

EXHIBIT LWL-31

MEMORANDUM OF UNDERSTANDING

Regional Urban Water Augmentation Project

This Memorandum of Understanding ("MOU") is made by and between Marina Coast Water District ("MCWD") and the Monterey Regional Water Pollution Control Agency ("the MRWPCA"), individually each a Party and collectively the Parties to this MOU, who agree as follows:

1. Regional Urban Water Augmentation Project (RUWAP).

1.1 RUWAP Planning, EIR. The Parties have been planning the Regional Urban Water Augmentation Project ("RUWAP"), for which MCWD is the lead agency under the California Environmental Quality Act ("CEQA"). Under the RUWAP, MCWD would provide recycled and desalinated water service to areas on the former Fort Ord ("Ord Area") to meet the projected water demands of the redevelopment requirements of the former Fort Ord as anticipated by the *Fort Ord Base Reuse Plan* and its accompanying EIR. MCWD certified an environmental impact report ("EIR") for the RUWAP in accordance with CEQA on October 27, 2004, by Resolution 2004-56, adopted Addendum No. 1 to the RUWAP EIR on November 15, 2006, and adopted Addendum No. 2 on February 14, 2007. Collectively, the EIR, Addendum No. 1 and Addendum No. 2 are referred to in this MOU as the "RUWAP EIR." This MOU is not intended to and shall not be interpreted or implemented to make an irreversible commitment of resources either formally or as a practical matter under the circumstances for any activities mentioned in this Agreement that may result in changes to the physical environment and that are not described and analyzed under the California Environmental Quality Act. MCWD has complied with the requirements of CEQA for a lead agency and MRWPCA has complied with the requirements of CEQA for a responsible agency in the consideration and approval of this MOU. MCWD and the MRWPCA shall each comply with their respective requirements under CEQA to implement the RUWAP in accordance with the RUWAP EIR.

1.2 Project Description. The RUWAP EIR analyzes desalination and recycled water project alternatives to provide up to 3,000 acre-feet per year (AFY) of water, or 600 AFY more than the primary project objective of obtaining 2,400 AFY of water for redevelopment of the former Fort Ord. Under the selected Hybrid Water Alternative, MCWD would provide 2,400 AFY for redevelopment of the former Fort Ord, 300 AFY of recycled water could be provided for the Monterey Peninsula and an additional 300 AFY of desalinated water could be provided to supply MCWD's other service areas. As a result of Addendum 2 to the RUWAP EIR, up to 1,727 AFY of recycled water would be used for the project. The RUWAP EIR, in Section 3.2, anticipates that subsequent project-level environmental review will be necessary prior to implementing the component to provide 300 AFY to the Monterey Peninsula.

1.3 FORA Water Allocation. The Fort Ord Reuse Authority ("FORA") Board of Directors has allocated 1,427 AFY of recycled water expected to be produced by the RUWAP to FORA's member jurisdictions with land use jurisdiction on the former Fort Ord. FORA's Board has left open the possibility that an additional 300 AFY may be made available from the MRWPCA, should the MRWPCA decide not to dedicate that recycled water to the Monterey Peninsula area. For a 1,727 AFY project, approximately 1,150 AFY of recycled water will be needed during the six months of April through September.

1.4 Parties' Intent. MCWD and the MRWPCA each have contractual rights to use recycled water from MRWPCA's regional treatment plant ("RTP"). MCWD has agreed to defer taking more than 300 AFY of its recycled water between April and September, and may take the balance of its entitlement between October and March, including the portion deferred from the preceding April through September period. MRWPCA has access to an additional 766 AFY of recycled water, with an agreed 11 percent variance, during the months of May through August (exclusive of MCWD's entitlement), and certain additional amounts during the months of September through April. Efforts will be made to not exceed the 766 AFY except during dry years. The RUWAP benefits from combining the rights of MCWD and MRWPCA. The Parties intend by this MOU to provide terms to implement the recycled water portion of the RUWAP as analyzed in the RUWAP EIR, as efficiently and cost-effectively as possible to benefit the customers and ratepayers of the Parties.

2. Cooperative Use of Recycled Water. MCWD and the MRWPCA will supply recycled water from MRWPCA's regional treatment plant ("RTP") as described and analyzed in the RUWAP EIR for the adopted Hybrid Alternative. The recycled water will be supplied by direct delivery from the RTP by such means as the Parties may agree, consistent with the RUWAP EIR. Under the adopted Hybrid Alternative, the MRWPCA and MCWD will supply recycled water equivalent to the FORA recycled water allocations of 1,427 acre-feet per year ("AFY"). As discussed in the RUWAP EIR, MRWPCA will undertake project-level environmental review of feasibility of providing 300 AFY to the Monterey Peninsula pursuant to prior discussions and understandings. The MRWPCA hereby commits 650 AFY of recycled water during the months of May through August each year from MRWPCA entitlements. MCWD hereby commits 300 AFY of recycled water during the months of April through September each year from MCWD entitlements. The MRWPCA and MCWD commit additional quantities of recycled water as needed during the months of September through April from MRWPCA entitlements and October through March from MCWD entitlements to assure delivery of the agreed water commitments to RUWAP.

3. Future Projects.

3.1 The Parties will meet and confer in good faith to evaluate the environmental, technical, managerial and financial feasibility of (a) a project to use the RTP outfall to transport and discharge brine byproduct from a water desalination facility, and (b) a ground water replenishment project to inject and store recycled water in the Seaside Groundwater Basin, and (c) any other recycled water project mutually identified by the Parties.

3.2 Concepts for all such discussions and negotiations will include that the Parties will share use and the proportional operations and maintenance ("O&M") and capital costs of the MRWPCA's RTP outfall should MCWD need to dispose of desalination brine, and the capital and O&M costs of any jointly used recycled water transmission/distribution facilities.

3.3 MCWD and MRWPCA each may continue discussions and negotiations with third parties about evaluating the feasibility of supplying recycled water to such third parties notwithstanding the provisions of this section 3.

4. Treatment Plant Facilities.

4.1 The elements of the RUWAP EIR for facilities on the RTP site to deliver recycled water for the RUWAP to the RTP site boundary ("RTP Additions") include recycled water pumping plant, tank modifications, flow metering and a pipeline to the MRWPCA property line. Upon execution of this MOU, MRWPCA will analyze the feasibility of MRWPCA implementing the elements of the RUWAP EIR for the RTP Additions. Based on that analysis, MRWPCA will determine how to proceed with respect to the RTP Additions and will notify MCWD of that determination within 90 days after execution of this MOU. After receiving notice of MRWPCA's determination, MCWD will notify the MRWPCA in writing when MCWD has obtained a firm financing commitment for the Backbone Transmission Facilities. Upon notification from MCWD, MRWPCA will seek a preliminary financing commitment for the RTP Additions. MRWPCA must notify MCWD in writing that MRWPCA has obtained a preliminary financing commitment for the RTP additions in writing within 90 days after MCWD has provided notification of its financing commitment for the backbone facilities.

4.2 If MRWPCA obtains a preliminary financing commitment and determines to finance, construct, own and operate and be responsible for the RTP Additions, MRWPCA shall coordinate the construction schedule for the MRWPCA RTP Additions with the construction schedule for MCWD's backbone transmission facilities. If any of the following occurs: (a) MRWPCA does not obtain a financing commitment or (b) MRWPCA determines not to construct the RTP Additions or (c) MRWPCA does not construct the RTP additions in coordination with the construction schedule for the backbone transmission facilities, MCWD, acting as lead agency under the RUWAP EIR may finance, construct, own and operate and be responsible for, facilities on the RTP site, in close coordination and consultation and cooperation with MRWPCA in connection with the location and operation of the RTP Additions and their interface with the RTP.

4.3 The costs of the RTP Additions will be invoiced with the wholesale cost (\$/AF) of recycled water, including Municipal and Industrial charges for water in accordance with U.S. Bureau of Reclamation loan procedures, treatment and operational costs (e.g., labor, power, repair and maintenance) involved in pumping water to the MRWPCA property line, and amortized capital charges. MRWPCA and MCWD will consult with each other regularly and will evaluate, plan, design and construct the RTP Additions in accordance with the California Environmental Quality Act and other applicable provisions of law.

4.4 The agency that finances and constructs the RTP Additions shall be responsible for obtaining permits and approvals and for complying with all laws to design and construct the RTP Additions.

5. Backbone Transmission Facilities. When MRWPCA has secured project funding for the treatment plant facilities identified in paragraph 4, or if MCWD is obligated to finance and construct the RTP Additions pursuant to section 4 of this MOU, MCWD will proceed to finance, construct, own and operate, in consultation with MRWPCA, and have full responsibility for, backbone transmission facilities ("the backbone") to deliver recycled water for the RUWAP from the southern boundary of the RTP site to MCWD's retail users in the Ord Area. The cost of these improvements will be included, along with the wholesale cost, in the retail cost of the water. The retail cost will include labor, power, repair and maintenance and amortized capital charges. MCWD will evaluate, plan, design and construct the

backbone in accordance with the California Environmental Quality Act and other applicable provisions of law. MCWD, as lead agency, is responsible for:

- 5.1 necessary environmental review and compliance,
- 5.2 obtaining necessary permits and approvals, and
- 5.3 complying with all laws to design and construct the backbone.

6. Monterey Peninsula Extension Financing and Responsibility. MRWPCA will finance, construct, own and operate, and be responsible for any transmission facilities ("Monterey Peninsula extension") that MRWPCA decides after appropriate environmental analysis and review to build to deliver recycled water from the southern boundary of the former Ft. Ord to the Monterey Peninsula. The MRWPCA will include the cost of these improvements and a proportional share of the backbone costs, along with the wholesale cost, in the retail cost of the water. The retail cost of this water will include labor, power, repair and maintenance and amortized capital charges for the backbone. MRWPCA will evaluate, plan, design and construct the MRWPCA Recycled Water Facilities in consultation with MCWD, and in accordance with the California Environmental Quality Act and other applicable provisions of law. MRWPCA is responsible for necessary environmental review and compliance, and for obtaining any necessary permits and approvals and agreements and for complying with all laws to design and construct and operate the Monterey Peninsula Extension.

7. Recycled Water Delivery.

7.1 MRWPCA will use its best efforts to meet all MCWD demands for recycled water pursuant to this MOU. To help with water planning, MCWD will submit a monthly usage report and an annual demand estimate to MRWPCA. MRWPCA shall be liable to MCWD for actual damages and claims caused by non-permit compliant water quality as set forth below and the breach of this MOU, but shall not be liable to MCWD for damages from failure, suspension, diminution, or other variations of service occasioned by any cause beyond the control of MRWPCA. Such causes may include, but are not restricted to, acts of God, acts of war, or criminal acts of others, acts of MCWD, water shortages, power failures, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, or failure or breakdown of transmission or other facilities.

7.2 All water supplied from the RTP pursuant to this MOU shall meet all applicable standards of quality prescribed by laws and regulations or by separate agreement of the parties, so that the water may be used for the purposes specified herein. The Parties acknowledge that recycled water may not be suitable for certain salt-sensitive plants and turf. To aid in user education on water quality, MRWPCA will provide annual water quality reports to MCWD for distribution by MCWD to current and prospective customers.

7.3 MCWD will use its best efforts to meet all MRWPCA's demands for distribution of recycled water pursuant to this MOU. MCWD shall be liable to the MRWPCA for damages from the breach of this Agreement, but shall not be liable to the MRWPCA for damages from failure, suspension, diminution, or other variations of service occasioned by any cause beyond the control of MCWD. Such causes may include, but are not restricted to, acts of God, acts of war, or criminal acts of others, acts of the MRWPCA, water shortages, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, or failure or breakdown of transmission or other facilities.

8. Curtailment of Delivery During Maintenance Periods.

8.1 Except in emergencies, the Parties may interrupt service to maintain or inspect the recycled water facilities only during the months of November through March. MCWD and MRWPCA shall exchange authorized schedules of planned facility maintenance, investigation, inspection and shutdown periods. Within 30-days of receipt of any such schedule, MRWPCA and MCWD shall meet and confer to review and approve the schedule.

(a) Planned facility maintenance does not include service interruptions due to emergency repairs.

(b) MRWPCA will make all reasonable effort to provide continuous service to MCWD in accordance with the approved schedule. If the supply of recycled water is interrupted or reduced at any time, MCWD may elect to receive at another time during the year, and the MRWPCA shall use its best efforts to provide the amount of recycled water not received during the interruption or reduction.

9. Time for Payment. Each Party shall invoice the other Party monthly, on or before the tenth day of each month, for charges under this MOU. The Parties shall pay promptly all charges invoiced, such invoices to be rendered on or about the fifth day of each month for charges incurred in the preceding month and to become due and payable within forty-five (45) days from date of invoice. If the billed Party contests an invoice submitted under this Section, it shall give the billing Party notice of the dispute at least ten (10) days prior to the day upon which payment of the stated amount is due. To the extent that billing Party finds the billed Party's contentions regarding the statement to be correct, it shall revise the statement accordingly and the billed Party shall make payment of the revised amounts within forty-five (45) days of receiving notice of the revised amount. If the billing Party rejects the billed Party's contentions or where time is not available for a review of such contentions prior to the due date, the billed Party shall make payment of the invoiced amount on or before the due date and make the contested part of such payment under protest and seek to recover the amount thereof from the billing Party.

10. Notices. All notices or other writings in this MOU provided to be given or made or sent, or which may be given or made or sent, by one party hereto to another, shall be deemed to have been fully given or made or sent when made in writing and deposited in the United States mail, registered, certified or first class, postage prepaid, and addressed as follows:

To MRWPCA:

General Manager
Monterey Regional Water Pollution Control Agency
5 Harris Court, Building D
Monterey, Ca 93940

To MCWD:

General Manager
Marina Coast Water District
11 Reservation Road
Marina, CA 93933

The address to which any notice or other writing may be given or made or sent to any party may be changed upon written notice given by such party as provided above.

11. Severability. If a court of competent jurisdiction determines any term or condition in this MOU to be unenforceable, then such term or condition shall be null and void and shall be deemed severable from the remaining terms or conditions and shall not affect the validity of the remaining provisions of this MOU.

12. Section Headings. Section headings in this MOU are for convenience only and are not to be construed as a part of this contract or in any way limiting or amplifying the provisions hereof.

13. Waiver. None of these terms or conditions herein contained can be waived except by mutual written consent. The waiver by either Party of any breach or breaches hereof shall not be deemed, nor shall the same constitute, a waiver of any subsequent breach or breaches.

14. Use of Information. Both Parties shall have access to and any party may use and have copies of any information and writings associated with performance of this MOU, including but not limited to working papers, plans, specifications, designs, and environmental data and documents, developed by or for either party relating to production and delivery of recycled water pursuant to the RUWAP and as analyzed in the RUWAP EIR. One copy of such information shall be provided to the requesting party at no cost. Agreements entered into by either Party for the performance of this MOU will include a requirement that a copy of all such information and writings be made available to the Party at the Party's office for use by both Parties.

15. Counterparts. This MOU may be executed in counterparts, and each fully executed counterpart shall be deemed an original document, constituting one agreement, binding on and benefiting the parties and their successors and assigns.

16. Effect; Amendment. This MOU constitutes the full and complete agreement of the parties regarding its subject matter, and any prior agreements or arrangements are hereby superseded. This MOU may be amended or modified only by a writing signed by the parties.

17. Duty to Meet and Confer. If any dispute under this MOU arises, the Parties shall first meet and confer, in an attempt to resolve the matter between themselves. Each Party shall make all reasonable efforts to provide to the other party all the information that the Party has in its possession that is relevant to the dispute, so that both Parties will have ample information with which to reach a decision.

18. Disputes. The Parties must submit any disputes arising under this MOU to non-binding mediation before filing suit to enforce or interpret this MOU. Upon request by either Party, the Parties will within ten days select a single mediator to mediate the dispute within fifteen days of such selection. If the Parties cannot agree on a mediator within ten days, either Party may ask the then presiding Judge of the Monterey County Superior Court to select a mediator to mediate the dispute within fifteen days of such selection. If the dispute is not resolved within forty-five days of such selection, either Party may file suit to specifically enforce or interpret this MOU and to seek any damages to which the Party may be entitled.

19. Administrators. MRWPCA and MCWD hereby designate their respective General Managers as their Administrators for this MOU. All matters concerning this MOU shall be submitted to the MOU Administrators or such other representatives as the MOU Administrators may designate for their respective agencies. Any Party may, in its sole discretion, change its designation of the MOU administrator and shall promptly give written notice to the other Parties of any such change.

20. Exhibits. Exhibits and Schedules attached to this Agreement are incorporated into this MOU by reference.

21. Assignment. MRWPCA and MCWD may assign their respective rights under this MOU, but neither MCWD nor MRWPCA may assign any obligations under this MOU without the prior written consent of the non-assigning party, which consent shall not be unreasonably withheld. As a condition precedent to the effectiveness of any assignment of obligations, the assignee shall agree in writing to perform the assigned obligations.

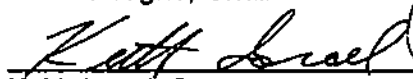
22. Reporting to Fort Ord Reuse Authority (FORA). As long as requested by FORA, MRWPCA and MCWD agree to report jointly to the Administrative Committee of FORA, or other entity within FORA as determined by the FORA Executive Officer on a quarterly basis. The subject of such reports will be the progress made under this MOU toward the objectives stated in paragraphs 1 through 3.

23. Term of MOU. This MOU shall be effective upon the date of the last duly authorized signature of the parties executing this MOU and shall remain in effect for a period of fifty (50) years from the date hereof, unless terminated earlier by mutual agreement. This MOU shall be automatically extended for successive ten (10) year terms after the initial fifty (50) year term unless either party gives written notice of termination not later than five (5) years before the end of the initial term or later term as extended per this section.

WHEREFORE, the parties have caused this MOU to be executed by persons authorized to execute the agreement on behalf of the parties, effective on the date of the last signature.

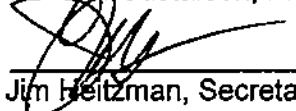
MRWPCA:


Lou Calcagno, Chair


Keith Israel, Secretary

DISTRICT:


Howard Gustafson, President


Jim Heitzman, Secretary

Date: JUNE 8, 2009

Date: 6-16-2009

APPROVED AS TO FORM:

Dated: _____, 2009

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation

By _____
Lloyd W. Lowrey, Jr.
Legal Counsel for MCWD

Dated: June 8, 2009

WELLINGTON AND ASSOCIATES
By Robert R. Wellington
Robert R. Wellington
Legal Counsel for MRWPCA