for one or more  
years into a drought cycle) than would occur without the reservoirs.  
This is especially true in those areas where the aquifer is not confined

1 (Upper Valley and Forebay). This benefit was noted during the  
2 extended drought period in the late 1980s to early 1990s when water  
3 was released during most of the drought period to provide recharge. In  
4 1990, when there was little remaining storage in the reservoirs and  
flow in the Salinas River was minimal to non-existent, wells in the  
upper portion of the Salinas Valley experienced dramatic declines in  
water levels.

5 46. In other words — the groundwater aquifer in the Upper Valley is shallow, narrow, and  
6 tight against the Salinas River and, according to the Agency, at most receives minor subsurface inflow  
7 contributions from the upper Salinas Basin in San Luis Obispo County. That means Upper Valley  
8 Subarea wells are more directly and immediately affected by the Agency's reservoir release operations  
9 than wells located farther downstream in the Valley, where the groundwater aquifer system is deeper,  
10 broader and holds far more groundwater in subterranean storage to buffer against cuts or delays in the  
11 historic pattern of reservoir recharge releases.

12 47. The Coalition is informed and believes, and based thereon alleges, that the Agency has  
13 a long-standing history of making winter releases during droughts to recharge Basin groundwater prior  
14 to the irrigation season. The Coalition is informed and believes, and based thereon alleges, that those  
15 releases were made so that groundwater levels in the Salinas Valley would be increased in anticipation  
16 of irrigation pumping demands. The Coalition is informed and believes, and based thereon alleges,  
17 that such winter releases were especially important to the Basin's Upper Valley and Forebay subareas  
18 during drought years, when natural Salinas River recharge flows and reservoir releases during the  
19 irrigation season were reduced or curtailed.

#### 20 **Reservoir Drought Operations 1976-1977**

21 48. For example, the Coalition is informed and believes, and based thereon alleges, that  
22 during the years of 1975, 1976 and 1977, the Salinas Valley saw a significant reduction in  
23 precipitation resulting in drought conditions throughout the region. The Coalition is informed and  
24 believes, and based thereon alleges, that even with the lack of rainfall the Agency released  
25 approximately 12,000 acre-feet ("AF") from November through December 1975 for Basin recharge  
26 (not flood control).

27 49. The Coalition is informed and believes, and based thereon alleges, that the Agency  
28 released approximately 13,400 AF in January and February 1976 for Basin recharge (not flood

1 control).

2 50. The Coalition is informed and believes, and based thereon alleges, that the Agency  
3 released approximately 7,500 AF in March 1976 for Basin recharge (not flood control). The Coalition  
4 is informed and believes, and based thereon alleges, that the Agency released approximately 14,800  
5 AF in October and December 1976 and released an additional 7,000 AF from San Antonio Reservoir  
6 — all for Basin recharge (not flood control).

#### 7 **Reservoir Drought Operations 1987-1992**

8 51. The Coalition is informed and believes, and based thereon alleges, that during the  
9 drought period of 1986 through 1992, the Agency released approximately 27,200 AF from October  
10 through December 1986 for Basin recharge (not flood control).

11 52. The Coalition is informed and believes, and based thereon alleges, that from December  
12 1986, through March 1987, the approximately 25,300 AF for Basin recharge (not flood control).

13 53. The Coalition is informed and believes, and based thereon alleges, that the Agency  
14 from October 1987 through March 1988, the Agency released from Nacimiento Reservoir 52,900 AF  
15 for the purpose of Basin recharge (not flood control).

16 54. The Coalition is informed and believes, and based thereon alleges, that in October 1991  
17 the Agency released from Nacimiento Reservoir approximately 29,000 AF for Basin recharge (not  
18 flood control).

#### 19 **Reservoir Drought Operations 2007-2009**

20 55. The Coalition is informed and believes, and based thereon alleges, that from December  
21 2006 through January 2007, the Agency released from Nacimiento Reservoir approximately 11,600  
22 AF for Basin recharge (not flood control).

23 56. The Coalition is informed and believes, and based thereon alleges, that from October to  
24 January 2008, the Agency released from San Antonio Reservoir approximately 53,800 AF for Basin  
25 recharge (not flood control).

26 57. The Coalition is informed and believes, and based thereon alleges, that from November  
27 2009 to December 2009, the Agency released from Nacimiento and San Antonio reservoirs  
28 approximately 31,300 AF for Basin recharge (not flood control).

1                                   **The Agency's New Projects To Augment Basin Recharge**

2           58.     After several decades of experience operating the reservoirs, it became clear that in  
3 some years winter storm flows still wasted to the ocean, while groundwater use near the coast kept  
4 drawing in seawater from Monterey Bay. So in the 1990s, the Agency responded by carrying out the  
5 Castroville Seawater Intrusion Project, commonly known as "CSIP," which delivered recycled  
6 municipal wastewater for irrigation use by certain farms overlying the area intruded by seawater. For  
7 each acre-foot of recycled water received from the CSIP distribution system, these farms would  
8 reduce their use of groundwater by one acre-foot. Limits on recycled water available for delivery  
9 through CSIP limited the success of this project in combatting seawater intrusion in the area around  
10 the town of Castroville, so groundwater continues to be pumped for use in the area served by CSIP.

11           59.     In 2002, the Agency proposed the Salinas Valley Water Project to capture more winter  
12 storm flows for use in providing more groundwater recharge. To do that, the Agency proposed: (1) to  
13 enlarge Nacimiento Dam's spillway to safely hold back more water by eliminating the need to  
14 maintain empty reservoir storage space for flood control during the winter; (2) to reoperate both  
15 reservoirs to use the additional storage space by capturing more winter storm flows to create more  
16 water supply yield; and (3) to use the additional water supply yield to increase groundwater recharge.  
17 The Agency estimated that the spillway modification and reservoirs reoperation would generate an  
18 additional average annual water supply yield of 29,000 AFY. Most of that new yield would be used to  
19 increase recharge releases, but an annual average of 9,700 AFY would be diverted by a newly  
20 constructed Salinas River Diversion Facility ("SRDF") to augment the water supply delivered to  
21 farmers by the CSIP pipelines within the area overlying portion of the Basin experiencing seawater  
22 intrusion.

23           60.     The Agency prepared a draft and final environmental impact report ("EIR") assessing  
24 the SVWP's effects under the California Environmental Quality Act ("CEQA"). The Agency used the  
25 SVIGSWM computer program to model the SVWP's beneficial effects on groundwater levels, and the  
26 Agency's EIR concluded that seawater intrusion would be halted by the SVWP. The Agency's Final  
27 EIR also explained:

28     ///

1 The conveyance of water released from the reservoirs via Salinas River  
2 channel causes an increased recharge through the Salinas River bed.  
3 The groundwater levels would, thus, increase in the Forebay and Upper  
4 Valley Subareas. Although an increase in groundwater levels could  
5 potentially cause slightly higher groundwater levels, the estimated  
6 increases are approximately 0.5 and 2.0 feet in the Forebay and Upper  
7 Valley Subareas. This increase would not result in any problems to the  
8 root zone. Increases would be higher in the Pressure and East Side.  
9 However, the altered groundwater table is much deeper in these areas  
10 and the root zones would not be affected.

11 Accordingly, the Agency's Final EIR concluded that the SVWP "would help improve the hydraulic  
12 balance of the basin and would be considered a beneficial impact of the project."

13 61. On June 4, 2002, the Agency certified the Final EIR and approved the SVWP.

#### 14 **Assessments For Special Benefits Of Water Projects**

15 62. Meanwhile, the Agency had been preparing to update its approach to assessing  
16 landowners whose real property specially benefits from construction, operation and maintenance of  
17 the two reservoirs. Prior to the Agency's approval of the SVWP, the Agency collected assessments on  
18 real property within the Agency's Zones 2 and 2A.

19 63. In response to litigation challenging the Agency's assessments for Zones 2 and 2A, the  
20 Monterey County Superior Court issued an order in *Orradre, et al. vs. Monterey County Water*  
21 *Resources Agency* (Case No. Case No. 115777) to create an Assessment Committee and Technical  
22 Sub-Committee. The order described the Assessment Committee's role as follows:

23 [T]he Assessment Committee shall have principal responsibility for the  
24 development of a new and proportional form of assessment(s) to  
25 replace the Agency's existing Zone 2 and 2A water standby charges.  
26 The Assessment Committee shall identify an area or areas within the  
27 Salinas Valley which can be properly and legally assessed because  
28 such area is specifically benefited by the Agency's activities of  
releasing water from the upstream reservoirs and other reservoir related  
benefits and shall develop a new and proportional form of  
assessment(s) to be based upon the degree of water benefit conferred.  
Any proposed assessment may be proposed in the form of a charge or  
fee that the Agency may collect under the exercise of its authority to  
impose fees and charges under the Agency Act. In considering a new  
form of assessment(s), the Assessment Committee shall take into  
account the extent to which the Agency makes water available to the  
assessed land, the reduction of overdraft, the prevention of seawater  
intrusion, and any other water availability, flood control, quality and  
other benefits conferred on the assessed lands.